

**BBVA**

Corporate &  
Investment Banking

# General Terms & conditions

for Correspondent Banks

25<sup>th</sup> April 2019

# Índice

1. Introduction.....	2
2. Definitions .....	2
3. Term and conditions changes .....	3
4. Opening an account .....	3
5. Overdrafts .....	3
6. Interests, Fees an Commissions .....	4
7. Clearing and Settlements .....	4
8. Payments .....	5
9. Review of Statements .....	5
10. Representations .....	6
11. Set Off.....	6
12. Compliance .....	7
13. Provision of Personal Information .....	7
14. Security .....	8
15. General .....	8
16. Termination of Banking Relationship .....	9
16.1 Termination for Convenience.....	9
16.2 Immediate Termination or Suspension of Services.....	9
17. Indemnity .....	10
18. Governing Law & Jurisdiction.....	11

## 1. Introduction

These terms and conditions will apply to all new and existing customers in all business relations between, on one hand, Banco Bilbao Vizcaya Argentaria, S.A. (the “Bank” or “BBVA”), and, on the other hand, the Bank’s foreign correspondent bank (the “Correspondent Bank”) (the “General Terms and Conditions”). These General Terms and Conditions specify the rights and obligations of the Correspondent Bank and BBVA. For specific agreements related to certain products and services such as accounts, payments, documentary credits, collections or others, the Bank has more detailed terms and conditions which are supplemented by these General Terms and Conditions. In the event of any inconsistency, the special terms and conditions will prevail over the General Terms and Conditions.

## 2. Definitions

“Account” means any account opened and maintained at any time by the Bank for or in the name of the Correspondent Bank.

“Applicable Law” means all applicable laws, decrees, sanctions, including all applicable anti-money laundering, terrorist financing and economic sanctions laws, regulations, decisions, treaties, ordinances, rulings, judgments, injunctions, writs, orders and awards of any court, arbitrator or Regulatory Authority, all directives, guidelines, advisories and rulings issued or made by an applicable Regulatory Authority and the constitution, rules, standards, directives, guidelines, operating or other circulars, regulations, customs and uses of the exchange, central or reserve banks, markets and clearinghouses or systems in all applicable jurisdictions.

“Banking Day” means any day (excluding Saturday and Sunday) on which the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET) is operating and the Bank is open for business.

“Regulatory Authority” means any regulatory or supervisory authority over BBVA, the Correspondent Bank and/or the Services, in all applicable jurisdictions, including any administrative, judicial, governmental, taxing, financial, monetary and self-regulatory authority, agency or official, including the by-laws, rules, requirements and standards of any applicable clearinghouses and SWIFT.

“Service” means any service provided by BBVA to the Correspondent Bank, including without limitation the opening of an account, payments, documentary credits, collections or others, as set out in the special terms and conditions provided to the Correspondent Bank or as may be otherwise determined in writing by the parties.

“SWIFT” means Society for Worldwide Interbank Financial Telecommunication.

### 3. Term and conditions changes

The Bank may alter these General Terms and Conditions without notice at any time. The Correspondent Bank’s continued use of the Service shall constitute the Correspondent Bank’s acceptance of such changes and modifications.

### 4. Opening an account

Signing powers, mandates and powers of attorney must be notified in writing to the Bank (by Swift or duly signed letter in form and substance satisfactory to the Bank). Alterations or revocations will only take effect when the Bank receives a written notice from the Correspondent Bank.

### 5. Overdrafts

If the Correspondent Bank makes a payment or orders any transaction that would, if executed, cause the account to become overdrawn without prior agreement, or to exceed any arranged overdraft limit, then the Bank will decide at its sole discretion whether to execute the order or not. If the overdraft is allowed, this will not mean that overdraft limits have changed, nor that any other order would have the same effect. The Correspondent Bank agrees to pay all fees, charges and overdraft interest applicable, and authorizes the Bank to charge such amounts to the account.

## 6. Interests, Fees and Commissions

Detailed information on interest, fees and commissions is available upon request.

The Bank reserves the right to change interest, fees and commission rates without notice at any time. The Correspondent Bank's continued use of the Service shall constitute the Correspondent Bank's acceptance of the new interest, fees and commission rates.

The Correspondent Bank shall pay the Bank within 15 Banking Days of request, any supplementary cost incurred by the Bank in the provision of the Service, including out of pocket expenses, any extra fee or commission for the participation of a third bank.

Cancellation of any transaction, is not subject to the return or to the waiver of the commissions and fees.

All interest, fees and commissions are denominated and shall be paid in Euro unless otherwise agreed by the Parties.

If the Correspondent Bank holds an account in the Bank's books, all due amounts will be automatically debited on this account unless otherwise agreed by the parties.

## 7. Clearing and Settlements

BBVA may present and deliver payment items for payment, clearing, collection, acceptance or otherwise through any financial institution, and in any manner, as it deems appropriate. The Correspondent Bank is responsible for the verification of the authenticity and validity of all payment items deposited to or drawn by the Correspondent Bank on the Account, if any. Payment items are subject to the applicable law of each jurisdiction in which they are presented for deposit or clearing, and of any intermediary jurisdictions through which they are processed.

## 8. Payments

A charge will be made when the Correspondent Bank gives instructions to make a payment. Unless otherwise agreed by the parties, the Correspondent Bank shall give BBVA the payment instruction before BBVA's cut off times.

The Correspondent Bank agrees to pay BBVA within 15 Banking Days of written demand, any additional expenses that the Bank may incur in executing the payment. Cancellations or amendments must be notified via Swift in all cases. The Bank will make all reasonable efforts to recall or amend the payment as requested, but cannot guarantee that will be able to recall or amend that payment according to the new instructions in all cases.

Subject to legal, regulatory and internal policy requirements and standards, we are authorized to act upon any instruction without enquiring about its purpose, or the circumstances in which it was given.

## 9. Review of Statements

Correspondent Bank must review their statements carefully and check that all entries are correct.

If the statements contain an entry that the Correspondent Bank does not accept or in case of any mistake, the Bank must be notified via Swift within 15 Banking Days after the issue date of the statement. If no objection is made in the given deadline the statement shall be deemed to be accepted.

## 10. Representations

The Correspondent Bank represents and warrants to BBVA, on a continuing basis that:

1. it is duly incorporated, established or constituted (as the case may be) and validly exists under the laws of its country of incorporation, establishment or constitution (as the case may be);
2. it is duly authorised to enter into, execute and perform the Service and to be bound by these General Terms and Conditions, as supplemented by any special term and conditions if any, and
3. The individual(s) acting on behalf of the Correspondent Bank has/have full power and authority to do so;

## 11. Set Off

Any matured obligation due by the Correspondent Bank under these General Terms and Conditions, can be set off by the Bank with whatever other that the Correspondent Bank may have in his favor, whatever may be the form and documents that support it, the termination date, which in this case may be accelerated by the Bank, and its right of entitlement, including the deposit involved. The Correspondent Bank pledges all its present and future assets that it may have on the Bank for the proper performance of these General Terms and Conditions, with particular reference to those in the name of the Correspondent Bank in the Bank, giving its irrevocable authorization to the Bank to proceed, in the event that the Correspondent Bank fails to meet its payment obligations, to apply the cash deposits and to realize all credit rights, trade bills or securities that, also, could be deposited in the Bank, until such time as the Correspondent Bank honours the outstanding payments still due and payable.

## 12. Compliance

The Correspondent Bank and BBVA will comply with Applicable Law. The Correspondent Bank agrees that the Bank may without prior notice monitor and examine all aspects of the use of the Services by the Correspondent Bank. The Correspondent Bank is responsible for compliance with all laws applicable including, without limitation, all “Know Your Customer” and any other anti-money laundering and anti-terrorism requirements.

The Bank may be obliged by the law of the country in which it operates, or by agreements entered into by that country, to pass information on the Services provided to the Correspondent Bank to the Regulatory Authority or official institutions of other countries, situated within as well as outside of the European Union, to be used in the fight against the financing of terrorism and serious organized crime and the prevention of money laundering.

The Correspondent Bank undertakes to take such steps as the Bank may reasonably require in order to enable the Bank to comply with its duties in relation to the prevention of money laundering, terrorist financing and the provision of financial and other services to entities which may be subject to sanctions.

## 13. Provision of Personal Information

The Correspondent Bank will provide all necessary information to the Bank when initiating a payment. To the extent legally obtainable, the Correspondent Bank will promptly provide, upon the Bank’s request, any information or certifications reasonably requested by the Bank in connection with any payment or service, including, but not limited to, information regarding the purpose of the payment.



## 14. Security

Unless otherwise agreed in writing by BBVA, the Account and Services will not be used, directly or indirectly, by, for, or on behalf of, any person other than the Correspondent Bank.

The Correspondent Bank must take all reasonable steps to prevent any misuse of the Account or Services whatsoever. These include but are not limited to letting the Bank know as soon as possible, in writing, of any changes in name, address, telephone numbers or e-mail addresses. Proper care must be taken at all times in using and keeping Personal identification Numbers (PINs), security numbers, passwords, and any other security details.

## 15. General

- a) These General Terms and Conditions supersede and replace any prior version provided by the Bank.
- b) The Correspondent Bank is solely responsible for the accuracy and completeness of all information provided to the Bank and BBVA is authorized and directed to rely on such information.
- c) The Bank is not obliged to accept the provision of any Service. Any refusal to accept an application will be at the Bank's discretion.
- d) The conclusion of a Service shall be followed by the transmission of a SWIFT.
- e) Neither party to these General Terms and Conditions will be liable to the other party in any way for delay in performance or for the non-performance of any provision of these General Terms and Conditions if such delay or non-performance is directly or indirectly caused by an event or a series of events beyond that party's control. Such events include, without limitation, acts of God, loss of communication systems and events such as flood, storm, fire, casualty, accident, riot, terrorism, war, labour dispute, communicable disease outbreak, public health emergency or other similar events.

- f) Unless otherwise agreed between parties, all sums payable by one party to the other in respect of any Service shall be paid free and clear of, and without withholding or deduction of, any taxes and duties of whatsoever nature imposed, levied, collected, withheld or assessed by any authority having power to tax, unless the withholding or deduction of such taxes or duties is required by law. In that event, unless otherwise agreed, the paying Party shall pay such additional amounts as will result in the net amounts receivable by the other party (after taking account of such withholding or deduction) being equal to such amounts as would have been received by it had no such taxes or duties been required to be withheld or deducted.
- g) The nullity or non-applicability of any provision of these General Terms and Conditions shall not affect the validity or applicability of other material provisions of these General Terms and Conditions, which shall remain in full force and effect

## 16. Termination of Banking Relationship

### 16.1 Termination for Convenience.

The Bank may terminate these General Terms and Conditions or cancel the provision of any Service by providing the Correspondent Bank with 1 calendar month prior written notice. Specific fees may be applied, such as, but not limited to, an Account closure fee. The Correspondent Bank may terminate these General Terms and Conditions by providing the Bank with 1 calendar month prior written notice and shall remain responsible after the date of termination for any liabilities incurred by the Correspondent Bank before the date of termination.

### 16.2 Immediate Termination or Suspension of Services.

Notwithstanding section 16.1, the Bank may, in its discretion, terminate this General Terms and Conditions, or suspend or terminate any Service, in whole or in part, or decline to process any payment, or freeze or debit the Account, immediately without prior notice in the event of any of

the following: (i) if required by a Regulatory Authority or Applicable Law including all applicable anti-money laundering, terrorist financing and economic sanctions laws; (ii) the payment does not comply in all respects to Applicable Law; (iii) if there is, has been, or the Bank has reasonable grounds to anticipate, a security breach in connection with any Account or Services; (iv) if there is, has been, or the Bank has reasonable grounds to anticipate, a breach of Applicable Law, including all applicable anti-money laundering, terrorist financing and economic sanctions laws, which is, in the Bank's discretion, incapable of being cured to the Bank's satisfaction, or, if curable, it is not cured to the Bank's satisfaction within 7 Banking Days of written notice of such breach having been provided by the Bank to the Correspondent Bank; (v) if there is, has been or the Bank has reasonable grounds to anticipate, a breach of this General Terms and Conditions or any other agreement or obligation applicable to the Services which is, in the Bank's discretion, incapable of being cured to the Bank's satisfaction, or, if curable, is not cured to the Bank's satisfaction with thirty (30) banking days of written notice of such breach having been provided by the Bank to the Correspondent Bank; (vi) any proceedings are commenced, an order shall be made by a court of competent jurisdiction, or resolution of the directors or shareholders of the Correspondent Bank shall be passed, for the dissolution, winding-up or liquidation of the Correspondent Bank or the Correspondent Bank becomes unable to pay its debts as they become due; or (vii) a Regulatory Authority takes control of any part of the Correspondent Bank's business.

## 17. Indemnity

You agree to indemnify and hold us harmless against any losses, costs, damages and/or liabilities arising out or in connection with:

the failure of the Correspondent Bank to perform any obligations under the General Terms and Conditions; any action performed by the Bank in accordance with the Correspondent Bank's instructions and/or this General Terms and Conditions, or the special terms and conditions associated to the particular Service.

The Bank shall only be held responsible for the damages caused directly by the Bank to the Correspondent Bank in carrying out the services under this Agreement if they have acted with wilful misconduct or gross negligence and this has been determined by a final court ruling.

## 18. Governing Law & Jurisdiction

These General Terms and Conditions shall be governed by, and construed in accordance with, the Spanish law. The General Terms and Conditions shall deem to be executed in the city of Madrid.

The courts and tribunals of the City of Madrid (Spain) have exclusive jurisdiction to settle any dispute arising out of or in connection with these General Terms and Conditions (including a dispute regarding the existence, validity or termination of this Agreement).

The Correspondent Bank and BBVA expressly waive any other jurisdiction that could be applicable to them.