

THIS NOTICE IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt as to the action you should take, you are recommended to seek your own financial, legal or other advice immediately from your stockbroker, bank manager, solicitor, accountant or other appropriately authorised independent financial adviser.

This notice is made pursuant to Article 17 of the Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation).

Notice is hereby given by Stichting Security Trustee MESDAG (Delta) with respect to holders of notes (the "**Noteholders**") of each of the following classes:

€398,150,000 Class A Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307565928

€47,100,000 Class B Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307574599

€53,550,000 Class C Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307576701

€64,300,000 Class D Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307578749

€49,200,000 Class E Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307580307

€26,050,000 Class F Commercial Mortgage Backed Floating Rate Notes due 2020  
ISIN: XS0307581370

(the "**Listed Notes**")

€50,000 Class X Commercial Mortgage Backed Floating Rate Note due 2020  
ISIN: XS0307571900

(together with the Listed Notes, the "**Notes**")

Issued by

MESDAG (Delta) B.V.  
(the "**Issuer**")

Amsterdam, 13 February 2017

Capitalized terms used but not otherwise defined in this notice shall have the meaning given in the prospectus dated 23 July 2007 (the "**Prospectus**"), the trust deed dated 23 July 2007 (the "**Trust Deed**"), the master definition agreement dated 23 July 2007 (the "**Master Definitions Agreement**") and the facilities agreement dated 28 December 2006 (the "**Facilities Agreement**") unless the context requires otherwise.

Stichting Security Trustee Mesdag (Delta), (the "**Security Trustee**"), has received a number of questions from Noteholders in relation to the notice dated 27 December 2016 issued by Issuer whereby the Issuer announced certain amendments to the provisions of the Trust Deed and the Conditions (the "**Amendment**" and the request by the Issuer for the approval from the Security Trustee in respect of the Amendment the "**Amendment Request**").

As it cannot be excluded that the answers to some of these questions could be qualified as price-sensitive information, the Security Trustee has decided to provide a notice to all market participants simultaneously. The Security Trustee expressly notes that it is under no contractual nor legal obligation to answer questions of individual Noteholders, and that this notice is issued by the Security Trustee on an entirely voluntary basis. Hence, no duty to provide (further) answers and/or (further) information is acknowledged or may be implied from this notice.

### **Background in respect of the Amendment**

The considerations set out below in respect of the Amendment are a summary of the most substantive considerations for the Issuer and the Security Trustee to effect the Amendment and should not be regarded as a full and documented description of the process which has led to the Amendment.

The Issuer and the Security Trustee have become aware that there was a perceived uncertainty on how proceeds of ((quasi-)enforced) sales of Properties would be applied, in particular following a Loan Event of Default, the occurrence of which was not unlikely. The perceived uncertainty on the application of the sales proceeds caused certain classes of Notes being placed on CreditWatch negative by Standard & Poors Rating Services ("**S&P**") in October 2015. S&P then sought and received confirmation that the transaction parties' understanding was (and still is) that after a Loan Event of Default all principal proceeds (including those from the sale of Properties) should be applied sequentially (i.e. through the Sequential Principal Priority of Payments and upon delivery of an Enforcement Notice by the Issuer Security Trustee, the Issuer Post-Enforcement Priority of Payments) (see "*Ratings Direct*" dated 27 November 2015 by S&P). Preceding its press release "*Fitch affirms Mesdag (Delta) B.V.'s Notes*" dated 17 May 2016, Fitch Ratings Ltd. ("**Fitch**") obtained a similar confirmation from the Servicer.

Notwithstanding the aforementioned publications, as the date of a possible Loan Event of Default became more imminent, concerns on this perceived uncertainty in the documentation regarding the redemption of the Notes in a post Loan Event of Default situation continued, increasingly, to be expressed by market participants. The Amendment was proposed by the Issuer in order to take away that uncertainty. The Security Trustee has decided to agree to the Amendment for the reasons set out below.

The Security Trustee is of the view that the tranching of a capital structure, such as Mesdag Delta's capital structure, as it is and as it has been since its inception in 2007, would in fact not have been possible with a pro-rata principal allocation mechanism after a Loan Event of Default. This is furthermore supported by (*inter alia*) the ratings that were given to the different classes of Notes at the inception of the transaction and references to the application of losses in the Prospectus.

The Security Trustee has also noted that – as is also described in the Prospectus – the Facilities Agreement does not allow for property disposals by a Borrower in the event

that (*inter alia*) a Loan Event of Default has occurred and is continuing. As such, any reference to the term Disposal as such term is used in the Facilities Agreement and in the relevant sections of the Prospectus dealing with Property disposals by a Borrower refers to a disposal by a Borrower of its Property where a Loan Event of Default has not occurred and is not continuing.

Given that the Notes are obviously linked to the Senior Loan, the term Disposal as used in the Transaction Documents must be interpreted in the same manner as is done in the Facilities Agreement. This means that amounts forming part of the Notes Principal Available Amount to the extent relating to a Disposal can only consist of proceeds received from property disposals by a Borrower made under the circumstance where no Loan Event of Default has occurred which is continuing. This further specification of "the Notes Principal Available Amount to the extent relating to a Disposal" is in the view of the Security Trustee unintentionally not made explicit in the relevant provisions of the Trust Deed and the Conditions.

The Security Trustee found further support for its determination to agree to the Amendment because both in the Transaction Documents and general reading of the term "recoveries" used in documents custom in the financial markets, such term comprises proceeds generated through security enforcement measures being applied as well as proceeds generated through other, in many occasions preferred, procedures but at the instigation of, or on behalf of, lenders and in all instances after an event of default under a loan.

The definition of Notes Principal Available Amount comprises both (a) principal receipts in respect of or relating to the Senior Loan, including proceeds of Disposals, but excluding any Prepayment Compensation Amount (item (i) of this definition) and (b) any full or partial recoveries in respect of principal, net enforcement or liquidation proceeds received in respect of the Senior Loan (item (iv) of this definition).

If it were to be argued that proceeds of any sale of Properties after a Loan Event of Default would qualify as proceeds from a Disposal in the meaning given thereto in the Master Definitions Agreement (irrespective of whether it would be a foreclosure sale or a sale with the co-operation of a Borrower), then the consequence would have been that under the Transaction Documents amounts singularly received by the Issuer after a Loan Event of Default would need to be applied twice, i.e. both through the pro rata pre-enforcement principal waterfall (as proceeds relating to a Disposal) as well as through the sequential pre-enforcement principal waterfall (as recoveries in respect of the Senior Loan), which makes such a reading incomprehensible.

On the basis of the arguments set out above, and after having obtained legal advice, the Security Trustee, has decided to agree to the Amendment and has provided its cooperation in effecting the Amendment. That the Security Trustee was authorized to agree to the Amendment will be set out in the following paragraph.

**The authority of the Security Trustee to agree to amendments without the consent of Noteholders.**

The authority of the Security Trustee to determine and consent to the Amendment Request submitted by the Issuer is vested in the Security Trustee pursuant to the Trust Deed, more specifically as set out in clause 19 and clause 31.

The Security Trustee studied the Amendment Request and analyzed several publicly available post-crises market studies and reports from rating agencies and leading investment banks observing shortcomings of commercial mortgage-backed securities transactions marketed before the financial crisis. Additionally and separately from the Issuer, it obtained legal advice in respect of the Amendment Request.

Both rating agencies which have assigned ratings to the Notes, S&P and Fitch have confirmed in December 2016 that the Amendment would not result in an Adverse Rating Event. Pursuant to the Conditions the Security Trustee is therefore entitled to assume without further enquiry that consenting to the Amendment Request is not materially prejudicial to the interests of the Issuer Security Beneficiaries.

This notice is given by:  
Stichting Security Trustee MESDAG (Delta)  
Prins Bernhardplein 200  
1079 JB AMSTERDAM  
The Netherlands  
E: [NL-Trustee@intertrustgroup.com](mailto:NL-Trustee@intertrustgroup.com)