



**MAQIT**

AML/CTF  
REGULATORY  
WATCH REPORT



AUGUST 2020

This is the list of pertinent AML framework which was published over the period of August 2020:

On August 7th, Wolfsberg Group published a new Anti – Money Laundering (AML) Frequently Asked Questions to support the source of wealth (SoW) and source of funds (SoF) due diligence of financial institutions. This guidance targets private banking and wealth management divisions within financial institutions to support the undertaking of SoW and SoF checks.

On August 12th, Wolfsberg Group released a Statement of Effectiveness in order to develop an effective AML/ CTF programme. In this statement, Wolfsberg Group sets out certain suggested steps that financial institutions could take to evolve their AML/CTF programmes. The suggested steps are set out under the following headings:

- assess risk in defined priority areas,
- implement/enhance controls,
- prioritise resources
- engage with law enforcement
- demonstrate AML/CTF Programme Effectiveness

On August 14th, Commission de Surveillance du Secteur Financier (CSSF) has published the Grand – ducal Regulation of 14 August 2020 amending Grand-ducal Regulation of 1 February 2010 providing details on certain provisions of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended. The aim of this publication is to proceed with the necessary adaptations in order to be compliant with the new regulatory framework implementing the 4th and 5th AML directives into Luxembourg law.

On August 14th, CSSF has published Regulation No 20 – 05, amending Regulation No 12-02 of 14 December 2012 on the fight against ML/TF. Among with the other important amendments, importance should be given to Articles 20 and 59. Article 20 is highlighting the importance of KYC information regarding the initiators of funds under CSSF supervision, that is to be collected and registered during the onboarding process and the identification process. Article 59 is stating the responsibilities of the Responsable du Controle du respect des obligations (RC), that should include the following:

- Implementing the practitioner's AML/CFT policy and procedure
- Ensuring the quality of the controls of the 1st pillar and 2nd pillar regarding the compliance by the professional with the AML/CFT obligations
- Monitoring compliance with obligations of the branches and subsidiaries both in Luxembourg and abroad as well as at the group level concerning GDPR and information sharing
- Developing and implementing the training program
- Being the contact person for AML/CFT authorities
- Monitoring and verifying in regular basis the risk to which the professional is exposed and report it
- Preparing at least once a year a report on its activities and operations, that will be transmitted by the RC to the RR, the authorized management and/or the CoA,
- Submitting annually to the CSSF the summary report referred above within 5 months following the end of the financial year

On August 19th, the European Banking Authority (EBA) published its response to the European Commission's consultation on its action plan for a comprehensive EU policy on preventing ML/TF. The European Commission's action plan includes 6 "pillars" to strengthen the EU's AML/CTF framework. The EBA's response focusses only on pillars 1, 3 and 6, ensuring the effective implementation of the existing EU AML/CFT framework, EU-level AML/CFT supervision and strengthening the international dimension of the AML/CFT framework respectively. The EBA recommends the European Commission to:

- Harmonise the AML/CTF legal framework across the EU Member States, in that way all the gaps created through divergent regimes, easily exploited by criminals, will be reduced

- Create synergies between national and European AML/CFT supervision in a “hub and spoke” manner to take advantage of local expertise and resources
- Capitalise on existing EU infrastructure, including the EBA’s policy, data and information technology resources as well as its international supervisory cooperation networks, to enhance the bloc-wide fight against financial crime.

The EBA will provide technical input and support to the European Commission in the implementation of the action plan, and it also advises the European Commission to take advantage of skills, tools and resources, which have already undergone significant investment, and to develop a more comprehensive and effective EU AML/CFT framework.

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On August 20th, the Commissariat aux Assurances (“CAA”) regulation n°20/03 of 30 July 2020 relating to the fight against ML/TF (the “CAA Regulation”) which repeals the CAA regulation n°13-01 of 23 December 2013. It has been adopted in order to take into account the current legislative framework on the fight against ML-TF.

The CAA Regulation is completed by an interpretative note which provides useful guidance on the provisions of the CAA Regulation.

On August 26th, the Institute of International Finance (IIF) provided also a feedback to the European Commission on its action plan. The IIF proposes 3 key elements to the European Commission:

- Consistency in the AML/CTF frameworks of the EU Member States with the assistance of the Financial Task Force (FATF) guidance
- Improvement of the information sharing within the EU Complementing the work of FATF to ensure the operating effectiveness of global AML/CTF standards.

