



FAQ on the
AML/CFT RC
REPORT for CSSF
supervised
Luxembourg
Investment Funds
and Luxembourg
Investment Fund
Managers

AS OF MARCH 2022

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FAQ on the AML/CFT RC REPORT for CSSF supervised Luxembourg Investment Funds and Luxembourg Investment Fund Managers

CONTEXT

This document is of interest for Luxembourg investment funds and Luxembourg Investment Fund Managers which are supervised by the CSSF for AML/CFT purposes.

The present document refers to a list of questions & answers (FAQ) in relation to the completion and transmission of the AML/CFT compliance officer¹'s summary report (hereinafter the "AML/CFT RC report") as defined in Article 42 (6) and 42 (7) of the CSSF Regulation No 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing (hereinafter "AML/CFT"), as amended (hereinafter the "RCSSF 12-02").

¹ *Responsible of the Control (in French: responsable du contrôle) (hereafter the "RC")*

Q1. Which entities are required to write and submit an AML/CFT RC report to the CSSF?

Each entity supervised for AML/CFT purposes by the CSSF is subject to the requirements provided for in the RCSSF 12-02, and must therefore write an AML/CFT RC report notably to present it to the entity's management board ("the Board").

As per Article 42 (7) of the RCSSF 12-02, the following entities are required **to submit** the AML/CFT RC report to the CSSF:

- Luxembourg Investment Fund Managers;
- Luxembourg investment funds which have appointed a foreign Investment Fund Manager;
- Luxembourg investment funds which have not appointed an Investment Fund Manager ("self-managed funds").

Q2. Should an entity be dissolved and placed into non-judicial liquidation, shall an AML/CFT RC report still be submitted?

Yes, the entity must submit the AML/CFT RC report to the CSSF until the effective start date of the non-judicial liquidation. AML/CFT RC reports are no longer required after the start date of the non-judicial liquidation:

- For Luxembourg investment funds placed into non-judicial liquidation, AML/CFT RC reports are no longer required after the start date of the non-judicial liquidation. This applies for both funds in contractual form and funds in corporate form.
- For Luxembourg Investment Fund Managers ("IFM") placed into non-judicial liquidation, AML/CFT RC reports are no longer required after the start date of the non-judicial liquidation.

Since ML/FT risks still remain present during the non-judicial liquidation, the liquidator is responsible for the AML/CFT framework of the entity, in particular regarding the cooperation with the authorities.

Q3. What is the submission deadline for the AML/CFT RC report?

In accordance with Article 42 (7) of the RCSSF 12-02, the entities are obliged to submit the AML/CFT RC report "***within five months following the end of the professional's financial year.***"

Example: If the financial year end date is set 31/03/YYYY, the deadline to submit the RC report would be 31/08/YYYY at the latest.

Q4. How should the AML/CFT RC report be transmitted to the CSSF?

For entities subject to CSSF Circular 19/708, the AML/CFT RC report should be transmitted via the following secured system for electronic transmission accepted by the CSSF using the relevant nomenclature provided in the [annex of Circular 19/708](#):

- *e-file* communication platform; or
- *Sofie* communication platform.

For registered AIFMs, such reports must be transmitted via the edesk module "Submission of information related to AML supervisory measures" with the specific mention "AML/CFT RC report".

Q5. Shall the AML/CFT RC report be signed by the RC?

Yes, as per article 42 (6) of the RCSSF 12-02, it is one of the duties of the RC to prepare the AML/CFT RC report. The CSSF therefore also expects that the AML/CFT RC report is dated and signed by the RC.

In line with article 42(7), it shall be submitted by the Responsable du Respect.

Q6. Should “no findings” be reported in the AML/CFT RC report?

Yes, the CSSF expects that the AML/CFT RC report must clearly illustrate/demonstrate the results of the work of the RC. Consequently, if the inquiries and diligences conducted by the RC raised no shortcomings, this information must be mentioned in the report.

When shortcomings are identified, it is expected that their severity is assessed by the RC and that a remediation plan is proposed. Subsequent AML/CFT RC reports must include a follow-up/update of previous remediation plans.

Q7. What should the AML/CFT RC report contain?

For entities subject to CSSF Circular 18/698, the content of the AML/CFT RC report is detailed under point 318. In line with point 319 of said CSSF Circular, the AML/CFT risk assessment must be attached to the report.

For entities not subject to the aforementioned Circular, the AML/CFT RC report shall cover at a minimum the following topics:

- Overall Residual ML/TF risk assessment, including i.a. the ML/TF risk appetite, identified ML/TF risks and mitigation measures put in place, emerging ML/TF risks and their severity (in terms of impact);
- Results of AML/CFT due diligence on investors;
- Results of AML/CFT due diligence on high risk clients (e.g. PEP) (if any);
- Results of AML/CFT due diligence on initiators (even in case of group initiators);
- Results of AML/CFT due diligence on investment advisors (if any);
- Results of AML/CFT due diligence on distributors (if any);
- Results of AML/CFT due diligence on delegates and service providers (e.g. Registrar and Transfer Agents, External Portfolio Managers) (if any);
- Results of AML/CFT due diligence on cross-border intermediaries (if any);
- Results of AML/CFT due diligence on assets;
- Results of AML/CFT due diligence on blocked accounts (if any);
- Results of TFS screening;
- Outcome of verifications made by the RC that all appropriate staff has been trained on AML/CFT topics;
- List of cooperation with the Luxembourg authorities on AML/CFT topics and;

- Dedicated ML/TF shortcomings section (see Q6) including a remediation plan (if any).

As clarified under Q6, where no shortcomings have been identified, this should also be clearly indicated.

It is important to understand that the AML/CFT RC report shall be a consistent and accurate description of the work performed by the RC and of the related findings. It shall not be a mere description of the applicable laws, regulations and definitions.

The AML/CFT RC report should demonstrate that the RC has a good understanding of the entity's operating model (AML/CFT support staff, registrar and transfer agent ("RTA") network, distribution network, etc.) as well as the nature of the business, the applicable AML/CFT framework and the internal risk-based approach and for which the RC has tested the effectiveness.

Q8. What do you mean by "results of AML/CFT due diligence"?

The AML/CFT RC report shall include quantitative results. For the section regarding the investors, the AML/CFT RC report shall include the number of newly accepted or rejected investors for the reference period, as well as the total number of investors within the shareholder register. In addition, the AML/CFT RC report shall include the type of initial and ongoing due diligences performed on the investors, as for example an enhanced due diligence on higher risk investors. The investor's file review frequency based on its risk scoring shall also be included.

In addition, the AML/CFT RC report shall provide information of a qualitative nature to explain the assessment by the RC of all the work performed.

Q9. Extent of the RC's liability irrespective of his/her nomination date

Should a recently appointed RC identify that the outgoing RC did not file the annual AML/CFT RC report, the CSSF expects the incoming RC to ensure that the AML/CFT RC report is submitted to the CSSF using the appropriate channels as explained under Q4.



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Should the incoming RC find out that no AML/CFT due diligence has been performed by the exiting RC, the CSSF expects the Board of the entity to submit a letter to explain the situation and the oversight performed by the Board / RR on the work of the leaving/exiting RC.

Said letter shall be sent in PDF format to "aml_cft_ifm@cssf.lu".

Q10. Can the failure to submit an RC report lead to sanctions by the CSSF?

Yes, a professional which would not provide the AML/CFT RC report can be subject to sanctions as detailed in article 8-4 of the AML Law of 12 November 2004 as amended.



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