

## Information notice regarding the administrative arrangement for the protection of personal data signed on 7 November 2022 by the CSSF and the Public Company Accounting Oversight Board (PCAOB)

On 7 November 2022, the CSSF and its US counterpart, the PCAOB, signed a Statement of Protocol with the purpose of facilitating cooperation within the limits provided for in their respective national legislations, in respect of oversight, inspections (including joint inspections) and investigations of auditors subject to the regulatory jurisdiction of both regulators (the "Statement").

The Statement lays down that the transfer of personal data between the CSSF and the PCAOB in the framework of the implementation of the Statement is subject to the establishment of an appropriate agreement.

This agreement on the transfer of certain personal data (the "Agreement") was also signed on 7 November 2022, following a positive opinion of the European Data Protection Board (EDPB) on 14 October 2022 and an approval of the National Commission for Data Protection (CNPD) on 9 December 2022. This Agreement constitutes an administrative arrangement as referred to in point (b) of Article 46(3) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR).

This information notice was drawn up pursuant to point (3) of Article III of the Agreement which stipulates that the CSSF will provide the data subjects with general information on certain points of the Agreement, as described below, through a publication on its website. **This notice is for information purposes only and aims to facilitate the reading of the Statement and the Agreement. Due to its general nature, it cannot replace the reading of the Statement and the Agreement which are published on the CSSF's website ([www.cssf.lu/en/](http://www.cssf.lu/en/)). It cannot engage the liability of the CSSF or of the PCAOB, especially in case of inaccuracy, omission or incompleteness.**

**(a) Purpose and manner in which personal data can be processed and transferred**

Personal data that are transmitted by the CSSF to the PCAOB may be directly processed by the PCAOB only to fulfil its audit regulatory functions in accordance with the Sarbanes-Oxley Act, i.e. for the purposes of auditor oversight, inspections and investigations of registered audit firms and their associated persons subject to the regulatory jurisdiction of the PCAOB and the CSSF.

As laid down in point (2) of Article III of the Agreement, the PCAOB primarily examines the names and information relating to the professional activities of the individual persons who are responsible for or who participated in the audit engagements selected for review during an inspection or an investigation, or who play a significant role in the audit firm's management or quality control. Such information could be used by the PCAOB in order to assess the degree of compliance of the registered audit firms and their associated persons with the Sarbanes-Oxley Act, the securities laws relating to the preparation and issuance of audit reports, the rules of the PCAOB, the rules of the US Securities and Exchange Commission (SEC) and the relevant professional standards in connection with its performance of audits, issuance of audit reports and related matters involving issuers (as defined in the Sarbanes-Oxley Act).

The practical arrangements regarding the information exchange between the CSSF and the PCAOB are detailed in Section B of Article III of the Statement.

The processing of personal data must notably comply with the following principles, described in greater detail in Article III of the Agreement:

- purpose limitation;
- data quality and proportionality;
- transparency;
- security and confidentiality.

Moreover, the Agreement provides that no sensitive data (within the meaning of the GDPR) will be processed by the PCAOB. Finally, the PCAOB will not make any legal decisions which would be based solely on an automated processing of personal data, including profiling.

### **(b) Type of entities to which these personal data can be transferred**

The arrangements for the onward sharing of data transferred by the CSSF to the PCAOB are detailed in point (7) of Article III of the Agreement. The PCAOB can only share the data received from the CSSF with the entities exhaustively listed in Annex II to the Agreement. Such sharing is conditional on the recipient's provision of appropriate assurances that are consistent with the safeguards laid down in the Agreement. Furthermore, in case data are shared with an entity other than the SEC, the PCAOB must obtain a prior consent of the CSSF. In the event that data are shared with the SEC, a periodic information mechanism is provided for with respect to the nature of the data shared and the reasons they were shared.

### **(c) Rights conferred on data subjects and rules for the exercise of these rights**

The Agreement lays down rights for data subjects under certain limitations (cf. point (d) below). These rights, which arise from the GDPR, are the following:

- right of access;
- right of erasure;
- right of information;
- right of objection;
- right of rectification;
- right of restriction of processing.

These rights may be exercised by making a request to the CSSF:

by email: [dpo@cssf.lu](mailto:dpo@cssf.lu)

by post: Commission de Surveillance du Secteur Financier - Data Protection Officer

283, route d'Arlon – L-1150 Luxembourg (Luxembourg)

Should the data subject wish to contact the PCAOB, s/he may send an email to: [personaldata@pcaobus.org](mailto:personaldata@pcaobus.org).

**(d) Information on the deadlines or limitations to the exercise of the rights**

Point (5) of Article III of the Agreement states that the CSSF will provide a response to the data subjects exercising their rights without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The CSSF will inform the data subject of any such extension within one month of receipt of the request. If the CSSF and/or the PCAOB does not take action on the request of the data subject, the CSSF will inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with the CNPD and seeking a judicial remedy or of using the complaint mechanism established within the PCAOB.

The safeguards relating to data subject rights are subject to the CSSF's and the PCAOB's legal obligations not to disclose confidential information pursuant to professional secrecy or other legal obligations. These safeguards may be restricted to prevent any prejudice or harm to supervisory or enforcement functions of the CSSF and the PCAOB acting in the exercise of the official authority vested in them, such as for the monitoring or assessment of compliance with the applicable laws or prevention or investigation of suspected offences; for important objectives of general public interest, as recognised in the United States and in Luxembourg or in the European Union, including in the spirit of reciprocity of international cooperation; or for the supervision of regulated individuals and entities.

**(e) Contact details of the entity to which a dispute or claim may be submitted**

Point (8) of Article III of the Agreement specifies the rules governing the redress the data subject may seek.

Any dispute or claim brought by a data subject concerning the processing of his or her personal data may be made to the CSSF, the PCAOB, or both, as may be applicable.

Any concerns or complaints regarding the processing of personal data by the PCAOB may be reported directly to the PCAOB Center for Enforcement Tips, Referrals, Complaints and Other Information, specifically through the Tips & Referral Center using the online form on the PCAOB's website, or via electronic mail, letter or telephone, or, alternatively may be reported to the CSSF by sending such information to [dpo@cssf.lu](mailto:dpo@cssf.lu).

The Agreement also provides for an appropriate dispute resolution mechanism conducted by an independent function within the PCAOB. The decision reached through this dispute resolution mechanism may be submitted to a second independent review, which would be conducted by a separate independent function. The dispute resolution mechanism and the process for the second review are described in **Annex III** to the Agreement.

The data subject may also exercise his or her rights for judicial or administrative remedy (including damages) according to the Luxembourgish Data Protection Act.