

This coordinated text was drawn up by the CSSF for information purposes only. In case of discrepancies between the French and the English text, the French text shall prevail.

Law of 21 December 2012 relating to the Family Office activity and amending:

- the Law of 5 April 1993 on the financial sector, as amended;
- the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

(Mém. A 2012, No. 274)

as amended by

- the Law of 13 February 2018
 1. transposing the provisions on the professional obligations and the powers of the supervisory authorities as regards the fight against money laundering and terrorist financing of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC;
 2. implementing Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006;
 3. amending:
 - (a) the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended;
 - (b) the Law of 10 November 2009 on payment services, as amended;
 - (c) the Law of 9 December 1976 on the organisation of the profession of notary, as amended;
 - (d) the Law of 4 December 1990 on the organisation of bailiffs, as amended;
 - (e) the Law of 10 August 1991 on the legal profession, as amended;
 - (f) the Law of 5 April 1993 on the financial sector, as amended;
 - (g) the Law of 10 June 1999 on the organisation of the accounting profession, as amended;
 - (h) the Law of 21 December 2012 relating to the Family Office activity;
 - (i) the Law of 7 December 2015 on the insurance sector, as amended;
 - (j) the Law of 23 July 2016 concerning the audit profession.

(Mém. A 2018, No 131)

Article I. Scope and definitions

The Family Office activity within the meaning of this law consists in providing, as a business activity, wealth management advice or services to natural persons, families or wealth management entities belonging to natural persons or families or of which they are founders or beneficiaries.

For the purposes of this law, the following definitions shall apply:

- (a) “wealth management advice or services”:
 - advice in wealth management organisation, wealth management planning, administrative or financial wealth management; or
 - coordination of the service providers intervening in wealth management, monitoring or assessment of their performances;
 - excluding holding clients’ cash or financial instruments as well as providing investment services and carrying out investment activities within the meaning of the Law of 5 April 1993 on the financial sector, as amended;

- (b) “wealth management entity”: any corporate or contractual structure, foundation or trust which belongs directly or indirectly to a single natural person or to a single family or of which they are the founders or beneficiaries;
- (c) “wealth”: all or part of the assets held provided that these assets include cash or financial instruments.

This law shall not apply to the following:

- (a) the Family Office activities provided between members of a single family, and the activities provided for a single natural person or a single family, or for wealth management entities belonging to a single natural person or to a single family or of which a single natural person or a single family is a founder or beneficiary;
- (b) the activities carried out as a company representative (*mandataire social*), as a member of a foundation board, trustee, trust protector, fiduciary, attorney-in-fact (*mandataire de justice*).

Article 2. Title protection

Only a registered member of one of the following regulated professions, established in Luxembourg and carrying out the Family Office activity within the meaning of this law, is authorised to make use of the title “Family Office”: credit institutions, investment advisers, private portfolio managers, specialised PFS authorised as Family Office or as domiciliation agents of companies or as professionals performing services of setting-up and of management of companies, attorneys-at-law (“*avocats à la Cour*”) included in list I and European lawyers pursuing their professional activities under the original professional title included in list IV of the list of lawyers referred to in Article 8(3) of the Law of 10 August 1991 on the legal profession, as amended, notaries, *réviseurs d’entreprises* (statutory auditors) and *réviseurs d’entreprises agréés* (approved statutory auditors), chartered accountants.

Article 3. Professional obligations related to the fight against money laundering and terrorist financing

Any person carrying out the Family Office activity is subject to the (...)¹ professional obligations as defined “in Title I of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, and in its implementing measures”².

(...)³

Article 4. Obligation of professional secrecy

Any person carrying out the Family Office activity, as well as any company representative, director, employee and any other person working for such person shall be bound to the professional secrecy obligations applicable to their profession or activity.

Article 5. Remuneration transparency

Any person carrying out the Family Office activity shall inform its client in writing of the detail of the remuneration charged or received in relation to the client’s assets.

Article 6. Criminal sanctions

Any person carrying out the Family Office activity or any person making use of this title without lawfully carrying out one of the professions referred to in Article 2 shall incur a term of imprisonment of between eight days and five years and a fine of between 1,250 and 125,000 euros, or only one of these sanctions.

Article 7. Transitional provision

The persons already established in Luxembourg at the time of the entry into force of this law and carrying out the Family Office activity without lawfully carrying out one of the professions referred to in Article 2 shall be granted a transitional period of six months as from the date of entry into force of this law to comply with the provisions of this law.

¹ Law of 13 February 2018

² Law of 13 February 2018

³ Law of 13 February 2018

Article 8. Amending provisions

- a) The Law of 5 April 1993 on the financial sector shall be completed by an Article 28-6 which shall read as follows:

“Article 28-6. Family Offices

- (1) Those persons carrying out the Family Office activity within the meaning of the Law of 21 December 2012 relating to the Family Office activity without being registered members of one of the other regulated professions listed under Article 2 of the above-mentioned law are Family Offices and regarded as carrying on a business activity in the financial sector.
- (2) Authorisation to exercise the Family Office activity pursuant to this Article may be granted only to legal persons and shall be conditional on the production of evidence showing the existence of a share capital of not less than 50,000 euros.”
- b) A new point d) shall be added to Article 2(1), point 12 of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, which shall read as follows:
- “(d) or carrying out a Family Office activity.”

Article 9. Abbreviated form

This law may be referred to under the abbreviated title “Law of 21 December 2012 relating to the Family Office activity”.