

## **Law of 30 March 2022 on inactive accounts, inactive safe-deposit boxes and unclaimed insurance contracts**

### **Law of 30 March 2022 on inactive accounts, inactive safe-deposit boxes and unclaimed insurance contracts and amending:**

- 1° the Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”), as amended; and**
- 2° the Law of 7 December 2015 on the insurance sector, as amended.**

(Mém. A 2022, No 149)

We Henri, Grand Duke of Luxembourg, Duke of Nassau,

Having heard our State Council;

With the consent of the Chamber of Deputies;

Having regard to the decision of the Chamber of Deputies of 17 March 2022 and that of the State Council of 22 March 2022 that a second vote is not required;

*Ordered and order:*

### **Title I - Inactive accounts, inactive safe-deposit boxes and unclaimed insurance contracts**

#### **Chapter I - Definitions and general provisions**

##### **Article 1.**

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

- 1° “insured party” shall mean any person on whose life the risk of the insured event rests;
- 2° “right holder” shall mean any natural or legal person that has a right on the assets of the holder following death or dissolution of the latter;
- 3° “beneficiary” shall mean the natural or legal person in favour of whom the insurance benefits are stipulated or any other natural or legal person that is creditor of insurance settlements;
- 4° “safe-deposit box” shall mean any safe, safe-deposit box or other secured facilities made available by an institution;
- 5° “account” shall mean any current account, savings account, fixed-term deposit account or notice deposit account, securities account, escrow as well as all other accounts opened with an institution in which the assets are individualised on behalf of the holders. It also includes any closed account for which the institution remains depository of the assets deposited therein. Electronic money accounts within the meaning of the Law of 10 November 2009 on payment services, as amended, are excluded from this definition;
- 6° “insurance contract” shall mean an insurance contract within the meaning of point (A) of Article 1 of the Law of 27 July 1997 on the insurance contract, as amended, and concerning one of the classes of insurance or transaction referred to in Annex II of the Law of 7 December 2015 on the insurance sector, as amended, or any contract deemed as insurance or capital redemption contract pursuant to the law applicable to the contract;
- 7° “insurance undertaking” shall mean any insurance undertaking authorised in Luxembourg and any Luxembourg branch of an insurance undertaking incorporated under foreign law carrying

out the operations subject to Annex II of the Law of 7 December 2015 on the insurance sector, as amended;

8° "institution" shall mean any credit institution authorised in Luxembourg, any Luxembourg branch of a foreign credit institution as well as Entreprise des postes et télécommunications for its provision of postal financial services as defined in Article 1 of the Law of 15 December 2000 on postal financial services, as amended;

9° "policyholder" shall mean the person who concludes the insurance contract;

10° "holder" shall mean any natural or legal person registered or identified as holder of one or more accounts by the institution as well as any natural or legal person for which one or more safe-deposit boxes were made available by an institution, as the case may be.

## **Article 2.**

- (1) The following shall be deemed as starting point of inactivity within the meaning of this Law:
- 1° with respect to an account, the day from which the holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and where the holder has not, in any way, contacted the institution holding the account;
  - 2° with respect to a safe-deposit box, the day from which the holder has not, in any way, contacted the institution holding the safe-deposit box. The fact of carrying out transactions from an account held with the same institution shall constitute a form of contact;
  - 3° with respect to an insurance contract, the day when the insurance undertaking becomes aware the payment of benefits is due pursuant to the contract and where no beneficiary has claimed a right on these benefits.

Unless the contrary is proved, the last contact of the holder shall be deemed to be the one as shown in the files of the institution and the date of awareness of the payment of benefits being due shall be deemed to be the one as shown in the files of the insurance undertaking.

- (2) Account inactivity shall consist in the fact that the holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and where the holder has not, in any way, contacted the institution holding the account.

Safe-deposit box inactivity shall consist in the fact that the holder of a safe-deposit box has not, in any way, contacted the institution holding the safe-deposit box. The fact of carrying out transactions from an account held with the same institution shall constitute a form of contact.

Inactivity with respect to an insurance contract shall consist in the fact that no beneficiary has claimed a right on the insurance benefits due under an insurance contract and which have become payable. Inactivity with respect to an insurance contract under which the payment of benefits is deemed due pursuant to Article 20(1) or (2) shall end with any contact from the insured party.

## **Article 3.**

- (1) The Commission de Surveillance du Secteur Financier, hereinafter referred to as the "CSSF", shall ensure compliance by the institutions with Articles 4 to 8, 11 to 13, 18, 27(1), 50(1), (2) and points (1) and (2) of the first subparagraph of paragraph 3, and Article 51(1), (2) and point (1) of the first subparagraph of paragraph 3. The CSSF shall also ensure compliance by

the institutions with their obligations of safekeeping of assets as referred to in Article 10(4) and Article 15(5) and (8) and their obligations of retention of information and documents pursuant to Article 29(2).

- (2) The Commissariat aux assurances, hereinafter referred to as the "CAA", shall ensure compliance by the insurance undertakings with Articles 19 to 24, 27(2) and Article 52(1), (2) and points (1) and (2) of the first subparagraph of paragraph 3. The CAA shall also ensure compliance by the insurance undertakings with their obligations of safekeeping of assets as referred to in Article 26(4) and their obligations of retention of information and documents pursuant to Article 29(2).

## **Chapter II - Inactive accounts and inactive safe-deposit boxes**

### **Section I - Measures to prevent inactivity of accounts and processing of inactive accounts**

#### **Article 4.**

- (1) Without prejudice to the other legal and regulatory obligations incumbent upon them, the institutions shall be in regular contact with the holders and monitor their business relationships with due diligence in order to avoid that an account becomes inactive.
- (2) To this end, the institutions shall have an appropriate internal organisation to identify the accounts likely to become inactive and to ensure a monitoring of these accounts. They shall have specific rules for the communication of information to and search for holders or, where applicable, their right holders.

The institutions shall ensure an appropriate monitoring of the inactive accounts referred to in Article 7 and provide for procedures to reactivate such accounts.

- (3) Where a holder initiates again a transaction on an inactive account as referred to in Article 7, the institution shall apply particular due diligence and ensure the information on the business relationship is updated.

#### **Article 5.**

- (1) Where, upon the start of the inactivity, the inactivity of an account has persisted for three years, the institution holding the account shall inform, notwithstanding any contrary contractual clause, the holder or, where applicable, the right holder known by the institution thereof by indicating the consequences of the account's inactivity in accordance with this Law.

The institutions shall communicate this information to the holders or, where applicable, the right holders known by them by any means within three months following the expiry of the three-year time frame provided for in the first subparagraph. To this end, they shall use the data available to them. Where the sum of the balances of all accounts held by a holder with the same institution exceeds EUR 100 or its equivalent in foreign currencies or financial instruments on the day following the expiry of the three-year time frame provided for in the first subparagraph, this information shall be confirmed by registered letter with acknowledgement of receipt sent at the last known address of the holders or, where applicable, the right holders known by the institutions within the time frame provided for in the first sentence. The holder's signature on the acknowledgement of receipt shall be deemed as a form of contact by the holder for the purposes of this Law.

- (2) By way of derogation from paragraph 1, if the institutions become aware of the holder's death or dissolution after having communicated the information in accordance with paragraph 1, they shall communicate the information to the right holders known to them within one month as from the date the death or the dissolution of the holder becomes known or, where the right holders are not known by them, from the date they are identified.
- (3) The transactions which are not carried out at the initiative of the holder shall not be taken into consideration.
- (4) In the case there are several holders for one and the same account, the initiation of the transactions or any contact by one single holder shall be deemed as sufficient to keep the active nature of the account.

#### **Article 6.**

- (1) If there is no transaction initiation or contact by the holder within three months following the dispatch of the registered letter with acknowledgement of receipt referred to in Article 5 or where the institution notes that the data available to it do not allow communicating the information pursuant to Article 5, as the case may be, the institution shall perform additional research to contact the holder or to identify and, where they were identified, contact potential right holders.

Where the institution becomes aware of the death or the dissolution of the holder:

- 1° it shall perform the additional research referred to in the first subparagraph in order to identify and, where they were identified, contact potential right holders; or
- 2° if it informed the right holders known to it in accordance with Article 5(1) or (2) and the information did not trigger any form of contact by the rights holders, it shall perform additional research to contact the right holders.

If the sum of the balances of all accounts held with the same institution does not exceed EUR 2,500 or its equivalent in foreign currencies or financial instruments on the day following the end of the three-month time frame provided for in the first subparagraph or on the day the institution notes that the data available to it do not allow communicating the information pursuant to Article 5, the institutions shall not be required to perform additional research to contact the holders or, where applicable, potential right holders.

For the purposes of the third subparagraph, foreign currencies shall be assessed in EUR at the reference rate published by the European Central Bank and the value of the financial instrument holdings shall be assessed on the day referred to in the third subparagraph or, if this day is not a bank working day in Luxembourg, on the first bank working day in Luxembourg which follows.

- (2) The institutions shall incur the research costs according to the principle of proportionality. Notwithstanding any contrary contractual clause, the institutions may charge and debit the research fees effectively incurred from the assets held by the holder up to 10 per cent of the sum of the balances of the holder's accounts or its counter value as calculated pursuant to paragraph 1, without exceeding a maximum amount of EUR 25,000.

By way of derogation from the first subparagraph, the institutions shall bear the research costs where they did not complete the information process provided for in Article 5 within the required deadlines.

The institutions shall keep the documentary evidence relating to the research performed and to the relevant costs until the consignment to the Consignment Office, and then in accordance with the arrangements described in Article 29(2).

- (3) The obligation to perform additional research shall cease when the institutions note that, despite the steps undertaken, they are clearly not able to contact the holders or identify and, where they were identified, contact potential right holders or when the institutions file a consignment request in accordance with Article 9.
- (4) For the purposes of additional research, the institutions may use third-party services which are subject by law to a professional secrecy obligation or which are bound by a written confidentiality agreement.

In this case, the transmission to third parties of information strictly necessary for the performance of additional research shall not constitute a breach by the institution of its professional secrecy obligation.

#### **Article 7.**

For the purposes of this Law, where, upon the start of the inactivity, the inactivity of an account has persisted for six years, the account shall be considered as an “inactive account”.

#### **Article 8.**

- (1) Where, upon the start of the inactivity, the inactivity of an account has persisted for nine years, the institution holding this account shall inform again, notwithstanding any contrary contractual clause, the holder or, where applicable, the right holder known by the institution of the consequences of the account’s inactivity in accordance with this Law.

The institutions shall address this information to the holders or, where applicable, the right holders known by them by any means and by using the data available to them, including those obtained following the additional research performed in accordance with Article 6, within three months following the end of the nine-year time frame provided for in the first subparagraph. Where the sum of the balances of all accounts held by a holder with the same institution exceeds EUR 100 or its equivalent in foreign currencies or financial instruments on the day following the end of the nine-year time frame provided for in the first subparagraph, this information shall be confirmed by registered letter with acknowledgement of receipt sent at the last known address of the holders or, where applicable, the right holders known by the institution within the time frame provided for in the first sentence.

- (2) By way of derogation from paragraph 1, if the institutions become aware of the holder’s death or dissolution after having communicated the information in accordance with paragraph 1 and before filing a consignment request, they shall communicate the information to the right holders known to them within one month following the date the death of the holder becomes known.

#### **Article 9.**

- (1) Where, upon the start of the inactivity, the inactivity of an account has persisted for ten years, the institution holding this account shall request the consignment of the assets registered on the inactive account and not claimed by the holder or a right holder to the Consignment Office.

To this end, the institution shall file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 1 with the

Consignment Office within three months following the end of the ten-year time frame provided for in the first subparagraph.

- (2) In case the Consignment Office accepts the consignment request of an institution, the institution concerned shall carry out the consignment within the month following the notification by the Consignment Office accepting the consignment request. The institution shall carry out one single consignment for all the assets deposited with it on all inactive accounts of the same holder.

The institutions shall carry out the consignment, either in EUR or in the currency of a Member State of the Organisation for Economic Co-operation and Development, hereinafter referred to as the "OECD", to the account indicated by the Consignment Office.

- (3) By way of derogation from paragraph 2, if the institution is not able to fulfil the conditions laid down in paragraph 2, the Consignment Office may, upon written and duly reasoned request of the institution filed at the latest at the time of the filing of the consignment request, accept separate consignments, grant an additional time frame for the consignment or accept consignments in a currency of a State that is not member of the OECD.

#### **Article 10.**

- (1) Without prejudice to Article 9(3), the institutions shall convert the currencies or liquidate the financial instruments in accordance with paragraphs 2 to 4 so that the deadline for the consignment provided for in Article 9(2) is complied with.
- (2) The institutions shall perform the conversion of currencies of a State that is not member of the OECD at the rate in force on the day of the conversion:
  - 1° in EUR, at the reference rate published by the European Central Bank; or
  - 2° otherwise, in currencies of an OECD Member State, at the reference rate published by the central bank of the OECD Member State concerned.

For currencies of an OECD Member State, the consignment shall take place either in the currency of the account or in EUR.

The institutions shall consign the proceeds of the conversion, minus the conversion fees effectively incurred by them, to the Consignment Office in accordance with Article 9.

- (3) The institutions shall liquidate the financial instruments, as defined in the Law of 30 May 2018 on markets in financial instruments:
  - 1° at the market price in force on the day of the liquidation, if they are admitted to trading on a regulated market or a multilateral trading facility, hereinafter referred to as "MTF", as defined in the Law of 30 May 2018 on markets in financial instruments; or
  - 2° at the price of the last net asset value available on the day of the liquidation, in case of units or shares of an undertaking for collective investment regularly publishing a net asset value.

The institution shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by it, in EUR or in the currency of an OECD Member State to the Consignment Office in accordance with Article 9.

- (4) The institutions shall have the possibility to liquidate the financial instruments other than those referred to in paragraph 3. Where the institutions liquidate, partially or completely, the aforementioned financial instruments, they shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by them, to the Consignment Office in accordance with

Article 9. The institutions shall remain depositaries of the financial instruments that have not been liquidated.

- (5) The institutions may not be held liable for the effects of the conversion or the liquidation on the value of the assets in accordance with paragraphs 2 and 3.

## **Section II - Measures to prevent inactivity of safe-deposit boxes and treatment of inactive safe-deposit boxes**

### **Article 11.**

- (1) Where, upon the start of the inactivity, the inactivity of a safe-deposit box has persisted for five years, the institution holding this safe-deposit box shall inform, notwithstanding any contrary contractual clause, the holder or, where applicable, the right holder known by the institution thereof by indicating the consequences of the inactivity of the safe-deposit box in accordance with this Law.

The institutions shall address this information to the holders or, where applicable, the right holders known by them by any means within three months following the expiry of the five-year time frame provided for in the first subparagraph. To this end, they shall use the data available to them. This information shall be confirmed by a registered letter with acknowledgement of receipt sent at the last known address of the holder or, where applicable, the right holder known by the institution, within the time frame provided for in the first sentence. The holder's signature on the acknowledgement of receipt shall be deemed as a form of contact by the holder for the purposes of this Law.

- (2) By way of derogation from paragraph 1, if the institutions become aware of the holder's death or dissolution after having communicated the information in accordance with paragraph 1, they shall communicate the information to the right holders known to them within one month as from the date the death or the dissolution of the holder becomes known or, where the right holders are not known by them, from the date they are identified.
- (3) In the case there are several holders for one and the same safe-deposit box, any form of contact by one single holder shall be deemed as sufficient to keep the active nature of the safe-deposit box.

### **Article 12.**

For the purposes of this Law, where, upon the start of the inactivity, the inactivity of a safe-deposit box has persisted for six years, the safe-deposit box shall be considered as an "inactive safe-deposit box".

### **Article 13.**

- (1) Where, upon the start of the inactivity, the inactivity of a safe-deposit box has persisted for nine years, the institution holding this safe-deposit box shall inform again, notwithstanding any contrary contractual clause, the holder or, where applicable, the right holder known by the institution of the consequences of the inactivity of the safe-deposit box in accordance with this Law.

The institutions shall address this information to the holders or, where applicable, the right holders known by them by any means, using data available to them, within three months following the end of the nine-year time frame provided for in the first subparagraph. This information shall be confirmed by a registered letter with acknowledgement of receipt sent at

the last known address of the holders or, where applicable, the right holders known by the institution, within the time frame provided for in the first sentence.

- (2) By way of derogation from paragraph 1, if the institutions become aware of the holder's death or dissolution after having communicated the information in accordance with paragraph 1 and before filing a consignment request, they shall communicate the information to the right holders known to them within one month following the date the death of the holder becomes known.

#### **Article 14.**

- (1) Where, upon the start of the inactivity, the inactivity of a safe-deposit box has persisted for ten years, the institution holding the safe-deposit box shall open the inactive safe-deposit box in order to consign the assets deposited therein to the Consignment Office.
- (2) The institutions shall open inactive safe-deposit boxes within three months following the expiry of the ten-year time frame provided for in paragraph 1 in the presence of a bailiff (*huissier de justice*) or a notary who shall list their content.

Where the institutions open safe-deposit boxes for which there is inactivity within the meaning of Article 2(2) pursuant to the contractual provisions before the deadline provided for in paragraph 1 has expired, this opening shall take place in the presence of a bailiff (*huissier de justice*) or a notary who shall list their content.

- (3) Notwithstanding any contrary contractual clause, the institutions may charge and debit:
  - 1° the unpaid renting fees; and
  - 2° the fees effectively incurred by them which are associated with the opening of inactive safe-deposit boxes up to a maximum amount of EUR 500.
- (4) The institution holding the safe-deposit box shall request the consignment of the assets deposited in the inactive safe-deposit box opened in accordance with paragraphs 1 and 2 and not claimed by the holder or a right holder to the Consignment Office.

To this end, the institution shall file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 1 with the Consignment Office within three months following the end of the time frame provided for in paragraph 2.

- (5) In case the Consignment Office accepts the consignment request of an institution, the institution concerned shall carry out the consignment within two months following the notification by the Consignment Office accepting the consignment request. The institution shall carry out one single consignment for all the assets deposited with it in all inactive safe-deposit boxes of the same holder.

Without prejudice to Article 15(8) and Article 16, the institutions shall carry out the consignment, either in EUR or in the currency of an OECD Member State, to the account indicated by the Consignment Office.

- (6) By way of derogation from paragraph 5, if the institution is not able to fulfil the conditions laid down in paragraph 5, the Consignment Office may, upon written and duly reasoned request of the institution filed at the latest at the time of the filing of the consignment request, accept separate consignments, grant an additional time frame for the consignment or accept consignments in a currency of a State that is not member of the OECD.

## Article 15.

- (1) Without prejudice to Article 14(6), the institutions shall book, convert or liquidate the assets held in the inactive safe-deposit boxes in accordance with paragraphs 2 to 6 so that the deadline for the consignment provided for in Article 14(5) is complied with.
- (2) The institutions shall book the cash.
- (3) The institutions shall perform the conversion of currencies of a State that is not member of the OECD at the rate in force on the day of the conversion:
  - 1° in EUR, at the reference rate published by the European Central Bank; or
  - 2° otherwise, in currencies of an OECD Member State, at the reference rate published by the central bank of the OECD Member State concerned.

For currencies of an OECD Member State, the consignment shall take place either in the currency of the cash found in the safe-deposit box or in EUR.

The institutions shall consign the proceeds of the conversion, minus the conversion fees effectively incurred by them, to the Consignment Office in accordance with Article 14.

- (4) Without prejudice to the obligations deriving from the Law of 28 July 2014 regarding immobilisation of bearer shares and units and the keeping of the register of registered shares and the register of bearer shares and amending 1) the Law of 10 August 1915 on commercial companies, as amended, and 2) the Law of 5 August 2005 on financial collateral arrangements, as amended, the institutions shall liquidate the financial instruments, as defined in the Law of 30 May 2018 on markets in financial instruments:
  - 1° at the market price in force on the day of the liquidation, if they are admitted to trading on a regulated market or an MTF, as defined in the Law of 30 May 2018 on markets in financial instruments; or
  - 2° at the price of the last net asset value available on the day of the liquidation, in case of units or shares of an undertaking for collective investment regularly publishing a net asset value.

The institution shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by it, in EUR or in the currency of an OECD Member State to the Consignment Office in accordance with Article 14.

- (5) Without prejudice to the obligations deriving from the Law of 28 July 2014 regarding immobilisation of bearer shares and units and the keeping of the register of registered shares and the register of bearer shares and amending 1) the Law of 10 August 1915 on commercial companies, as amended, and 2) the Law of 5 August 2005 on financial collateral arrangements, as amended, the institutions shall have the possibility to liquidate the financial instruments other than those referred to in paragraph 4. Where the institutions liquidate, partially or completely, the aforementioned financial instruments, they shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by them, to the Consignment Office in accordance with Article 14. The institutions shall remain depositaries of the financial instruments that have not been liquidated.
- (6) The institutions shall liquidate physical precious metals in the form of coins or ingots which are traded on a trading platform in Luxembourg or abroad or on a bilateral basis between financial players and for which a market price is determined on a daily or weekly basis, in EUR or in the currency of an OECD Member State at the market price in force on the day of liquidation, where applicable, after the book entry. The institutions shall consign the proceeds

of the liquidation, minus the liquidation fees effectively incurred by them, to the Consignment Office in accordance with Article 14.

- (7) By way of derogation from Article 14, the institutions shall destroy the perishable goods and transfer the dangerous goods or the goods prohibited pursuant to a legal or regulatory provision to the competent authorities.
- (8) By way of derogation from Article 14, the institutions shall keep the assets not referred to in paragraphs 2 to 7 in a sealed envelope to proceed as laid down in Article 16 and they shall remain depositaries of these assets. The institutions shall carry out a centralised deposit of these assets.
- (9) The institutions may not be held liable for the effects of the book entry, conversion, liquidation, destruction or transmission of the assets in accordance with paragraphs 2 to 4, 6 and 7.

#### **Article 16.**

Where, upon the start of the inactivity, the inactivity of a safe-deposit box has persisted for fifty years, the institutions shall consign in kind the sealed envelopes referred to in Article 15(8) to the Consignment Office within two months.

#### **Article 17.**

- (1) By way of derogation from Article 11(1) and (2), the institutions shall be exempt from the information obligation provided for therein, where a holder holds both an account and a safe-deposit box with the same institution and where the information communicated under Article 5 also indicated the consequences of the inactivity of the safe-deposit box pursuant to this Law.
- (2) By way of derogation from Article 11, where a holder holds both an account and a safe-deposit box with the same institution, the safe-deposit box shall be deemed as inactive at the same time as the holder's account pursuant to Article 7.

Where a holder holds both an account and a safe-deposit box with the same institution, any contact or initiation of transactions on the account by the holder shall be sufficient to keep the active nature of the safe-deposit box.

- (3) By way of derogation from Article 13, the institutions shall be exempt from the information obligation provided for therein, where a holder holds both an account and a safe-deposit box with the same institution and where the information communicated under Article 8 also indicated the consequences of the inactivity of the safe-deposit box pursuant to this Law.
- (4) Where a holder holds both an account and a safe-deposit box with the same institution, the institution may:
  - 1° by way of derogation from the deadline provided for in the second subparagraph of Article 9(1), file the consignment request in relation to the holder's account within six months as from the expiry of the ten-year time frame provided for in the first subparagraph of Article 9(1);
  - 2° by way of derogation from the deadline provided for in the first subparagraph of Article 9(2), consign the assets deposited on the holder's inactive accounts within two months following the notification by the Consignment Office accepting the consignment request.

## **Article 18.**

Where the holders hold only a safe-deposit box without holding an account with an institution, the institution shall adopt the measures referred to in Article 4 in order to prevent the inactivity of these safe-deposit boxes.

## **Chapter III - Measures to prevent unclaimed insurance contracts and processing of unclaimed insurance contracts**

### **Article 19.**

- (1) Without prejudice to the other legal and regulatory obligations incumbent upon them, the insurance undertakings shall apply due diligence measures and monitor the insurance benefits due.
- (2) The insurance undertakings shall take, throughout the life of the insurance contracts and until their complete settlement, appropriate measures to facilitate the due diligence and search activities provided for in this chapter.
- (3) To this end, the insurance undertakings shall have an appropriate internal organisation to monitor the insurance benefits due and to identify the insurance contracts likely to become unclaimed. They shall have specific rules to identify, search and, where applicable, inform the beneficiaries.

### **Article 20.**

- (1) For insurance contracts providing benefits in case of death of the insured party, concluded for an indefinite time or including a time frame reaching over the ninetieth birthday of the insured party, where the insured party reaches ninety years of age and the insurance undertaking had no direct or indirect contact with this insured party for the last two years, it shall contact the insured party, notwithstanding any contrary contractual clause, and inform them of the consequences provided for in the fourth subparagraph in case of absence of contact by them.

The insurance undertakings shall address this information to the insured party by any means within three months following the ninetieth birthday of the insured party. This information shall be confirmed by registered letter with acknowledgement of receipt sent to the last known address of the insured party. To this end, the insurance undertakings shall use the data available to them. Notwithstanding any contrary contractual clause, they may contact the policyholder to this end.

For the insurance contracts concluded on the life of several insured parties, the insured party to be taken into consideration under the first subparagraph shall be:

- 1° the oldest insured party for contracts providing for benefits at the first death case;
- 2° the youngest insured party for contracts providing for benefits at the last death case.

If there is no contact, in any form whatsoever, by the insured party referred to in the first subparagraph or another evidence that the insured party is still alive within three months following the dispatch of the registered letter with acknowledgement of receipt provided for in the second subparagraph, the insured event shall be assumed as having occurred and the benefit provided for in the insurance contract shall be assumed as being due following a three-month time frame. The insured party's signature on the acknowledgement of receipt shall be deemed as a form of contact by the insured party for the purposes of this Law.

- (2) As regards insurance contracts concluded for a definite term not referred to in paragraph 1, providing for a benefit in case the insured party still lives after the expiry of the contract, the insurance undertaking shall contact the insured party at the expiry of the contract, notwithstanding any contrary contractual clause, and inform them of the consequences provided for in the third subparagraph in case of no contact by them.

The insurance undertakings shall address this information to the insured party by any means within three months following the expiry of the contract. This information shall be confirmed by registered letter with acknowledgement of receipt sent to the last known address of the insured party. To this end, the insurance undertakings shall use the data available to them. Notwithstanding any contrary contractual clause, they may contact the policyholder to this end.

If there is no contact, in any form whatsoever, by the insured party referred to in the first subparagraph and if there is no evidence that the insured party is deceased within three months following the dispatch of the registered letter with acknowledgement of receipt provided for in the second subparagraph, the insured event shall be assumed as having occurred and the benefit provided for in the insurance contract shall be assumed as being due following a three-month time frame. The insured party's signature on the acknowledgement of receipt shall be deemed as a form of contact by the insured party for the purposes of this Law.

- (3) As regards insurance contracts concluded for a definite term not referred to in paragraph 1, providing for a benefit only in case the insured party deceases, and in relation to which the insurance undertaking has not received indication or evidence that the insured party deceased before the expiry of the contract, the insured event shall be assumed as not having occurred.
- (4) The assumption of occurrence and benefits being due under paragraphs 1 and 2 shall exist solely for the application of this Law and be without prejudice to the right of the insurance undertaking to make payment of the benefits conditional on evidence of the actual occurrence of the insured event.

#### **Article 21.**

Where, upon the start of the inactivity, the inactivity in relation to an insurance contract has persisted for a year, the insurance undertaking with which the insurance contract was concluded shall inform, notwithstanding any contrary contractual clause, the beneficiary known by the insurance undertaking thereof by indicating the consequences attached to the status of unclaimed insurance contract pursuant to this Law.

The insurance undertakings shall address this information to the beneficiaries known by them by any means within three months following the end of the one-year time frame provided for in the first subparagraph. To this end, they shall use the data available to them. This information shall be confirmed by a registered letter with acknowledgement of receipt sent, within the time frame provided for in the first sentence, at the last known address of the beneficiaries known by the insurance undertakings.

#### **Article 22.**

- (1) If there is no contact by the beneficiaries within three months following the dispatch of the registered letter with acknowledgement of receipt referred to in Article 21 or where the insurance undertakings note that the data available to them do not allow communicating the information pursuant to Article 21, as the case may be, they shall perform additional research

to identify and, where they were identified, contact the beneficiaries. Notwithstanding any contrary contractual clause, the insurance undertakings may contact the policyholders to this end.

If the insurance benefits to be provided under the insurance contract do not exceed EUR 2,500 or its equivalent in foreign currencies or financial instruments on the day following the expiry of the three-month time frame provided for in the first subparagraph or on the day the insurance undertaking notes that the data available to it do not allow communicating the information pursuant to Article 21, the insurance undertakings shall not be required to perform additional research to contact the beneficiaries.

For the purposes of the second subparagraph, foreign currencies shall be assessed in EUR at the reference rate published by the European Central Bank and the value of the financial instrument holdings shall be assessed on the day referred to in the second subparagraph or, if this day is not a bank working day in Luxembourg, on the first bank working day in Luxembourg which follows.

- (2) The insurance undertakings shall incur the research costs according to the principle of proportionality. Notwithstanding any contrary contractual clause, the insurance undertakings may charge and debit the research fees they effectively incurred from the insurance benefits due under the insurance contract up to 10 per cent of the total of the insurance benefits due under the insurance contract or their counter value as calculated pursuant to paragraph 1, without exceeding a maximum amount of EUR 25,000.

By way of derogation from the first subparagraph, the insurance undertakings shall bear the research costs where they did not complete the information process provided for in Article 21 within the required deadlines.

The insurance undertakings shall keep the documentary evidence relating to the research performed and to the relevant costs until the consignment to the Consignment Office, and then in accordance with the arrangements described in Article 29(2).

- (3) The obligation to perform additional research shall cease when the insurance undertakings note that, despite the steps undertaken, they are clearly not able to identify or contact the beneficiaries or when they file a consignment request in accordance with Article 25.
- (4) For the purposes of additional research laid down in this Law, the insurance undertakings may use third-party services which are subject by law to a professional secrecy obligation or which are bound by a written confidentiality agreement.

In this case, the transmission to third parties of information strictly necessary for the performance of additional research shall not constitute a breach by the insurance undertaking of its professional secrecy obligation.

### **Article 23.**

- (1) For the purposes of this Law, where, upon the start of the inactivity, the inactivity in relation to an insurance contract has persisted for two years, the insurance contract shall be considered as an "unclaimed insurance contract".
- (2) In the case there are several beneficiaries, the insurance contract shall be deemed as partially unclaimed in accordance with this chapter up to the amount of rights of the beneficiaries that have not been in contact. The insurance undertakings shall determine in their internal procedures the rules to be complied with in case of payment of part of the insurance benefit to beneficiaries that have been in contact, as the case may be.

#### **Article 24.**

Where, upon the start of the inactivity, the inactivity in relation to an insurance contract has persisted for five years, the insurance undertakings which are parties to the insurance contract shall inform again, notwithstanding any contrary contractual clause, the beneficiaries known by them of the consequences of the unclaimed insurance contract pursuant to this Law.

The insurance undertakings shall address this information to the beneficiaries known by them by any means and by using the data available to them, including those obtained following the additional research performed in accordance with Article 22, within three months following the end of the five-year time frame provided for in the first subparagraph. This information shall be confirmed by registered letter with acknowledgement of receipt sent, within the time frame provided for in the first sentence, at the last known address of the beneficiaries known by the insurance undertakings.

#### **Article 25.**

- (1) Where, upon the start of the inactivity, the inactivity in relation to an insurance contract has persisted for six years, the insurance undertaking which is party to the insurance contract shall request the consignment to the Consignment Office of an amount equivalent to the insurance benefits to be provided and not claimed by a beneficiary in accordance with Article 26.

To this end, the insurance undertakings which are parties to the insurance contract shall file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 2 with the Consignment Office within three months following the end of the six-year time frame provided for in the first subparagraph.

- (2) In case the Consignment Office accepts the consignment request of an insurance undertaking, the insurance undertaking concerned shall carry out the consignment within the month following the notification by the Consignment Office accepting the consignment request. The insurance undertakings shall carry out one single consignment for all the benefits due under one and the same unclaimed insurance contract.

Where the benefit due under the insurance contract is payable in the form of an annuity, the consignment shall intervene, where appropriate, periodically.

The insurance undertakings shall carry out the consignment, either in EUR or in the currency of an OECD Member State, to the account indicated by the Consignment Office.

- (3) By way of derogation from paragraph 2, if the institution is not able to fulfil the conditions laid down in paragraph 2, the Consignment Office may, upon written and duly reasoned request of the institution filed at the latest at the time of the filing of the consignment request, accept separate consignments, grant an additional time frame for the consignment or accept consignments in a currency of a State that is not member of the OECD.

#### **Article 26.**

- (1) Without prejudice to Article 25(3), the insurance undertakings shall convert or liquidate the insurance benefits as assets other than in EUR or currencies of an OECD Member State in accordance with paragraphs 2 to 4 so that the deadline for the consignment provided for in Article 25(2) is complied with.
- (2) The insurance undertakings shall perform the conversion of currencies of a State that is not member of the OECD at the rate in force on the day of the conversion:
  - 1° in EUR, at the reference rate published by the European Central Bank; or

2° otherwise, in currencies of an OECD Member State, at the reference rate published by the central bank of the OECD Member State concerned.

The insurance undertakings shall consign the proceeds of the conversion, minus the conversion fees effectively incurred by them, to the Consignment Office in accordance with Article 25.

- (3) Without prejudice to the shorter deadlines set in Article 181-1 of the Law of 7 December 2015 on the insurance sector, as amended, the insurance undertakings shall liquidate the financial instruments, as defined in the Law of 30 May 2018 on markets in financial instruments:
- 1° at the market price in force on the day of the liquidation, if they are admitted to trading on a regulated market or an MTF, as defined in the Law of 30 May 2018 on markets in financial instruments; or
  - 2° at the price of the last net asset value available on the day of the liquidation, in case of units or shares of an undertaking for collective investment regularly publishing a net asset value.

The insurance undertaking shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by the insurance undertaking, in EUR or in the currency of an OECD Member State to the Consignment Office in accordance with Article 25.

- (4) Without prejudice to the shorter deadlines set in Article 181-1 of the Law of 7 December 2015 on the insurance sector, as amended, the insurance undertakings shall have the possibility to liquidate the financial instruments other than those referred to in paragraph 3. Where the insurance undertakings liquidate, partially or completely, the aforementioned financial instruments, they shall consign the proceeds of the liquidation, minus the liquidation fees effectively incurred by them, to the Consignment Office in accordance with Article 25. The insurance undertakings shall remain depositaries of the financial instruments not liquidated.
- (5) The insurance undertakings may not be held liable for the effects of the conversion or the liquidation of the assets in accordance with paragraphs 2 and 3.

#### **Chapter IV - Annual information of the CSSF, the CAA and the Administration des contributions directes**

##### **Article 27.**

- (1) The institutions shall transmit electronically the total number of holders of inactive accounts within the meaning of Article 7 and inactive safe-deposit boxes within the meaning of Article 12, the total number of these inactive accounts and these inactive safe-deposit boxes, as well as the overall balance of all inactive accounts within the meaning of Article 7 that are open with this institution as at 31 December of each year, to the CSSF and the Administration des contributions directes by 28 February of the following year at the latest.

The CSSF shall determine the arrangements for the transmission and presentation of the information referred to in the first subparagraph.

- (2) The insurance undertakings shall transmit electronically the total number of unclaimed insurance contracts within the meaning of Article 23(1), as well as the overall balance of these unclaimed insurance contracts concerning them as at 31 December of each year, to the CAA and the Administration des contributions directes by 28 February of the following year at the latest.

The CAA shall determine the arrangements for the transmission and presentation of the information referred to in the first subparagraph.

- (3) The Administration des contributions directes may use this information only for the purposes of applying the Law of 18 December 2015 on the Common Reporting Standard (CRS), as amended, and the Law of 24 July 2015 on FATCA, as amended. The Administration des contributions directes shall check compliance with the obligations of the institutions and insurance undertakings towards the Administration des contributions directes in accordance with paragraphs 1 and 2. Save as otherwise provided for in this Law, the provisions of the Law of 16 October 1934 on fiscal adjustment, as amended, and the General Tax Law of 22 May 1931, as amended, shall apply to the communication of information to the Administration des contributions directes in accordance with paragraphs 1 and 2.

## **Chapter V - Consignment arrangements**

### **Section I - Transmission and examination of the consignment request**

#### **Article 28.**

- (1) The institutions and the insurance undertakings shall transmit the consignment request as well as, where applicable, the additional information and documents requested by the Consignment Office pursuant to paragraph 2 via electronic filing on a secure state platform.
- (2) The Consignment Office may request the institutions and the insurance undertakings all additional information and documents required to examine the consignment request. This information and these documents shall be provided without delay.
- (3) The Consignment Office shall take a reasoned decision and shall notify it to the institutions or the insurance undertakings within six months of receipt of the consignment request or, should the latter be incomplete, within six months of receipt of the information and documents required for the decision. The absence of a decision within six months of the filing of a consignment request which includes all the elements required for a decision shall constitute a decision of refusal.
- (4) The Consignment Office may refuse the consignment where the provisions of this Law are not complied with or where the information transmitted is incomplete, inaccurate or false.
- (5) Where the Consignment Office received assets on deposit to be consigned in accordance with Articles 9, 14, 16, 25 or 50 to 52, it shall send a receipt confirming the nature and, where appropriate, the amount of the consigned assets to the institution or the insurance undertaking which carried out the consignment.

In case of difference between the amount indicated by the depositary institution or depositary insurance undertaking in the consignment request and the amount actually consigned or where any other information provided when requesting the consignment is considered as no longer valid at the time of the consignment, the institution or the insurance undertaking shall provide explanations thereof. In the absence of sufficient justification, the Consignment Office may refuse to issue a receipt as referred to in the first subparagraph and it may return the assets received on deposit to the institution or the insurance undertaking which carried out the consignment.

The consignment shall only be effective as from the issue of the receipt referred to in the first subparagraph by the Consignment Office.

- (6) The institutions or the insurance undertakings shall bear the file processing costs related to the filing and examination of a consignment request. The file processing costs shall be determined by a grand-ducal regulation. They cannot be less than EUR 50 or exceed EUR 250 per file.

## **Section II - Effects of the consignment**

### **Article 29.**

- (1) Where the contractual relationship of the holder and the institution still exists on the consignment day in accordance with this Law, the consignment shall result in the closing of the holder's accounts and safe-deposit boxes with the institution, notwithstanding any contrary contractual clause and notwithstanding the custody of assets pursuant to Article 10(4) or Article 15(5) and (8).

The consignment in accordance with this Law shall entail the end of the contractual relationship of the insurance undertakings and the policyholders, notwithstanding any contrary contractual clause and notwithstanding the custody of assets pursuant to Article 26(4).

- (2) In order to allow the Consignment Office to examine information requests under Article 32, to examine return requests and to proceed with the return under Article 33, the institutions and the insurance undertakings shall keep the information and documents referred to in Annex 3 during the whole duration of the consignment and for 5 years as from the date the consignment ends.

To this end, the institutions and the insurance undertakings shall keep the originals, the digital originals or the copies with probative value under conditions that ensure reliable guarantees as to the maintenance of the integrity of the documents kept.

In case of liquidation of an institution or an insurance undertaking, the liquidator shall ensure that this information and these documents are kept until the expiry of the time frame provided for in the first subparagraph.

The Consignment Office shall inform the institution or the insurance undertaking concerned or, where applicable, the liquidator of the end of the consignment.

- (3) Except in case of gross fault or fraud by the institutions or the insurance undertakings, as the case may be, the consignment made in accordance with this Law discharges the institutions and the insurance undertakings from all obligations vis-à-vis the holders, right holders, policyholders, beneficiaries and any third party in connection with the consigned assets, except for the obligations arising from this Law. This discharge shall however not give rise to an exemption from contractual or tortious liability for the institutions and the insurance undertakings with respect to irregularities committed prior to the consignment.
- (4) The Consignment Office shall not take over the rights and obligations of the institutions and the insurance undertakings.
- (5) The institutions and the insurance undertakings shall guarantee that the information or the documents provided to the Consignment Office pursuant to this Law are accurate and undistorted. The Consignment Office shall not incur any liability where the information or the documents provided by the institutions and the insurance undertakings are inaccurate or distorted.

### **Article 30.**

Where the amounts deposited on an account or the securities credited to an account are unavailable for a certain period pursuant to legal provisions, contractual provisions or the existence of a security agreement, the time frames referred to in Section I of Chapter II and in Article 50 shall begin to run at the end of the period of unavailability.

Where all the conditions for a consignment provided for in Chapter II and in Article 50 are met and the unavailability results from a judicial or administrative decision, the consignment may be carried out with the written approval of the jurisdiction or administration that decided on the unavailability.

### **Article 31.**

The Consignment Office shall safeguard the consigned assets pursuant to this Law in accordance with Article 5 of the Law of 29 April 1999 on consignments to the State.

## **Section III - Electronic register of consigned assets**

### **Article 32.**

- (1) The Consignment Office shall keep an electronic register of the assets consigned under this Law which refers, for each consignment, to the information transmitted to it in support of the consignment request in accordance with Annex 1 or 2.
- (2) Any person demonstrating a right on consigned assets may submit electronically or by mail to the Consignment Office an information request regarding the registrations in the register relating to assets on which the requester claims a right.

Any request shall be accompanied by the information and documents listed in Annex 4.

Upon request of the Consignment Office, the requester shall provide any information and additional documentary evidence that allow establishing their rights on the assets on which they claim a right.

- (3) Upon request of the Consignment Office, the institutions and the insurance undertakings shall transmit to it the information and documents referred to in Annex 3 which are required for the examination of the information request referred to in paragraph 2.

This information and documents shall be provided without delay according to the transmission arrangements laid down in Article 28(1).

- (4) The Consignment Office shall take a reasoned decision and shall notify it electronically or by mail, depending on the filing method of the request, to the requester within three months of receipt of the request or, should the latter be incomplete, within three months of receipt of the information and documents required for the decision. The absence of a decision within three months of the filing of a request which includes all the elements required for a decision shall constitute a decision of refusal.

The Consignment Office may refuse an information request when the requester is not able to justify a right on the consigned assets or when the information and documents to be provided pursuant to this article are incomplete or inaccurate.

- (5) Any information request shall be recorded and can only concern information on assets on which the requester claims a right.
- (6) For the purposes of this article, the Consignment Office shall be considered as the controller within the meaning 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 (General Data Protection Regulation).

#### **Section IV - Return of the consigned assets**

##### **Article 33.**

- (1) Any person demonstrating a right on consigned assets pursuant to this Law may submit electronically or by mail to the Consignment Office a return request together with the information and documents listed in Annex 5.

Upon request of the Consignment Office, the applicant shall provide any information and additional documentary evidence that allow establishing their rights on the assets subject to the return request.

Upon request of the Consignment Office, the institutions and the insurance undertakings shall transmit to it the information and documents referred to in Annex 3 which are required for the examination of the return requests and steps.

The institutions and the insurance undertakings shall transmit to the Consignment Office, upon its request, all the documentation kept in accordance with Article 29(2) which relates to the examined return request according to the transmission arrangements laid down in Article 28(1).

The institutions and the insurance undertakings shall cooperate with the Consignment Office to allow the latter to identify and analyse the rights of the return applicant and communicate any information or document required to this end to the Consignment Office.

- (2) The Consignment Office shall take a reasoned decision and shall notify it to the applicant within six months of receipt of the request or, should the latter be incomplete, within six months of receipt of the information and documents required for the decision. The absence of a decision within six months of the filing of a return request which includes all the elements required for a decision shall constitute a decision of refusal.

##### **Article 34.**

The Consignment Office shall perform any return in accordance with Article 6 of the Law of 29 April 1999 on consignments to the State by transfer on a bank account opened in the name of the return applicant with a credit institution authorised in the European Union.

#### **Section V - Specific provisions**

##### **Article 35.**

Unless derogated in this Law, the provisions of the Law of 29 April 1999 on consignments to the State shall apply.

##### **Article 36.**

The Government in Council may decide on a specific allocation of the consigned assets pursuant to this Law and escheat them where the initial holders, beneficiaries or right holders of these assets have been subject to serious breaches of the international human rights law.

The Government in Council may also decide on a specific allocation of the consigned assets pursuant to Article 16 and escheat them where it deems that one of these assets is likely to be of cultural or historic value.

#### **Article 37.**

- (1) By way of derogation from the second sentence of Article 8(1) of the Law of 29 April 1999 on consignments to the State:
- 1° for moveable property consigned pursuant to Article 9, 14 or 25 of this Law, the thirty-year limitation period shall begin to run as from the start of the inactivity referred to in Article 2 of this Law;
  - 2° moveable property consigned pursuant to Article 16 of this Law shall be escheated five years following the delivery of the consignment receipt by the Consignment Office pursuant to Article 28(5) of this Law;
  - 3° for moveable property consigned pursuant to Article 50 of this Law, the thirty-year limitation period shall begin to run as from the date the holder has no longer carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and where the holder has not, in any way, contacted the institution holding the account;
  - 4° for moveable property consigned pursuant to Article 51 of this Law, the thirty-year limitation period shall begin to run as from the date the holder has not, in any way, contacted the institution holding the safe-deposit box;
  - 5° for moveable property consigned pursuant to Article 52 of this Law, the thirty-year limitation period shall begin to run as from the date of knowledge of the due date of the payment of benefits by the insurance undertaking where no beneficiary has claimed rights on these insurance benefits.

In any case, the escheatment cannot take place before a minimum consignment period of five years is over. This time period shall begin to run as from the date of delivery of the receipt referred to in Article 28(5) of this Law.

- (2) By way of derogation from the first sentence of Article 8(1) of the Law of 29 April 1999 on consignments to the State, 50 per cent of the moveable property consigned under this Law and escheated in accordance with paragraph 1, except for the assets referred to in Articles 16 and 36, shall be acquired for the Fonds souverain intergénérationnel du Luxembourg (FSIL) established by the Law of 19 December 2014 on the implementation of the future package - first part (2015).

#### **Article 38.**

For the purposes of their respective missions under this Law, the CSSF, the CAA and the Consignment Office shall be entitled to cooperate and exchange information and documents. The information transmitted in the context of this subparagraph may not be transmitted to other authorities without the prior approval of the authority from which this information stems.

For the purposes of applying the Law of 18 December 2015 on the Common Reporting Standard (CRS), as amended, and the Law of 24 July 2015 on FATCA, as amended, the Administration des contributions directes shall be entitled to access information and documents that are subject to this Law and available at the Consignment Office, provided that a secure, limited and monitored access is guaranteed.

### **Article 39.**

This Law shall be without prejudice to the institutions' and the insurance undertakings' obligations regarding the fight against money laundering and terrorist financing arising from the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

## **Chapter VI – Administrative sanctions**

### **Article 40.**

- (1) For the purposes of applying this Law, the CSSF and the CAA shall be given all supervisory and investigatory powers that are necessary for the exercise of their respective duties within the limits set in this Law.
- (2) The powers of the CSSF and the CAA shall be the following:
  - 1° have access to any document or data in any form which the CSSF or the CAA considers could be relevant for the performance of its duties, and to receive or take a copy of it;
  - 2° demand or require the provision of information from any person and, where necessary, to summon and question any such person in order to obtain information;
  - 3° carry out on-site verifications or investigations with respect to persons subject to their respective supervision;
  - 4° request the freezing or sequestration of assets with the President of the *Tribunal d'arrondissement de et à Luxembourg* (Luxembourg District Court), deciding upon request;
  - 5° require the *réviseurs d'entreprises agréés* (approved statutory auditors) of the institutions or the insurance undertakings subject to their respective supervision to provide information;
  - 6° refer information to the State Prosecutor for criminal prosecution;
  - 7° require *réviseurs d'entreprises agréés* (approved statutory auditors) or experts to carry out on-site verifications or investigations of the institutions or the insurance undertakings subject to their respective supervision. These verifications and investigations shall be carried out at the expense of the person concerned;
  - 8° require the cessation of any practice or conduct that the CSSF or the CAA considers to be contrary to this Law and the implementation of measures to prevent repetition of that practice or conduct;
  - 9° adopt any measure that is necessary to ensure that any person this Law applies to and subject to the supervision of the CSSF or the CAA continues to comply with the requirements arising from this Law.

### **Article 41.**

- (1) The CSSF shall have the power to impose administrative sanctions and other administrative measures referred to in paragraph 3 for breach of:
  - 1° Article 4;
  - 2° Article 5(1) and (2);
  - 3° the first subparagraph of Article 6(1) and paragraph 2;
  - 4° Article 8;
  - 5° Article 11(1) and (2);
  - 6° Article 13;
  - 7° the obligation of safekeeping of the assets referred to in Article 10(4) and Article 15(5) and (8);

- 8° Article 18;
  - 9° the first subparagraph of Article 27(1);
  - 10° Article 50(1), (2) and points (1) and (2) of the first subparagraph of paragraph 3;
  - 11° Article 51(1), (2) and point (1) of the first subparagraph of paragraph 3.
- (2) The CSSF may impose an administrative fine of EUR 250 up to EUR 250,000 on those that obstruct the exercise of its supervisory and investigatory powers, that do not follow up on its orders given pursuant to Article 40, that knowingly give it inaccurate or incomplete information following requests based on Article 40 or that do not comply with its requirements based on Article 40.
- (3) In the case of breaches referred to in paragraph 1, the CSSF may impose the following administrative sanctions and measures on the persons under its supervision, on the members of their management body and on any other person responsible for a breach:
- 1° a public statement which indicates the natural or legal person and the nature of the breach in accordance with Article 44;
  - 2° a temporary ban against any person discharging managerial duties, or any natural person who is held responsible for such a breach, from exercising managerial duties;
  - 3° in respect of a legal person, administrative fines of up to EUR 1,000,000;
  - 4° in respect of a natural person, administrative fines of up to EUR 250,000.
- (4) The costs incurred for the forced recovery of administrative fines issued by the CSSF shall be borne by the persons these administrative fines have been imposed on.

#### **Article 42.**

- (1) The CAA shall have the power to impose administrative sanctions and other administrative measures referred to in paragraph 3 for breach of:
- 1° Article 19;
  - 2° Article 20(1) and (2);
  - 3° Article 21;
  - 4° the first subparagraph of Article 22(1) and paragraph 2;
  - 5° Article 23(2);
  - 6° the first and second subparagraphs of Article 24;
  - 7° the obligation of safekeeping of the assets referred to in Article 26(4);
  - 8° Article 27(2);
  - 9° Article 52(1), (2) and points (1) and (2) of the first subparagraph of paragraph 3;
- (2) The CAA may impose an administrative fine of EUR 250 up to EUR 250,000 on those that obstruct the exercise of its supervisory and investigatory powers, that do not follow up on its orders given pursuant to Article 40, that knowingly give it inaccurate or incomplete information following requests based on Article 40 or that do not comply with its requirements based on Article 40.
- (3) In the case of breaches referred to in paragraph 1, the CAA may impose the following administrative sanctions and measures on the persons under its supervision, on their executives and on any other person responsible for a breach:
- 1° a public statement which indicates the natural or legal person and the nature of the breach in accordance with Article 44;
  - 2° a temporary ban against any person discharging managerial duties, or any natural person who is held responsible for such a breach, from exercising managerial duties;
  - 3° in respect of a legal person, administrative fines of up to EUR 1,000,000;

4° in respect of a natural person, administrative fines of up to EUR 250,000.

- (4) The costs incurred for the forced recovery of administrative fines issued by the CAA shall be borne by the persons these administrative fines have been imposed on.

**Article 43.**

The CSSF, when determining the type and level of an administrative sanction or measure imposed under Article 41, and the CAA, when determining the type and level of an administrative sanction or measure imposed under Article 42, shall take into account all relevant circumstances, including, where appropriate:

- 1° the gravity and duration of the breach;
- 2° the degree of responsibility of the natural or legal person responsible for the breach;
- 3° the financial situation of the natural or legal person involved, as indicated in particular by the total turnover of the legal person involved or the annual income and net assets of the natural person involved;
- 4° the importance of profits gained or losses avoided by the natural or legal person involved, insofar as they can be determined;
- 5° the losses for third parties caused by the breach, insofar as they can be determined;
- 6° the level of cooperation of the natural or legal person involved with the CSSF or the CAA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- 7° previous breaches by the natural or legal person involved;
- 8° measures taken by the person responsible for the breach to prevent its repetition.

**Article 44.**

- (1) The CSSF may disclose to the public any sanction or measure imposed pursuant to Article 41 where the decision or judgement has become final and non-appealable, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

The CAA may disclose to the public any sanction or measure imposed pursuant to Article 42 where the decision or judgement has become final and non-appealable, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

- (2) The CSSF and the CAA shall keep any publication under paragraph 1 on their respective websites for a period of five years. Personal data contained in such publication shall only be kept on the website for a maximum period of twelve months.

The CSSF and the CAA shall inform the Consignment Office of all administrative sanctions imposed, including of any actions against them and the outcome of these actions.

- (3) The CSSF and the CAA shall provide each year the Consignment Office with aggregated information on all the sanctions and measures referred to in Article 41 or Article 42, respectively. That obligation shall not apply to measures of an investigatory nature.

## **Chapter VII - Criminal sanctions**

### **Article 45.**

- (1) A fine between EUR 12,500 and EUR 1,000,000 shall be imposed on the institutions which breached the following provisions:
- 1° Article 9(1) and (2);
  - 2° Article 10(1) to (3);
  - 3° Article 14(1) to (5);
  - 4° Article 15(1) to (4) and paragraphs 6 and 7;
  - 5° Article 16;
  - 6° Article 28(1) and (2);
  - 7° the first and second subparagraphs of Article 29(2);
  - 8° Article 32(3);
  - 9° the third to the fifth subparagraphs of Article 33(1);
  - 10° point (4) of the first subparagraph and the second subparagraph of Article 50(3);
  - 11° points (3) and (4) of the first subparagraph and the second subparagraph of Article 51(3).
- (2) A fine between EUR 2,500 and EUR 250,000 shall be imposed on the institutions' members of the management body who breached the provisions referred to in paragraph 1.

### **Article 46.**

- (1) A fine between EUR 12,500 and EUR 1,000,000 shall be imposed on the insurance undertakings which breached the following provisions:
- 1° Article 25(1) and (2);
  - 2° Article 26(1) to (3);
  - 3° Article 28(1) and (2);
  - 4° the first and second subparagraphs of Article 29(2);
  - 5° Article 32(3);
  - 6° the third to the fifth subparagraphs of Article 33(1);
  - 7° point (4) of the first subparagraph and the second subparagraph of Article 52(3).
- (2) A fine between EUR 2,500 and EUR 250,000 shall be imposed on executives of the insurance undertakings who breached the provisions referred to in paragraph 1.

## **TITLE II - Amending, transitional and final provisions**

### **Chapter I – Amending provisions<sup>1</sup>**

### **Chapter II - Transitional provisions**

### **Article 49.**

- (1) The consignments which are validly made prior to the entry into force of this Law shall not be subject to this Law.

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<sup>1</sup> This translation does not include the amending provisions.

- (2) With respect to an account, where at the time of entry into force of this Law the holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and the holder has not, in any way, contacted the institution holding the account for over three years, Article 50 shall apply.
- (3) With respect to a safe-deposit box, where at the time of entry into force of this Law the holder has not, in any way, contacted the institution holding the safe-deposit box for over five years, Article 51 shall apply.
- (4) With respect to an insurance contract, where at the time of entry into force of this Law the insurance benefits due under the insurance contract have become payable and no beneficiary has claimed a right on these insurance benefits within a time period exceeding one year following the knowledge of the due date of the benefit by the insurance undertaking, Article 52 shall apply.
- (5) The information requests referred to in Article 32 and the return requests referred to in Article 33 may be filed eighteen months following the entry into force of this Law at the earliest.

**Article 50.**

- (1) By way of derogation from Articles 5 and 6, where at the time of entry into force of this Law an account holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and the holder has not, in any way, contacted the institution holding the account for over three years and no more than six years:
  - 1° the institution shall communicate the information to the holders or, where applicable, the right holders known by it in accordance with the arrangements laid down in Article 5 within three months following the entry into force of this Law; and
  - 2° if there is no transaction initiation or contact by the holder within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the institution notes that the data available to it do not allow communicating the information pursuant to point (1), the institution shall undertake the steps described in Article 6.
- (2) By way of derogation from Articles 5, 6 and 8, where at the time of entry into force of this Law an account holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and the holder has not, in any way, contacted the institution holding the account for over six years and no more than nine years:
  - 1° the institution shall communicate the information to the holders or, where applicable, the right holders known by it in accordance with the arrangements laid down in Article 5 within three months following the entry into force of this Law;
  - 2° if there is no transaction initiation or contact by the holder within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the institution notes that the data available to it do not allow communicating the information pursuant to point (1), the institution shall undertake the steps described in Article 6. Where an institution already performed additional research within two years prior to the entry into force of this Law and this additional research has not been successful, this institution shall not be required to perform new additional research; and
  - 3° where the nine-year time frame referred to in the introductory sentence is reached within six months following the entry into force of this Law, the institution shall not be required to communicate the information pursuant to Article 8.

- (3) By way of derogation from Articles 5, 6, 8 and 9(1), where at the time of entry into force of this Law an account holder has not carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and the holder has not, in any way, contacted the institution holding the account for over nine years:
- 1° the institution shall communicate the information to the holders or, where applicable, the right holders known by it in accordance with the arrangements laid down in Article 5 within three months following the entry into force of this Law;
  - 2° if there is no transaction initiation or contact by the holder within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the institution notes that the data available to it do not allow communicating the information pursuant to point (1), the institution shall undertake the steps described in Article 6. In that case, the institutions shall have twelve months to perform additional research described in Article 6. Where an institution already performed additional research within two years prior to the entry into force of this Law and this additional research has not been successful, the institution shall not be required to perform new additional research;
  - 3° the institution shall not be required to communicate the information pursuant to Article 8; and
  - 4° the institution shall have twenty-four months following the entry into force of this Law to file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 1 with the Consignment Office. The consignment shall be carried out in accordance with Article 9 or, where applicable, in accordance with point (2) of Article 17(4).

No consignment request may be filed with the Consignment Office under this article before the expiry of a three-month period following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) of the first subparagraph and before a ten-year period has passed since the holder carried out transactions from the account or any other account or safe-deposit box held by the holder with the same institution and since the holder contacted, in any way, the institution holding the account.

#### **Article 51.**

- (1) By way of derogation from Article 11, where at the time of entry into force of this Law the holder of a safe-deposit box has not, in any way, contacted the institution holding the safe-deposit box for over five years and no more than six years, the institutions shall communicate the information to the holders or, where applicable, the right holders known by them in accordance with the arrangements laid down in Article 11 within three months following the entry into force of this Law.
- (2) By way of derogation from Articles 11 and 13, where at the time of entry into force of this Law the holder of a safe-deposit box has not, in any way, contacted the institution holding the safe-deposit box for over six years and no more than nine years:
- 1° the institution shall communicate the information to the holders or, where applicable, the right holders known by it in accordance with the arrangements laid down in Article 11 within three months following the entry into force of this Law; and
  - 2° where the nine-year time frame referred to in the introductory sentence is reached within six months following the entry into force of this Law, the institution shall not be required to communicate the information pursuant to Article 13.

- (3) By way of derogation from Articles 11, 13 and 14(4), where at the time of entry into force of this Law the holder of a safe-deposit box has not, in any way, contacted the institution holding the safe-deposit box for over nine years:
- 1° the institution shall communicate the information to the holders or, where applicable, the right holders known by it in accordance with the arrangements laid down in Article 11 within three months following the entry into force of this Law;
  - 2° the institution shall not be required to communicate the information pursuant to Article 13;
  - 3° by way of derogation from Article 14(2), where the holder of a safe-deposit box has not, in any way, contacted the institution holding the safe-deposit box for over ten years at the time of the entry into force of this Law, the institution shall open the safe-deposit box or, where applicable, call on a bailiff (*huissier de justice*) or a notary to take stock in accordance with the arrangements described in Article 14(2) no sooner than after the expiry of the three-month period referred to in point (1) and no later than twelve months following the entry into force of this Law; and
  - 4° the institution shall have twenty-four months following the entry into force of this Law to file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 1 with the Consignment Office. The consignment shall be carried out in accordance with Article 14.

No consignment request may be filed with the Consignment Office under this article before the expiry of a three-month period following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) of the first subparagraph and before a ten-year period has passed since the holder contacted, in any way, the institution holding the safe-deposit box.

- (4) By way of derogation from paragraphs 1 to 3, the institutions shall be exempt from the information obligations provided for therein, where a holder holds both an account and a safe-deposit box with the same institution and where the communication of information under Article 50 also indicated the consequences of the inactivity of the safe-deposit box pursuant to this Law.
- (5) Where, prior to the entry into force of this Law, an institution has opened a safe-deposit box pursuant to the contractual provisions and no stocktaking of the content has been done by a bailiff (*huissier de justice*) or a notary during the opening, the institutions shall call on a bailiff (*huissier de justice*) or a notary to take stock thereof at the latest within the time period provided for in the first subparagraph of Article 14(2) or, where applicable, in point (3) of the first subparagraph of paragraph 3 of this article, and reference shall be made thereof in the inventory.

#### **Article 52.**

- (1) By way of derogation from Articles 21 and 22, where at the time of entry into force of this Law the insurance benefits due under the insurance contract have become payable and no beneficiary has claimed a right on these insurance benefits for over a year but no more than two years following the knowledge of the due date of the benefit by the insurance undertaking:
- 1° the insurance undertaking shall communicate the information to the beneficiaries known by it in accordance with the arrangements laid down in Article 21 within three months following the entry into force of this Law; and
  - 2° if there is no contact by the beneficiaries within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the

insurance undertaking notes that the data available to it do not allow communicating the information pursuant to point (1), the insurance undertaking shall undertake the steps described in Article 22.

- (2) By way of derogation from Articles 21, 22 and 24, where at the time of entry into force of this Law the insurance benefits due under the insurance contract have become payable and no beneficiary has claimed a right on these insurance benefits for over two years but no more than five years following the knowledge of the due date of the benefit by the insurance undertaking:
- 1° the insurance undertaking shall communicate the information to the beneficiaries known by it in accordance with the arrangements laid down in Article 21 within three months following the entry into force of this Law;
  - 2° if there is no contact by the beneficiaries within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the insurance undertaking notes that the data available to it do not allow communicating the information pursuant to point (1), the insurance undertaking shall undertake the steps described in Article 22. Where an insurance undertaking already performed additional research within two years prior to the entry into force of this Law and this additional research has not been successful, this insurance undertaking shall not be required to perform new additional research; and
  - 3° where the deadline of five years referred to in the introductory sentence is reached within six months following the entry into force of this Law, the insurance undertaking shall not be required to communicate the information pursuant to Article 24.
- (3) By way of derogation from Articles 21, 22, 24 and 25(1), where at the time of entry into force of this Law the insurance benefits due under the insurance contract have become payable and no beneficiary has claimed a right on these insurance benefits for over five years following the knowledge of the due date of the benefit by the insurance undertaking:
- 1° the insurance undertaking shall communicate the information to the beneficiaries known by it in accordance with the arrangements laid down in Article 21 within three months following the entry into force of this Law;
  - 2° if there is no contact by the beneficiaries within three months following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) or where the insurance undertaking notes that the data available to it do not allow communicating the information pursuant to point (1), the insurance undertaking shall undertake the steps described in Article 22. In that case, the insurance undertaking shall have twelve months to perform additional research described in Article 22. Where an insurance undertaking already performed additional research within two years prior to the entry into force of this Law and this additional research has not been successful, the insurance undertaking shall not be required to perform new additional research;
  - 3° the insurance undertaking shall not be required to communicate the information pursuant to Article 24; and
  - 4° the insurance undertaking shall have twenty-four months following the entry into force of this Law to file, in accordance with the arrangements laid down in Article 28(1), a consignment request together with the information listed in Annex 2 with the Consignment Office. The consignment shall be carried out in accordance with Article 25.

No consignment request may be filed with the Consignment Office under this article before the expiry of a three-month period following the dispatch of the registered letter with acknowledgement of receipt pursuant to point (1) of the first subparagraph and before a six-year period has passed since the insurance undertaking became aware of the due date of the

payment of the insurance benefit, on which no beneficiary claimed a right, pursuant to an insurance contract.

### **Chapter III - Final provisions**

#### **Article 53.**

Reference to this Law shall be made as follows:

“Law of 30 March 2022 on inactive accounts, inactive safe-deposit boxes and unclaimed insurance contracts”.

#### **Article 54.**

This Law shall enter into force on the first day of the second month following its publication in the Journal officiel du Grand-Duché de Luxembourg.

We instruct and order that this Law be inserted in the Journal officiel du Grand-Duché de Luxembourg in order to be implemented and complied with by all the persons concerned.

Parl. doc. 7348; ord. sess. 2017-2018, 2018-2019, 2020-2021 et 2021-2022

## **Annexes**

### **Annex 1 - Information to be transmitted by the institutions to the Consignment Office in support of the consignment request**

- 1° Information concerning the holder and, where applicable, their right holders that is available to the institution.
- 2° Information to identify the inactive account or safe-deposit box.
- 3° An exhaustive list of all inactive accounts by holder, the balance of each inactive account of the holder, in respect of securities accounts, the estimated value of the assets on the day of the consignment request, as well as the overall balance of all inactive accounts opened at the same institution, or a confirmation that the holder does not have an account at the institution, as the case may be.
- 4° An indication whether or not the holder holds a safe-deposit box with the institution and, where applicable, the inventory drawn up by the bailiff (*huissier de justice*) or notary for inactive safe-deposit boxes.
- 5° The total estimated amount in euro to be consigned to the Consignment Office.
- 6° The date of the holder's last contact with the institution and, where applicable, the date of the last transaction initiated by the holder.
- 7° Where applicable, a statement on the additional research carried out.
- 8° Where applicable, a request for derogation as referred to in Articles 9(3) and 14(6).
- 9° A confirmation by the institution that no suspicious transaction within the meaning of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, has been identified by the institution.

### **Annex 2 - Information to be transmitted by the insurance undertakings to the Consignment Office in support of the consignment request**

- 1° Information concerning the policyholders, the insured parties and the beneficiaries that is available to the insurance undertaking.
- 2° Information to identify the insurance contract.
- 3° The due date for the payment of the benefit.
- 4° The date when the insurance undertaking has become aware of the due date.
- 5° A statement on the insurance benefits to be provided by the insurance undertaking.
- 6° The total estimated amount in euro to be consigned to the Consignment Office.
- 7° Where applicable, a statement on the additional research carried out.
- 8° Where applicable, a request for derogation as referred to in Article 25(3).
- 9° A confirmation by the insurance undertaking that no suspicious transaction within the meaning of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, has been identified by the insurance undertaking.

### **Annex 3 - Information and documents to be kept by the institutions and the insurance undertakings**

- 1° Information and documentation on the opening of the account, the lease contract for the safe-deposit box or the insurance contract, as the case may be.
- 2° Information and documentation on the computation of time limits, including information and documentation on the last transaction initiated by the holder and the last contact by the holder

with the institution, or information and documentation on the date when the insurance undertaking has become aware of the due date for the payment of the insurance benefit, as the case may be.

- 3° Information and documentation that are relevant for the identification of holders and, where appropriate, their right holders, policyholders, insured parties and beneficiaries, including information and documentation required in accordance with the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.
- 4° In respect of consigned inactive accounts, information and documentation on the balance of the accounts prior to the consignment, in respect of consigned inactive safe-deposit boxes, information and documentation on the content of the safe, and in respect of unclaimed insurance contracts the insurance benefits of which are consigned, a detailed statement of the insurance benefits due.
- 5° In the case of conversion, liquidation, destruction or transmission of assets, a statement of the conversion, liquidation, destruction or transmission, as the case may be.
- 6° Information and documentation on the steps undertaken to communicate the information and to perform the additional research pursuant to this Law.
- 7° Information and documentation on account closing.

#### **Annex 4 - Information and documents to be transmitted by any person in the context of an information request**

- 1° Personal data on the requesters: their surname, first name, address, date and place of birth, gender and nationality, or, in case of a legal person, the denomination or legal name and, where applicable, the abbreviation and trading name used, the legal form, the exact address of the registered office, the registration number with the trade and company register if the legislation of the State having jurisdiction over the person provides for such a number as well as, where applicable, the name of the register, the identity of the partners, their exact private or professional address and the number of shares held by each one.
- 2° The following information on the initial holder, the policyholder, the insured party or the beneficiary, as the case may be, if different from the requester:
  - a. Gender;
  - b. Surname;
  - c. First name;
  - d. Date and place of birth; and
  - e. Nationality.
- 3° In addition to the information to be provided under point (2), the requester shall also provide any other information to identify the initial holder, the policyholder, the insured party or the beneficiary as well as any information to identify the inactive account or safe-deposit box or the unclaimed insurance contract, as the case may be.
- 4° A copy of an official identification document of the requester or, in the case of a legal person, a document supporting that the person is the legal representative issued by an official authority of the requester's State.
- 5° The capacity in which the requester wishes to obtain information.
- 6° All official documents certifying the right over a consigned asset.

**Annex 5 - Information and documents to be transmitted by any person in the context of a return request**

- 1° Information and documents referred to in Annex 4.
- 2° A certificate of residence of the applicant issued by an official authority of the State where the applicant resides.
- 3° The applicant's bank account identification details issued by a credit institution authorised in the European Union on which the return will, where applicable, be effected.