

LUXEMBOURG SUPPLEMENT TO ISQM 1 ON THE RETENTION OF THE WORKING PAPERS OF THE RÉVISEUR D'ENTREPRISES AGRÉÉ (APPROVED STATUTORY AUDITOR) (effective as of December 15, 2022)

1. Introduction

The Luxembourg supplement to ISQM 1 "Quality management for firms that perform audits or reviews of financial statements, or other assurance or related services engagements" (hereinafter "ISQM 1") lays down:

- paragraph 34D-1(n): "The firm shall establish policies or procedures designed to maintain the confidentiality, safe custody, professional secrecy, integrity, accessibility and retrievability of engagement documentation or any information entrusted to the firm, in accordance with applicable laws and regulations. [AL/Article 28]."
- paragraph 60R-1: "The firm shall establish policies and procedures that require retention of audit documentation for a period that is not less than any period necessary to satisfy the requirements of any applicable laws or regulation relating to data protection and to meet the requirements for any applicable administrative and judicial proceedings, and that is in any case not less than six years from the date of the auditor's report. [AR/Article 15]"

The purpose of this supplement which is an integral part of the standard on quality management ISQM 1, is to clarify the specific provisions on the retention of working files in Luxembourg.

This supplement does not apply to the specific issue of the retention of working papers in the framework of a group audit or where the *réviseur d'entreprises agréé* (approved statutory auditor) involves other auditors in the audit of financial statements other than a group audit.

2. General requirements

The policy and procedures established by the *réviseur d'entreprises agréé* (approved statutory auditor) or *cabinet de révision agréé* (approved audit firm) to fulfil the requirements of the Luxembourg supplement to ISQM 1 depend on a certain number of factors, such as for example the volume of engagements, the nature of the services as well as its internal organisation. All specific principles laid down in the following sections shall be taken into account by the *réviseur d'entreprises agréé* (approved statutory auditor) when defining his/her policy of retention of files.

The working documentation of the *réviseur d'entreprises agréé* (approved statutory auditor) or *cabinet de révision agréé* (approved audit firm) is composed of physical files, electronic files or a combination of both.

The *réviseur d'entreprises agréé* (approved statutory auditor) or *cabinet de révision agréé* (approved audit firm) shall decide if they keep the physical and/or electronic files themselves or if they delegate these files to a third party. Whereas the first solution is favoured as it allows the *réviseur d'entreprises agréé* (approved statutory auditor) to maintain the control over the implemented procedures, the current regulations do not prohibit the delegation and the *réviseur d'entreprises agréé* (approved statutory auditor) or *cabinet de révision agréé* (approved audit firm) may make use of the delegation under certain specific conditions listed in Section 3 below.

Section 4 includes additional provisions as regards the duration of the retention of working files.

3. Location for the retention of working files

3.1. Physical files

The following provisions shall apply to audit engagements referred to in point (34)(a) of Article 1 of the Law of 23 July 2016 concerning the audit profession (hereinafter the "Audit Law").

The professional establishment of the *réviseur d'entreprises agréé* (approved statutory auditor) shall have an infrastructure suited to the exercised activities, within which a central location for the retention of physical files has been arranged. In accordance with the requirements under the Audit Law, this professional establishment shall be located in Luxembourg.

During the audit engagement, the transportation of physical working files between the different locations where they are used shall be limited to a minimum. The *réviseur d'entreprises agréé* (approved statutory auditor) shall ensure the working files in the different locations where they are used are safe and restricted, as far as possible, their access to the sole members of his/her team and the persons who must access the files according to the standards. In general, the working files cannot be kept, even on a temporary basis, outside the Luxembourg territory. In case where the *réviseur d'entreprises agréé* (approved statutory auditor) must travel abroad with his/her working files, s/he shall ensure their confidentiality, security and integrity. In the case of an audit team, the signatory partner of the report shall be responsible for deciding on the need to transport the files abroad and for ensuring their confidentiality, security and integrity.

After the finalisation of the engagement documentation and if the *réviseur d'entreprises agréé* (approved statutory auditor) keeps the physical files him/herself, the latter must be stored in the central location for retention of files. The management of access to this central retention location must be organised so as to ensure the traceability of all access to the physical files.

The working files may be kept by a third party (which may be the audit client itself) on Luxembourg territory, insofar as this third party ensures the application of the minimum requirements laid down in paragraphs 34D-1(n) and 60R-1 of the Luxembourg supplement to ISQM 1. For reasons of accessibility and confidentiality of the physical files, it is not permitted to keep the physical files abroad.

3.2. Electronic files

The IT function varying from one *réviseur d'entreprises agréé* (approved statutory auditor) to another, the latter shall ensure the appropriate application of the requirements laid down in paragraphs 34D-1(n) and 60R-1 of the Luxembourg supplement to ISQM 1 with respect to electronic files and have internally the necessary IT competences in order to understand at least the implemented IT retention solution(s).

The electronic files may be kept by a third party (which may be the audit client itself) on Luxembourg territory and, possibly, outside Luxembourg territory, insofar as this third party ensures the application of the minimum requirements laid down in paragraphs 34D-1(n) and 60R-1 of the Luxembourg supplement to ISQM1 and insofar as the conditions under Section 3.3 are met (except when the third party is the audit client itself).

3.3. Outsourcing the retention of working files

Outsourcing the retention of working files poses a number of risks, among which in particular the risk to compromise the confidentiality of data included in the files. The Audit Law provides for the lifting of the professional secrecy obligation of the *réviseur d'entreprises agréé* (approved statutory auditor) only in limited cases laid down in Article 28(3), (4) and (5) of the above-mentioned law. It does not apply to a third party (even with a PFS status in Luxembourg) or another entity (located in Luxembourg or abroad) of the network to which the *réviseur d'entreprises agréé* (approved statutory auditor) belongs.

Consequently, any outsourcing shall be treated with caution and in complete compliance with the following conditions:

1) The *réviseur d'entreprises agréé* (approved statutory auditor) must inform the CSSF of each outsourcing project s/he is contemplating with respect to the retention of the working files by describing the main arrangements.

2) The *réviseur d'entreprises agréé* (approved statutory auditor) (or the administrative body of the *cabinet de révision agréé* (approved audit firm)) must duly document his/her risk analysis of the outsourcing project as well as the responses to these risks. S/he must notably express his/her views as to the reputation, experience and reliability of the third party to whom s/he intends to outsource the retention of the working files.

3) Any outsourcing must be laid down in a written service contract which addresses all aspects related to the retention of the working files laid down in Section 2 of this Luxembourg supplement to ISQM1. Access by the *réviseur d'entreprises agréé* (approved statutory auditor) to the kept files must be unrestricted and granted without undue delay to any authorised person.

Particular attention shall be paid in this respect to aspects such as continuity, revocability of outsourcing and upholding of the internal and external control integrity. Moreover, the agreement shall provide a clear description of the responsibilities of both parties.

4) The *réviseur d'entreprises agréé* (approved statutory auditor) shall assess, in view of possible legal or other risks, the necessity to inform or not his/her clients of this outsourcing. The risks to consider may originate, for example, from an incompatibility of the outsourcing with certain contractual clauses towards those third parties or with certain legal provisions as regards privacy protection.

5) The responsibility of the outsourcing management shall be borne by the *réviseur d'entreprises agréé* (approved statutory auditor) or, in case of a *cabinet de révision agréé* (approved audit firm), by the partner in charge of the risk management function within the firm.

6) The *réviseur d'entreprises agréé* (approved statutory auditor) must be able to carry on business as usual in case of exceptional events, such as an interruption of communication means for an extended period of time. The *réviseur d'entreprises agréé* (approved statutory auditor) shall take the necessary measures to be able to adequately transfer the kept files to a different provider or to take over the retention him/herself whenever one of the requirements under Section 2 of this Luxembourg supplement to ISQM 1 is likely to be compromised.

7) The electronic files may only be kept in encrypted form and the encryption key must be held by the *réviseur d'entreprises agréé* (approved statutory auditor) or, in case of a *cabinet de révision agréé* (approved audit firm), by the partner in charge of the risk management function within the firm. This condition shall apply to the outsourcing of the retention of electronic files in both Luxembourg and abroad. The *réviseur d'entreprises agréé* (approved statutory auditor) or, in case of a *cabinet de révision agréé* (approved audit firm), the partner in charge of the risk management function within the firm must ensure that the encryption quality is appropriate. Any other process for the retention of electronic files shall be subject to prior authorisation of the CSSF.

8) As regards physical files stored with a third party in Luxembourg, no access to the files by a third party should be possible without informing beforehand the *réviseur d'entreprises agréé* (approved statutory auditor).

4. Duration of the retention of working files

For the purposes of the public oversight exercised by the CSSF, *réviseurs d'entreprises agréés* (approved statutory auditors) and *cabinets de révision agréés* (approved audit firms) shall keep the working files of the audit engagements for 7 years at least, the minimum frequency for quality assurance reviews laid down in the law being 6 years.

As regards civil professional liability claims, Article 11 of the Audit Law lays down that these claims brought against a *réviseur d'entreprises agréé* (approved statutory auditor) or *cabinet de révision agréé* (approved audit firm) shall be time-barred after 5 years as from the date of the audit report.