

Administrative sanction of 28 November 2024 for non-compliance with professional obligations related to “anti-money laundering / counter financing of terrorism”

Luxembourg, 12 March 2025

Administrative decision

On 28 November 2024, following an on-site inspection, the CSSF imposed an administrative fine amounting to EUR 27,000 on the specialised PFS « INTERNATIONAL CORPORATE ACTIVITIES S.A. », INTERCORP S.A. for short (the “**PFS**”), authorised as a specialised PFS according to the provisions of Articles 28-9 and 28-10 of the amended Law of 5 April 1993 on the financial sector (“**LFS**”).

Legal framework/motivation

The administrative fine was imposed by the CSSF pursuant to Article 2-1(1) of the amended Law of 12 November 2004 on the fight against money laundering and terrorist financing (“**AML/CFT Law**”) read in conjunction with the provisions of Article 8-4(1), (2) and (3) of the AML/CFT Law for non-compliance with anti-money laundering / counter financing of terrorism (“**AML/CFT**”) professional obligations.

In order to determine the type and amount of the administrative sanction, the CSSF duly took into account all the legal and factual elements set out and discussed, the gravity, the duration and the limited scope of the on-site inspection and the financial situation of the legal person at the time of the on-site inspection, in accordance with the provisions of Article 8-5(1) of the AML/CFT Law, as well as the fact that the PFS acknowledged the findings and observations and initiated corrective measures after the on-site inspection in order to remedy the breaches found.

The PFS duly informed the CSSF of the corrective measures which have since then been implemented.

The professional obligations in relation to which the breaches were observed are namely quoted in the relevant provisions of:

- (i) the **AML/CFT Law**; and
- (ii) the amended CSSF Regulation No 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing (“**CSSF Regulation No 12-02**”) which constitutes an implementing measure of the AML/CFT Law,

in their version applicable at the time of the on-site inspection.

Legal bases for the publication

This publication is made pursuant to the provisions of Article 8-6(1) of the AML/CFT Law on a nominative basis, the CSSF having considered that none of the legal exceptions provided for in Article 8-6(1) of the AML/CFT Law is applicable.

Context and important breaches of the professional obligations identified

This administrative fine is the result of an AML/CFT on-site inspection carried out by the CSSF on the PFS between 20 June 2023 and 29 November 2023 covering the domiciliation activity and company management services (through directorship mandates) of the PFS and focusing on its money laundering and terrorist financing risk appetite, due diligence measures on clients and terminated business relationships. During the on-site inspection, the CSSF identified important breaches to the AML/CFT professional obligations applicable to the PFS which related in particular to the following points:

- In the context of the applied customer due diligence measures, the CSSF had identified that the information and, where applicable, the documentation concerning the origin of the funds committed to certain clients and/or their beneficial owners were insufficient. For example, in one case, although the PFS had not classified the client as high risk, the file showed inconsistencies between the amount of assets provided to the client by the beneficial owner and his profile in terms of declared personal assets (which changed during the course of the business relationship) and professional activity generating low income, which the PFS had not clarified by obtaining coherent information. In another case, a business relationship classified by the PFS as high risk, the acquisition of the client's shares for a price of several million euros was financed through various companies incorporated in offshore jurisdictions by a person, initially resident in a high-risk country, who was identified by the PFS as the new beneficial owner. Despite the high risk classification and, amongst others, the absence of documents quantifying the income and personal assets of the beneficial owner, the PFS had not sought to corroborate the origin of the funds involved in the business relationship. In a final case, concerning a business relationship also classified by the PFS as high risk, the original beneficial owner of the client, owner of two apartments in a high-risk jurisdiction, transferred during the course of the business relationship ownership of the client's shares to an individual who became the new beneficial owner. However, the PFS had no documentary evidence to confirm the origin of the client's funds or the assets of the current and previous beneficial owners, other than a declaration of the previous beneficial owner, signed by the latter.

However, by failing to gather sufficient information on the origin of the funds involved in the business relationship and, where applicable, the corroborating documentation, the PFS had not taken the appropriate measures, in view of the money laundering and terrorist financing risks present in the business relationships. Consequently, as part of its ongoing

monitoring of business relationships, the PSF could neither examine the consistency of the transactions in question, nor be in a position to detect a suspicious transaction.

Thus, these cases constitute a failure to comply with the provisions of point (d) of Article 3(2) of the AML/CFT Law, as specified in Articles 24 and, where applicable, 26 of CSSF Regulation No 12-02, which insist on the obligation to gather, register, analyse and understand the information on the origin of the client's funds and, depending on the risk assessment, to obtain supporting evidence.

- Although the PFS had identified indicators that generate suspicions of money laundering in relation to clients or terminated business relationships, the PFS had only reported them to the Financial Intelligence Unit ("**FIU**") following questions raised by the CSSF during the on-site inspection and after the CSSF had provided it with the results of the on-site inspection. Thus, in addition to a case, which raised doubts as to the identity of the real beneficial owner of the client as opposed to the use of a nominee, the CSSF noted a case where the PFS had been informed of allegations of corruption concerning the beneficial owner of the client in the context of two separate legal proceedings, which it had however not investigated, although funds linked to one of the cases had allegedly passed through the client's account(s). For another client, the PFS had identified through its name screening tool that the settlor of the trust holding the client's shares had been convicted of aggravated tax fraud during the course of the business relationship. However, the PFS had not carried out an in-depth analysis of the alert generated by its screening tool and, despite the fact that this case led to the settlor's conviction and that the suspicion raised by this alert could not be ruled out, the PFS had not filed a report with the FIU when it became aware of the facts, as required by the AML/CFT Law .

In the case of a terminated business relationship, the PFS did not file a suspicious transaction report even though it had been informed of legal proceedings against the beneficial owner of this client.

- Finally, the on-site inspection revealed/identified that the PFS had not filed a declaration to the FIU without delay regarding a business relationship with an entity that was also a business provider to the PFS, which had by then been terminated. This declaration was filled more than 8 months after the end of the business relationship, although the elements that led the PFS to file the declaration already existed at the time of the end of the business relationship. It was also incomplete, in particular because it did not list the clients introduced by this business provider for which the PFS had not obtained the requested information, in particular on the professional activities of the beneficial owners and the origin of the funds, despite reminders.

Thus, the PFS did not inform the FIU without delay. As a result, the FIU was unable to analyse these cases and take appropriate action.

These cases constitute a breach of the obligation to inform promptly the FIU and to provide it with all supporting information and documents having prompted the report as foreseen by point (a) of Article 5(1) of the AML/CFT Law.