

Administrative sanction of 24 December 2024 for non-compliance with professional obligations related to “anti-money laundering / counter financing of terrorism”

Luxembourg, 03 April 2025

Administrative decision

On 24 December 2024, following an on-site inspection, the CSSF imposed an administrative fine amounting to EUR 14,000 (fourteen thousand) on “ActivTrades Europe S.A.” (the “**Investment Firm**”), authorised as investment firm according to the provisions of Articles 24-1, 24-2, 24-3, 24-4 and 24-5 and of ancillary services 1 and 4 listed in section C of the annex II of the amended Law of 5 April 1993 on the financial sector.

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 (the “**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 and duration of the breaches, the limited scope of the on-site inspection and the financial situation of the Investment Firm at the time of the on-site inspection, in accordance with the provisions of Article 8-5(1) of the AML/CFT Law.

The CSSF draws the public's attention to the fact that the Investment Firm decided to cease its activities in Luxembourg on 1 January 2024 and transferred all its clients to a foreign legal entity on 31 December 2023. The voluntary liquidation of the Investment Firm was decided on 18 September 2024. The decision taken by the Investment Firm to terminate its activities in Luxembourg had no link with this administrative sanction. The Investment Firm has been removed from the official list of the entities authorised and supervised by the CSSF on 18 October 2024.

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

- (i) the **AML/CFT Law**;
- (ii) the amended Grand-ducal Regulation of 1 February 2010 (the “**AML/CFT Grand-ducal Regulation**”), providing details on certain provisions of the AML/CFT Law; and

- (iii) The amended CSSF Regulation No 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing (the “**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 breaches of the professional obligations identified

This administrative fine is the result of an on-site inspection carried out by the CSSF on the Investment Firm between 8 February 2023 and 9 October 2023 covering the AML/CFT framework focusing on the risk-based approach, on the customer due diligence measures and on the adequate internal organisation and governance. During the on-site inspection, the CSSF identified breaches to the AML/CFT professional obligations applicable to the Investment Firm which related in particular to the following points:

- In the context of the applied customer due diligence measures, the CSSF identified that the information and, when necessary, the documentation on the origin of funds were insufficient for several clients, especially considering that (i) the amount of deposits self-declared by the client or the deposits actually made were high compared to the amount of deposits usually made by the clients and (ii) several transactions had been highlighted in alerts or a review of the business relationships had been performed, which in both cases should have triggered a deeper analysis on the origin of funds.

Such cases constitute a failure to comply with the provisions of point (d) of Article 3(2) of the AML/CFT Law and Article 24 of the CSSF Regulation No 12-02 which insists on the obligation to gather, register, analyse and understand the information on the origin of the customer’s funds and, when necessary, to obtain supporting evidence. Such information would have enabled the Investment Firm to ensure that transactions were consistent with its knowledge of the clients on an ongoing basis.

The CSSF further noted that the periodic review exercise had not been performed in 2022 for a relatively high percentage of clients being classified as high and very high risk, constituting a failure to comply with the provisions of point (d) of Article 3(2) and Article 3(5) of the AML/CFT Law, further specified by Article 1(4) of the AML/CFT Grand-ducal Regulation and Article 35(1) of the CSSF Regulation No 12-02 which explicitly foresees an annual review of high-risk business relationships. This control contributes to the appropriate application of enhanced customer due diligence measures to these clients, to manage and mitigate a higher risk of money laundering or terrorist financing appropriately.

The CSSF also identified that for the names of new clients being uploaded into the client database on a weekly basis for daily name screening purposes, no name screening controls occurred between the entry into business relationship date and the upload of the names into the client database that could take up to one week. This approach and the absence of alternative control during this period of time constitute a failure to comply with point (d) of Article 3(2) of the AML/CFT Law and Articles 33(1) and (2) and 39(1) of the CSSF Regulation No 12-02 as the Investment Firm would not have been able to detect States, persons, entities and groups subject to prohibitions and restrictive measures in financial matters without delay, to apply such restrictive measures and to inform the authorities competent for financial sanctions, also without delay.

- The internal governance framework was deficient, in particular with regard to the Compliance function which did not perform controls, or at least did not duly formalize them, on the appropriate treatment of transaction monitoring and name screening alerts by employees that were not part of the Compliance function. In addition, the Compliance function did not appropriately escalate identified shortcomings to the Management and to the Board of Directors or to the Risk Compliance and Audit Committee. These elements constitute a breach of respectively Articles 39(7) and 42(5) of the CSSF Regulation No 12-02 which highlight i.a. the importance of implementing governance arrangements with respect to AML/CFT which shall follow the three lines of defence model and foresee that the Compliance function verifies the controls carried out by the first line of defense to ensure compliance with the AML/CFT policy.

In addition, the CSSF noted that the outsourcing of day-to-day compliance tasks to an entity of the same group, in particular the review of the transaction monitoring alerts, was not documented in any contract or outsourcing agreement. Moreover, at the beginning of the on-site inspection, the Compliance function did not monitor the obligations of this third-party delegate. This resulted in a breach of Article 3-3(5) of the AML/CFT Law and Article 37(1) and (2) of the CSSF Regulation No 12-02 which foresee regular control of compliance with the commitments arising from the outsourcing contract, in particular to gain comfort on the compliance of the outsourced tasks and the adequacy of the resources used.

Finally, the CSSF noticed that the AML/CFT training that was provided to the employees of the Investment Firm only made reference to the UK regulations and was therefore not adapted to the laws and regulations applicable in Luxembourg. This constitutes a failure to comply with Article 4(2) of the AML/CFT Law and Article 46(3) of the CSSF Regulation No 12-02 which foresee that where the professionals adopt a training developed abroad, they are required to adapt it to the legal and regulatory rules applicable in Luxembourg, so that local employees complete a training tailored to the country in question and to the money laundering/terrorist financing typologies to which this one is exposed to.