

Administrative penalty of 22 February 2024 for non-compliance with professional obligations related with anti-money laundering / counter financing of terrorism

**Administrative penalty
imposed on the payment
institution Sogexia S.A.**

Luxembourg, 5 April 2024

Administrative decision

On 22 February 2024 the CSSF imposed an administrative fine amounting to EUR 68,000 on Sogexia S.A. ("**the payment institution**"), authorised as payment institution in accordance with the provisions of the Law of 10 November 2009 on payment services, on the activity of electronic money institution and settlement finality in payment and securities settlement systems.

Legal framework/motivation

The administrative fine was imposed by the CSSF pursuant to Article 2-1(1) as well as Article 8-4(1) and (3) of the amended Law of 12 November 2004 on the fight against money laundering and terrorist financing ("**AML/CFT Law**") for non-compliance with anti-money laundering / counter financing of terrorism ("**AML/CFT**") professional obligations taking into account the criteria set out in Article 8-5(1) of this law, in particular the gravity of the breach.

The CSSF has duly noted the remedial actions undertaken by the payment institution after the on-site inspection to resolve the breaches identified.

The professional obligations in relation to which the breaches were observed are set out in particular in:

- The **AML/CFT Law**;
- The amended Grand-ducal Regulation of 1 February 2010 ("**AML/CFT Grand-ducal Regulation**") specifying certain provisions of the AML/CFT Law; and
- The amended CSSF Regulation No 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing ("**CSSF Regulation 12-02**")

which constitutes an implementing measure of the AML/CFT Law;

as applicable at the time of the facts.

Legal bases for the publication

This publication is made pursuant to the provisions of Article 8-6(1) of the AML/CFT Law insofar as, following an assessment of proportionality, the CSSF considers that the publication on a named basis is not disproportionate and jeopardises neither the stability of the financial markets nor an ongoing investigation.

Context and major cases of non-compliance with the professional obligations identified

This administrative fine follows a CSSF on-site inspection at the payment institution targeting parts of the AML/CFT framework, in particular the process of entering into business relationships and transactions monitoring.

During the on-site inspection, the CSSF identified important breaches in the AML/CFT framework of the payment institution which related in particular to the following points:

- The process of entering into business relationships was deficient and did not permit the professional to have complete and duly documented information where appropriate. In this regard, the CSSF in particular had identified a lack of information and a non-corroboration of information on the source of funds of some clients which constituted, in view of the importance of the amounts and/or the level of risk of those clients, a failure to comply with Article 3(2) d) of the AML/CFT Law and Article 24 of CSSF Regulation 12-02 and therefore a breach of the obligation to collect, record, analyse and understand the information on the origin of customers' funds and, depending on the risk assessment, to obtain supporting evidence.

In addition, the CSSF had identified shortcomings in the identification and verification of the identity of beneficial owners for certain clients, thus constituting a non-compliance with Article 1(7), Article 3(2) a) and b) of the AML/CFT Law as developed by Article 22(1) of CSSF

Regulation 12-02 which requires the identification of beneficial owners and the taking of reasonable steps to verify their identity through reliable and independent sources;

- The transaction monitoring process did not operate efficiently as the CSSF had identified some scenarios that did not appropriately cover risky situations and as alerts generated were inadequately processed, constituting a breach of Articles 3(2) d), 3(7) and 3-2(2) f) of the AML/CFT Law, Articles 1(3) and 3(1) of the AML/CFT Grand-ducal Regulation and Articles 32 and 39(1), (2) and (6) of the CSSF Regulation 12-02, which emphasise the need to examine the transactions concluded in order to ensure that they are consistent with the professional's knowledge of its client, while paying particular attention to unusual or significant transactions with regard to the business relationship;
- Although there were inconsistencies and indications that generated suspicions of money laundering, (i) no further investigations were performed in order to clear them, or (ii) where applicable, the suspicious activities and/or transactions concerned were not reported to the Financial Intelligence Unit. In this respect, the Entity failed to comply (i) with Articles 3(2) d) and 3(7) of the AML/CFT Law, Article 1(3) of the AML/CFT Grand-ducal Regulation and Articles 32 and 39(5) of the CSSF Regulation 12-02 as regards the absence of additional investigations to clear the identified inconsistencies in relation with the client or the beneficial owner and/or its activity and/or the transactions executed and (ii) with Article 5(1) a) of the AML/CFT Law and Article 8(2) of the AML/CFT Grand-ducal Regulation as regards the absence of transmission of a suspicious activity and/or transaction report to the Financial Intelligence Unit in case the doubts persist after further analysis of the professional.