

Terms of reference applicable to a public-private exchange platform

in the framework of preventing and fighting money laundering and the financing of terrorism and the financing of proliferation of weapons of mass destruction in the Banking Sector

CONTEXT & PURPOSE

Financial crimes, including money laundering, the financing of terrorism and the financing of proliferation of weapons of mass destruction may seriously affect the integrity, stability and reputation of Luxembourg's financial sector. The fight against these crimes requires an integrated approach in which public authorities and industry representatives shall pool their knowledge and skills to prevent, detect and combat these crimes together.

Sharing information is key to promoting financial transparency and protecting the integrity of the financial system by providing financial institutions, and relevant competent authorities the intelligence, analysis and data necessary to prevent and combat ML/TF. Similarly, financial institutions look to the public sector to share information on trend analysis, patterns of behaviour, targeted suspects or geographical vulnerabilities in order to better manage their risk exposure, monitor their transaction flows and provide a more useful input to law enforcement. Public and private sector institutions can be source as well as target of information flow. The use of data in this manner highlights the importance of a continuous dialogue between the public and private sectors.¹

Such a public-private dialogue also helps providing clarity on regulatory expectations and identifying specific areas or issues where more regulatory guidance is needed.

These terms of reference (hereinafter referred to as "TOR") shall govern the creation, missions and functioning of a public-private partnership platform to combat money laundering, the financing of terrorism and the financing of proliferation of weapons of mass destruction (hereinafter referred to as ("PP-platform").

Thus, **the parties**

1. Commission de Surveillance du Secteur Financier (hereinafter referred to as the « CSSF »), represented by its Director General, Mr. Claude MARX,
2. Cellule de Renseignement Financier (hereinafter referred to as the « CRF »), represented by its Director, Mr. Max BRAUN,
3. Association des Banques et Banquiers, Luxembourg (hereinafter referred to as the « ABBL»), represented by its Chief Executive Officer, Mr Jerry Grbic,

hereinafter individually referred to as "the Participant" or jointly "the Participants", have agreed as follows

¹ FATF (2017), *Guidance on private sector information sharing: Point 5.*

Article 1 Objectives

The PP-platform aims to increase the effectiveness of the fight against money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction (hereinafter "AML/CFT/CFP") by pooling the expertise of the participants through exchange of information in an efficient, anonymous and secure way, thus providing additional added value to the existing Luxembourg AML/CFT/CFP framework.

Article 2 Missions

The PP-platform has the mission to exchange information and views, develop advice/guidance or propose initiatives with regard to AML/CFT/CFP issues affecting Luxembourg banks and covering the following subjects (non-exhaustive list):

- Evolution of ML/FT/FP threats and risks affecting the Luxembourg financial centre and, in particular, the activities of the banking sector;
- New trends and typologies with regard to ML/FT/FP observed at national, EU and international level;
- Evolution of the legal and regulatory AML/CFT/CFP framework;
- Best practices and recommendations with regard to ML/FT/FP risk mitigation or any substantial issue of interest to the financial sector;
- "Lessons to be learned" in the aftermath of scandals and/or enforcement actions.

Article 3 Functioning of the PP-platform

The PP-platform is a partnership without legal personality set up between the Participants.

The Participants approve the objectives and the PP-platform's missions. For this purpose, the Participants undertake to make available sufficient information, expertise and resources so that missions entrusted to it can be carried out effectively.

Each Participant appoints one or more persons who represent the Participant with regard to the work of the PP-platform (hereinafter "the Representatives"). Each appointment or, as the case may be, each dismissal shall be communicated in writing to the then acting Chair of the PP-platform.

Each Participant may terminate its participation in the PP-platform by notifying the other Participants of its intention to do so in writing and one month in advance.

The consultation and exchange between the Participants of the PP-platform is done through their appointed Representatives. In addition to the possibility to communicate with each other by secured email, the Representatives come together in tripartite meetings in order to assess the missions and functioning of the PP-platform.

Such tripartite meetings take place according to the following modalities:

- The Chair
The tripartite meetings of the PP-platform shall be chaired by a Representative of the Participants. The chairmanship is subject to a bi-annual rotation basis between the three Participants.

The Chair co-ordinates the activities of the PP-platform and leads the discussions of the meetings. This includes the organization of meetings and preparation of the minutes of the meetings.

- The meetings

- Form and Location

Tripartite meetings preferably take place in the form of a physical meeting. If the circumstances so require, the meeting may also take place in a fully virtual environment.

The meetings take place, unless otherwise and explicitly stated in the invitation, in the premises of the respective Participant in charge of the chairperson function.

The meetings are held in French or English. Minutes of meetings are written in English.

- Convocation

Each Participant may take the initiative to convene tripartite meetings, if deemed necessary.

- Conclusions and Minutes of the meeting

The respective Participant in charge of the chairperson function records the summary and conclusions of the discussions of each tripartite meeting in writing.

- Decision-Taking

Decisions are taken by consensus, which means that no unanimous resolution of the Participants is required, provided that none of the Participants expressly objects.

If a Participant's Representative does not have the authority to bind the Participant regarding a decision to be made at a meeting, such Representative shall obtain the Participant's decision within a reasonable time following the meeting and inform the other Participants of the decision as soon as possible.

Article 4 Expert Working Groups

In order to perform the specific tasks that fall within the objectives and missions of the PP-platform, the Participants set up different Expert Working Groups (hereinafter "EWG") and determine the exact mission, composition, working methods, specific timetables and the expected timeline of such EWGs. Such decisions shall be recorded in a written form, and attached to the present terms of reference. The Participants may jointly agree to invite representatives of other public or private institutions or experts to participate in the different EWGs.

On the date hereof, the PP-platform operates through the following 2 EWGs:

- Expert Working Group – Compliance
- Expert Working Group – Private Banking

The EWGs are always composed, at least, of a Member representing the ABBL, a Member representing a Bank established and authorized to operate in Luxembourg, a Member representing the CRF and a Member representing the CSSF (hereinafter referred to as "the Members" or the "EWG Members").

The appointment of the Members of the EWGs is carried out in accordance with the internal provisions and procedures respectively of the ABBL, CSSF and CRF and shall be communicated in writing to the Secretary of the EWG. Regarding the appointment of Members representing a Bank, the ABBL will call upon its member banks to delegate persons fitting the respective requirements of the specific EWG. The membership of these persons shall be validated by the Participants.

The overall number, as well as the profile of Members representing a Bank in an EWG shall be decided jointly by the Participants according to the topics/missions of the respective EWG.

The Members of the EWG are appointed for a renewable period of two (2) years. Each Member may terminate his/her participation in one or more of the EWGs of the PP-platform by notifying the Secretary of the PP-Platform of its intention to do so in writing. The termination of a Bank's ABBL membership immediately implies, without prior notice, the exclusion of the Bank and its representatives as a Member of an EWG.

The Members of EWGs must possess the qualifications, knowledge, skills and professional expertise required in order to be able to contribute usefully to the work of the respective EWG. The membership in an EWG requires the necessary commitment to its missions and the active participation in the respective meetings.

Article 5 Functioning of Expert Working Groups

a) The Chairs

Each EWG is co-chaired by a representative of the Bank(s) and a representative of the CSSF or CRF.

The Chairs of the EWG lead the discussions of the meetings.

The Chairs may also decide to invite representatives of other public or private institutions, or relevant experts, to attend dedicated EWG meetings, making presentations or contributing to discussions in progress.

b) The Secretary

The Secretary function is provided by representatives of the ABBL attending the meetings of the respective EWG.

The Secretary shall circulate to the Members of the EWGs the notice convening the meetings, the agenda, the minutes of the meetings and/or any other documents or working papers, as required.

c) The meetings

• Form and Location

Meetings preferably take place in the form of a physical meeting. If the circumstances so require, the meeting may also take place in a fully virtual environment (where all Members participate in the meeting by means of electronic communication).

The meetings may take place in the premises either of ABBL or of CSSF. The meetings are held in French or English. Minutes of meetings are written in English.

• Agenda

The agenda is drawn up by the co-chair(s) of the respective EWG, on the proposal of the Members of the EWG group.

- Convocation

The invitation to an EWG meeting includes the place (or a link to the means of electronic communication in the case of a virtual meeting), date, time and agenda of the meeting and is sent at least eight (8) working days before the date scheduled for the meeting to the Members of the EWG, by e-mail or any other appropriate means agreed upon. At the same time, if required, the documents or the questions intended to be discussed are sent to the Members of the EWG.

- Conclusions and Minutes of the meeting

The Secretary records the summary and conclusions of the discussions of each EWG meeting in writing. At the end of each EWG meeting, all documents discussed and/or prepared by the EWG are saved by the Secretary for circulation to EWG Members.

Article 6 Exchange of information

The Participants and the Members of EWGs undertake, *without prejudice to professional secrecy, but subject to any legal provisions the CRF might be bound to*, to exchange with the other Participants or Members of EWG any information that can help the accomplishment of the missions of the PP-platform or EWG. *For the avoidance of doubt, the CRF may only exchange data which is either anonymized or of a statistical nature, including typologies, indicators, risks and trends identified by the CRF in the context of its strategic analysis."*

The information or documents shall be exchanged via secured file or mail transfer.

Article 7 Confidentiality

Apart from the communications that the Participants decide to make official, the Members of the EWG, as well as any other person attending the EWG meetings or the Participant's tripartite meetings, ensure that all information and documents discussed or exchanged are protected by appropriate confidentiality rules. This information and documents may however, on request and provided that none of the members of the EWG expressly objects, be communicated to all member banks of the ABBL as well as to other natural or legal persons, specifying that they are documents or analysis without legal value, providing only expert guidance or views.

Moreover, each EWG Member is required to sign the non-disclosure agreement in Annex III of the present terms of reference. The Secretary of the respective EWG is in charge of collecting and archiving the signed agreements.

Article 8 Funding

Participants or Members of the EWGs bear their own costs related to its participation in the PP-platform or a related EWGs.

Article 9 Final Provisions

These terms of reference can be modified in writing after agreement between the Participants.

These terms of reference will enter into force for an unlimited period of time when signed by the last signatory Participant.

ABBL

The Chief Executive Officer

Date of Signature **13/09/2022**

CSSF

The Director General

Date of Signature **13/09/2022**

CRF

The Director

Date of Signature **13/09/2022**