



Commission de Surveillance  
du Secteur Financier

# Circular CSSF 21/788

Guidelines for the  
Collective Investment  
Sector on the CSSF  
AML/CFT external report

## Circular CSSF 21/788

Re: Guidelines for the Collective Investment Sector on the CSSF AML/CFT external report

Luxembourg, 17 December 2021

**To all Luxembourg investment fund managers including registered AIFMs and all Luxembourg investment funds supervised by the CSSF for AML/CFT purposes.**

Ladies and Gentlemen,

The purpose of this circular is to provide guidance on the report dedicated to AML/CFT (hereafter the “CSSF AML/CFT external report”) that must be drawn-up by an “external AML/CFT expert” (as defined in section 1.3 of the present circular) and submitted to the CSSF in accordance with Article 49 of the CSSF Regulation No 12-02 of 12 December 2012 on the fight against money laundering and terrorist financing, as amended (hereafter “RCSSF 12-02”) which requires that the audit of, in particular, Luxembourg Investment Funds supervised by the CSSF and Luxembourg Investment Fund Managers’ annual accounts by the *réviseur d’entreprises agréé*, as required by:

- Articles 104(1), 126(1) and 154(1) of the Law of 17 December 2010 relating to undertakings for collective investments;
- Article 7(6) of the Law of 12 July 2013 on alternative investment fund managers;
- Article 55(1) of the Law of 13 February 2007 relating to specialised investment funds; and
- Article 27(1) of the Law of 15 June 2004 relating to the investment company in risk capital (SICAR),

includes work by the REA regarding the compliance with the legal and regulatory AML/CFT obligations and provisions.

For registered AIFMs as defined in Article 3(2) of the Law of 12 July 2013 on alternative investment fund managers, the Article 49(5) of the RCSSF 12-02 draws its legal grounds from Article 8-2(1) of the Law of 12 November 2004, as amended, on the fight against money laundering and terrorist financing allows the CSSF to require *réviseurs d’entreprises agréés* to carry out on site verifications or investigations of persons subject to [its] supervisory powers as defined in Article 2-1 of the aforementioned law.

### 1.1 Scope

The CSSF AML/CFT external report mentioned in Article 49 of the RCSSF 12-02 is required from all Luxembourg investment fund managers<sup>1</sup> including registered AIFMs as well as from all Luxembourg investment funds supervised by the CSSF for AML/CFT purposes.

Any such professional is hereafter referred to as “supervised entity in scope”.

### 1.2 Exemptions

The CSSF AML/CFT external report mentioned in Article 49 of the RCSSF 12-02 is not required from Luxembourg investment funds which have appointed an Investment Fund Manager (established in Luxembourg or abroad).

For the exempted funds, the external auditor of the investment funds must nevertheless perform AML work as prescribed in Article 49 (1) of RCSSF 12-02 as amended.

Significant deficiencies noted during the AML/CFT work of the REA must be reported in management letters, including in relation to exempt funds.

### 1.3 Mandate

All professionals which have the legal requirement to appoint a *réviseur d'entreprises agréé* (approved statutory auditor) (hereafter “REA”) for the purpose of the audit of their annual accounts, shall appoint this same REA to prepare the CSSF AML/CFT external report.

The REA acting in that capacity is referred to as “external AML/CFT expert” for the purposes of the present circular.

As per Article 49 (5) of the RCSSF 12-02 is to be understood as meaning that all professionals subject to this circular and which do not have the legal requirement to appoint a REA for the purpose of the audit of their annual accounts must mandate a REA for the specific purpose of preparing the CSSF AML/CFT external report.

<sup>1</sup> As defined in Circular CSSF 18/698

#### 1.4 Content of the AML/CFT external report

The AML/CFT external report is divided into two sections that cover key AML/CFT controls adapted to the specificities of the supervised entity in scope:

- A section concerning the corroboration of answers given by the supervised entity in scope in the context of the CSSF annual AML/CFT online survey. For that section, the external AML/CFT expert shall review the latest AML/CFT online survey submitted on the eDesk platform by the supervised entity in scope.
- A section dedicated to sample testing or specific work to be performed by the external AML/CFT expert. The sample sizes are determined by the CSSF using a risk-based approach and must be detailed in the CSSF AML/CFT external report.

The work of the AML/CFT external expert consists of replying to a number of questions determined by the CSSF. Those questions will, in principal, be "closed" questions, i.e. not resulting in an opinion under audit, assurance or agreed upon standards.

The CSSF AML/CFT external report also allows both the external AML/CFT expert and the supervised entity in scope to comment on the results of the work performed.

#### 1.5 Reporting to the CSSF pursuant to Article 49 of RCSSF 12-02

The CSSF AML/CFT external report must be submitted exclusively by the *"Responsable du Contrôle du respect des obligations professionnelles en matière de lutte contre le blanchiment et contre le financement du terrorisme."* (hereafter "RC") or by the *"Responsable du Respect des obligations professionnelles en matière de lutte contre le blanchiment et contre le financement du terrorisme »* (hereafter « RR ») or by a member of the Board of Directors/Managers (or equivalent) via eDesk by the supervised entities in scope. No other form of submission will be accepted.

The submission is performed under the responsibility of the Board of Directors/Managers (or equivalent).

The requirements applicable to the log-in to the eDesk platform are detailed in the Circular CSSF 19/721.

A user guide for the CSSF AML/CFT external reports will be made available to supervised entities in scope and external AML/CFT experts on the eDesk platform.



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The CSSF AML/CFT external report is to be submitted by the RR or the RC on an annual basis within six months after the closing of the annual accounts of the supervised entity in scope. For the closing 31/12/2021 an extension of three (3) extra months is granted for the submission.

## 1.6 Final Provisions

The provisions of the present circular have to be complied with for the financial years ending on or after 31 December 2021.

Depending on the AML/CFT legal and regulatory changes as well as for the needs of the AML/CFT supervision by the CSSF, the content of the CSSF AML/CFT external report may be adapted in subsequent years.

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