

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 24 October 2011

To all payment institutions

CIRCULAR CSSF 11/523

Re: External audit requirements to be observed by the branches and agents through which payment institutions of another Member State intend to provide payment services in Luxembourg

Ladies and Gentlemen,

Under the terms of Article 21(1) of the law of 10 November 2009 on payment services (the "Law"), payment institutions for which the home Member State is a Member State other than Luxembourg may provide payment services in Luxembourg, either through the establishment of a branch or through an agent.

This circular applies to payment institutions from another Member State¹ that intend to provide payment services in Luxembourg by means of branches or through agents and specifies the obligations of these branches or agents with regard to **external audit**.

On an annual basis, the branches must get the following areas, for which the CSSF maintains a control responsibility as host authority, audited by a *réviseur d'entreprises agréé* (approved statutory auditor):

¹ In accordance with Article 1(14) of the law of 5 April 1993 on the financial sector, "Member State" shall mean a Member State of the European Union. The States that are contracting parties to the European Economic Area Agreement other than the Member States of the European Union, within the limits set forth by this agreement and related acts are considered as equivalent to Member States of the European Union. "Another Member State" shall mean a Member State other than Luxembourg.

- compliance with the legislation and regulations concerning the fight against money laundering and terrorist financing applicable to payment institutions;
- compliance with the provisions to which Article 58(1) and (2) of the Law refer.

This principle also applies to agents through which payment institutions intend to provide payment services in Luxembourg.

The reports issued by the *réviseur d'entreprises agréé* (approved statutory auditor) appointed for the purpose of verifying compliance with, on the one hand, the legal professional obligations concerning the fight against money laundering and the financing of terrorism, and, on the other hand the provisions to which Article 58(1) and (2) of the Law refer, must be transmitted to the CSSF within six months from the end of the payment institution's financial year.

Where applicable, the CSSF may, pursuant to Article 37(2) of the Law, appoint a *réviseur d'entreprises agréé* (approved statutory auditor) to carry out inspections in the areas in which the CSSF remains competent within the Luxembourg branch of the payment institution or the agent through which the payment institution provides payment services in Luxembourg.

The instructions of this circular shall be binding for the financial years ending **after** 31 December 2010.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Claude SIMON
Director

Andrée BILLON
Director

Simone DELCOURT
Director

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Director General