

**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 electronic money institutions

CIRCULAR CSSF 11/524

Re: External audit requirements to be observed by the branches through which electronic money institutions from another Member State intend to carry on the business of issuing electronic money in Luxembourg, by the branches and agents through which electronic money institutions from another Member State intend to provide payment services in Luxembourg, as well as by the natural and legal persons through which electronic money institutions from another Member State intend to distribute or redeem electronic money in Luxembourg

Ladies and Gentlemen,

Under the terms of Article 24-15(1) of the law of 10 November 2009 on payment services (the "Law"), electronic money institutions for which the home Member State is a Member State other than Luxembourg may carry out the business of issuing electronic money and provide payment services in Luxembourg through the establishment of a branch.

These electronic money institutions may, in addition:

- distribute and redeem electronic money in Luxembourg through natural or legal persons which act on their behalf, provided that the CSSF has been informed thereof beforehand by the competent authorities of the home Member State of the electronic money institution in accordance with Article 3(4) of Directive 2009/110/EC;
- provide payment services referred to in Article 24-6(1)(a) of the Law in Luxembourg through agents, provided that the conditions in Article 17 of Directive 2007/64/EC are met.

This circular concerns electronic money institutions from another Member State¹ which intend to carry out the business of issuing electronic money in Luxembourg, through branches, electronic money institutions from another Member State which intend to provide payment services in Luxembourg through branches or agents or, respectively, distribute and redeem electronic money in Luxembourg through natural or legal persons. Moreover, the circular specifies the **external audit** obligations to be fulfilled by these branches, agents or intermediaries in the distribution or redemption of electronic money.

The Luxembourg branches of electronic money institutions from another Member State must get audited the following areas, for which the CSSF maintains a control responsibility as host authority, by a *réviseur d'entreprises agréé* (approved statutory auditor) on an annual basis:

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

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 provisions to which Articles 48-2 (Issuance and redeemability of electronic money) and 48-3 (Prohibition of interest) of the Law refer.

The agents through which electronic money institutions from another Member State intend to provide payment services in Luxembourg must get the following specific areas audited by a *réviseur d'entreprises agréé* (approved statutory auditor) on an annual basis:

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

The natural and legal persons through which electronic money institutions from another Member State intend to distribute or redeem electronic money in Luxembourg must get audited the compliance with the legislation and regulations concerning the fight against money laundering to terrorist financing applicable to electronic money institutions by a *réviseur d'entreprises agréé* (approved statutory auditor) on an annual basis.

The reports issued in this regard by the *réviseur d'entreprises agréé* (approved statutory auditor) appointed for this purpose must be transmitted to the CSSF within a period of six months after the end of the electronic money 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 specific inspections in the areas in which the CSSF remains competent within the Luxembourg branch of the electronic money institution, the agent through which the electronic money institution provides payment services in Luxembourg or the natural and legal persons through which the electronic money institution distributes or redeems electronic money 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
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