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Spring 2023

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New templates for Authorised Investment Fund Managers (IFM)

In the context of the publication of the two new notification templates by the CSSF regarding the authorisation of IFM, the CSSF further updated its [communiqué](#) of 19 January 2023 to publish the form in relation to the AIFM registration notification.

Such form is available on the CSSF's website.

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Asset Management &
Investment Funds



Launch of the SFDR data collection for investment fund managers

On 1st February 2023, the CSSF has published a communiqué to provide the industry participants with information on the launch of the first part of the data collection related to SFDR as mentioned in the [CSSF communiqué](#) of 27 July 2022.

For more information, please click [here](#).



Q&A CNC 22/028 regarding the implementation of the consolidation exemption for small groups (Article 1711-4 LSC)

On 10 February 2023, the CSSF has published a [communiqué](#) passing on the Q&A 22/028 of the Commission des Normes Comptables (CNC).

This Q&A aim to provide clarifications about the concrete modality of consolidation exemption as provided by article 1711-4 paragraph 1 of the Law of 10 August 1915 on commercial company usually referred as “exemption petit groupe”.

For more information, please click [here](#).

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Circular letter in relation to the 2022 Questionnaire on financial crime

As previously announced in the [CSSF communiqué](#) of 7 December 2022, the CSSF launched the annual online questionnaire on financial crime for the year 2022 on 15 February 2023. The questionnaire aims at collecting standardised key information concerning money laundering and terrorism financing (ML/TF) risks to which the professionals under supervision are exposed along with the implementation of related risk mitigation and targeted financial sanctions measures.

This cross-sector questionnaire contributes to the CSSF's ongoing assessment of ML/TF risks present in the financial sectors under its Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) supervision, and forms part of the AML/CFT risk-based supervision approach put in place by the CSSF.

Answers to the questions will have to be submitted through the CSSF eDesk Portal by 31 March 2023 (at the latest) by one of the following persons:

- the compliance officer in charge of the control of compliance with the professional obligations (responsable du contrôle du respect des obligations professionnelles - RC), or
- the person responsible for compliance with the professional obligations (responsable du respect des obligations professionnelles - RR).

The completion of the questionnaire, however, may be assigned within the CSSF eDesk Portal to another employee of the entity or third party, while bearing in mind that the ultimate responsibility for the adequate completion of the questionnaire shall remain with the RC or the RR.

For more information, please click [here](#).



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Asset Management &
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ESG – publication of the SFDR RTS changes on fossil gas and nuclear activities

The amendments to the SFDR Level 2 RTS brought about as a result of the Complementary Delegated Act, which covers fossil gas and nuclear activities, have been published in the Official Journal of the European Union on 17 February 2023. Such amendments came into effect on 20 February 2023, i.e. on the third day following publication.

For more information, please click [here](#).



Questions and Answers Application of the UCITS Directive

The European Securities and Markets Authority (ESMA) has updated the [Q&A](#) on the UCITS directive to include a clarification concerning the issuer concentration (Question 5) which reads as follows:

Question 5e: Article 52(1)(b) of the UCITS Directive requires a UCITS not to invest more than 20% of its assets in deposits made with the same body. Does the term “body” referred to in the aforementioned article mean “credit institution” as mentioned in Article 50(1)(f) of the UCITS Directive or does it include also any other counterparty which is not a credit institution?

Answer 5e: The term “body” as referred to in Article 52(1)(b) means “credit institution” as mentioned in Article 50(1)(f) of the UCITS Directive.

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ALFI's response to ESMA consultation regarding Guidelines on funds' names using ESG or sustainability-related terms

On 20 February 2023, ALFI responded to the ESMA consultation regarding Guidelines on funds' names using ESG or sustainability-related terms.

In the context of this consultation, ESMA sought feedback from stakeholders on the introduction of quantitative thresholds for the minimum proportion of investments necessary to support the use of ESG or sustainability-related terms in funds' names.

ALFI acknowledged the significance of protecting investors against unsubstantiated or exaggerated sustainability claim and the necessity for harmonising requirements to achieve this goal. However, ALFI expressed concerns about ESMA's proposed approach, specifically with respect to the underlying terminology, the way to construct the threshold mechanism, the timing and the scope of the proposed guidelines. Instead, ALFI suggested an alternative solution focusing on requiring a clear demonstration of the underlying methodologies and the binding elements of the fund's investment strategy.

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Clarification regarding the filing of the RTS templates concerned by the amended SFDR RTS

The amended Commission Delegated Regulation (EU) 2023/363 updating Commission Delegated Regulation (EU) 2022/1288 (SFDR RTS) which entered into force on 20 February 2023 introduced precontractual and periodic transparency requirements in relation to Taxonomy aligned fossil gas and nuclear energy related activities for financial products disclosing under Articles 8 and 9 of SFDR.

In view of streamlining the review by the CSSF, in the case where changes to the prospectus/issuing document are limited to the use of the new templates set out in the annexes to the amended SFDR RTS, FMPs shall confirm in the application file submitted to the CSSF (i) the use of new templates and (ii) that no other changes have been performed.

For annual reports of investment funds, issued after the entry into force of the amended SFDR RTS and irrespective of the financial year-end of the investment funds, FMPs shall present the periodic disclosure information in the format of the templates set out in the annexes of the amended SFDR RTS.

For more information, please click [here](#).



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Publication of the CSSF working paper “Liquidity Stress Test for Luxembourg Investment Funds: the Time to Liquidation Approach”

The CSSF published a [working paper](#) on 9 March 2023 to present a liquidity stress testing framework applicable to Luxembourg investment funds.

The key characteristics of this liquidity stress testing framework are the following:

1. A time to liquidation approach, whereby a dynamic dimension is integrated in the assessment of the fund portfolio liquidity;
2. A dual impact shock, by which shocks hit both the liability side (redemption shocks as derived from a macroeconomic model and from the historical distribution of redemptions) and the asset side (application of a haircut to the liquidity of assets); and
3. A macroprudential perspective with both a contagion (via the price impact of first-round sales) and an amplification (via second-round effects of redemptions) channel.

Applied to a sample of Luxembourg investment funds, the liquidity stress test based on the proposed framework notably offered the following key findings (non-exhaustive list):

- 83% of the funds can meet the redemption shocks in 2 days and 96% in 5 days;
- High yield bond funds would have longer time to liquidation as only 87% of these funds can meet the macro redemption shock within 5 days;
- Some mixed funds would also need more than 5 days, as a result of their larger size; and
- Across all sectors, small and middle size well diversified funds are generally able to liquidate their portfolios more rapidly.

This paper further aims at contributing to the ongoing discussions on liquidity risk for open-ended funds taking place at international level (such as FSB, IOSCO and other international securities regulators).

For more information, please refer to this working paper by clicking the above link.

For more information, please click [here](#).



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Asset Management &
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Update of ESMA Q&A documents on AIFMD and EuVECA/EuSEF

Two Q&A documents were updated by ESMA on 10 March 2023.

1. The Q&A on the application of the AIFMD was updated to clarify the notion of “substantive direct or indirect holding” concerning the criteria applying to entities being exempt from the AIFMD (usually referred to as below-threshold AIFMs).

The ESMA clarified that the notion of “substantive direct or indirect holding” refers to situations where the AIFM manages portfolios of AIFs through its direct or indirect holding in a company. This covers, for instance, situations whereby the AIFM de facto has the power to impose decisions on the AIF portfolio composition, its asset allocation or its risk management.

Furthermore, the ESMA specified that the notion of “substantive direct or indirect holding” shall be assessed on a case-by-case basis by AIFMs supervisors.

2. Additionally, a new question in the Q&A on the application of the EuSEF and EuVECA Regulations clarified whether a EuVECA/EuSEF fund (as respectively applicable) can invest in another qualifying venture capital/social entrepreneurship funds which has not been registered as EuVECA/EuSEF as long as that fund materially complies with the criteria of the definition of qualifying venture capital/social entrepreneurship funds.

The ESMA answered positively to the above question provided that those qualifying venture capital (respectively social entrepreneurship) funds have not themselves invested more than 10% of their aggregate capital contributions and uncalled committed capital in other qualifying venture capital (respectively social entrepreneurship) funds.

Swipe to continue →



CSSF updates CBDF FAQ on notification procedures

On 16 March 2023, the CSSF published an updated version of its FAQ on CBDF notification procedures.

The update mainly clarified that a non-voluntary de-notification of marketing arrangements of a UCITS or an AIF share class or sub-fund in case of life-cycle event (i.e. a termination, liquidation, merger or at the end of a limited term of such share class or sub-fund) is not subject to the completion of the conditions set out in respectively the article 54-1 of the Law of 17 December 2010 relating to undertakings for collective investment (UCI Law) and the article 29-1 and 30-1 of the Law of 12 July 2013 on alternative investment fund manager (AIFM Law) which by means of reminder should be fulfilled cumulatively to trigger the marketing de-notification requirement.

For AIFs, the CSSF further clarified the notion of non-voluntary marketing de-notification by providing that the end of a capital raising period in case of closed-ended funds is not considered as a life-cycle event (i.e. non-voluntary).

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Publication of the bill of law 8183 amending the SICAR, SIF, RAIF, UCI and AIFM Laws

On 24 March 2023, the Ministry for Finance submitted to the Luxembourg Parliament (Chambre des Députés) the bill of law n°8183 proposing to make changes to the Luxembourg investment funds legal framework (the **Bill**).

The objective of the Bill is to improve and modernise the Luxembourg toolbox for investment funds and thereby increase the attractiveness and competitiveness of the financial center. The Bill takes place in a context of increased demand for long-term investments financing and access to alternative investment funds by retail investors (so-called “retailisation”) recently supported by the revision of the European Long Term Investment Fund (ELTIF) regulation.

Thus, the Bill amends the five sectorial laws currently regulating investment funds and their managers (IFM) in Luxembourg: the Law of 15 June 2004 on the investment company in risk capital (SICAR), the Law of 13 February 2007 on specialised investment funds (SIF), the Law of 17 December 2010 on relating to undertakings for collective investment (UCI), the Law of 23 July 2016 on reserved alternative investment funds (RAIF) and the Law of 12 July 2013 on alternative investment fund managers.

For more information, please click [here](#).



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Launch of the SFDR data collection for investment fund managers

On 24 March 2023, the CSSF has published a [communiqué](#) to provide the industry participants with information on the launch of the data collection exercise relating to precontractual product disclosure information.

The objective of the current data collection exercise is to collect, in a digital format, information contained in precontractual disclosure documents/templates.

The CSSF is hereby notably requiring:

- 1) UCITS management companies, based in Luxembourg or in another Member State of the EU, in relation to all Luxembourg-domiciled UCITS they manage;
- 2) Authorised AIFMs based in Luxembourg in relation to all Luxembourg-domiciled regulated and unregulated AIFs (including ELTIFs) they manage;
- 3) Authorised AIFMs, based in another Member State of the European Union, in relation to all Luxembourg-domiciled regulated AIFs, as well as Luxembourg-domiciled unregulated AIFs (only when they qualify as ELTIFs) they manage;
- 4) Registered AIFMs, based in Luxembourg or in another Member State of the European Union, in relation to all Luxembourg-domiciled regulated AIFs they manage; and
- 5) IORPs, subject to the Law of 13 July 2005

to participate to this data collection exercise, by providing a set of information relating to precontractual product disclosures for each of the financial products mentioned above.

The deadline for submission of the initial report is 15 June 2023.

The technical filing details are further set out in the communiqué by clicking the above link. Worth noting is that an online solution via eDesk for manual input will be made available as of 2 May 2023.

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Asset Management &
Investment Funds



ESAs published editable versions of SFDR RTS Templates

In March 2023, the European Supervisory Authorities EBA, EIOPA, ESMA (ESAs) published editable versions of the templates contained in the SFDR RTS for convenience purposes.

Note that the ESAs accept no responsibility or liability for any errors or omissions in the editable version. Only European Union documents published in the Official Journal of the European Union (OJ) are deemed authentic.

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Update to the CSSF FAQ Sustainable Finance Disclosure Regulation (SFDR)

The CSSF updated its SFDR FAQ to include the following new content:

1) In line with the consultation paper of the ESMA on the Guidelines on funds' names using ESG or sustainability-related terms, the CSSF reminds financial market participants (**FMPs**) that the use of terms such as “ESG”, “green”, “sustainable”, “social”, “ethical”, “impact”, etc. should be used only when supported in a material way by evidence of sustainability characteristics, themes or objectives that are reflected fairly and consistently in the fund's investment objectives and policy and its strategy as described in the relevant fund documentation.

The CSSF expects FMPs, whether they are disclosing under Articles 6, 8 or 9 SFDR, to use fund names which are not misleading and aligned with the relevant fund's investment objective and policy and with the relevant principles-based guidance on fund names of the ESMA. Finally, the CSSF expects FMPs to take due consideration of any further development on the topic at European level.

2) The CSSF expects that the methodology used for the definition of a sustainable investment within the meaning of Article 2(17) SFDR, as well as, where applicable, the applied thresholds (for example the threshold used when applying a pass-fail approach), be made available by FMPs to investors via appropriate means, such as through mandatory disclosure templates, prospectus/issuing document and/or website disclosures.

3) The CSSF reminds that a fund disclosing under Article 9 SFDR may next to “sustainable investments” (i.e. in the “remaining portion” of the investment portfolio), also include investments or techniques used for hedging purposes or relating to cash as ancillary liquidity, provided that those are in line with the sustainable investment objective of the fund. In this context, the CSSF considers that when used for hedging purposes, EPM techniques fall within the “remaining portion” of the investment portfolio of funds disclosing under Article 9 SFDR.

For more information, please click [here](#).



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Corporate



Grand-Ducal regulation on the administrative dissolution procedure without liquidation

On 6 February 2023, the Grand-Ducal regulation of 3 February 2023 amending the amended Grand-Ducal regulation of 23 January 2003 executing the amended law of 19 December 2002 on the trade and company register (the TCR) and the accounting and annual accounts of companies (the GDR) was published on the Luxembourg Mémorial (official gazette).

The GDR entered into force on 10 February 2023, amended the list of companies to be automatically removed from the TCR and introduced new provisions regarding the consultation of the insolvency register.

Further to the adoption of the law of 28 October 2022 creating the procedure of administrative dissolution without liquidation (the **Law**), the GDR supplements the list of companies/entities that shall be automatically removed from the TCR in certain circumstances, such as:

For more information, please click [here](#).



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Corporate



Grand-Ducal regulation on the administrative dissolution procedure without liquidation

- commercial companies whose administrative dissolution procedures without liquidation have been closed;
- commercial companies whose insolvency proceedings have been closed, with the exception of companies:
 1. whose insolvency proceedings have been closed prior to the entry into force of the Law (i.e. prior to the 1 February 2023) and
 2. which have updated their registrations in the TCR after the judgment closing the insolvency proceedings.

The GDR states that the search for data in the insolvency register can be made based on:

1. the name of the natural person trader, the name or business name of the legal person or entity registered with the TCR or by means of the TCR registration number;
2. the name or business name of the judicial representative, when such a representative has been registered with the TCR.

In addition, the TCR administrator is now entitled to issue extracts from the insolvency register.

Those extracts supply a limited list of information such as the identity of an appointed judicial liquidator and attest that no decision in connection with an insolvency proceeding is registered with the TCR.

For more information, please click [here](#).



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Corporate



Decision of the CJEU n° C-693/20

On 9 March 2023, the Court of Justice of the EU (CJEU) annulled the inspection decisions of the European Commission (EC) regarding Casino and Intermarché.

Following receipt of information relating to exchanges of information between Casino and Intermarché in the consumer goods sector, the EC decided that Intermarché Casino Achats, as well as all the companies directly or indirectly controlled by it, were required to submit to an inspection concerning their possible participation in concerted practices contrary to Article 101 of the Treaty on the Functioning of the European Union (TFEU).

Article 101(1) TFEU prohibits any agreements between undertakings, decisions made by associations of undertakings, or concerted practices affecting trade between European Union countries which could prevent, restrict or distort competition.

By application lodged at the Registry of the General Court on 28 April 2017, the applicant brought an action, pursuant to Article 263 TFEU, seeking the annulment of the contested decision.

The CJEU overturned the EC's ruling that the inspection was illegal.

To be admissible, the EC has the obligation to record the interviews conducted in order to collect information related to the subject of an investigation, even before the formal opening of the investigation.

The CJEU has recognised that companies subject to an inspection have the right to appeal any measure adopted during the search which substantially affects their interests.

For more information, please click [here](#)



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Corporate



New e-invoicing web forms

On 18 March 2023, MyGuichet.lu launched two versions of e-invoicing web forms for public sector bodies (PSOs) that do not require electronic authentication.

Economic operators (**EOs**) who do not have access to the electronic means of authentication (**eIDs**) accepted by MyGuichet can now transmit an electronic invoice without difficulty. The risks of receiving fraudulent invoices are always present. To minimize these risks, the EO will receive a unique number from their customer before they can use the eInvoicing web form without authentication. In addition, the EO must upload a purchase order or other document establishing the contractual link within the framework endowed with the invoice is issued before transmitting the electronic invoice.

For more information, please click [here](#).



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Tax



Update of the administrative circular regarding the law of 23 December 2005 introducing a flat-rate withholding tax on certain interest income from securities savings (“RELIBI Law”)

The Luxembourg tax authorities (“LTA”) issued an updated version of the administrative circular dealing with the RELIBI Law and more particularly taking into account the amendments made to the latter by article 7 of the law of 23 December 2022 concerning the budget for 2023.

More specifically, such clarifications indicate that, in order for a paying agent to be considered at such, should make the payment as part of his normal activity so that payments made outside of the regulated market do not fall within the scope of the RELIBI Law.

For more information, please click [here](#).



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Tax



Update on the European Union (“EU”) list of non-cooperative jurisdictions for tax purposes.

On 14 February 2023, the Council of the EU updated the blacklist of non-cooperative jurisdictions (“EU Blacklist”) to include four jurisdictions: the British Virgin Islands, Costa Rica, the Marshall Islands and Russia. These jurisdictions are therefore joining American Samoa, Anguilla, the Bahamas, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands and Vanuatu.

As a reminder, as a result of being included on the EU Blacklist, a jurisdiction could observe the implementation of the following defensive measures from the EU such as an increased monitoring and audits from the tax authorities, a greater scrutiny on certain tax rates (e.g. withholding tax rates), the non-deductibility of certain costs for enterprises located in these jurisdictions, the application of controlled foreign company rules, specific documentation required for transactions to be performed and an automatic exchange of information with tax authorities (e.g. falling in the scope of the DAC 6 reporting in case of deductible payments made to associated enterprises for DAC 6 purposes).

In addition, the grey list was also updated by the Council of the EU on the same date, by adding three new jurisdictions were added (i.e. Albania, Aruba and Curaçao), while removing four (i.e. Barbados, Jamaica, North Macedonia and Uruguay). For completeness, the grey list contains a large number of different lists of jurisdictions in relation to which the European Union Code of Conduct Group identified concerns during its screening process. The jurisdictions identified on the grey list have all committed to address these concerns by introducing relevant changes in their tax legislation in order to comply with the EU criteria. These jurisdictions are all, for the time being, regarded as cooperative, subject to the successful delivery of their commitments, which will be monitored by the Code of Conduct Group.

For more information, please click [here](#).



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Tax



Parliamentary question on the tax treatment of speculative gains on cryptocurrencies

On 24 February 2023, the deputy Mr Laurent Mosar requested a confirmation regarding the tax treatment of speculative gains realised on cryptocurrencies, and notably whether the taxable rate for such gains would range between 22% and 25% but also how Luxembourg would articulate its position in light of the other EU legislations.

For more information, please click [here](#).



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Tax



Amendment of the administrative circular providing for further details regarding the employee bonus scheme (prime participative)

On 27 February 2023, the LTA issued an amended version of the administrative circular dealing with the recent mechanism of the employee bonus scheme to reflect the changes resulting from the law of 23 December 2022 concerning the budget for 2023.

The revised version of the administrative circular reflects indeed the additional flexibility given Luxembourg employers to ensure the attractiveness of Luxembourg by allow groups of companies that are part of a fiscal unity to assess the required threshold limit to benefit from the mechanism on an aggregated basis rather than on a standalone basis.

For more information, please click [here](#).





General tax law reform

On 28 March 2023, the Luxembourg Minister of Finance, Yuriko Backes, introduced an ambitious bill to the Luxembourg Parliament aimed at extensively updating the Luxembourg procedural tax law (draft law 8186). The reform, which is motivated by a willingness of the government to simplify Luxembourg tax procedures and bring it in line with current administrative practice and jurisprudence, might introduce important changes to tax litigation, documentation and administrative procedures. The reform is still at an early stage and is expected to be submitted to the legislative commissions before the Luxembourg Parliament prior to being called for a vote.

1. Multi Agreement Procedures (MAP)

- The reform introduces the possibility to request a bilateral or multilateral transfer pricing advanced agreement (APA) involving Luxembourg and multiple jurisdictions. The APA will be submitted within the context of a MAP covered by double tax treaty concluded by Luxembourg and foreign countries.
- The draft law also foresees the possibility for tax assessments to be issued, withdrawn or modified following the conclusion of a MAP. This welcome change should allow taxpayers to directly invoke MAPs as a way to request a modification of their tax assessments and in accordance with the spirit of double tax treaties.



General tax law reform

2. Changes to tax litigation procedures

- The bill proposes an important change to the rules applicable to appeals in tax litigation matters by introducing a timing limitation for taxpayers to challenge a tax assessment in case of silence by the tax administration. The limitation would change considerably the current framework according to which taxpayers that have filed an administrative appeal against the director's of the tax authorities and that have no received any response within a period of 6 months may introduce an appeal without any timing limitation before the administrative tribunal. The timing limit proposed will now correspond to 12 months after elapse of the 6 months window: in other words, no court appeal will be admissible after a cumulative period of 18 months in case where the taxpayer received no reply to the administrative appeal. The limitation is proposed to apply to appeals filed after publication of the bill in the Official Gazette.
- The draft law clarifies that failure to reply in case of hierarchal appeals may also be appealed before the administrative tribunal within the new timing limits.
- With regards to notifications with the tax administration, the reform foresees a presumption of receipt when a notification is made at the address listed in the national registrar of natural person in case of individual taxpayers and at the address listed in the Luxembourg company registrar for corporate taxpayers. Hence, taxpayers relying on intermediaries should pay close attention to changes of addresses and keep their personal information updated.
- Administrative appeals against tax assessments would be now subject to formal requirements in order to be admissible, contrary to the current framework. These additional formalities would notably include the details of the claimant (address, name etc.), the details and reference of the decision against which the appeal is introduced, the object of the request, a summary of the arguments and background of the request, a valid mandate (in case of legal representatives mandated to represent the claimant) and an annex listing the supporting documentation on the basis of which the taxpayer is introducing the request.

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Tax



General tax law reform

3. Respect of filing obligations

- The draft law would also pose additional strict requirement to ensure the respect of filing obligations: first of all, in cases where the taxpayer fails to submit a tax return within the statutory delays, the taxpayer may no longer request to modify a tax assessment issued by the tax authorities on an ex officio basis under paragraph 94 of the general tax law (i.e. request of modification). Going forward, tax assessment issue on an ex officio basis may only be appealed by means of an administrative appeal provided that the difference between the amount of taxable income or capital that would arise as a result of the appeal and the amount established in the ex officio assessment exceeds 10%.
- Moreover, the bill provides that annual accounts which have not been timely filed with the Luxembourg company registrar may not be opposed against the Luxembourg tax authorities. This particular change would be particularly relevant as Luxembourg tax authorities would not be bound, by extension, by tax returns filed late due to a delay in the submission of the annual accounts.

For more information, please click [here](#).





3 Feb.
2023

New ESMA Q&A updates

The European Securities and Markets Authority (**ESMA**), updated its questions and answers on the following topics:

- Regulation (EU) 2022/858 on a pilot regime for market infrastructures based on distributed ledger technology (3 February 2023) ([here](#));
- Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (3 February 2023) ([here](#));
- Application of the EuSEF and EuVECA Regulations (10 March 2023): update on an investment in another qualifying venture capital fund/qualifying social entrepreneurship fund ([here](#));
- Central Securities Depositories Regulation (13 March 2023): update on partial settlement functionality ([here](#));
- Benchmarks Regulation (BMR) (31 March 2023): modification of the responses on the IOSCO Principles assessment of compliance and the legal representative under the BMR ([here](#));
- MiFIR data reporting (31 March 2023): modification of the concept of underlying and providing clarification on the LEI of sovereign issuer and identifier for stateless natural persons ([here](#));
- MiFID II and MiFIR transparency topics (31 March 2023): update on the interpretation and reporting of delivery/cash settlement location ([here](#));
- EMIR implementation (31 March 2023): modification of the responses on the reporting of TRs and which parties have to report and update on inclusion of derivatives in the Trade State Report (TSR) ([here](#));
- SFTR data reporting (31 March 2023): update on reporting of the jurisdiction of the issuer ([here](#)); and
- DLT Pilot Regulation (please see below under DLT updates).

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Regulatory



Questionnaire on 2022 Financial crime

On 7 February 2023, the CSSF published a Circular letter concerning the 2022 Questionnaire on financial crime.

As part of the CSSF's Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) supervision, the annual online questionnaire for the year 2022 collects standardised key information concerning:

- The money laundering and terrorism financing risks to which the professionals under its supervision are exposed; and
- The implementation of related risk mitigation and targeted financial sanctions measures.

This questionnaire concerns the following professionals:

- Credit institutions;
- Investment firms;
- Investment fund managers;
- Payment institutions and electronic money institutions;
- Virtual Asset Service Providers (VASP);
- Specialised professionals of the financial sector (PFS); and
- Central Securities Depositories.

The questionnaire was launched on **15 February 2023** and answers have been submitted by the **31 March 2023** through the CSSF eDesk.

For more information, please click [here](#).





2023 CSSF AML/CFT Conference for Specialised PFS

On 8 February 2023, the CSSF published a [communiqué](#) on the AML/CFT conference held on 30 January 2023 for Specialised PFS addressing the key issues of AML/CFT in the sector.

The conference covered the following topics:

- Risk self-assessment and RC report – purpose and content;
- ML/TF Vertical risk assessment – Legal persons and legal arrangements;
- Vertical risk assessment – Terrorist Financing;
- Insights from the FIU for Specialised PFS;
- Public-Private exchange platform for Specialised PFS; and
- Register of fiducies and trusts – obligations and requirements.

For more information, please click [here](#) for the key takeaways and [here](#) for the presentation.

CSSF FAQ Sustainable Finance Disclosure Regulation (SFDR)

On 13 March 2023, the CSSF updated its FAQ on Section I and Section II (questions 7 and 8). The main updates relate to the ESG and/or sustainability considerations to be taken into account with respect to fund names and the methodology used to define sustainable investments.

For more information, please click [here](#).



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Regulatory



Annual Securitisation Vehicles Reporting Deadlines

On 9 February 2023, the Luxembourg Capital Market Association (LuxCMA) has published a new timeline listing disclosure obligations and annual reporting deadlines for securitisation vehicles.

For more information, please click [here](#).



Standardisation of Financial Products and Workflows

On 16 February 2023, the International Capital Markets Association (ICMA) announced the launch of the Common Domain Model (CDM) project by the Fintech Open Source Foundation (FINOS) in partnership with the ISDA and the International Securities Lending Association (ISLA) to foster the growth of an open-source community for the CDM and ensure neutrality.

In September 2022, FINOS was selected by the three associations following a Request for Quotation (RFQ) process to create a standard model for the financial market whereby lifecycle events and processes related to derivatives, fixed income and securities lending transactions would become streamlined and automated, reducing costs and improving interoperability.

For more information, please click [here](#).



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ABBL identifies impacts of the European Commission (EC) capital markets union clearing package

On 21 February 2023, the Luxembourg Bankers' Association (ABBL) reviewed the EC capital markets union clearing package proposal published on 7 December 2022 and identified the following impact on Luxembourg banks:

- New obligation to have an active account with an EU central counterparty (CCP) and clear at least part of transactions on derivatives subject to the clearing obligation in this EU CCP;
- New reporting requirement for clearing members and clients clearing in a recognised third country CCP; and
- New monitoring of banks' concentration risks towards third country CCPs.

For more information please see the ABBL publication [here](#) and access the EC proposal [here](#).

For more information please see the ABBL publication [here](#) and access the EC proposal [here](#)



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Regulatory



ICMA's Bond Data Taxonomy

On 14 March 2023, the ICMA released its Bond Data Taxonomy offering an agreed language to promote automation and reduce the risk of fragmentation across the issuance process.

For more information, please click [here](#).



DLT Updates

On 23 March 2023, the Luxembourg law of the 15 March 2023 implementing the EU Regulation 2022/858 on a pilot regime for market infrastructures based on distributed ledger technology (DLT) (the Regulation) entered into force allowing national authorities to be market infrastructures wishing to use DLT which are temporarily exempt from some requirements imposed by existing Luxembourg legislation.

For more information, please access the DLT 3 Law [here](#) (only in French).

In addition, ESMA published an FAQ on the implementation of the Regulation on 31 March 2023, in particular providing an update on DLT share valuation. Please access the FAQ [here](#).

On 5 April 2023, the CSSF published Circular CSSF 23/832 integrating the [ESMA Guidelines](#) published on 8 March 2023 on standard forms, formats and templates to apply for permission to operate a DLT Market Infrastructure (**the Guidelines**) into its administrative practice and all entities intending to apply the Regulation will have to comply with these Guidelines.

For more information, please click [here](#).



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Regulatory



CSSF press release on SFDR data collection exercise applicable to investment fund managers (IFMs) and institutions for occupational retirement provision (IORPs) on precontractual disclosures

On 24 March 2023, the CSSF made a press release to provide industry participants with information regarding the launch of the data collection exercise relating to precontractual product disclosure information.

In this context, IFMs and IORPs qualifying as FMPs are required to include sustainability-related information in the precontractual disclosures of financial products in accordance with SFDR, TR and the SFDR RTS. The objective of the current data collection exercise is to collect, in a digital format, information contained in precontractual disclosure documents/templates.

For more information, please click [here](#).



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Regulatory



Final report on MiFID II guidelines on product governance

On 27 March 2023, the ESMA published its final report on MiFID II guidelines on product governance (the Guidelines) with the purpose of strengthening investor protection. The Guidelines build on the 2017 ESMA guidelines and take into account recent regulatory and supervisory developments, including:

- The European Commission's Capital Markets Recovery Package and subsequent Amending Directive;
- The sustainability-related amendments to the MiFID II Delegated Directive; and
- The recommendations on the product governance guidelines by ESMA's Advisory Committee on Proportionality (**ACP**) and the findings of ESMA's 2021 Common Supervisory Action on product governance.

For more information, please click [here](#).



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Regulatory



CSSF press release on the monitoring the quality of transaction reports received under Article 26 of MiFIR

On the 30 March 2023, the CSSF made a press release relating to the obligation of credit institutions and investment firms to report transactions in financial instruments as set out in Article 26 of Regulation (EU) No 600/2014 on markets in financial instruments (**MiFIR**). The press release informs on the number of reporting entities and reports received in 2022 as well as the quality and completeness campaigns conducted by the CSSF in 2022 and its priorities for 2023.

For more information, please click [here](#).



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Banking



ABBL update on the banking package and AIFMD review

On 1 February 2023, the Luxembourg Banker's Association (ABBL) published an update on the European Parliament's Economic and Monetary Committee (ECON) voting its negotiating mandate on the banking package and the review of the Alternative Investment Fund Managers Directive (AIFMD).

From a Luxembourg perspective, the provision of financial services from outside of the EU, the treatment and supervision of third country branches and the depositary rules are most relevant. The latter includes a proposal to allow Member States with a strictly defined lack of depositary offer to request the use of a depositary in another Member State.

For more information, please click [here](#).



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Banking



LMA note on implications for the replacement of TARGET2

On 16 February 2023, the Loan Market Association (LMA) published a note which outlines the documentary implications on the LMA facility documentation of the replacement of the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system by the new real-time gross settlement system “T2” in March 2023.

This LMA note sets out the changes that the LMA plans to adopt in its definitions, in the relevant documentation, once T2 has become operational.

For more information, please click [here](#).



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Banking



The Final LIBOR Hurdle

On 27 March 2023, the International Swaps and Derivatives Association (ISDA) published its derivatives addressing the transition of US dollar LIBOR linked contracts and the key matters to keep in mind ahead of the final publication of US dollar LIBOR on 30 June, which are as follows:

- The conversions of cleared US dollar LIBOR trades are set to take place at CME Group on April 21 and at LCH in two tranches on April 22 and May 20;
- Firms should adhere to the [ISDA 2020 IBOR Fallbacks Protocol](#), if not already done so, to significantly reduce the systemic risk associated with the transition; and
- Firms should be aware of possible differences in conventions between the fallbacks and LIBOR and make the necessary modifications to their systems and processes.

For more information, please click [here](#).



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