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# Luxembourg Insights

**Autumn 2024**

Simmons & Simmons Luxembourg LLP

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05

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## Tax

06

- The European Commission proposes a common template and electronic reporting formats for country by country reports (CbCR)
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- Luxembourg's government presented its 2025 draft Budget law (number 8444) to the Luxembourg Parliament
- Signing of a Double Tax Treaty between the Government of the Grand Duchy of Luxembourg and the Government of the Sultanate of Oman
- European Commission adopts new proposal (DAC9) to help companies with their filing obligations under the Pillar 2 Directive
- The Luxembourg government published a draft law amending the so called Pillar Two law
- The Luxembourg tax authorities updated the Frequently Asked Questions related to the Country by Country Reporting (CbCR)

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5 Sep. 2024

# The CSSF has implemented a risk-based approach for identifying and verifying the ultimate beneficial owners 1/2

**On 5 September 2024, the CSSF published its Circular 24/861 amending Circular CSSF 19/732 of 20 December 2019 on the Prevention of Money Laundering and Terrorist Financing: clarifications on the Identification and Verification of the Identity of the Ultimate Beneficial Owner(s).**

The Circular 24/861 amends the point 74 of the Circular 19/732 to adapt the identification and verification of the ultimate beneficial owner to a risk-based approach.

Before, the point 74 stated that:

“where legal persons or arrangements are in between the customer and the natural person - beneficial owner, the following information shall be recorded:

- Denomination;
- Legal form;
- Address of the registered office and, if different, a principal place of business;
- Where appropriate, official national identification number;
- Directors (dirigeants) (for the legal persons) and directors (administrateurs) or persons exercising similar positions (for the legal arrangements);”

Swipe to continue



5 Sep. 2024

# The CSSF has implemented a risk-based approach for identifying and verifying the ultimate beneficial owners 2/2

Following the enforcement of the Circular CSSF 24/861, the point 74 has been amended as follows:

“Where legal persons or arrangements are in between the customer and the natural person - beneficial owner, their identification, with its documentation and verification, has to be done according to a risk-based approach”.

For more information, please click here

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21 Oct. 2024

# The CSSF published a communiqué along with a circular implementing the ESMA Guidelines on funds naming

**On 21 October 2024, the CSSF has published a communiqué alongside Circular 24/863, implementing the ESMA Guidelines on Funds' Names, in Luxembourg - relevant for funds**

The CSSF requires fund managers to assess whether the ESMA Guidelines shall apply, regardless of the fund's disclosure status under SFDR Articles 6, 8, or 9.

If applicable, funds have two options:

1. Either comply with the requirements set out in the ESMA Guidelines. These may result in amendments to the fund's disclosures or to the fund's ESG engagement; or
2. Change the fund name to fall outside the scope of the ESMA Guidelines. To support compliance for existing AIFs and UCITS, the CSSF has implemented a "priority processing procedure". To benefit of this fast-track procedure, the changes must be restricted to either the name change of a sub-fund or making minor modifications to the fund's or sub-fund's ESG engagement/SFDR precontractual disclosures.

For more information, please click here.

Swipe to continue



23 Oct. 2024

# The CSSF has published a report on the delegation of the portfolio management function by IFMs

**On 23 October 2024, the CSSF published a report following a 3-year review of the compliance by investment fund managers (IFMs) with regulations on delegating portfolio management.**

The report outlines related recommendations and clarifications for improvement in the following areas:

- Establishment of robust procedures governing the IFM's delegation framework;
- Initial and periodic due diligence, alongside ongoing monitoring of delegates;
- Implementation and maintenance of a "Business Continuity Plan";
- Development of a "Contingency Plan" for scenarios where IFMs must immediately withdraw a delegate's mandate; and
- Addressing and managing conflicts of interest effectively.

The CSSF also invites all IFMs to perform, at the latest by the end of Q1/2025, a comprehensive assessment of how they monitor the delegation of their portfolio management function in the light of the observations mentioned in the CSSF's report and of the applicable regulatory requirements.

For more information, please click here.

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25 Oct. 2024

# The CSSF has updated its application questionnaire for existing ELTIF

**The Commission Delegated Regulation (EU) 2024/2759 concerning European long-term investment funds (ELTIFs) was published on 25 October 2024, in the Official Journal of the European Union, which results to the enter into force of the delegated regulation.**

As a result, new ELTIF applications must now comply with both the Regulation (EU) 2015/760 on European long-term investment funds (as amended) and the newly adopted delegated regulation.

Existing Luxembourg-based ELTIFs that do not benefit from the grandfathering clause must promptly adjust to meet the requirements of this delegated regulation. In light of these updated requirements, the ELTIF prospectus may require amendments, particularly regarding the fund's liquidity arrangements. Any significant changes shall be reported to the CSSF.

For new Luxembourg-based ELTIFs , the CSSF has updated the ELTIF application questionnaire for all new submission from 25 October 2024 , particularly in the section "5. REDEMPTIONS

For more information, please click here.

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28 Oct. 2024

# The FATF launched a public consultation on AML/CFT and Financial Inclusion proposing changes to FATF Standards 1/2

**On 28 October 2024, the Financial Action Task Force (FATF) launched a public consultation on proposed revisions to its standards. These revisions aim to streamline measures within the risk-based approach, providing countries, supervisors, and financial institutions with greater confidence and clarity in implementing simplified measures. The revisions focus on Recommendation 1 and its Interpretive Note, with corresponding changes to Recommendations 10 and 15 and related Glossary definitions.**

The FATF seeks views on the following issues:

- The FATF proposes replacing the term "commensurate" with "proportionate" in Recommendation 1. This change seeks to simply the application of risk-based approach. In this context, "proportionate" is defined as: "In the context of the risk-based approach adopted by the FATF Recommendations, a proportionate measure or action is one that appropriately corresponds to the level of identified risk and effectively mitigates those risks."

- For situations identified as lower risk, the FATF proposes replacing the language "countries may decide to allow simplified measures" with "countries should allow and encourage simplified measures." This shift would place an explicit obligation on countries to foster an environment conducive to the implementation of simplified measures.

Swipe to continue




# The FATF launched a public consultation on AML/CFT and Financial Inclusion proposing changes to FATF Standards 2/2

- On adoption of simplified measures in lower risk situations, FATF proposes to replace “countries may decide to allow simplified measures” with “countries should allow and encourage simplified measures”.

- The FATF suggests qualifying the existing designation of “non-face-to-face customer identification and transactions” as potentially higher risk by adding the condition “unless appropriate risk mitigation measures have been implemented.” This change acknowledges technological advancements in digital identity systems reducing risks associated with non-face-to-face interactions.

Stakeholders are invited to submit their views and drafting suggestions by 6 December 2024 (18:00 CET).

For more information, please click here.

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15 Nov. 2024

# A new mode of transmission for Key Information Document and official documents has been adopted by the CSSF

**As announced in April 2024, the collection procedures have changed from 15 November 2024 for the Key Information Document (KID) and the official documents such as Articles of incorporation and Management Regulations (MR/AI).**

The KID and the MR/AI must be submitted exclusively via the following two methods, both free of charge:

- Documents upload via the dedicated eDesk procedure; or
- Automated submission of the documents via API (S3 protocol).

Any submissions made through previous transmission methods (external channels) will no longer be processed by the CSSF.

For more information, please click here
And here.

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1 Oct.
2024

# End of LIBOR: Key Implications for Financial Markets

**On 1 October 2024, the FCA announces the formal cessation of all synthetic LIBOR benchmarks and their replacements.**

The Financial Conduct Authority (FCA) has confirmed the final cessation of all 35 remaining synthetic LIBOR settings as benchmark for financial transactions. Companies must transition to alternative reference rates such as SONIA in the UK or SOFR in the US. This landmark change impacts a wide range of financial instruments, including loans, derivatives, and bonds. Luxembourg-based institutions should ensure compliance with the new benchmarks and review contracts to mitigate risks associated with the transition.

For more information, please click here.

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09 Oct. 2024

# EU Securitisation Framework Consultation

**On 9 October 2024, the EU seeks feedback to improve the securitisation framework.**

The European Commission has launched a targeted consultation to assess the functioning of the EU securitisation framework. This initiative aims to identify barriers and propose improvements to enhance the role of securitisation in supporting capital markets and the broader economy. Key areas of focus include simplifying disclosure requirements, addressing prudential treatment concerns, and fostering sustainable securitisation practices. Stakeholders, including Luxembourg-based entities, are encouraged to participate in the consultation to shape the future of the framework.

For more information, please click here.

Swipe to continue



10 Oct. 2024

# EU Listing Act: Key Changes for Debt Capital Markets

**On 10 October 2024, the EU Listing Act introduces streamlined processes to modernize capital markets.**

The EU has formally adopted the Listing Act package, which introduces comprehensive reforms to improve efficiency and reduce barriers for issuers in the debt capital markets (DCM). Key changes include:

- Simplified disclosure requirements to make prospectuses more accessible for investors;
- Provisions to ease the administrative burden on small- and medium-sized enterprises (SMEs); and
- Improved passporting mechanisms to facilitate cross-border listings within the EU.

These reforms aim to strengthen the EU's competitiveness as a hub for global capital markets. Luxembourg issuers are particularly well-placed to benefit from these measures, given the country's robust financial infrastructure and its role as a leading DCM jurisdiction. Stakeholders are encouraged to familiarize themselves with the changes to maximize opportunities under the new framework.

For more information, please click here.

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14 Oct. 2024

# Updates to CSSF Regulation No. 14-02: FAQs

**On 14 October 2024, the CSSF clarifies AML/CFT obligations through updated FAQs.**

The CSSF's revised FAQs provide further insight into key AML/CFT measures, focusing on practical implementation. Updates include scenarios for enhanced due diligence, expanded guidance on beneficial ownership checks, and new instructions for ongoing client monitoring. Firms are urged to align their policies promptly to maintain compliance. The CSSF has published an updated FAQ on Regulation No. 14-02, addressing anti-money laundering (AML) and counter-terrorist financing (CFT) obligations for the financial sector. Key clarifications include:

- Enhanced due diligence measures for high-risk clients;
- Specific reporting obligations for cross-border activities; and
- Updated guidelines for ongoing monitoring procedures.

Firms are advised to review their AML/CFT policies to ensure compliance with the clarified requirements.

For more information, please click here.

Swipe to continue

§ BCMR

26 Oct. 2024

# CSSF Circulars 24/860 and 24/861: Key Updates

**On 26 October 2024, the CSSF updates key circulars to strengthen risk management and governance frameworks.**

The CSSF has issued two new circulars aimed at improving oversight and operational robustness in the financial sector:

- Circular 24/860 outlines new risk management expectations relating to liquidity management techniques for investment firms, particularly in liquidity risk and operational resilience.
- Circular 24/861 revises the obligations under Circular CSSF 19/732 concerning outsourcing arrangements, emphasizing enhanced reporting requirements and governance frameworks.

These circulars reflect Luxembourg's alignment with evolving EU standards and aim to bolster transparency and resilience in financial operations.

For more information, please click here.

Swipe to continue

§ BCMR

26 Oct. 2024

# End of Transition Period Under EMIR RTS Reporting

**On 26 October 2024, firms must comply with stricter derivative reporting standards under EMIR RTS.**

The updated EMIR Regulatory Technical Standards introduce detailed reporting requirements to enhance market transparency. These include new data fields for derivatives and more rigorous deadlines for submission. The CSSF advises firms to audit their reporting workflows to ensure compliance and avoid regulatory penalties. The transition period under the EMIR Regulatory Technical Standards (RTS) for reporting derivative transactions concluded on 26 October 2024. Firms must now fully comply with the updated requirements, which include new data fields and stricter reporting timelines. The CSSF recommends immediate implementation of the necessary adjustments to avoid compliance risks.

For more information, please click here.

Swipe to continue

§ BCMR

28 Oct. 2024

# ESMA Consultation on Listing Act Prospectus Regulation

**On 28 October 2024, ESMA seeks stakeholder input on proposed changes to the Prospectus Regulation.**

The European Securities and Markets Authority (ESMA) has released a consultation paper on amendments to the Prospectus Regulation under the EU Listing Act. The proposed changes aim to simplify prospectus requirements, enhance investor protection, and improve access to capital markets for issuers. Key suggestions include introducing a lighter prospectus for certain issuers and clarifying disclosure obligations to align with market needs. Stakeholders, including Luxembourg-based market participants, are invited to provide feedback on the proposals, which are expected to shape the future regulatory landscape.

For more information, please click here.

Swipe to continue



28 Oct. 2024

# ESMA Consultation on MiFID II Due Diligence and Research Rules

**On 28 October 2024, ESMA consults on proposed changes to MiFID II rules for due diligence and investment research.**

The European Securities and Markets Authority (ESMA) has opened a consultation on the technical advice concerning amendments to the MiFID II framework under the EU Listing Act. The proposed changes focus on enhancing transparency and due diligence requirements in investment research and portfolio management. Key proposals include updated rules on the unbundling of research costs and measures to improve investor understanding of research services. Luxembourg-based firms engaged in research or portfolio management are encouraged to provide feedback on the potential impacts of these amendments.

For more information, please click here.

Swipe to continue

§ BCMR

28 Oct. 2024

# New Draft Bill on Sustainable Finance Disclosure

**On 28 October 2024, Luxembourg introduces a draft bill to enhance transparency in sustainable finance.**

The Luxembourg Chamber of Deputies has presented Draft Bill No. 8460, which focuses on increasing the rigor and transparency of sustainable finance practices. The draft bill outlines stricter disclosure requirements for financial market participants, particularly those involved in environmental, social, and governance (ESG) investing. Specific measures include mandatory reporting on the sustainability impact of investments and enhanced compliance mechanisms for alignment with the EU's Sustainable Finance Disclosure Regulation (SFDR). Additionally, the draft proposes penalties for non-compliance and new procedures for monitoring and enforcement by regulatory authorities. These measures aim to provide clarity for investors and ensure that sustainable finance claims are substantiated with robust data

For more information, please click here.

Swipe to continue

§ BCMR

11 Nov. 2024

# Transition to T+1 Settlement Cycle in the EU

**On 11 November 2024, the CSSF announces upcoming changes to securities settlement cycles.**

In a major step towards increasing efficiency in capital markets, the EU plans to implement a T+1 settlement cycle for securities by May 2025. The CSSF has highlighted the operational adjustments required, including updates to internal IT systems and contractual terms with clients. These changes aim to reduce risk and streamline financial transactions. As part of the EU's Capital Markets Union initiative, the settlement cycle for securities transactions will be shortened from T+2 to T+1, effective from May 2025. The CSSF has urged market participants to prepare for this transition, highlighting the operational, technological, and contractual changes required. This move is expected to reduce counterparty risks and improve market efficiency.

For more information, please click here.


# Bill 8296 regarding the merger control of concentrations – Released opinion from the Luxembourg bar association

**On 19 September 2024, the Luxembourg Bar released its opinion (the Opinion) regarding Bill No. 8296 for the implementation of a merger control system (the Bill).**

The opinion was generally favourable towards the Bill, offering minor remarks that should advance the Bill towards its adoption. It emphasized the objective of implementing proactive control of concentrations to protect competition. The Opinion highlighted the need for clear definitions of pertinent legal terms within the Bill. It also recommended specifying that lawyers' professional confidentiality must be respected at all times by the control measures that would be implemented by the Bill. The Opinion finally noted that the self-referral mechanism planned for the authority created by the Bill to control concentrations should be reserved for specific instances where there is a realistic risk on the integrity of competition.

For more information, please click here.

22 Oct. 2024

# Bill 8053 regarding the implementation of the Mobility Directive – Released opinion from the Conseil d'Etat

**On 22 October 2024, the Luxembourg Conseil d'Etat issued its highly anticipated opinion on Bill No. 8053 (the Bill), concerning the implementation of the Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (the Mobility Directive) in Luxembourg.**

Introduced in July 2022, the Bill has faced formal opposition from the Conseil d'Etat regarding several of its provisions. The Conseil d'Etat highlighted that the Mobility Directive would be incompletely transposed, especially in terms of the report required from entities participating in the cross border operation and the notary's control over legality. Specifically, the Bill considers that the prior certificate cannot be delivered in case of manifest evidence suggesting fraud, whereas the Mobility Directive mandates that a prior certificate should not be issued if there is any suspicion of illegality. With such a strong opposition formulated by the Conseil d'Etat, it is likely the implementation of the Mobility Directive will be delayed, as amendments responding to the opinion of the Conseil d'Etat were presented on 21 November and will need to be subsequently reviewed and approved.

For more information, please click here.


# Grand-Ducal Regulation of 25 October 2024 updating the financial criteria for "large" companies 1/3

**The Grand-Ducal Regulation, issued on 25 October 2024, marks a significant update to Luxembourg's accounting framework, aligning with the Delegated Directive (EU) 2023/2775, adopted on 17 October 2023. This pivotal regulation revises the accounting thresholds for Luxembourg-based companies and groups, a move motivated by the need to adjust for inflation rates observed from 2013 to 2023 and to alleviate administrative burdens on businesses.**

The changes to existing legislations redefine the criteria for company classification regarding accounting and reporting obligations and introduce specific exemptions for certain groups.

Notably, these changes are designed to apply retroactively to financial years commencing on or after 1 January 2023, though their practical implications are slated to commence from the 2025 financial year. This strategic update is poised to streamline financial reporting processes, reflecting Luxembourg's commitment to fostering a business-friendly environment while ensuring compliance with European Union directives.

25 Oct. 2024

# Grand-Ducal Regulation of 25 October 2024 updating the financial criteria for "large" companies 2/3

Please find below a table summarising the changes to company classifications:

| Category | Average number of employees | Total assets | Net turnover |
|---|---|---|---|
| Small company | ≤ 50 (No changes) | ≤ EUR 7.5 million (previously ≤ EUR 4.4 million) | ≤ EUR 15 million (previously ≤ EUR 8.8 million) |
| Medium-sized company | ≤ 250 (No changes) | ≤ EUR 25 million (previously ≤ EUR 20 million) | ≤ EUR 50 million (previously ≤ EUR 40 million) |
| Large company | > 250 (No changes) | > EUR 25 million (previously > EUR 20 million) | > EUR 50 million (previously > EUR 40 million) |

Groups of companies have also been impacted, as follows:

| Category | Average number of employees | Total assets | Net turnover |
|---|---|---|---|
| Small group | ≤ 250 (No changes) | ≤ EUR 25 million (previously ≤ EUR 20 million) | ≤ EUR 50 million (previously ≤ EUR 40 million) |
| Large group | > 250 (No changes) | > EUR 25 million (previously > EUR 20 million) | > EUR 50 million (previously > EUR 40 million) |

Swipe to continue

§ Corporate

25 Oct. 2024

# Grand-Ducal Regulation of 25 October 2024 updating the financial criteria for "large" companies 3/3

With the introduction of increased accounting thresholds, a notable shift will occur for many existing medium-sized companies, which will transition to being classified as small companies after meeting the new criteria for small companies–and not meeting those for medium-sized entities–for two consecutive financial years.

It's important to highlight that small companies are generally allowed to present abridged balance sheets, while medium-sized companies can typically prepare abridged profit and loss accounts.

This reclassification means that medium-sized companies now categorized as small may benefit from exemptions from the statutory audit requirements and the obligation to compile a management report.

In a similar vein, certain large groups will now be considered small groups, potentially relieving their parent companies from the responsibilities of producing consolidated accounts and a consolidated management report.Moreover, companies transitioning from large to medium-sized status could find themselves exempt from the requirement to disclose sustainability information as mandated by the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464), marking a significant reduction in reporting obligations for these entities.In light of the stipulation that the revised categories will be applicable only after two consecutive financial years of meeting or not meeting the new thresholds, the implications are as follows:

Existing companies and groups will undergo recategorization starting from 2025. This adjustment will be based on an evaluation of their financial performance against the 2023 and 2024 thresholds.

For companies that are newly established, their classification during their inaugural financial year will hinge on a good faith estimate of their financial metrics.

For more information, please click here.

25 Oct. 2024

# Bill 8370 regarding the implementation of the Corporate Sustainability Reporting Directive – Amended bill and released opinion from the Chambre des Métiers and Chamber of Commerce 1/2

**On 25 October 2024, the Chambre des Métiers (the CdM) released its opinion (the CdM Opinion) on the Bill No. 8370 regarding the transposition of the Corporate Sustainability Reporting Directive (the Directive). The Chambre des Métiers warned that all artisanal businesses may be indirectly affected, especially if they are part of the value chain of companies required to submit a report as demanded by the Directive. They may be indirectly forced to produce such a voluntary report to avoid being sidelined from markets or excluded from value chains leading artisanal businesses to face significant additional administrative burdens and costs.**

The CdM Opinion criticised the Bill's approach to reserve the right to audit the sustainability report exclusively to audit firms and corporate auditors, thereby excluding professional consultants and experts trained in corporate social responsibility and sustainable development.

The CdM notably proposed that fines for the delayed publication of sustainability data be waived during the 3 years transitional period intended after the intended adoption of the Bill.

The opinion of the Chambre de Commerce (the CdC) has also been published on 22 October 2024 suggesting minor changes to the Bill.

Swipe to continue



25 Oct. 2024

# Bill 8370 regarding the implementation of the Corporate Sustainability Reporting Directive – Amended bill and released opinion from the Chambre des Métiers and Chamber of Commerce 2/2

In the meantime, the Commission amended the Bill on 25 October 2024 further to comments made by the Conseil d'Etat on 12 July 2024, mentioning that the exemptions that apply to consolidating financial information under Luxembourg law would also apply to consolidating sustainability information. The Bill now includes the requirement that if a group's parent company does not produce a consolidated management report, the consolidated sustainability information should be released in an independent report filed with the Luxembourg Trade and Companies Register.

On 14 November 2024, the Chambre des Salariés (the CdS) also published its opinion on the Bill. The CdS is generally in favour of the Bill but highlights some missing points, notably concerns over the insufficient transparency afforded to employees in small companies about their managers' activities, which are not required to comply with the Directive reporting obligations. It further noted that the Bill does not include a provision regarding the information and consulting of employee representatives prior to the collection and publication of sustainability data. Thus, the CdS is concerned that there may be disparities in social rights between companies subject to the Directive and those that are not.

The Bill now requires a new examination by the Conseil d'Etat prior to its implementation.

For more information, please click here. Here, here and here

Swipe to continue




# The Luxembourg National Identification Number ("LNIN") for natural persons: a new requirement for Luxembourg Companies' Register ("RCS") applicable as from 12 November 2024.

**This regulation impacts every individual registered with the RCS, associated with an entity's file in any role, including managers, shareholders, auditors, and others. If the individuals to be registered with the RCS does not possess a LNIN, they must apply for one through the RCS at the time of registration in order to achieve the filing process.**

A dedicated service on the RCS portal will enable users to submit their LNIN or request its creation, separate from any registration procedure. Several personal information are notably being asked such as first and last name, date of birth, private home address, and nationality. Information related to gender, nationality and private address will not be published in the RCS but will be sent to the National Register of Natural Persons. A failure to comply with this new requirement will result in a failure to complete the filing.

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# Cybersecurity: Adoption of the Cyber Resilience Act

**The Cyber Resilience Act, a new regulation on cybersecurity requirements for products with digital elements, has been adopted by the European Council on 10 October 2024.**

The Cyber Resilience Act will apply to all products that are connected either directly or indirectly to another device or to a network (such as connected home cameras, fridges, TVs and toys), with the exceptions of some products already regulated by EU rules such as medical devices, aeronautical products and cars.

The regulation enters into force twenty days after publication in the EU's Official Journal and will apply 36 months after its entry into force with some provisions to apply at an earlier stage.

For more information, please click here.

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10 Oct. 2024

# Cybersecurity: NIS 2 implementation deadline

**The "Network and Information Security 2" Directive (EU) 2022/2555 ("NIS 2") raises the standard for cybersecurity across the European Union ("EU") by imposing stricter requirements on companies and organizations that provide in-scope services. It serves to broaden and update the framework of the earlier NIS Directive (EU) 2016/1148, which was implemented in 2016.**

NIS 2 entered into force on 16 January 2023. As a directive, it necessitates transposition into the national legislation of each EU Member State before it can take direct effect. The Directive sets the transposition deadline for Member States for 17 October 2024. From 18 October 2024, all Member States must apply the measures necessary to comply with the NIS 2 cybersecurity rules, including supervisory and enforcement measures.

Several countries have already successfully transposed NIS 2 into national law (i.e. Belgium, Croatia, Hungary etc..). On 13 March 2024, a draft law (n°8364) implementing the Directive has been filed by the Luxembourgish Government and is still currently under discussion at the Parliament. Luxembourg, as other Member States, did not meet the transposition deadline.

For more information, please click here.

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17 Oct. 2024

# Cybersecurity: European Commission adopts the first implementing rules under the NIS 2 Directive

**On 17 October 2024, the European Commission adopted the first Implementing Regulation under the NIS 2 Directive. This adoption coincides with the deadline set for EU Member States to transpose the NIS 2 Directive into national law.**

The Implementing Rules apply to companies providing digital infrastructures and services (such as cloud computing service providers, data centre service providers, online marketplaces, online search engines and social networking platforms for example). For each category of service providers, the Implementing Act also specifies when an incident is considered significant.

Furthermore, the Implementing Regulation includes an Annex that specifies technical and methodological requirements for cybersecurity risk management. This Annex comprehensively outlines each main cybersecurity requirement for companies covered under NIS 2, as delineated in Article 21(2) points (a) to (j) of NIS 2.

The European Commission qualifies these new Implementing Rules as “another major step in boosting the cyber resilience of Europe's critical digital infrastructure”.

For more information, please click here and here.

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8 Oct. 2024

# Data protection: The European Court of Justice (ECJ) and the European Data Protection Board (EDPB) offer additional guidance on the interpretation of legitimate interests according to Article 6 of the GDPR 1/2

**On 8 October 2024, the European Data Protection Board (EDPB) has published draft Guidelines 1/2024 concerning the processing of personal data based on legitimate interests under Article 6(1)(f) of the GDPR (the "Guidelines"). The public consultation on the Guidelines will run until 20 November 2024.**

To legally process personal data, controllers must rely on one of the six legal bases set out in Article 6 of the GDPR, one of which is legitimate interest. The Guidelines offer practical information to organizations to help them navigate data processing based on this legal basis.

The EDPB emphasizes that legitimate interest cannot be treated as a "last resort" legal basis for rare or unexpected situations, nor as an "open door" to legitimize any data processing that does not fall under any other legal basis. For processing to be based on legitimate interest, three conditions must be met:

- The pursuit of a legitimate interest by the controller or by a third party : To be considered legitimate, the interest must be lawful, precisely articulated and present. There is no exclusive list or definition of what constitutes such an interest (e.g., having access to information online, ensuring the continued functioning of publicly accessible websites, product improvement). ;
- Necessity of Processing : The processing of personal data must be strictly necessary for the purposes of the legitimate interests pursued. This means that if there are other means less restrictive of the fundamental rights and freedoms of individuals, they should be used instead.

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8 Oct. 2024

# Data protection: The European Court of Justice (ECJ) and the European Data Protection Board (EDPB) offer additional guidance on the interpretation of legitimate interests according to Article 6 of the GDPR 2/2

- Balancing of Interests: The interests or fundamental freedoms and rights of the concerned data subjects do not take precedent over legitimate interests pursued. This so-called “balancing test” between the legitimate interest of the controller and the interests, fundamental rights, and freedoms of the data subject must be conducted to avoid a disproportionate impact on the data subjects. The EDPB provides detailed guidance and examples on how to perform this balancing test.

This assessment should be made at the outset of the processing with the involvement of the Data Protection Officer (if designated) and should be documented by the controller.

Furthermore, the EDPB provides an in-depth analysis of how the legitimate interests basis interacts with the rights of data subjects and presents various scenarios where legitimate interest serves as a legal foundation.

For more information, please click here.

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4 Oct. 2024

## Data protection: Further guidance on legitimate interest as legal basis has also been provided by the European Court of Justice (ECJ) :

**On 4 October 2024, the European Court of Justice issued a preliminary ruling following questions posed by the District Court of Amsterdam. The ECJ has clarified that purely commercial interests (for marketing purposes for example) can in principle also constitute a legitimate interest and a valid legal basis for data processing activities.**

The ECJ reiterates the three-step test to assess whether the legitimate interest can be used as a lawful basis and ruled that a wide range of interests may be regarded as legitimate and that there is no need for the interest be specifically set out in EU or national law (while still, of course, being lawful). Hence, commercial interests can also be considered legitimate interests and therefore constitute a valid legal basis for the processing activities concerned.

For more information, please click here.

Swipe to continue



2024

# Data protection: The Court of Justice of the European Union, adopts a decision to clarify what constitutes health data and the right to sue competitors for GDPR violations 1/2

**The German Federal Court of Justice ("CJEU"), required to resolve a dispute between two competing German pharmacists, asked the CJEU two questions on the interpretation of the GDPR :**

1. The first question is whether the data collected by a pharmacist for purchases of non-prescription medicines constitutes health data ?

The CJEU ruled that data entered by customers when ordering when ordering pharmacy-only medicinal products online (such as a customer's name, delivery address and information required for individualising the pharmacy-only medicine ordered) constitutes health data within the meaning of the GDPR (article 9(1) GDPR)). Those data are capable of revealing information about the health status of a data subject, since a link can be made between the medicine, its therapeutic indications or its uses and the identified or identifiable person. The CJEU deems it immaterial whether the information pertains to the customer or to any other individual on whose behalf the customer places the order, as well as whether the sale of those medicinal products necessitates a prescription.

The CJEU adopts a broad interpretation of what constitutes health data, in order to ensure effective protection under Article 9 of the GDPR. As a result, any controller handling such data must obtain the explicit consent of the data subjects for this processing.

Swipe to continue



2024

# Data protection: The Court of Justice of the European Union, adopts a decision to clarify what constitutes health data and the right to sue competitors for GDPR violations 2/2

**The German Federal Court of Justice ("CJEU"), required to resolve a dispute between two competing German pharmacists, asked the CJEU two questions on the interpretation of the GDPR :**

2. The second question is whether competitors could take legal action in relation to a GDPR violation

The CJEU clarifies that the GDPR does not preclude national legislation which confers on competitors of a person who is allegedly infringing on data regulation, the right to take legal actions against that person on the basis of unfair commercial practices. This contributes to strengthening the rights of data subjects and is compatible with Chapter VIII GDPR, which offers remedies to individuals affected by GDPR violations.

For more information, please click here.

Swipe to continue



7 Oct. 2024

# Data protection: EDPB adopts opinion on processors and sub-processors

**On 7 October 2024, the European Data Protection Board ("EDPB") has adopted Opinion 22/2024 on certain obligations following from the reliance on processor(s) and sub-processor(s). The Danish Supervisory Authority requested the EDPB to issue an opinion in relation to controllers' accountability obligations with respect to the chain of processing and the relationship between controllers and their sub-processors.**

The EDPB concludes in its opinion that :

- Controllers should have the identity (name, address, contact person) of all processors and sub-processors readily available at all times, regardless of the risk associated with the processing activity.
- Controllers have the obligation to engage processors providing sufficient guarantees to implement appropriate measures to be compliant with the GDPR.
- The ultimate decision and responsibility to engage a sub-processor remains with the controller. The controller does not have a duty to systematically verify the sub-processing contracts but should assess the necessity to do so on a case-by-case basis.

Swipe to continue



7 Oct. 2024

# Data protection: EDPB adopts opinion on processors and sub-processors

- Where transfers of personal data outside of the European Economic Area ("EEA") take place between two sub-processors, in accordance with the controller's instructions, the controller is still subject to the duties stemming from Article 28(1) of the GDPR regarding sufficient guarantees. The controller must be able to show the appropriate documentation to the supervisory authority (such as transfer maps, the grounds for the transfer, the transfer impact assessment and supplementary measures).

The Opinion serves as a helpful reminder that companies remain responsible for the protection of personal data, regardless of the extent of their reliance on processors and sub-processors or the complexity of the subcontracting chain.

For more information, please click here.

Swipe to continue



7 Oct. 2024

# Data protection: EDPB adopts Guidelines clarifying the scope of Article 5(3) of EU ePrivacy Directive

**On 7 October 2024, the EDPB adopted Guidelines 2/2023 on Technical Scope of Article 5(3) of ePrivacy Directive (the "Guidelines"), following a public consultation. These Guidelines provide guidance on new tracking technologies beyond cookies.**

Article 5(3) of the ePrivacy Directive specifies that "the storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user" is only allowed on the basis of consent or necessity for specific purposes set out in that Article. The Guidelines clarify how this article applies to various technical solutions, particularly emerging tracking tools beyond traditional cookies. They pinpoint three key criteria for the applicability of the article, namely :

- Criterion A : the operations carried out relate to "information";
- Criterion B : the operations carried out involve a "terminal equipment" of a subscriber or user, which imply the need to assess the notion of a "public communications network"; and
- Criterion C : the operations carried out that constitute gaining access to or storage of information.

The Guidelines also provide a non-exhaustive list of use cases representing common tracking techniques such as URL and pixel tracking, local processing, tracking based on IP only, intermittent and mediated Internet of Things (IoT) reporting, unique identifier.

For more information, please click here.

Swipe to continue



10 Sept. 2024

# Data protection: The EDPB works together with European Commission to develop guidance on interplay between the GDPR and DMA 1/2

**On 10 September 2024, the European Data Protection Board ("EDPB") and the Commission services in charge of the enforcement of the Digital Markets Act ("DMA") announced the start of their collaboration to provide clarity and guidance on the interplay between the GDPR and the DMA.**

This cooperation will focus on the applicable obligations to digital gatekeepers under the DMA which present a strong interplay with the GDPR to ensure the coherent application to digital gatekeepers of the applicable regulations. The DMA (Article 3(1)) defines gatekeeper as an undertaking that meet three cumulative criteria :

a. It has a significant impact on the internal market ;

b. It provides a core platform service which is an important gateway for business users to reach end users; and

c. It enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future.

Swipe to continue



10 Sept. 2024

## Data protection: The EDPB works together with European Commission to develop guidance on interplay between the GDPR and DMA 2/2

The DMA further obliges undertakings to notify the Commission where they meet three quantitative thresholds which act as a presumption for gatekeeper status. The European Commission also designated individually entities as gatekeeper, such as Alphabet Inc, Amazon, Apple, Microsoft Corporation.

This collaboration is firmly rooted in the EDPB's Strategy for 2024-2027, which strongly emphasizes the importance of promoting consistency across regulatory frameworks. The EDPB is already actively involved with the High-Level Group established by the DMA, focusing on data-related and interoperability obligations. The EDPB announces that its new collaboration with the European Commission will enhance cooperation concerning the two specific regulatory frameworks.

For more information, please click here.

Swipe to continue



2024

# Data protection: The European Commission plans new Standard Contractual Clauses (SCCs) for Data Importers under the GDPR

**The European Commission ("Commission") announced its plans to adopt new Standard Contractual Clauses ("SCCs") and to launch a public consultation planned for the fourth quarter of 2024. The adoption of the draft SCCs by the Commission is expected in the second quarter of 2025.**

On 4 June 2021, the Commission adopted SCCs limited to data transfers from controllers or processors in the EU/EEA or otherwise subject to the GDPR to controllers or processors established outside the EU/EEA and not subject to the GDPR. The existing SCCs were not designed for scenarios where both exporters and importers are directly subject to the GDPR. This situation arises when an importer is located outside the EU/EEA, but offers goods and services to individuals in the EU or monitors their behaviour within the EU (Article 3(2) GDPR).

Given that the importer would already be bound by GDPR requirements, the utility of employing SCCs in such contexts was ambiguous. However, since adopting its Guideline 05/2021, the EDPB has underscored the need for the Commission to develop new SCCs to address the current gap and resolve this uncertainty.

The forthcoming SCCs should eliminate any ambiguity by explicitly defining the obligations for transfers to importers located in third countries, but who are directly subject to the GDPR. Until these new SCCs are released and adopted, organizations should assess their data transfers and establish appropriate safeguards for these transfers.

For more information, please click here.

Swipe to continue



14 Nov. 2024

# AI: European Commission published the first draft of the General-Purpose Artificial Intelligence (AI) Code of Practice

**On 14 November 2024, the European Commission has published the first draft of the General-Purpose Artificial Intelligence Code of Practice (the "Code").**

The Code was prepared by independent experts appointed by the AI office as chairs and vice-chairs of the four working groups of the General Purpose AI Code of Practice.

General-purpose AI model is an AI model displaying significant generality and capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market and that can be integrated into a variety of downstream systems or applications, as outlined in article 3(63) of the Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 (the "AI Act"). Such models are increasingly forming the foundation of numerous AI systems across the EU. The AI establishes rules for providers of these models, set to be enforced in August 2025. The Draft aims to facilitate the implementation of theses rules.

Key elements of the Code encompass guidelines on transparency and rules related to copyright or providers of general-purpose AI model, as well as a systemic risk taxonomy, risk assessment methodologies and mitigation measures for providers of general-purpose AI models with systemic risk.

Stakeholders, representatives from EU Member States, as well as European and international observers are invited to provide written feedbacks by 28. While the document is expected to undergo further development, it offers a preliminary glimpse into the potential directions and provisions that may be solidified by May 2025, when the final version of the Code of Practice is anticipated to be officially released.

For more information, please click here.

Swipe to continue



4 Nov. 2024

# DSA: EU Commission adopts implementing regulation to harmonise transparency reporting rules under the DSA

**On 4 November 2024, the European Commission (the "Commission") adopted an Implementing Regulation laying down the rules and templates for transparency reporting by providers of intermediary services under the Digital Services Act ("DSA").**

The DSA aims to foster transparency and public accountability for digital services in the EU. The EU regulation requires all providers of intermediary services, including providers of online platforms, to publish a transparency report on the content moderation in which they engage. These reports cover areas such as the number of orders received from all relevant national judicial or administrative authorities, the nature of the content moderation practices, the number of pieces of content taken down, and the accuracy and rate of error of the automated content moderation systems.

The Implementing Regulation standardises the format and content, and reporting periods for these transparency reports, by providing uniform reporting templates and periods. These uniform templates and periods allow for easier comparison of moderation practices and limit the number of inconsistencies. Annex II of the Implementing Regulation provides instruction on how to fill the templates.

Providers will be required to use the template for their transparency reports as of 1 July 2025 and retain their reports for at least five years.

For more information, please click here, here and here.

Swipe to continue



30 Sep. 2024

# DSA: The Luxembourg Autorité de la concurrence (Luxembourg Competition Authority) adopted a guide on the compliance with the DSA for small and micro-enterprises

**On 30 September 2024, the Luxembourg Autorité de la concurrence (Luxembourg Competition Authority) released a guide designed to assist small and micro-enterprises in complying with Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC ("Digital Services Act" or "DSA").**

Since 17 February 2024, the DSA has been fully in effect, aiming to ensure a safe and accountable online environment. In an effort to support small digital enterprises navigating the DSA, the Luxembourg Autorité de la concurrence has crafted a practical guide outlining the obligations for a range of intermediary services providers.

This guide is applicable to micro-enterprises with fewer than 10 employees and an annual turnover or a total annual balance sheet of less than 2 million euros. It also pertains to small enterprises with fewer than 50 employees and an annual turnover or a total annual balance sheet of less than 10 million euros.

For more information, please click here.

Swipe to continue



01 Aug. 2024

# The European Commission proposes a common template and electronic reporting formats for country by country reports (CbCR)

**On 1 August 2024, the European Commission unveiled a draft regulation aimed at harmonizing the reporting of income tax information by multinational enterprises (MNEs) through public Country-by-Country Reporting (CbCR), aligning with Directive 2013/34/EU.**

This initiative introduces a unified reporting template and digital formats, such as XHTML and Inline XBRL, to enhance the clarity, comparability, and accessibility of tax disclosures across different jurisdictions.

Scheduled for adoption in the third quarter of 2024, this regulation will be effective from January 1, 2025, and will apply to financial years commencing from this date onwards.

For more information, please click here.

Swipe to continue

§ Tax

16 Sep. 2024

# The Luxembourg Tax Authorities updated their Frequently Asked Questions (FAQ) section regarding the registration and reporting requirements for Platform Operators under DAC7

**On 16 September 2024, the Luxembourg Tax Authorities (LTA) have updated their FAQ section regarding the registration and reporting requirements for Platform Operators under the law of May 16, 2023, on the automatic and mandatory exchange of information to be reported by Platform Operators (DAC7 Law).**

This FAQ provides insights into the interpretation and implementation of the DAC7 Law. It includes specific clarifications for sellers, highlighting that DAC7 does not introduce new tax rules nor imposes a new tax on them. Instead, the DAC7 Law establishes new obligations for Platform Operators regarding registration, notification, and reporting. Information received about sellers required to report will be made available to the relevant tax offices, which may initiate a tax investigation procedure if necessary. Therefore, it cannot be ruled out that the reported counterparties for sellers may be subject to direct taxes in Luxembourg. The taxation of these reported counterparties falls under the jurisdiction of the tax offices and will be determined in accordance with the current tax legislation in Luxembourg.

The website and FAQ section have been updated to communicate these details to sellers, ensuring they are informed about the DAC7 Law's implications and their potential tax obligations.

For more information, please click here.

26. Sep 2024

# CJEU reinforces in a recent ruling Lawyer-Client confidentiality in tax matters 1/3

**On 26 September 2024, the Court of Justice of the European Union (CJEU) delivered a pivotal judgment addressing the longstanding principle of lawyer-client confidentiality protection, especially within the context of advice provided in tax matters.**

**What was it about?**

The case at hand (C-432/23) involved a dispute where a Luxembourg law firm was compelled by the Luxembourg Direct Tax Administration to provide documents related to legal advice given to a client. This request was part of an information exchange procedure with the tax administration of another EU Member State, as provided by Directive 2011/16 EU on administrative cooperation in the field of taxation. The request was based on the domestic provisions of paragraph 177 of the Luxembourg General Tax Law, which notably establishes an obligation for lawyers to provide any information they may have come into contact with during their advice or representation of a client in tax matters.

26. Sep 2024

# CJEU reinforces in a recent ruling Lawyer-Client confidentiality in tax matters 2/3

## What was the outcome?

The CJEU's decision reinforces the fundamental importance of lawyer-client confidentiality, affirming that such confidentiality is specially protected under Article 7 of the Charter of Fundamental Rights of the European Union. The Court clarified that this protection extends across all areas of law for which a lawyer is called to provide advice, including tax law, ensuring the confidentiality of both the content and the existence of legal consultations.

The ruling establishes that requests for lawyers to disclose all documents (with no limitation) and all the information and exchanges they had with their client in the context of legal advice constitute an infringement on the confidentiality of lawyer-client communications.

It follows that the provisions of paragraph 177 of the Luxembourg General Tax Law are not in principle compliant with Article 7 of the Charter of Fundamental Rights of the European Union insofar as they provide for a blanket obligation to provide information in tax matters, which goes against the principle of the confidentiality of lawyer-client communications.

26. Sep 2024

# CJEU reinforces in a recent ruling Lawyer-Client confidentiality in tax matters 3/3

## Why is it relevant?

This ruling reinforces the lawyer's ability to provide legal advice and representation in tax matters under the umbrella protection afforded by fundamental rights to privacy and confidentiality of clients' communications. For our clients, this means that the confidentiality of communications with their lawyers, especially in the context of tax advice, is robustly protected under European law. This decision confirms that lawyers have an advantage afforded by law in comparison with other service providers in terms of the protection of the confidentiality of their advice, which cannot be undermined by blanket requests to disclose information without proper limitations.

For more information, please click here.

9 Oct. 2024

# Luxembourg's government presented its 2025 draft Budget law (number 8444) to the Luxembourg Parliament 1/2

**On 9 October 2024, the Luxembourg's government presented its 2025 draft Budget law.**

The Luxembourg 2025 Budget outlines strategic measures aimed at bolstering the nation's economic competitiveness and enhancing the attractiveness of its financial sector, alongside efforts to increase household purchasing power.
The main tax points under the Luxembourg's 2025 Budget law are the following:

- Real Estate Duty Reduction: a key feature of the budget is the initiative to cut the taxable base for registration and transcription duties on real estate transactions by 50%. This incentive is available for properties purchased for rental purposes, in accordance with the legislation amended on 22 May 2024, or for use as the buyer's primary residence, following the amendments of 30 July 2002. To qualify for this reduction, the notarial deed must explicitly mention the incentive. Buyers who have completed transactions from 1 October 2024 until the law's enactment must request a rights recalculation from the appropriate authority. This incentive is valid from 1 October 2024 through 30 June 2025;

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§ Tax

9 Oct. 2024

## Luxembourg's government presented its 2025 draft Budget law (number 8444) to the Luxembourg Parliament 2/2

- Enhancement of the $CO_2$ Tax Credit: the budget proposes a €24 increase in the $CO_2$ tax credit, elevating it to €192 starting 1 January 2025. This adjustment aims to soften the financial effect of the $CO_2$ tax on lower and middle-income earners; and

- Additional Fiscal Measures: furthermore, the budget revisits several proposals from the draft law (number 8414) dated 17 July 2024, including adjustments to personal and corporate income taxes and an exemption for subscription taxes on exchange-traded funds (ETFs).

For more information, please click here.

Swipe to continue

§ Tax

16 Oct. 2024

# Signing of a Double Tax Treaty between the Government of the Grand Duchy of Luxembourg and the Government of the Sultanate of Oman

**On 16 October 2024, the Convention between the Grand Duchy of Luxembourg and the Government of the Sultanate of Oman was signed to eliminate double taxation with respect to taxes on income and on capital and the prevention of tax evasion and fraud.**

The provisions of this Convention and its related Protocol will be applicable in accordance with the rules of Article 31 concerning the entry into force of the Convention in both contracting states. The Convention will come into effect, on 1 January of the year following the exchange of notifications between the contracting states.

The Convention still awaits to be published in the Memorial.

For more information, please click here.

Swipe to continue



28 Oct 2024

# European Commission adopts new proposal (DAC9) to help companies with their filing obligations under the Pillar 2 Directive 1/2

**On 28 October 2024, the European Commission introduced a proposal to update the Directive on administrative cooperation in taxation, known as DAC (Directive 2011/16/EU), with the aim of streamlining compliance for companies under the Pillar 2 Directive (Directive (EU) 2022/2523).**

The proposed amendment, referred to as DAC9, is designed to complement the Pillar 2 Directive, which aims to ensure a minimum level of taxation for multinational enterprise groups (MNEs) and large-scale domestic groups (LSDGs) within the EU. DAC9 seeks to simplify the process for MNEs to meet their filing requirements by allowing them to submit a single top-up tax information return for the entire group at a central level, rather than each entity filing separately in its respective country. This change is expected to reduce the administrative burden and complexity for MNEs.

Swipe to continue

§ Tax

28 Oct. 2024

# European Commission adopts new proposal (DAC9) to help companies with their filing obligations under the Pillar 2 Directive2/2

Key features of the DAC9 proposal also include the establishment of a system for the exchange of tax information between authorities and the introduction of a standardized form for reporting tax-related information by MNEs and Large Scale Domestic Groups. This form aligns with standards developed by the OECD and G20's Inclusive Framework, ensuring consistency and simplification in reporting requirements. The proposal also grants the Commission the authority to update the form as international standards evolve, facilitating a swift alignment.

This initiative reflects the EU's commitment to simplifying reporting obligations and aiding businesses in compliance efforts.

If adopted by the EU Council, Member States will have until 31 December 2025 to implement DAC9. For countries who opted to delay the implementation of the Pillar 2 Directive, the same deadline applies for the DAC9 adoption. The first top-up tax information returns under this directive are expected by 30 June 2026, with tax authorities required to exchange this information by 31 December 2026 at the latest.

For more information, please click here.

31 Oct. 2024

# The Luxembourg government published a draft law amending the so called Pillar Two law 1/2

**On 31 October 2024 the Luxembourg Government published a draft law (8396) amending the law of December 22, 2023, concerning the effective minimum taxation for multinational enterprise groups and large-scale domestic groups (Pillar Two law).**

The updated draft law, published following the initial version on June 12, 2024, integrates further modifications and clarifications, drawing on the OECD's Administrative Guidance released on June 17, 2024.

Under the June 2024 Guidance, the OECD clarified that jurisdictions implementing qualified domestic minimum top-up taxes (QDMTT) does not need to apply these taxes to securitization entities ("SEs") involved in securitization transactions.
In its revised draft law, Luxembourg has decided to address the top-up tax liabilities of SEs by reallocating these liabilities to other local entities not classified as SEs. This legislative approach aims to manage the tax responsibilities within the framework of securitization transactions effectively. The law also specifies the allocation method for top-up tax liabilities among multiple constituent entities and clarifies the conditions under which SEs would not be jointly and severally liable for these taxes.

Swipe to continue

§ Tax

31 Oct. 2024

# The Luxembourg government published a draft law amending the so called Pillar Two law 2/2

However, the impact of Pillar Two on Luxembourg securitization vehicles is expected to be limited, affecting only those part of an MNE group under Pillar Two criteria. Generally, SEs are not anticipated to incur significant top-up taxes due to their minimal profit generation.

Further the draft law include a pivotal amendment, specifically designed to address the classification of investment funds or real estate investment vehicles. This update stipulates that, an investment fund or real estate investment vehicle not considered an ultimate parent entity, solely due to the financial accounting standard not requiring consolidated financial statements, will now be an excluded entity.

The revised draft law also incorporates additional clarifications from the June 2024 Guidance on deferred tax liability recapture, divergences between GloBE and accounting values, and the allocation of cross-border current and deferred taxes, as well as the allocation of profits and taxes in structures with flow-through entities. While direct legislation will include the guidance on flow-through entities, other topics will be addressed in forthcoming Grand-Ducal Decrees.

The legislative process must now revisit the amended draft, with expectations for its passage by year-end. Once approved, the amendments will retroactively apply to fiscal years starting on or after December 31, 2023.

For more information, please click here.

Swipe to continue

§ Tax

6 Nov. 2024

# The Luxembourg tax authorities updated the Frequently Asked Questions related to the Country by Country Reporting (CbCR)

**On 6 November 2024, In light of the OECD's newly issued guidelines in May 2024, the FAQ section concerning Country-by-Country Reporting has been revised.**

It's relevant to note that an update has only been made in relation to section 2.7.1. of the FAQs.

For more information, please click here.

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