

## **Circular letter 20/19 of the Commissariat aux Assurances concerning trust and company service providers (Fight against money laundering and terrorist financing)**

The Law of 25 March 2020 establishing a central electronic data retrieval system related to bank accounts identified by IBAN and safe-deposit boxes introduced a new Article 7-2 in the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended (hereinafter the "AML/CFT Law"). This article lays down special provisions applicable to trust and company service providers.

"Trust and company service providers" within the meaning of Article 1(8) of the AML/CFT Law means any natural or legal person which by way of business provides any of the following services to third parties:

- a) forming companies or other legal persons;
- b) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other types of legal persons;
- c) providing a registered office, business address, correspondence or administrative address or business premises and other related services for a company, a partnership or any other legal person or arrangement;
- d) acting as, or arranging for another person to act as, a fiduciaire in a fiducie, a trustee of an express trust or an equivalent function in a similar legal arrangement;
- e) acting as, or arranging for another person to act as, a nominee shareholder for another person.

In accordance with the provisions of the law of 7 December 2015 on the insurance sector, as amended, and Article 2-1(2) of the AML/CFT Law, only professionals of the insurance sector ("Professionnels du secteur de l'assurance" - hereinafter "PSA" - ) authorised as executives of reinsurance undertakings or pension funds or whose authorisation allows them to act as domiciliation agent of companies<sup>1</sup> are trust and company service providers to falling under the supervision of the Commissariat aux Assurances.

Article 7-2(1) of the AML/CFT Law requires trust and company service providers to register with the supervisory authority or self-regulatory body that is competent for each one of them. However, the second paragraph of the same article indicates that the supervisory authorities may exempt the trust and company service providers which fall under their supervision from this registration obligation if the latter are already approved or authorised to perform the activity of trust and company service providers.

The Commissariat aux Assurances in its capacity as supervisory authority pursuant to Article 1(16) of the AML/CFT Law has decided to grant the above-mentioned PSA an exemption from the registration obligation as set out in Article 7-2(1).

Nevertheless, the Commissariat aux Assurances points out that the PSA referred to above as well as any other natural or legal person falling under its supervision, should they also hold an approval or authorisation issued by another supervisory authority or by a self-regulatory body allowing them to

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<sup>1</sup> Articles 264, 265 and 266 of the law of 7 December 2015 on the insurance sector, as amended

provide one or more services as trust and company service provider<sup>2</sup>, that this Circular Letter does not exempt them from taking the required steps to register, if necessary, with the supervisory authority or self-regulatory body concerned.

For the Directorate,

Claude WIRION  
Director

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<sup>2</sup> In light of the principle of specialisation, insurance undertakings (unless they have an authorisation for one of the activities referred to in Articles 264, 265 and 266 of the law of 7 December 2015 on the insurance sector, as amended), reinsurance undertakings and pension funds may not carry out any of the services of the trust and company service providers.