

Luxembourg, 5 March 2019

Circular letter 19/8 of the Commissariat aux Assurances introducing a qualitative questionnaire on the combat against money laundering and terrorist financing ("AML/CFT") for brokers

As part of the implementation of the common guidelines on AML/CFT risk-based supervision established on 7 April 2017¹ by ESMA, EBA and EIOPA, the Commissariat aux Assurances introduced a new qualitative questionnaire, initially applicable to life insurance undertakings, by means of circular letter 17/10 of 28 November 2017.

While the above-mentioned circular letter envisaged a subsequent extension of its scope to brokers, it was considered preferable, for the sake of clarity, to develop a specific questionnaire which takes into account the specificities of the brokerage business.

That is the purpose of this circular letter.

In accordance with Article 279 of the law of 7 December 2015 on the insurance sector, the term "brokers" used in this circular letter refers to insurance brokers, insurance brokerage firms, reinsurance brokers and reinsurance brokerage firms.

The law of 12 November 2004 on the fight against money laundering and terrorist financing ("AML/CFT Law") specifies that intermediaries (including brokers) subject to professional obligations are those who:

- are licensed or authorised to conduct business in Luxembourg when they act in respect of life insurance and other investment related services²;
- perform credit or surety operations³.

Nevertheless, it should be highlighted that all brokers (regardless of their activities) are required to take the necessary steps to implement United Nations Security Council resolutions and acts adopted by the European Union concerning prohibitions and restrictive measures in financial matters in respect of certain persons, entities and groups in the context of the combat against terrorist financing.⁴

Through the qualitative questionnaire introduced by this circular letter, the Commissariat aux Assurances intends to collect systematic, standardised and updated information that will enable it to assess the compliance and effectiveness of the brokers' AML/CFT system and to provide more effective guidance for its monitoring activities.⁵

¹https://esas-joint-committee.europa.eu/Publications/Guidelines/Joint%20Guidelines%20on%20risk-based%20supervision_FR%20%28ESAs%202016%2072%29.pdf

² Article 2 (1) 2. of the AML/CFT Law

³ Article 2 (1) 6 quater of the AML/CFT Act

⁴ Law of 27 October 2010 on the implementation of United Nations Security Council resolutions and acts adopted by the European Union containing prohibitions and restrictive measures in financial matters against certain persons, entities and groups in the context of the combat against terrorist financing

⁵ Article 8-1 (4) of the AML/CFT Law

In order to take into account the specificities of the different types of brokers, separate questionnaires were established for individual brokers and brokerage firms.

Instructions for use

The qualitative questionnaires contain two parts, namely the questionnaire itself and a narrative report ("free text" kind of document in which the broker is required to provide some answers or specify some of them).

For individual brokers:

Details must be provided in the narrative report according to the answer provided, i.e. in the event of responding:

- "no" or "partially": for questions I.1, I.3, I.5 1 to I.5.9, I.9.1 to I.9.9, I.10, I.11, I.16.2, I.17.1, II.1
- "yes": for questions I.12, I.16.1
- "other frequency": for question I.17.5
- "important" or "very important": for questions I.2.1 to I.2.5

For brokerage firms:

The answer to point II.20 must be provided in the narrative report.

For other points, it is mandatory to provide details in the narrative report based on the answer provided, i.e. in the event of responding:

- "no" or "partially": for questions II.1, II.3, II.5.1, II.5.2, II.6.1 to II.6.9, II.7, II.10.1 to II.10.11, II.11, II.12, II.13, II.17, II.18.2, II.19.1, II.21, II.24, III.1, III.2 and III.3
- "Yes": for questions II.14, II.18.1 and II.21.1
- "other frequency": for question II.19.5
- "important" or "very important": for questions II.2.1 to II.2.5

Due to the difference in size and activities of brokers, some questions may not be applicable to all brokers. The reasons supporting all "not applicable" responses should, however be detailed in the narrative report.

For all other questions, the Commissariat aux Assurances encourages brokers to include comments in the narrative report that clarify, refine or, if necessary, briefly justify the answer provided.

The electronic questionnaire in *Excel* format (a printed copy of which may be found in the appendix to this circular letter), will be sent to brokers by e-mail during the first half of March 2019.

The questionnaire must be completed by the individual broker or the brokerage firms AML/CFT manager respectively. For brokerage firms, the questionnaire print out and the narrative report must be signed jointly by the head of the brokerage firm and the AML/CFT manager in the case of two different persons.

Brokers are asked to return the completed questionnaire in *Excel* format to the following e-mail address: lbcft@caa.lu

The duly signed print out of the completed questionnaire and narrative report must be sent to the Commissariat aux Assurances by regular mail.

The answers to the questionnaire and narrative report must be received the Commissariat aux Assurances by **31 May 2019 at the latest** and cover the situation as of 1 January 2019.

The Commissariat aux Assurances will verify the accuracy of the answers provided, particularly during on-site visits.

For the Directorate,

Claude WIRION
Director

