

Luxembourg, 22 September 2021

Circular letter 21/16 of the Commissariat aux Assurances on the adoption of the guidelines on money laundering and terrorist financing risk factors

Madam, Sir

This Circular Letter is addressed to all undertakings and persons under supervision of the CAA (the "professionals"), who are subject to the obligations in the combat against money laundering and terrorist financing ("AML/CFT").

The purpose of this circular letter is to draw the attention of the professionals to the publication of the revised guidelines (the "Guidelines") on customer due diligence measures and the factors to be taken into account when assessing the risks of money laundering and terrorist financing ("ML/TF") associated with individual business relationships and occasional transactions. Professionals shall use these guidelines *mutatis mutandis* in the context of the implementation of their global assessment of ML/TF risks to which they are exposed.

These Guidelines were established under Articles 17 and 18, paragraph 4, of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.

The Guidelines are applicable as of 26 October 2021. They will repeal and replace the joint guidelines JC/2017/37 issued by the three European Supervisory Authorities (EBA/ESMA/EIOPA).

The purpose of the Guidelines is to provide guidance on the different factors that professionals shall consider in the context of their ML/TF risk assessments. In addition, the Guidelines specify how professionals can adjust AML/CFT due diligence measures according to the level of risk to mitigate ML/TF risks in order for these measures to be more appropriate and proportionate according to the associated risk level, in accordance with the execution of a risk-based approach.

The Guidelines:

- (i) strengthen the requirements on individual and global ML/TF risk assessments and customer due diligence measures;
- (ii) add new guidance on the identification of beneficial owners, and on the use of innovative solutions to identify and verify customers' identities;
- (iii) stress the need for professionals to enhance their understanding of tax crimes; and
- (iv) provide more details on risk factors related to terrorist financing.

Overall, these changes are intended to contribute to the execution of a more efficient AML/CFT risk-based approach.

The first part of the Guidelines (Title I) provides general information for ML/TF risk assessment and management. This section is **applicable to all professionals** and details the relevant risk factors, which allow professionals to obtain an overview of the level of ML/TF risk associated with a business

relationship or occasional transaction and provides details on the extent of the resulting due diligence measures based on their risk assessment.

The second part (Title II) provides sector-specific guidance for certain categories of professionals, in particular life insurance undertakings in its orientation 14. This orientation may also be useful for intermediaries. It is important to note that Title II should be read in conjunction with Title I.

On the basis of the Guidelines, professionals should be able to make informed decisions based on ML/TF risks in order to effectively manage their business relationships and transactions, while taking into account the expectations set out in the Guidelines as to how to fulfil their AML/CFT obligations.

It should also be highlighted that **neither** the risk factors **nor** the due diligence measures described in the Guidelines **are to be considered as exhaustive**. Professionals must also regularly review and document their ML/TF risk assessments as part of the ongoing due diligence with respect to their business relationships and, where appropriate, take into account regulatory changes in this matter.

Finally, it should be noted that ML/TF risk factors have already been taken into account, with regard to life insurance in the context of the harmonised questionnaires regarding the assessment of the ML/TF risk exposure, which were introduced by Circular Letter 18/9. It is recalled that the annexes to Circular Letter 18/9 are a basis on which professionals can rely to carry out their ML/TF risk assessments, the scope of which should be proportionate to the nature and volume of their activities.

Therefore, the Commissariat aux Assurances notified EBA (European Banking Authority) of its compliance with the Guidelines. In this regard it should be noted that since 1 January 2020, the EBA has been solely responsible for leading, coordinating and monitoring AML/CFT efforts across the entire EU financial sector, following changes to Regulation (EU) No 1093/2010 by Regulation (EU) 2019/2175.

We invite you to consult the Guidelines at the following Internet address:

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2021/963637/Final%20Report%20on%20Guidelines%20on%20revised%20ML%20TF%20Risk%20Factors.pdf

Please note that the English version of the publication contains a 'Final Report' which has not been included in the translations.

This Circular Letter repeals and replaces Circular Letter 18/04 of the Commissariat aux Assurances of 4 April 2018.

The Executive Committee