



## Luxembourg Newsflash - 14 July 2023

# CAA Update – Teleworking and electronic signatures: changes from 1 September 2023

On 13 June 2023, the *Commissariat Aux Assurances (CAA)* issued Circular Letter 23/10 on the teleworking of managers, key functions and other control functions and the use of electronic signatures (Circular Letter).

## 1. Scope

The Circular Letter applies to insurance and reinsurance undertakings supervised by the CAA (Undertakings).

## 2. Key Considerations

The Circular Letter includes two sets of guidance:

- guidance on the use of telework;
- guidance on the use of electronic signatures on documents to be submitted to the CAA.

### 2.1 Key considerations on telework

The Circular Letter starts by providing a definition of what type of activity constitutes telework and reiterates the general principle that Undertakings must have, in Luxembourg, a well-established central administration, which includes both a decision-making centre (composed of the authorised manager (dirigeant agréé), the key function holders and the support and control functions, as well as any critical and important outsourced functions) and an administrative centre (composed of the Undertaking's administrative, accounting and IT teams).

The Circular Letter then outlines the CAA's expectations in terms of good governance and substance when relying on telework for the authorised manager and the key function holders (which, for the purposes of the Circular Letter, include the person responsible for distribution, in addition to the AML/CTF compliance officer and the person responsible for compliance with the professional obligations within the meaning of CAA Regulation 20-03 relating to the fight against money laundering and terrorist financing):

The telework of the authorised manager should not, except in cases of exceptional crisis, prevent them from carrying out the major part of their activities at the Undertaking's main office in Luxembourg. The Circular Letter specifies that branch offices are treated in the same way as the offices of the Undertaking and that visits to branch offices do not constitute telework.

The telework of the key function holders should not interfere with the central control responsibilities of key function holders, whose professional activity is linked to their key functions at the Undertaking's head office. The Undertakings should ensure that key function holders are available in the Undertaking's head office to manage potential crises at any time.

The Circular Letter further indicates that Undertakings must be able to provide the CAA with any documents necessary for the CAA to exercise its supervisory functions, including teleworking agreements, records of presence at the Undertaking's head office and of business trips abroad and/or any document providing evidence of physical presence in Luxembourg.

## 2.3 Key considerations on electronic signatures

The Circular Letter specifies that the CAA requires that the documents listed in Annex 1 to the Circular Letter be signed by the authorised manager.

In cases where Undertakings wish to use an electronic signature instead of a handwritten signature, the CAA requires these Undertakings to use a qualified electronic signature within the meaning of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market.

The Circular Letter further provides that any Undertakings wishing to use electronic signatures in their communications with the CAA must, as of the entry into force of the Circular Letter, file a declaration of their internal processes for using electronic signatures in the form of the questionnaire enclosed as Annex 2 to the Circular Letter.

Lastly, the Circular Letter requires Undertakings be able to provide the CAA with all existing procedures and updated versions of the documents listed in the questionnaire annexed to the Circular Letter.

## 3. Practical implementation

The Circular Letter must be implemented in a remote working policy that applies to employees who have the option to work remotely. Accordingly, existing policies must be adapted and, in the absence of existing policies, suitable documentation that complies with employment and regulatory requirements must be put in place. Our employment experts are at your disposal to answer any relevant queries.

## 4. Entry into force

The Circular Letter enters into force on 1 September 2023.

To read the Circular Letter (French only), [click here](#)\_

Contact our experts [Pierre-Michaël de Waersegger](#) and [Emmanuelle Mousel](#) (for [insurance regulatory](#) questions) and [Philippe Schmit](#) (for [employment law](#) questions) to help you implement this new circular.

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