

## **Arendt Corporate Governance Centre**

# On-site visits in the financial sector – are you prepared?

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## I. Introduction

# endi.

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✓	Agenda
	On-site inspections – only a matter of time
	What happens in practice?
	Regulatory findings
	How can you prepare for an on-site inspection?
	Key take away



# II. On-site inspections: only a matter of time...

#### An increased sanction risk



#### An increased sanction risk

	CSSF Administrative sanction of 13 July 2021	<b>EUR 173,500</b>
▲	CSSF Administrative sanction of 15 November 2021	<b>EUR 1,320 000</b>
	CSSF Administrative sanction of 22 September 2021	<b>EUR 132,000</b>
	CSSF Administrative sanction of 29 July 2021	<b>EUR 440,000</b>
	CAA Administrative sanction of 22 September 2021	<b>EUR 10,000</b>

#### It is also a reputation risk...



FINANCE - MARKETS

**ANNUAL REPORT** 

## The CSSF collected three times more fines in 2020



#### SANCTION ADMINISTRATIVE

'n

#### Objet : Sanction administrative prononcée à l'encontre d'une entreprise de réassurance

En date du 22 septembre 2021, le CAA a prononcé une amende d'ordre d'un montant de EUR 10.000 à l'encontre d'une entreprise de réassurance soumise à sa surveillance.

L'amende d'ordre a été prononcée en application de l'article 303, paragraphe 1<sup>er</sup>, alinéa 1<sup>er</sup>, lettre h) de la loi modifiée du 7 décembre 2015 sur le secteur des assurances pour fourniture au CAA de documents ou de renseignements relatifs à l'actionnariat de l'entreprise de réassurance qui se révèlent être incomplets, inexacts ou faux.

#### Administrative sanction of 13 July 2021

Administrative sanction imposed on the investment fund manager

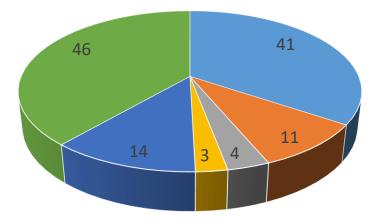
Luxembourg, 31 January 2022

On 13 July 2021, pursuant to Article 148(4)(e) of the amended Law of 17 December 2010 relating to undertakings for collective investment (the "Law"), and taking into account Article 149a of the Law, the CSSF imposed an administrative fine amounting to EUR 173,500 on the investment fund manager

(the "Manager") subject to Chapter 15 of the Law and authorised as alternative investment fund manager according to the provisions of the amended Law of 12 July 2013 on alternative investment fund managers.

The administrative fine was imposed on the basis of Article 148(1)(b)and 148(2)(g) of the Law as a result of an on-site inspection concerning the risk management organisation of the Manager, during

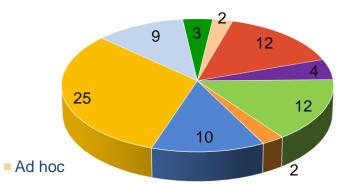
# Entities subject to an on-site inspection in 2020 by the CSSF



- Banks
- Investment firms
- Payment institutions and electronic money institutions
- Support PFS
- Specialised PFS
- Investment fund managers

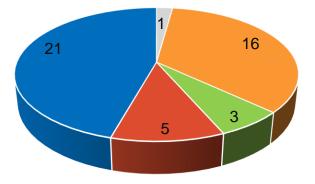
# Themes of on-site inspections performed in 2020 by the CSSF

#### **Entities other than IFMs**



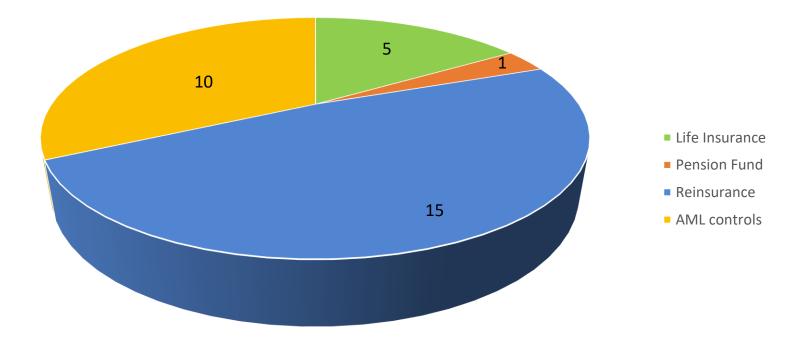
- Corporate Governance & Business Model Assessment
- Credit risk
- Depositary Function
- IRRBB
- IT risk
- AML/CFT
- MiFID
- Operational risk





- IT security governance
- IMF governance
- Ad hoc on-site inspections
- Thematic on-site inspections
- AML/CFT

#### **On-site inspections performed in 2020 by the CAA**





# III. What happens in practice?

### CSSF approach

- Formal request for documentation to be provided in 1-2 weeks
- **Q** CSSF officials subsequently explore dedicated areas in detail (desktop reviews, interviews, etc.)
- CSSF communicates its observations in writing and provides for possibility to respond to findings before issuing final letter



### **CAA** approach

#### New CAA Approach:

- Similar to the CSSF approach
- More standardized "audit" like on-site inspection approach, focus on most important risks;
- Increase of sanctions in case of non-compliance with regulatory requirements



## **IV. Regulatory findings**

### **Examples of CSSF findings for all entities except IFMs**

$\mathbf{\hat{p}}_{o}^{o}$	Functioning of different bodies
ę	"Know-your-structure principle"
6	Formalized decision making procedure
*	Insufficient individualized formalization
	Risk management
	Absence of adequate internal control and follow-up systems
Q	Suitability assessments
	AML compliance
	Outsourcing governance

### 2. Areas of CSSF observations for IFMs - Examples

	Substance in Luxembourg
*	Involvement of IFM at group level
レ	Performance of collective management
	Delegation oversight
٢	Internal control functions
	IT
	Documentation / contracts
٢	AML / CTF

## **Examples of CAA observations**

	Formalized decision making procedure
•	"Know-your-structure principle"
<b>\$</b>	Functioning of different organs
	Insourcing governance
	Outsourcing governance
•	Record keeping
<b>E</b> Res	spect of own policies, procedures and contracts



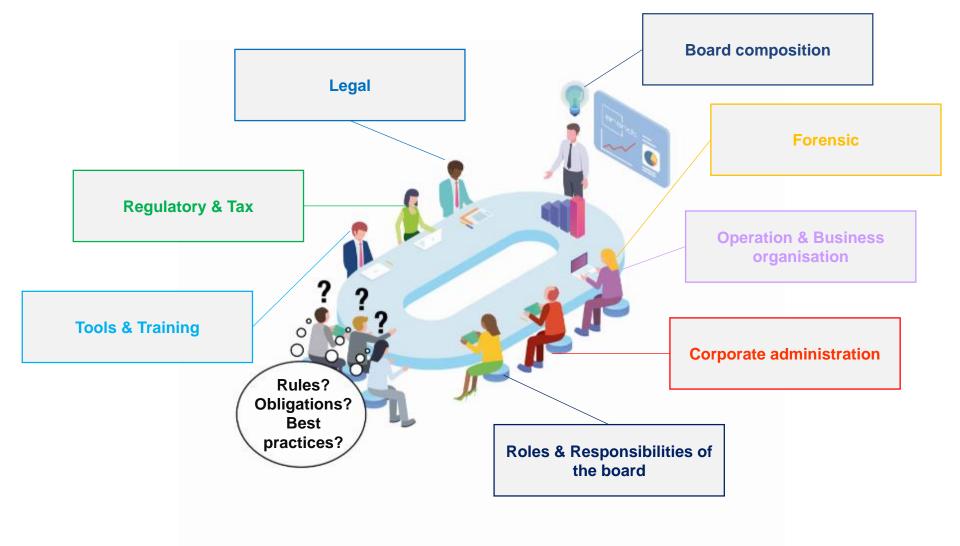
## V. How can you prepare for an on-site inspection?

#### **Concrete measures to be taken**

-	Concrete measures to be taken
	Establishment of an on-site inspection procedure
	Staying up-to-date with the regulatory framework
	Identification of the location of information and documentation usually required by CSSF/CAA during on-site inspections
	Identification of legally privileged documentation
	Identification of typical CSSF observations and implementation of anticipatory remediation measures
	Self-assessment



#### The Arendt tool box for on-site inspections









# Yey take away



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