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AML/CFT compliance Tax Services

Professionals with anti-money laundering and countering the financing of terrorism (AML/CFT) obligations must take into account the predicate tax offences within the scope of their professional obligations.

What's at stake?

1. Predicate tax offences:

- Aggravated tax fraud (*fraude fiscale aggravée*);
- Tax evasion (*escroquerie fiscale*).

2. Professional obligations include:

- Perform a risk assessment (identify, assess and understand the AML/CFT risks faced);
- Carry out customer due diligence;
- Implement internal policies, controls and procedures to mitigate and manage the AML/CFT risks effectively, including the need to raise awareness and train the employees concerned;
- Report suspected money laundering of predicate tax offences to the Luxembourg Financial Intelligence Unit.

3. Administrative sanctions for non-compliance could be:

- Warning, reprimand, public statement, withdrawal or suspension of registration or authorisation, temporary ban, administrative fines up to twice the amount of benefit/EUR 1,000,000, plus specific fines for credit and financial institutions.

Who is impacted?

Professionals subject to the AML/CFT supervision of the CSSF.

Credit institutions, payment institutions, electronic money institutions, transfer agents, PSFs, other professionals supervised, authorised or registered by the CSSF (such as UCITS, SIFs and SICARs), management companies (Chapters 15 and 16) and AIFMs, pension funds, securitisation undertakings, virtual asset service providers, certain foreign institutions for occupational retirement provision, and others.

Professionals subject to the AML/CFT supervision of the AED, in particular non-regulated investment vehicles such as AIFs.

What are the CSSF requirements?

Circular CSSF 17/650 as amended by Circular CSSF 20/744

Professionals must rely on indicators likely to reveal the potential laundering of a predicate tax offence.

List I - Common indicators (21) targeting features which characterise:

- Transactions lacking economic substance or rationale;
- Structures or transactions avoiding AEOI/FATCA/CRS regimes;
- Transactions not compliant with the arm's length principle;
- Anomalies with supporting documentation.

List II - Specific indicators concerning collective investment activities (9):

- Complex investment structuring;
- Tax base erosion;
- Investment transactions on unregulated markets;
- Transactions with no apparent economic rationale;
- Frequent transactions resulting in losses;
- Efficient portfolio management techniques;
- SICARs;
- Subscription tax;
- Investor tax reporting.

What are the key CSSF findings?

CSSF thematic review, 11-12/2022

Weaknesses in risk assessment

Professionals must ensure that:

- Their risk assessment includes all relevant tax specific indicators affecting their collective investment activities which are referred to in Circular CSSF 17/650 as amended by Circular CSSF 20/744.

Shortcomings in the control functions environment

Professionals must ensure that:

- Tax matters are included on a risk based approach in the compliance monitoring plan and in internal audit activities;
- When designing risk mitigation measures, these include all relevant tax specific indicators concerning collective investment activities, in a proportionate manner.

Tax calculation, filing and reporting

Professionals must:

- Refer to their tax compliance obligations within their procedures (including investor tax reporting calculations and filing subscription tax declarations);
- Perform adequate monitoring where these activities are delegated.

How can Arendt help?

- **Understand** the AML/CFT tax risks within your organisation.
- **Stay** aware of the latest tax changes and trends.
- **Maintain** up-to-date tax policies and procedures.
- **Obtain** tailored advice on strategic approaches.
- **Build** efficient monitoring processes.
- **Train** your teams in customised workshops.



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