Luxembourg Newsflash – 10 December 2024

Table of contents

Back to 2024

Prudential supervision - CRD framework - PSD framework - NPL framework

Finalising implementation of Basel III in the EU

Directive (EU) 2024/1619 (known as CRD VI) and Regulation (EU) 2024/1623 (known as CRR III) were published in the Official Journal of the EU on 19 June 2024. Referred to as the EU's Banking Package, they implement, among other measures, the final elements of Basel III into EU legislation, and introduce non-Basel elements, such as provisions related to ESG risks and clear rules for third-country banks operating in the EU. Back to 2023…

The notable changes under CRD VI include a requirement for third-country entities to set up a branch when offering core banking services into the EU on a cross-border basis, and that branches established in the EU by third-country entities will become subject to (i) a comprehensive and much more harmonised prudential supervisory framework (aimed at tackling the fragmentation of the existing regulatory landscape driven by purely national provisions), and (ii) a new set of sanctions for breaches of national provisions implementing CRD VI and breaches of CRR III. In addition, the rules on the assessment of the suitability of management body members have also been strengthened, driven by consistency and harmonisation needs at EU level (timeline, *ex-ante* process and criteria aspects). Finally, a new mandatory notification framework will be put in place for supervised entities in relation to acquisitions of material holdings in both the financial and non-financial sectors, material transfers of assets and liabilities from or to supervised entities, and mergers and divisions involving them.

With some exceptions, CRR III will apply as from 1 January 2025. Member States must implement CRD VI into national law by 10 January 2026. CRD VI will therefore apply as from 11 January 2026. However, the rules on third-country branches will only start applying as from 11 January 2027.

The EBA has been given a central role in completing the implementation of the Banking Package. It has received around 140 mandates to develop new draft delegated regulations and new guidelines to strengthen supervisory convergence.

Accelerating the implementation of instant payments in the EU

Regulation (EU) 2024/886 (known as the Instant Payments Regulation or IPR) entered into force on 8 April 2024. It aims to accelerate the implementation of instant payments in Europe and covers credit transfers denominated in euro within the EU. Among other matters, the IPR amends the Single Euro Payments Area (SEPA) Regulation (Regulation (EU) 260/2012) to make instant payments in euro available to all citizens and businesses holding a bank account in EU/EEA countries. Payment service providers (PSPs) within the eurozone must offer

instant payments by 9 January 2025; PSPs located in the non-eurozone by 9 January 2027.

On 23 July 2024, the EU Commission published a set of clarifications of the IPR requirements in the form of a Q&A document.

Bill of law 8460, submitted to the Luxembourg Parliament in November 2024, will give effect to the IPR. To this end, it will introduce targeted amendments to the law of 10 November 2009 on payment services. Among other measures, it will establish a sanction regime for PSPs that fail to comply with their legal obligations regarding instant payments.

Implementing the NPL Directive

The law of 15 July 2024 on transfer of non-performing loans implements Directive (EU) 2021/2167 (known as the NPL Directive) into Luxembourg law and gives effect to Regulation (EU) 2022/2036 (known as the Daisy Chain Regulation). Back to 2023…

The law entered into force on 22 July 2024 and clarifies, among other matters, that financial collateral arrangements established under the law of 5 August 2005 on financial collateral arrangements remain valid and enforceable, regardless of whether winding-up proceedings, reorganisation measures or other insolvency situations are initiated within or outside the EEA.

CSSF updated its Circular on central administration, internal governance and risk management

Through Circular CSSF 24/860, the CSSF clarified certain provisions in Circular 12/552 on central administration, internal governance and risk management, and published an updated version of the latter showing the clarifications made. In particular, the CSSF (i) specified the definition of significant institutions and introduced a new concept of "transactions with related parties", (ii) clarified the scope for mixed financial holding companies when they are intermediates in the holding chain, and (iii) adjusted certain other elements of the Circular for consistency with applicable regulations. The updated Circular has applied since 30 September 2024.

The CSSF has also announced that it will publish a consolidated and amended version of all applicable FAQs relating to Circular 12/552.

MiFID framework

Enhancing market data transparency and introducing an EU-wide consolidated tape

Directive (EU) 2024/790 (known as MiFID III) and Regulation (EU) 2024/791 (known as MiFIR II) entered into force in March 2024. They introduced, among other measures, an EU-wide consolidated tape. Some of the more noticeable aspects are a new framework for consolidated tape providers, enhanced pre- and post-trade transparency obligations and a ban on payments for order flows. Back to 2023…

Member States will have to implement MiFID III by 29 September 2025. Given that MiFIR II does not provide for a transition period and applied with immediate effect, the EU Commission and ESMA published guidance on how market participants must operate while certain delegated acts are still pending.

While MiFID III is still to be implemented, the EU Commission's Retail Investment Strategy package is already proposing further significant amendments to the MiFID framework. Please refer to the "Insurance Law" section.

AML/CFT framework

Strengthening the EU AML/CFT framework

In June 2024, the remaining three pillars of the EU Commission's 2021 AML/CFT Package, that is Regulation (EU) 2024/1620 (known as the AMLA Regulation), Regulation (EU) 2024/1624 (known as the AMLR) and Directive (EU) 2024/1640 (known as the AMLD6), were published in the Official Journal of the EU. While the new regime will, in general, apply as from 10 July 2027, AMLA will take up its role on 1 July 2025. Read more…

The now published legislative framework will further strengthen the EU AML/CFT framework. It transfers EU AML/CFT rules to a directly applicable regulation, the AMLR, and thus harmonises AML/CFT rules for the first time throughout the EU. Read more... A new EU-wide authority for AML/CFT (AMLA) will be set up with direct and indirect supervisory powers over high-risk obliged entities in the financial sector. Read more... AMLA will be located in Frankfurt. Read more... Clear rules on the organisation of national AML systems and on how national financial intelligence units and supervisors must work together are set out in AMLD6. Read more...

Completing the framework for the Transfer of Funds Regulation 2

On 4 July 2024, the EBA published new Guidelines on the so-called "travel rule", that is the information that should accompany transfers of funds and certain cryptoassets and the steps to be undertaken to detect missing or incomplete information. The Guidelines aim to develop a common understanding by PSPs, cryptoasset service providers and supervisory authorities to ensure a consistent application of Regulation (EU) 2023/1113 (known as the Transfer of Funds Regulation 2). Back to 2023...

The Guidelines will apply as from 30 December 2024 and will simultaneously repeal the Joint Guidelines issued under the repealed framework for transfer of funds.

Bill of law 8387, submitted to the Luxembourg Parliament in May 2024, will, among other measures, give effect to the Transfer of Funds Regulation 2 and equip the CSSF with the respective supervisory powers.

EU common standards to ensure implementation of Union and national sanctions

On 14 November 2024, the EBA published two sets of Guidelines setting common EU standards for the first time on the governance arrangements and the policies, procedures and controls that financial institutions should have in place to comply with EU and national restrictive measures.

The first set of Guidelines is an EBA own-initiative guideline under Directive 2013/36/EU (known as the Capital Requirements Directive or CRD), Directive (EU) 2015/2366 (known as the Payment Service Directive or PSD) and Directive 2009/110/EC (known as the e-Money Directive) and applies to all financial institutions under the EBA's supervision. They specify the governance arrangements and internal policies, procedures and controls these financial institutions should have in place to be able to comply with restrictive measures.

The second set of Guidelines fulfils a mandate under the Transfer of Funds Regulation 2. They specify what PSPs and cryptoasset service providers should do to be able to comply with restrictive measures when performing transfers of funds or cryptoassets.

The two sets of Guidelines will now be translated into the official EU languages and will apply as from 30 December 2025.

CSSF modifies list of countries subject to increased FATF monitoring

On 28 October 2024, the CSSF published an updated version of the Annex to Circular CSSF 22/822 on high-risk jurisdictions and jurisdictions under increased monitoring by the FATF. While the list of high-risk jurisdictions with significant strategic money laundering and terrorist financing (ML/TF) deficiencies, that is, the Democratic People's Republic of Korea, Iran and Myanmar, remains unchanged, the list of jurisdictions under increased FATF monitoring has been amended. Whereas Senegal is no longer subject to such increased monitoring, Algeria, Angola, Côte d'Ivoire and Lebanon have been added.

Risk-based approach to documentation of identified beneficial owners

On 5 September 2024, the CSSF issued Circular CSSF 24/861 amending Circular CSSF 19/732 on the prevention of ML/TF and giving clarifications on the identification and verification of the identity of the ultimate beneficial owner(s). The new Circular modifies point 74 of Circular CSSF 19/732 concerning the documentation and verification of legal persons or arrangements in between the customer and the natural person-beneficial owner. The CSSF now requires a risk-based approach for the identification, including its documentation and verification. Previously, the CSSF required the recording of certain specified information in this context. Circular CSSF 24/861 entered into force with immediate effect.

Digital finance

Completing the MiCA framework

The EU Commission is completing the legislative framework of Regulation (EU) 2023/1114 (known as MiCA) through several delegated regulations. While the first package of delegated regulations has been published in the Official Journal of the EU, several delegated acts were only adopted by the EU Commission during the past couple of months and are pending approval by the EU co-legislators. These delegated acts will not apply until publication in the Official Journal of the EU, even if publication occurs after 30 December 2024, when MiCA starts to apply. In parallel, the EBA and ESMA are also finalising and publishing their guidelines under the MiCA framework. MiCA aims to harmonise the provision of cryptoasset services and the issuance of cryptoassets throughout the EU. Back to 2023...

In view of the entry into application of MiCA, bill of law 8387, currently pending with the Luxembourg Parliament, will, among others, repeal the Luxembourg framework for virtual asset service providers (VASPs) with effect as of 30 December 2024. An 18-month transitional period allowing VASPs to convert to CASP (cryptoasset service provider) status will apply.

EBA includes cryptoasset service providers in its ML/TF risk factor guidelines

On 16 January 2024, the EBA extended its Guidelines on ML/TF risk factors to include CASPs. The new Guidelines help CASPs to identify ML/TF risk factors by providing a non-exhaustive list of different factors which indicate the CASP's exposure to ML/TF risks due to its customers, products, delivery channels and geographical locations. The extended Guidelines also explain how CASPs must adjust their mitigating measures. In light of the interdependence of the financial sector, credit and financial institutions that have CASPs as their customers or are exposed to cryptoassets are also included in the extended scope of the Guidelines. The Guidelines apply from 30 December 2024.

The Guidelines provide an update to the ML/TF risk factors identified in the Luxembourg government's "ML/TF Vertical Risk Assessment: Virtual Asset Service Providers" dated December 2020.

Digital Operational Resilience Act (DORA)

Please refer to the "Data protection – Intellectual Property" section.

New CSSF framework on ICT-related incident reporting

In January 2024, the CSSF issued Circular CSSF 24/847 on the ICT-related incident reporting framework, together with a comprehensive FAQ. The Circular applies to all entities under the supervision of the CSSF, including credit institutions, professionals of the financial sector, payment institutions, central securities depositaries and investment fund managers.

Circular CSSF 24/847 extended the scope of ICT-related incidents to be reported, and introduced a classification-based reporting system and a new reporting notification form. It has been applicable to the banking industry since 1 April 2024 and to the investment fund industry since 1 June 2024. Circular CSSF 24/847 repealed and replaced Circular CSSF 11/504 on frauds and incidents due to external computer attacks. Read more…

Sustainable finance

Regulating ESG rating activities

In November 2024, the Council of the EU adopted the proposed regulation on the transparency and integrity of ESG rating activities. The new regulation enters into force on the twentieth day following publication in the Official Journal of the EU and will start applying 18 months after its entry into force. The proposal for a regulation on ESG rating activities aims to improve the transparency and integrity of the operations of ESG rating providers. Back to 2023…

Call for improvement of policies on gender-neutral remuneration and diversity

On 16 July 2024, the EBA published its report on the application of gender-neutral remuneration policies by institutions and investment firms. While most entities have implemented gender-neutral remuneration polices, the report identifies some shortcomings at a number of entities. The EBA concludes that no legal action is required at this stage as the shortcomings can be addressed by the relevant supervisory authorities. Read more…

Before that, in May 2024, the CSSF published the outcome of its review of the diversity policies it had collected from a sample of credit institutions. The CSSF's report identifies significant issues in the application of the legal and regulatory requirements on diversity in the management body. Credit institutions are required to bring their diversity policies in line with the applicable regulations and the observations made in the CSSF's report. Read more…

CSSF integrates EBA Guidelines on benchmarking of diversity practices and gender pay gap under CRD IV and IFD

Via Circular CSSF 24/858, the CSSF integrated the EBA Guidelines on benchmarking of diversity practices, including diversity policies and gender pay gap under the CRD IV Directive and the Investment Firms Directive, into its administrative practice. The EBA Guidelines detail the information that competent authorities must collect from credit institutions and investment firms about diversity practices, including the composition of the management body, diversity policies and the gender pay gap at the level of the management body. The Guidelines also specify how the CSSF must collect this data and how it will submit the data to the EBA. The EBA will analyse the diversity practices, including diversity policies and the gender pay gap at the level of the management body, and publish a benchmarking report every three years. The first data collection under the Guidelines will be conducted in 2025 with a reference date of 31 December 2024.

The EBA Guidelines apply as from 27 June 2024 to all credit institutions, CRR investment firms and all investment firms not qualifying as small and non-interconnected investment firms under Regulation (EU) 2019/2033 (also known as the Investment Firms Regulation or IFR).

Opinions on functioning of EU sustainable finance framework and SFDR

In July 2024, ESMA published an opinion on the functioning of the EU sustainable finance framework, setting out its holistic vision for the long term. While it acknowledges the well-developed current sustainable finance framework, ESMA considers that the framework could mature further in the longer term. The opinion sets out a number of policy recommendations but does not go into the technical details of policy proposals at this stage. Read more... Before that, in June 2024, the ESAs (that is the EBA, ESMA and EIOPA) published a joint opinion on the assessment of Regulation (EU) 2019/2088 (known as the SFDR) and included recommendations for the EU Commission to consider when reviewing the SFDR framework. Read more... The opinion was delivered on the ESAs' own initiative. It was published in the context of a comprehensive review of the SFDR framework by the EU Commission, which was launched in September 2023. Back to 2023...

Call for coordinated approach on greenwashing risks

On 4 June 2024, the ESAs published their final reports on greenwashing in the financial sector. In their respective reports, each of the ESAs investigated the role of supervision in mitigating greenwashing risks under their respective remits and took stock of the current supervisory response. The reports also deliver advice to the EU Commission on how supervision could be gradually enhanced in the future. They do this by identifying a series of actions for national supervisory authorities, the ESAs and the EU Commission. Read more… The final reports build on the progress reports published in May 2023. Back to 2023...

In November 2024, the CSSF issued a press release drawing attention to the existence of greenwashing and the need for critical thinking on the part of investors. The press release includes several tips and recommendations in this respect.

EBA draft Guidelines on managing ESG risks

On 18 January 2024, the EBA published a consultation on draft Guidelines for managing ESG risks. The Guidelines outline requirements for institutions to identify, measure, manage and monitor ESG risks, including transition-related risks as the EU advances towards climate neutrality. The consultation closed on 18 April 2024.

The EBA plans to finalise the Guidelines by the end of 2024. They will apply as from 11 January 2026 in alignment with the application date of CRD VI.

CSSF sustainable finance supervisory priorities

On 22 March 2024, the CSSF updated its sustainable finance supervisory priorities in relation to credit institutions, the asset management industry and investment firms. While setting out its priorities for each industry, the CSSF stressed that the responsibility for ensuring compliance with the sustainable finance framework lies with supervised entities and their board members. Read more…

Targeted consultation on functioning of EU securitisation framework

On 9 October 2024, the EU Commission initiated a targeted consultation to assess the functioning of the EU securitisation framework and identify potential areas for improvement.

While the 2019 framework and its subsequent amendments improved transparency and standardisation in the securitisation market, stakeholder feedback indicates that issuance and investment barriers remain high. The consultation therefore seeks feedback on a broad range of issues to better understand the factors hampering the EU securitisation market.

The consultation closed on 4 December 2024. The responses will feed into a possible review of the securitisation framework to be considered by the EU Commission.

Looking forward

Prudential supervision - CRD framework - PSD framework - NPL framework

Payment Package timeline still unsure

In April 2024, the EU Parliament adopted its negotiation mandate on the proposed directive on payment services (also known as PSD3) and the proposed regulation on payment services in the internal market (also known as PSR). The legislation is still being discussed in the Council of the EU. Once the Council of the EU has finalised its negotiation mandate, interinstitutional negotiations (the so-called trilogue sessions) may start. As a consequence, the application timeline is still unclear. According to the EU Commission proposal, PSD3 should be implemented into national law within 18 months, and PSR should apply 18 months following its entry into force. The EU Parliament has kept the same timeline for PSD3 but suggests that PSR should only apply 21 months after its entry into force. The two legislative proposals, also referred to as the Payment Package, aim to further improve consumer protection and competition. Back to 2023…

Slow progress on proposed regulation on a digital euro

The proposed regulation to establish a digital euro is still being discussed at the level of the EU co-legislators, that is, the EU Parliament and the Council of the EU. Both have yet to vote on their respective negotiation mandates which will allow them to enter interinstitutional negotiations and finalise the legislative texts. The proposed regulation aims to give a digital euro legal tender status in euro area Member States. Back to 2023…

Regulating financial data access proposal progressing slowly

The proposed regulation on a framework for financial data access (also known as the FIDA proposal) is still being discussed at the level of the EU co-legislators. While ECON, the preparatory committee of the EU Parliament, agreed on a draft for their negotiation mandate in April 2024, the draft has yet to be voted on in a plenary session. On 4 December 2024, the Council of the EU announced that it has reached an agreement on its negotiation mandate. Once the EU Parliament has voted on its negotiation mandate, interinstitutional negotiations may start. The proposed FIDA regulation aims to ensure that all consumers and firms have effective control over their financial data. Back to 2023…

MiFID framework

Slow progress on Retail Investment Strategy package

Please refer to the “Insurance Law” section.

AML/CFT framework

Amendments to Luxembourg RBE regime

Bill of law 7961, amending, among others, the RBE law (i.e. the law of 13 January 2019 establishing a Register of Beneficial Owners (RBE)) remains pending with the Luxembourg Parliament. The proposed amendments concerning who can access information on the RBE may be withdrawn as it was recommended to delay the adoption of these amendments until implementation of AMLD6. This recommendation will result in a delay in adopting the current text of the bill of law.

The amendments proposed under bill of law 7961 concern:

- access to the RBE;
- maintaining and updating the RBE; and
- implementation of enforcement measures and administrative sanctions if a registered entity does not comply with its obligations vis-à-vis the RBE.

Back to 2023…

Digital finance

Proposed amendments to Luxembourg law aim to facilitate use of DLT

On 24 July 2024, bill of law 8425 (known as the Luxembourg Blockchain IV Law) was submitted to the Luxembourg Parliament. The aim of the bill of law is to further foster the use of distributed ledger technology (DLT) in the financial sector. Built upon the three previous Blockchain laws, the bill of law proposes to establish the regulated role of control agent to facilitate the recourse to DLT for the issuance, holding and transfer of dematerialised securities, notably in the fund industry. The control agent, as an alternative to the central account keeper, will be responsible for (i) maintaining the securities issuance account, (ii) verifying the consistency of the number of securities issued by the issuer and the number of securities registered in the DLT network, and (iii) supervising the securities custody chain at the account holder and investor level. Another notable development is that the legislation can be used more extensively for equity securities.

The bill of law is still under discussion in Parliament.

Sustainable finance

Review of SFDR framework

The review of Regulation (EU) 2019/2088 (known as the SFDR) is still pending with the EU Commission. An implementation timeline published by ESMA in October 2024 indicates that the EU Commission may report by mid-2025. In September 2023, the EU Commission published two targeted consultations with the aim of assessing the SFDR framework, covering issues such as legal certainty, usability and how the SFDR may play its part in tackling greenwashing. Back to 2023…

The EU Commission has also not yet responded to the ESAs final report on the review of Commission Delegated Regulation (EU) 2022/1288 (known as the SFDR Level 2 measures) that was published on 4 December 2023. At this stage, the implementation timeline is still unclear. The ESAs' final report includes an

extension of and amendments to the Principal Adverse Indicators framework, an added product-level disclosure of greenhouse gas emission reduction targets and significant changes to the product-level templates. Read more...

European Green Bonds

Regulation (EU) 2023/2631 (also known as the European Green Bonds Regulation or EuGBs Regulation) lays down uniform requirements for issuers of bonds that wish to use the designation "European Green Bond" or "EuGB" for their environmentally sustainable bonds. Read more...

The EuGBs Regulation will apply from 21 December 2024. As issuers are subject to specific disclosure requirements, the EU Commission is tasked to develop by this date templates for voluntary pre-issuance and post-issuance disclosures related to bonds marketed as environmentally sustainable or sustainability-linked. The use of these templates will ensure transparency on the allocation of bond proceeds to taxonomy-aligned activity. In addition, potential investors will benefit from strengthened comparability of relevant information.

Company Law – Capital Markets

Back to 2024

Listing Act package published

On 14 November 2024, the Listing Act package was published in the Official Journal of the EU. Part of the Capital Markets Union initiative, this legislative package aims to make public capital markets more attractive to EU companies, especially SMEs, by streamlining rules for companies during and after the listing process. It focuses on reducing administrative burdens and costs while maintaining transparency, investor protection and market integrity. Back to 2022…

The Listing Act package includes:

- Regulation to amend the Prospectus Regulation, the Market Abuse Regulation (MAR) and MiFIR (Listing Regulation);
- Directive to amend MiFID II and repeal the previous Listing Directive (Directive Amending MiFID II); and
- Directive on multiple-vote share structures (Multiple-vote Directive).

The legislation will take effect 20 days after publication (i.e. 4 December 2024). Member States will have 18 months to implement the Directive Amending MiFID II and two years to implement the Multiple-vote Directive.

The EU Commission has mandated ESMA to issue regulatory and implementing technical standards and guidelines in respect of the Listing Act.

Size criteria for SMEs and large companies increased

Commission Delegated Directive (EU) 2023/2775 amending Directive 2013/34/EU as regards the adjustments of the size criteria for micro, small, medium-sized and large undertakings or groups was published in the Official Journal of the EU on 21 December 2023. Back to 2023… It increased the size criteria in the Accounting Directive for micro, small, medium-sized and large companies by 25% to account for inflation. Member States are required to apply the new thresholds at the latest for financial years commencing on or after 1 January 2024. The aim is to reduce disproportionate burdens affecting SMEs and micro-companies. As a consequence, the scope of application of Directive (EU) 2022/2464 as regards corporate sustainability reporting (also known as the Corporate Sustainability Reporting Directive or CSRD) will also be reduced.

The Grand Ducal regulation of 25 October 2024 published in the Luxembourg Official Journal on 7 November implements the Commission Delegated Directive. Luxembourg has chosen to take advantage of an EU exception, allowing companies to start using the new thresholds for financial years beginning on or after 1 January 2023. As a result, the Grand Ducal regulation applies to financial years starting from that date.

Corporate Sustainability Due Diligence Directive now in force

On 5 July 2024, Directive (EU) 2024/1760 on corporate sustainability due diligence (also known as the CS3D) was published in the Official Journal of the EU. Back to 2023… The CS3D entered into force on 25 July 2024. Member States have until 26 July 2026 to implement it into national law. Application will then be on a staggered basis, starting from 26 July 2027 for the largest companies.

The CS3D introduces a due diligence duty for large EU companies and non-EU companies with significant EU activity to address adverse human rights and environmental impacts in their own operations, their subsidiaries and their supply chains. Read more…

Corporate Sustainability Reporting Standards - more time to prepare

Directive (EU) 2024/1306 amending Directive 2013/34/EU as regards the time limits for the adoption of sustainability reporting standards for certain sectors and third-country undertakings was published in the Official Journal of the EU on 8 May 2024 and entered into force on 28 May 2024. Back to 2023… The Directive postpones the adoption of sector-specific European Sustainability Reporting Standards (ESRS) and sustainability reporting standards to be used by certain non-EU companies by two years to 30 June 2026. This is to allow companies to focus on the implementation of the first set of ESRS and limit the reporting requirements to the minimum necessary.

Regulation establishing European Single Access Point (ESAP)

On 20 December 2023, the European Single Access Point (ESAP) Regulation, the ESAP Omnibus Regulation and the ESAP Omnibus Directive were published in the Official Journal of the EU. This legislative package amends existing EU

legislation on financial services, capital markets and sustainability to enable the functioning of the ESAP. Back to 2023… Member States generally have until 10 January 2026 to implement the ESAP Omnibus Directive into their national law. However, for Article 3 (relating to the amended EU Transparency Directive), the deadline is 10 July 2025. Most ESAP reporting will start in 2026, with additional rules to be phased in by 2028 and 2030.

The ESAP legislative package is a key part of the EU's Capital Markets Union initiative and seeks to improve transparency, comparability and access to information for investors, issuers, supervisors and other stakeholders.

New RCS filing formalities

As from 12 November 2024, a Luxembourg national identification number is required for any natural person registered with the RCS (Trade and Companies Register).

All natural persons (shareholders, directors, managers, permanent representatives, auditors etc.) registered with the RCS must communicate their Luxembourg national identification number (LNIN, known as the social security number) to the RCS. If a natural person does not have an LNIN (e.g. a foreign manager), they must request one when they submit a requisition form to the RCS. This will require them to provide additional information, such as nationality, gender, and ID or passport. LNINs may be communicated (i) when registering for the first time with the RCS, (ii) when updating an existing file, or (iii) on a voluntary basis and irrespective of any filing.

After the transitional period, it will be mandatory to communicate LNINs, even if the specific filing request does not concern a natural person. Therefore, if the relevant LNINs are not communicated, the filing cannot be finalised. Note that the service is free of charge at this stage. Read more… Contact Arendt Investor Services for support on complying with this new requirement.

Looking forward

Enhancing the Digital Company Directive

The EU Parliament plenary session on 24 April 2024 formally adopted at first reading a directive amending Directives 2009/102/EC and (EU) 2017/1132 as regards further expanding and upgrading the use of digital tools and processes in company law. Back to 2023… The text is pending lawyer-linguist revision, after which the EU Parliament will confirm the final version through the corrigenda procedure.

Cross-border conversions, mergers and divisions - Luxembourg implementation expected soon

Adoption of bill of law 8053 implementing Directive (EU) 2019/2121 regarding cross-border conversions, mergers and divisions into Luxembourg law is still pending. The bill of law introduces cross-border transactions not yet governed by Luxembourg law (e.g. cross-border divisions and conversions) and establishes stringent measures to prevent abuse. Back to 2023…

The latest version of the bill of law excludes special limited partnerships from its scope of application. We expect Parliament to adopt the bill of law early in 2025.

Corporate Sustainability Reporting Directive implementation on its way

The CSRD entered into force on 5 January 2023. Back to 2022…

In March 2024, bill of law 8370 implementing the CSRD into Luxembourg law was submitted to Parliament. The bill of law introduces substantial changes to the reporting requirements for in-scope entities, aiming to provide a comprehensive view of their social, environmental and governance impacts, thereby enhancing transparency and accountability. Read more… Certain provisions relating to consolidated reporting have since been amended. Read more…

We expect the bill of law to be adopted at the end of 2024 or in early 2025.

RCS Law to be amended

Bill of law 7961 modifies the law of 19 December 2002 on the Trade and Companies Register and the accounting and annual accounts of companies (RCS Law).

The bill of law seeks to align the RCS Law more closely with practice, reinforce the quality of information filed with the RCS and enable the RCS to ensure that registered companies file information and keep it up to date. In this respect, the RCS will be given the power to adopt a range of administrative measures to ensure that its monitoring is effective. Back to 2023…

Some delay in the adoption of the text is foreseen. Please refer to the “Banking & Financial Services” section.

Digital Company Directive cross-border disqualification rule to be implemented

Bill of law 8342 completes the initial implementation of the Digital Company Directive (Directive (EU) 2019/1151) that took place in July 2023. The objective of this bill of law is to ensure that a person disqualified from carrying out any function of management, independent auditor or any function involving a power to bind a company in another Member State, cannot be registered with the RCS for a similar function or can be automatically removed from the RCS. Back to 2023…

The bill of law is still being discussed in Parliament.

Revamp of Luxembourg’s Accounting Law

Bill of law 8286 regarding accounting, annual financial statements and consolidated financial statements of companies, as well as related reports, and the repeal of the role of statutory auditor (*commissaire*) in company law was submitted to Parliament in July 2023. It aims to make accounting regulations clearer, better structured and more comprehensible.

Key measures in the bill of law include:

- repeal of the role of statutory auditor (*commissaire*);
- mandatory auditor reports for interim dividends in all private limited companies, including small companies;
- mandatory audit by an independent auditor (*réviseur d’entreprises*) of annual accounts of large holding companies (balance sheet total exceeding EUR 500 million);
- new rules regarding drawing up and filing of accounts for special limited partnerships;

- application of accounting law to non-commercial companies as per the 1915 law on commercial companies (e.g. civil companies, temporary commercial companies and commercial participation companies);
- adoption of a "bottom-up approach", meaning that the small companies framework will be the common foundation applicable to all companies (except micro-companies), with additional obligations for medium-sized and large companies and public interest entities;
- modernisation of the accounting framework for dissolved and liquidated companies;
- simplified and lighter regime for micro-companies;
- consolidation of all accounting regulations into a single law.

The bill of law is still being discussed in Parliament. We expect it to be adopted in 2025.

Competition Law

Back to 2024

Amendments to the competition law of 30 November 2022

On 29 March 2024, amendments to Article 3 of the Luxembourg Competition Law introduced new provisions regulating prices in specific circumstances and enabling the use of Grand Ducal regulations to intervene when competition is lacking or market dysfunctions cause excessive pricing or fluctuations.

Unannounced inspections in pharmaceutical and para-pharmaceutical sectors

On 11 and 12 June 2024, the Luxembourg Competition Authority (LCA) conducted unannounced inspections at the premises of companies in the pharmaceutical and para-pharmaceutical sectors suspected of anti-competitive practices. The investigation is still ongoing.

Case dismissal in security and guarding sector

In 2023, the LCA issued a statement of objections to several companies and trade associations operating in the Luxembourg security and guarding services market, suspecting the companies of coordinating to restrict competition by raising prices in a coordinated manner. After the statement of objections was sent, the case was referred back for further investigation.

This complementary investigation also failed to identify any infringement of Article 4 of the Luxembourg Competition Law or Article 101 of the Treaty on the Functioning of the EU (TFEU), leading to the case being dismissed without further action.

Acquisition of Boissons Heintz by Brasserie Nationale under EU Commission review: LCA's first referral request

On 18 October 2024, the EU Commission received a referral from the LCA under Article 22 of the EU Merger Regulation regarding the acquisition of Boissons Heintz S.à r.l. by Brasserie Nationale S.A.. The deal, which would not have been subject to merger control due to Luxembourg's lack of *ex ante* merger control and the EU's turnover thresholds not being met, was referred for EU Commission review.

Brasserie Nationale and its subsidiary Munhowen S.A. challenged the EU Commission's initial March 2024 decision to accept the referral before the EU General Court. On 3 October 2024, the EU General Court ruled in favour of the LCA, recognising its direct and current interest in the case, and upheld the referral's validity.

EU approval of Luxembourgish environmental aid schemes

The EU Commission has approved two Luxembourgish state aid schemes totalling EUR 520 million to support the decarbonisation of industrial processes and accelerate investments in key sectors for the transition to a net-zero economy.

These schemes aim to help manufacturing companies reduce emissions by at least 40% through electrification and support investments in producing essential equipment like batteries, solar panels and wind turbines.

The aid will be granted in the form of direct subsidies, with a competitive selection process to ensure efficiency.

Illumina/Grail ruling: limits back referral of mergers to EU Commission

In a landmark decision in joined Cases C-611/22 *P* and C-625/22 *P* and following much debate of merger control issues, the CJEU clarified that the EU Commission is not competent to review concentrations that do not exceed EU or Member States' notification thresholds through the referral mechanisms set out in Article 22 of the EU Merger Regulation.

As Luxembourg remains the only Member State without a merger control regime, the domestic impact of this ruling is limited. Luxembourg can still refer any concentration to the EU Commission for review as long as it would affect trade between Member States and poses a significant threat to competition within Luxembourg. Read more...

First DMA investigations (Apple, Meta, Alphabet) and new gatekeeper designations

2024 marks the first year of investigations into digital giants under the Digital Markets Act (DMA) as the DMA's obligations regarding gatekeepers began to apply on 6 March 2024.

In March 2024, the EU Commission launched its first DMA investigations into (i) Alphabet's rules on steering in Google Play and self-preferencing on Google Search, (ii) Apple's rules on steering in the App Store and the choice screen for Safari, and (iii) Meta's "pay or consent model". Investigatory steps were also undertaken towards Apple for its new structure for alternative app stores and Amazon for ranking practices on its marketplace.

The EU Commission also designated some new gatekeepers in 2024. They are Apple in relation to iPadOs (Apple had already been designated as a gatekeeper in 2023 in relation to iOS, App Store and Safari) and Booking.com.

It also concluded after an in-depth market investigation that the online social networking service X should not be designated as a core platform service. The EU Commission also decided not to designate X Ads or TikTok Ads.

Mondelēz decision on cross-border restrictions

In May 2024, the EU Commission imposed a fine of EUR 337.5 million on Mondelēz, a record fine in relation to vertical restraints, for blocking cross-border trade of chocolate, biscuits and coffee. This case is part of the EU Commission's trend of combatting restrictions on parallel trade that fragment the EU internal market.

In breach of Article 101 of the TFEU, Mondelēz limited sales territories and imposed pricing restrictions on wholesalers across the EU, aiming to curb price competition between Member States. Additionally, it abused its dominance in specific markets by restricting supplies to prevent low-priced imports into higher-priced regions like Belgium and Austria.

End of Google Shopping saga

In September 2024, the CJEU rendered its judgment in Case C-48/22 *P*, bringing an end to the Google Shopping saga. The judgment confirms Alphabet's EUR 2.42 billion fine for abusing its dominant position under Article 102 of the TFEU by favouring its own price comparison service and placing its own service, "Google Shopping", at the top of search results, while downgrading competitors. This decision is part of the ongoing crackdown on self-preferencing by major digital platforms, with similar actions targeting Amazon, Apple, Meta and others under the DMA.

The CJEU clarified that a dominant firm's preferential treatment of its own products/services does not automatically mean that it is engaging in conduct which departs from competition on the merits, but that it can. After clarifying the analysis required in this regard, it concluded that Google's self-preferencing was discriminatory, and not legitimate competition, based on market context and circumstances.

Final ruling in Apple tax case

On 10 September 2024, the CJEU upheld the EU Commission's decision that Ireland had granted illegal state aid to Apple through favourable tax rulings in 1991 and 2007.

These rulings allowed Apple to allocate nearly all profits from its European sales to "head offices" outside Ireland, effectively leaving most profits untaxed, as Ireland only taxed the profits of Apple's Irish branches. This method of profit allocation, which deviated from Ireland's standard tax rules, provided Apple with an unfair competitive advantage.

After a 10-year long legal battle, the CJEU confirmed the EUR 14.3 billion repayment order, emphasising that tax rulings can amount to state aid if they offer preferential treatment compared to a Member State's usual tax regime.

Draghi report on reforming EU competition policy

Mario Draghi's report, "*The future of European competitiveness"* (published on 9 September 2024), proposes a new approach to competition policy to foster European industrial growth and innovation, emphasising the need to support the emergence of European champions capable of competing with US and Chinese giants.

In the "*Revamping competitio*n" chapter, Draghi outlines recommendations aimed at reforming merger control, antitrust enforcement and state aid. The proposals include introducing an "innovation defence" in mergers, allowing companies to show how mergers enhance global competitiveness, and streamlining processes for collaboration in R&D and sustainability. Draghi also emphasises incorporating security and resilience factors into competition assessments in sensitive sectors like defence and energy, strengthening state aid enforcement and expanding Important Projects of Common European Interest. The goal is a competition policy that supports innovation and promotes globally competitive European firms.

Looking forward

Luxembourg *ex ante* merger control regime

Bill of law 8296 introducing a merger control regime in Luxembourg remains under review in Parliament as the result of the 2023 national elections halted its adoption process.

The new law would impose *ex ante* notification to the LCA of concentrations (i.e. mergers, acquisitions and joint ventures resulting in a lasting change of control) involving parties with a substantial presence in Luxembourg markets. Read more...

Upcoming guidelines for exclusionary abuses (Article 102 TFEU)

In August 2024, the EU Commission published its draft Guidelines on exclusionary abuses. Shifting from the 2008 Guidance's economic approach, the draft introduces a presumption-based system for Article 102 of the TFEU to simplify enforcement, classifying certain practices as "presumptively harmful" and shifting the burden of proof onto dominant firms.

This approach should increase legal certainty for dominant players when they self-assess their conduct, but it might also lead to stricter enforcement due to the shift of the burden of proof.

Revision of EU FDI Screening Regulation

In January 2024, the EU Commission published its much-awaited proposal to revise the EU Foreign Direct Investment Screening Regulation (currently under its first reading before the Council of the EU). It proposes that (i) all Member States must be equipped with a national FDI screening regime, (ii) national regimes have to cover greenfield investments and investments by foreign investors through an EU-based subsidiary, and (iii) Member States must screen a minimum sectoral scope.

The impact on Luxembourg should be limited as the law of 14 July 2023 introducing a national FDI screening regime already includes the main proposed minimum requirements.

Back to 2024

Regulation on transfer of proceedings in criminal matters approved by Council of the EU

On 5 November 2024, the Council of the EU approved a regulation on the transfer of proceedings in criminal matters under which proceedings in a criminal case initiated in one Member State may be transferred to another Member State. The regulation aims to ensure that the best-placed country investigates or prosecutes a criminal offence. It will also prevent unnecessary parallel proceedings in different Member States, as the authorities can request the transfer of proceedings to another Member State on the basis of a list of criteria. The regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the EU. It is directly applicable and will apply two years after it comes into force. Read more…

Common minimum rules on criminalisation of EU sanctions violations

Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673 was published in the Official Journal of the EU on 29 April 2024. It provides a set of common minimum rules regarding the definitions of criminal offences and penalties for the violation of EU sanctions. The penalties applicable to natural persons include one to five years imprisonment, depending on the gravity of the offence. Penalties for legal persons may include criminal or non-criminal fines. The maximum level of such fines for most offences should be no less than 5% of the total worldwide turnover of the legal person or an amount equivalent to EUR 40,000,000. Finally, the Directive requires Member States to provide for aggravating and mitigating circumstances (e.g. voluntary self-disclosure) in the determination of a sentence. Member States have until 20 May 2025 to implement the Directive into their national law.

Currently, the law of 19 December 2020 on the implementation of restrictive measures in financial matters regarding violations of EU sanctions sets the criminal sanctions within a lower range: imprisonment for a term of eight days to five years and a fine of between EUR 12,500 and EUR 5,000,000, or one of these penalties only. Where the offence has resulted in substantial financial gain, the fine may be increased to four times the amount of the offence.

Asset recovery and confiscation

Directive (EU) 2024/1260 on asset recovery and confiscation was published in the Official Journal of the EU on 2 May 2024. It entered into force on 22 May 2024 and must be implemented by 23 November 2026. The Directive introduces reinforced minimum rules on the tracing, identification, freezing, confiscation and

management of criminal property in connection with a wide range of crimes. Member States will need to enable the freezing of property and, in the event of a final conviction, the confiscation of proceeds stemming from a criminal offence. In addition, they will have to adopt rules allowing them to confiscate property of a value corresponding to the proceeds of a crime. Every Member State must establish at least one "asset recovery office" which will facilitate cross-border cooperation in relation to asset tracing investigations.

Luxembourg adopts new law on combatting dissemination of terrorist content

On 29 July 2024, a Luxembourg law giving effect to Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online entered into force. The law adopts the necessary measures concerning competent authorities and sanctions applicable to infringements. It imposes criminal liability on web hosting providers for failure to remove terrorist content or block access to such content in all Member States within one hour of receiving a removal or blocking order and failure to immediately inform the competent authorities concerned about terrorist content. Such conduct is punishable by one to five years imprisonment and a fine of between EUR 25,000 and EUR 350,000, or both.

Multi-year program to create a pool of judges in Luxembourg launched

A Luxembourg law establishing a multi-year recruitment program for the judicial years 2024/2025, 2025/2026 and 2026/2027 entered into force on 5 August 2024. It amends the law of 7 March 1980 on the organisation of the judiciary and the law of 7 June 2012 on *attachés de justice* (trainee judges and prosecutors). The new law launches a long-term judicial reform process in Luxembourg, with the aim of increasing the number of judges, adding a total of 94 judicial positions and 20 *attaché de justice* roles. This recruitment effort is notably aimed at strengthening resources to enhance effective prosecution of financial crimes.

AML Luxembourg: establishment of Interministerial Steering Committee and Money Laundering Supervision Department

On 8 May 2024, the Interministerial Steering Committee on the fight against money laundering and the financing of terrorism was established in Luxembourg. The Committee's mandate is to propose measures to the government designed to mitigate the risks of money laundering and the financing of terrorism, as well as related data protection issues. This was followed on 18 July by the creation of the Money Laundering Supervision Department within the *Administration de l'enregistrement, des domaines et de la TVA* (AED) in response to remarks from the FATF concerning the effectiveness of anti-money laundering supervision due to limited human resources. This specialised department focuses on the fight against money laundering, the financing of terrorism and the monitoring of restrictive financial measures with regard to professionals for whom the AED acts as supervisory authority.

Large-scale fraud against social security system in CNS case (Court of Appeal, criminal, 7 June 2024, no. 183/24 *V*)

One of the most high-profile cases of 2024 concerned the embezzlement of funds at the *Caisse Nationale de Santé* (CNS). A CNS employee abused their knowledge of reimbursement procedures to encode false benefits, resulting in the reimbursement of fictitious medical services. As a result, over EUR 2 million was embezzled in more than 800 transactions over a period of ten years. The

employee who had encoded the false services was convicted of fraudulently remaining in a data processing system by abusing legitimate access to that system (Article 509-1 of the Criminal Code). Regarding the aggravating circumstances, the Court of Appeal noted that the resulting modification of data contained in the system caused a financial loss to the CNS and was committed with the intent of obtaining an economic advantage (Article 509-4 of the Criminal Code).

Misuse of company assets (Court of Appeal, criminal, 27 March 2024, no. 112/24 *X*)

Misuse of company assets is an offence whereby a company director uses assets, credit or voting rights for personal purposes, contrary to the company's interests. An offence occurred when a company director sold several vehicles to himself or to a company he controlled without paying the price. The sale price was entered in the accounts as a loan to the acquiring company. As a result of these transactions, the assets of the (seller) company were impaired without any compensation. The Court of Appeal confirmed that the mere fact that the director of a commercial company is in debit, without justification, in his shareholder's current account, is sufficient to characterise the offence of misuse of corporate assets.

Embezzlement of municipality funds (Court of Appeal, criminal, 13 March 2024, no. 88/24 *X*)

A case of misappropriation of public funds to the detriment of the commune of Hespérange involved a vast fraud scheme. The main defendants, two local authority employees, were accused of having orchestrated a complex scheme to falsify invoices and other administrative documents in order to embezzle large sums of money belonging to the local authority. They used fictitious entities to produce fraudulent invoices for services that were never performed. The municipality brought a civil action for the amount of the misappropriated funds. The Court of Appeal pointed out that the defendants were civil servants required to perform their duties honestly. The Court found that there was no fault or negligence on the part of the municipality, and that no law required the mayor or tax collectors to verify the authenticity of documents certified as true by a sworn civil servant whose duty was to verify invoices.

Criminalisation of self-laundering is compatible with Directive (EU) 2018/1673 on combatting money-laundering (Cassation, 21 December 2023, no. CAS-2022-00093)

A plaintiff in the appeal had initially argued that self-laundering would be contrary to Directive (EU) 2018/1673 on combatting money laundering by criminal law and the EU Charter of Fundamental Rights, as it would amount to a cumulative conviction for misuse of corporate assets and money laundering. In response to this argument, the Court of Cassation referred to Article 1 of the Directive that states that it does not preclude broader criminalisation, such as the criminalisation of self-laundering under Article 506-4 of the Luxembourg Criminal Code. Moreover, the Charter was not applicable since it presupposes the implementation of EU law. Both misuse of company assets and self-laundering are prescribed by national law. The Court also confirmed that the criminalisation of self-laundering did not infringe the constitutional principles of equality before the law, individual liberty and the legality of penalties.

Looking forward

Amendment of Code of Criminal Procedure: European Public Prosecutor's Office

On 2 August 2024, bill of law 8431 amending certain provisions relating to the European Public Prosecutor's Office (EPPO) in the Code of Criminal Procedure (CPP) was submitted to Parliament. The EPPO was established in Luxembourg in 2017 by Regulation (EU) 2017/1939. Its primary mandate is to investigate and prosecute offences such as fraud, corruption and money laundering that harm the financial interests of the EU. The proposed amendments aim to resolve problems in the exercise of remedies. These problems arise in relation to appeals against the orders of an investigating judge (*juge d'instruction*) on the basis of Article 136-48(3) of the CPP, nullity actions brought at first instance in so-called domestic cases and nullity actions brought at first instance in assistance cases on the basis of the new cooperation mechanism between the delegated European Public Prosecutors of the various Member States.

Multi-year program for the judiciary in Luxembourg: more change in 2025

Further changes to the organisation of the judiciary in Luxembourg are anticipated in 2025. On 13 May 2024, bill of law 8299B (split off from initial bill of law 8299) was re-submitted to Parliament. The bill of law amends laws related to the organisation of the judiciary and the administrative courts, provides for the creation of a reserve pool of 100 judicial posts, allows the legal staffing levels to be exceeded when necessary and outlines procedures for the allocation and reclassification of posts in the reserve pool.

Data Protection – Intellectual Property

Back to 2024

Cyber Solidarity Act

The EU Commission's proposal for a regulation laying down measures to strengthen solidarity and capacities in the EU to detect, prepare for and respond to cybersecurity threats and incidents, also known as the Cyber Solidarity Act, has been adopted by the EU co-legislators. The Cyber Solidarity Act outlines a coordinated approach to strengthen incident response and recovery across the EU. Its three main objectives are to establish: (i) a European cybersecurity shield, (ii) a cybersecurity incident response mechanism, and (iii) a cybersecurity incident review mechanism.

Next steps: the regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the EU and will then be directly applicable in all Member States.

Product Liability Directive	On 18 November 2024, the new Directive on liability for defective products, which repeals the existing product liability directive, was published in the Official Journal of the EU. The aim of the new directive is to keep pace with technological advancements. Back to 2023… Next steps: Member States will have until 9 December 2027 to implement the Directive into their national law.
EU Design Legislative Reform package	On 18 November 2024, the recast Directive on the legal protection of designs (the Directive) and the amending Regulation on community designs (the Regulation) were published in the Official Journal of the EU. Proposed by the EU Commission in November 2022, these legislative acts aim to modernise, simplify and standardise design protection across the EU while addressing the challenges posed by emerging technologies such as 3D printing, the metaverse and artificial intelligence. Most importantly, this Design Legislative Reform package introduces an EU-wide "repair clause". Under this clause, spare parts may not enjoy design protection if they are “must-match” parts used for the repair of complex products, such as cars, whose appearance is dependent on the appearance of original parts. Next steps: Member States have 36 months, that is until 9 December 2027 to implement the Directive into their national law. The Regulation will be applicable as of 1 May 2025.
EU Gigabit Infrastructure Act	The EU Gigabit Infrastructure Act was published in the Official Journal of the EU on 29 April 2024. The Regulation aims to ease and encourage the establishment of ultra-high-capacity networks by advocating the shared utilisation of existing tangible infrastructure and facilitating more streamlined deployment of new physical infrastructure. Back to 2023... In parallel, the EU Commission issued its Gigabit Recommendation in February 2024. This recommendation is based on the Regulation and provides, *inter alia*, national regulatory authorities with guidelines for developing access remedy obligations for operators holding significant market power, to foster competition. Next steps: the Regulation will be directly applicable in all Member States from 12 November 2025, except for some provisions that have deferred application.
eIDAS 2	The eIDAS 2 Regulation (eIDAS 2) was published in the Official Journal of the EU on 30 April 2024 and entered into force on 20 May 2024. eIDAS 2 builds upon the “old” eIDAS Regulation which has been in force since 2014, by extending the range of trust services, clarifying ambiguous provisions for greater harmonisation and reinforcing digital trust through stricter standards. It introduces, most notably, the European Digital Identity Wallet (ID Wallet), and the extension of trust services

such as remotely generated qualified electronic signatures and electronic archiving services.

Next steps: while certain provisions of eIDAS 2 are already applicable, full implementation requires adherence to a set of technical and legal standards aimed at enhancing digital identity management and trust services across the EU. The EU Commission is set to finalise these technical and legal standards by 21 May 2025, with a 24-month adaptation period. Member States will be required to provide citizens with ID Wallets by the end of this period. On 28 November 2024, the EU Commission adopted and released several Implementing Regulations for ID Wallets.

Bill of law 8168 amending the law of 19 June 2013 on the identification of natural persons was submitted to the Luxembourg Parliament on 2 March 2023. The proposed amendments will mainly (i) introduce a legal basis for the implementation of a personal digital wallet mobile application, and (ii) create an equivalence between the presentation of a digital certificate and the presentation of a physical identity card. Back to 2023…. The bill of law is still under discussion.

AI Act

The AI Act aims to lay down a harmonised, horizontal legal framework for the development, placing on the market, putting into service and use of AI systems in the EU.

Next steps: the rules under the AI Act will be applicable 24 months after its entry into force (i.e. 2 August 2026), except for: bans on prohibited practices, which will apply six months after its entry into force; codes of practice (nine months after entry into force); general-purpose AI rules, including governance (12 months after entry into force); and obligations for high-risk systems (36 months). Non-compliance with the provisions of the AI Act could trigger a financial penalty of up to EUR 35 million or 7% of worldwide annual turnover, whichever is higher.

Digital Services Act

The Digital Services Act (DSA) was published on 27 October 2022 and entered into force on 17 February 2024. It introduces rules at EU level to further protect consumers and users in the digital space and supervise the activities of the various providers of digital services. The DSA defines clear responsibilities and accountability for providers of online “intermediary services” (digital services). It has applied to very large online platforms (VLOP) and very large search engines since 25 August 2023. Back to 2023… However, as of 17 February 2024, the DSA applies in its entirety to all providers of online “intermediary services”. Failure to comply with the DSA may, in serious cases, result in fines of up to 6% of the annual income or turnover of a provider of intermediary services. Lesser breaches may result in fines not exceeding 1% of annual turnover.

Next steps: the DSA requires Member States to designate a competent authority as their Digital Service Coordinator (DSC) which will oversee the enforcement of the DSA at national level.

Bill of law 8309 giving effect to the DSA was submitted to the Luxembourg Parliament on 14 September 2023. The main objective of this bill of law is to designate the Luxembourg Competition Authority (LCA) as the coordinator for digital services for the purpose of the DSA, specify its powers as such and set out its operational procedures. The bill of law is still under discussion. However, on 19 February 2024, the LCA welcomed its appointment as the sole authority for DSA compliance, citing its expertise in the Digital Markets Act (DMA), Platform-to-Business (P2B) regulation and competition law as key qualifications for this role.

Data Act

The Data Act came into force on 11 January 2024 following its publication in the Official Journal of the EU in December 2023. Originally proposed by the EU Commission on 23 February 2022 as part of the EU Data Strategy package, the Data Act aims to promote fairness in the digital landscape, foster a competitive data market, open new avenues for data-driven innovation and make data more accessible for all. As such, the Data Act applies to all categories of data and to all companies that generate, hold or transfer data in the EU. Back to 2023… The Data Act opens the door for the development of new services, particularly in artificial intelligence, where vast amounts of data are required for algorithm training.

Next steps: most of the provisions of the Data Act will apply as of 12 September 2025. Obligations relating to the design and manufacturing of connected products will apply to products and connected services placed on the market after 12 September 2026.

Digital Operational Resilience Act

The Digital Operational Resilience Act (DORA) is part of the Digital Finance Package adopted in 2020 by the EU Commission. It aims to create an EU-wide regulatory framework whereby all European financial entities are required to ensure they can withstand, respond to and recover from all types of ICT-related disruptions and threats. DORA will apply from 17 January 2025. Back to 2023...

The EU Commission and the designated European Supervisory Authorities are completing the DORA framework and have published several policy documents consisting of regulatory and implementing technical standards as well as regulatory guidelines with which financial entities must comply. On 4 December 2024, the ESAs published a joint statement emphasising that financial entities must advance their preparations to ensure their readiness in view of the approaching application date.

To give effect to DORA, the national DORA law of 1 July 2024 (DORA Law) has been published in the Luxembourg Official Journal and will apply from 17 January 2025. The DORA Law *inter alia* appoints the CSSF and the *Commissariat aux Assurances* as Luxembourg competent authorities to ensure the application of DORA by the in-scope entities (as defined under DORA) under their respective supervision, amends the existing laws applicable to financial entities to take DORA into account and provides for administrative sanctions, including fines of up to EUR 5 million for natural persons and up to EUR 5 million or up to 10% of total annual turnover for companies, whichever amount is higher, in cases of non-compliance with DORA.

Freedom of expression in the media

European Media Freedom Act

In April 2024, the European Media Freedom Act was published in the Official Journal of the EU. This Regulation aims to promote cross-border media services while protecting the independence and diversity of the media. Back to 2023…

Next steps: the Regulation will be directly applicable in all Member States from 8 August 2025, except for some provisions that have deferred application.

Freedom of expression in the media

The Luxembourg law of 26 July 2024 amending the law of 8 June 2004 on freedom of expression in the media has been adopted. Its main goal is to adapt the right of reply to the realities of the online press. Prior to the adoption of this law, the right of reply was limited to publications, including those distributed online, which are periodic in nature (such as newsletters). Therefore, the right of reply could not be exercised when a publication was posted online on a website. This new law seeks to remedy this situation by introducing a right of reply and a right to subsequent information for online publication.

New EU rules for workers on digital labour platforms

Please refer to the “Employment Law” section.

EDPB Guidelines and Opinions

Guidelines 1/2024 on processing of personal data based on legitimate interests

On 8 October 2024, the European Data Protection Board (EDPB) adopted guidelines analysing the criteria specified in Article 6(1)(f) of the GDPR, which allows controllers to lawfully process personal data when necessary for legitimate interests pursued by the controller or a third party. The EDPB stresses the fact that not all interests can be deemed legitimate: only those that meet the conditions laid down in Article 6(1)(f) of the GDPR can justify reliance on this article. Controllers are thus required to assess and document whether the conditions are met before processing the personal data (the so-called “balancing test”). The controller must also inform data subjects of the legitimate interests when processing data under this basis. Further, the guidelines provide practical advice for conducting this assessment in specific contexts, such as fraud prevention and direct marketing, and discuss the relationship between Article 6(1)(f) of the GDPR and data subject rights.

The guidelines were subject to public consultation until 20 November 2024 and may therefore be amended.

Opinion 22/2024 on certain obligations following from the reliance on processor(s) and sub-processor(s)

On 7 October 2024, the EDPB adopted an opinion which addresses the obligations following from the reliance on processor(s) and sub-processor(s). The

EDPB stresses that controllers must choose processors that can provide sufficient guarantees to implement appropriate measures to protect the rights of data subjects. Controllers must thus verify the sufficiency of guarantees offered by processors and sub-processors, with the verification process varying based on the risk level associated with the data processing. The EDPB also emphasises that controllers must always have access to the identity and contact details of all processors and sub-processors. Processors should proactively provide and continually update this information for the controller's benefit.

Opinion 08/2024 on valid consent in the context of consent or pay models implemented by large online platforms

On 17 April 2024, the EDPB adopted an opinion which addresses the validity of consent to process personal data for the purpose of behavioural advertising in the context of "consent or pay" models deployed by large online platforms. The EDPB states that "large online platforms" may cover, but is not limited to, "very large online platforms" as defined under the Digital Services Act and "gatekeepers" as defined under the Digital Markets Act. In its opinion, the EDPB does not go as far as prohibiting the use of "consent or pay" models for behavioural advertising purposes. However, it concludes that offering only "*a paid alternative to the service which includes processing for behavioural advertising purposes should not be the default way forward for controllers*". Individuals should therefore be provided with an "equivalent alternative" that does not require payment of a fee.

EU-US Data Privacy Framework FAQs for European individuals and businesses

On 16 July 2024, the EDPB adopted two Frequently Asked Questions (FAQ) documents concerning the EU-US Data Privacy Framework (DPF), aiming to provide more clarification on the functioning of the DPF. The DPF allows safe personal data flows from the EU to US companies participating in the DPF, without having to put in place additional data protection safeguards.

The first FAQ is dedicated to individuals and provides information on the functioning of the DPF: how to benefit from it, how to lodge a complaint and how the complaint will be handled. Similarly, the second FAQ is dedicated to businesses and explains which US companies are eligible to join the DPF, what to do before transferring personal data to a company in the US which is DPF-certified and where to find further guidance.

CNPD video surveillance guidelines updated

On 19 April 2024, the Luxembourg data protection authority (*Commission nationale pour la protection des données* (CNPD)) published an update to its guidelines on video surveillance issued in 2018. This update takes account of the decisions handed down by the CNPD on this topic in recent years, as well as the guidelines issued by the EDPB. In particular, the CNPD clarifies the purposes for which video surveillance may be installed, the form and content of the information to be provided to those targeted by video surveillance and the specific case of video surveillance in condominiums. It also provides a clear indication of the levels of information that should be put in place when video surveillance cameras are installed: a first level on which the most important information is communicated via a clearly visible notice board, and a second level on which all the mandatory information is provided. Finally, the update includes a template for a poster communicating first-level information that can be adapted on a case-by-case basis.

CNPD 2023 annual report	On 5 September 2024, the CNPD published its activity report (Activity Report) summarising its key figures and main developments for 2023. The Activity Report highlights that, in 2023, the CNPD published 44 opinions on draft laws, received reports of 434 data breaches (mostly due to human error), conducted 21 investigations and issued 15 decisions. In addition, it notes that most requests for information sent to the CNPD concerned either surveillance in the workplace or the rights of data subjects (such as right of access and right to erasure), demonstrating public awareness of and even marked concern about data protection. Lastly, the Activity Report highlights its preparations for the challenges ahead, which include the development and launch of innovative educational and technological initiatives such as "*DAAZ*" ('Data Protection from A to Zen'), an e-learning platform to help comply with the GDPR, and "*Sandkëscht*", a regulatory sandbox dedicated to artificial intelligence. The CNPD's remit will also be complemented by new responsibilities, particularly in view of the new European legal framework for the digital economy.
New CSSF framework on ICT-related incident reporting	Please refer to the "Banking & Financial Services" section.

Looking forward

ePrivacy Regulation	Back in January 2017, the EU Commission proposed a Privacy and Electronic Communications Regulation (ePrivacy Regulation), which is intended to replace the existing ePrivacy Directive of 2002 and supplement the GDPR. Back to 2023… Next steps: negotiations on the ePrivacy Regulation are still ongoing and a final version of the text has not yet been agreed. This is not expected before at least mid to end 2025, with entry into force at the end of 2027 at the earliest.
European Health Data Space regulation	In April 2024, the EU Parliament approved the proposal for a regulation to achieve a quantum leap forward in the way healthcare is provided to people across Europe and to create a "European Health Union" (EHDS). Back to 2023… Next steps: the proposal needs to be approved by the Council of the EU. Once adopted, the regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the EU. It will then apply from 12 months after its entry into force, except for some provisions with deferred application.
AI Liability Directive	The EU Commission proposed the AI Liability Directive in September 2022. This directive aims to compensate individuals who have been harmed by an AI product or service. Back to 2022…

Next steps: discussions on the directive are still ongoing and it still needs to be approved by the Council of the EU and the EU Parliament. Once adopted, Member States will have 24 months to implement it into national law.

Additional procedural rules on GDPR enforcement

On 13 June 2024, the Council of the EU reached an agreement on a common Member States' position on the EU Commission's proposal for a regulation laying down additional procedural rules relating to the enforcement of the GDPR (GDPR Procedural Regulation). Proposed in July 2023, the GDPR Procedural Regulation primarily aims to facilitate the smooth functioning of the GDPR cooperation and dispute resolution mechanisms. Back to 2023…

Next steps: the adoption of a general approach to the GDPR Procedural Regulation allows the Council of the EU to start its negotiations with the EU Parliament, which agreed its position in April 2024. The final version of the GDPR Procedural Regulation has not yet been agreed.

New Standard Contractual Clauses for data transfers

In September 2024, the EU Commission announced its intention to adopt a new set of Standard Contractual Clauses (SCCs) for transfers of personal data to third country controllers or processors directly subject to the GDPR. These new SCCs will be introduced to address limitations in the 2021 SCCs, which were initially designed for data importers outside the scope of the GDPR. For those importers directly subject to the GDPR, the 2021 SCCs were found to *"duplicate and, in part, deviate from the obligations that already follow directly from the GDPR*", as indicated in the EU Commission FAQ on the topic.

Next steps: a public consultation on the new clauses is scheduled for Q4 2024, with adoption anticipated in the second quarter of 2025.

Expiry of UK adequacy decisions

On 28 June 2021, the EU Commission issued two adequacy decisions regarding the UK: one relating to transfers under the GDPR and the other concerning transfers under the Law Enforcement Directive (LED). Both adequacy decisions are expected to last until 27 June 2025. The EU Commission will begin deliberations in late 2024 to determine whether to extend the adequacy decisions for the UK for an additional period of up to four years.

Bill of law implementing the "once only" principle from the DGA

On 12 June 2024, bill of law 8395 implementing the "once only" principle introduced by the Data Governance Act (DGA) was submitted to the Luxembourg Parliament. One of the aims of the bill of law is to ensure that natural and legal persons are only required to provide data to public authorities once in the course of administrative procedures (also known as the "once only" principle). To achieve this, the bill of law provides that public administration bodies will exchange information and personal data with one other. However, exchange of information will only be permitted if necessary to process a request from a citizen or a business. The bill of law also sets out the roles and responsibilities of the various competent public bodies, the procedure applicable to the grant of authorisations

for the reuse of data and the conditions applicable to the reuse of data by private sector players in accordance with the DGA.

The DGA entered into force on 23 June 2022 and, following a 15-month grace period, has been applicable since September 2023. It aims to facilitate the safe reuse of certain categories of public sector data for commercial or non-profit purposes within the EU and increase trust in data sharing across public sector bodies, users, data users and data holders. It proposes a new business model for data intermediation services and promotes data altruism for the common good.

Collective recourse in consumer law

On 14 August 2020, bill of law 7650 introducing a collective recourse procedure into Luxembourg consumer law and implementing Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers was submitted to the Luxembourg Parliament. Back to 2023...

Next steps: the bill of law is still under discussion and has been subject to multiple amendments since its submission.

Bill of law implementing NIS 2 Directive

On 13 March 2024, bill of law 8364 implementing Directive (EU) 2022/2555 on measures for a high common level of cybersecurity across the EU (Network and Information Security System Directive or NIS 2 Directive) was submitted to the Luxembourg Parliament. The objective of this bill of law, and ultimately of the NIS 2 Directive, is to replace and strengthen the level of cyber resilience set out in the first NIS Directive by significantly increasing its scope and providing greater detail on which entities in different sectors are subject to its provisions. The NIS 1 Directive entered into force in 2018 and was implemented into Luxembourg law by the law of 29 May 2019.

Next steps: discussions on the bill of law are still ongoing.

Bill of law on processing of sensitive personal data in the insurance sector

Bill of law 7511 amending the amended law of 7 December 2015 on the insurance sector with a view to inserting a new chapter relating to the processing of data concerning health was submitted to the Luxembourg Parliament on 23 December 2019. The aim of the bill of law is to introduce a clear national provision that explicitly legitimises the processing of health data by insurance companies. This is intended to address the legal uncertainty surrounding health data handling in the context of insurance, particularly in light of the GDPR. By invoking significant public interest grounds as per Article 9(2)(g) and (4) of the GDPR, the bill of law seeks to ensure that insurance companies can continue to process health data necessary for their operations, thereby enabling them to provide essential services in health, life and accident insurance.

Next steps: the bill of law is still under discussion and has been subject to some amendments.

Personal traffic and location data retention

Bill of law 8148 on the retention of personal data was submitted to the Luxembourg Parliament on 25 January 2023. The aim of the proposed text is to regulate the

retention and use of traffic and location data of users, with a view to ensuring a balance between, on the one hand, access to data processed by electronic communications operators and providers for the purposes of safeguarding national security, combatting serious crime and preventing serious threats to public security and, on the other hand, the protection of citizens' fundamental rights. More specifically, the suggested legislative measures allow the targeted retention of traffic and location data according to categories of data subjects or by means of a geographical criterion, and the rapid retention of traffic and location data.

Next steps: the bill of law is still under discussion.

Employment Law

Back to 2024

New EU rules for workers on digital labour platforms

Directive (EU) 2024/2831, which aims to regulate the rapidly expanding digital platform work sector, was published in the Official Journal of the EU on 11 November 2024. It entered into force on 1 December 2024 and must be implemented into national law by 2 December 2026 at the latest. The Directive marks a pivotal step in regulating digital platform work by clarifying platform workers' employment status, establishing stringent rules on personal data processing and algorithm usage, and strengthening protections for platform workers, among other measures. Bill of law 8001 aims to implement the Directive in Luxembourg. Read more…

Transparent and predictable working conditions

Employers now face new obligations under the law of 24 July 2024, which implements Directive (EU) 2019/1152 on transparent and predictable working conditions. These obligations range from adding specific new clauses to employment contracts, adhering to strict deadlines for providing essential information to employees and following tightened rules for fixed-term contracts, to penalties for employers who do not comply with their obligations. Read more…

Rental premium

The law of 22 May 2024, effective overall as from 1 January 2024, introduced new measures to boost the housing market that came into effect on 1 June 2024. A rental premium (*prime locative*) provided by employers for the rental of an employee's primary residence has been introduced. Subject to certain conditions, 25% of the premium is tax-exempt, with a maximum qualifying allowance of EUR 1,000 per month. The regime only applies to employees under 30 years of age.

Attracting foreign talent to Luxembourg

A Grand Ducal regulation of 15 March 2024 increased the minimum salary required for highly qualified third-country workers seeking employment in Luxembourg under the EU Blue Card scheme. Read more… The law of 4 June 2024 simplified and improved the conditions of residence for these workers. Read more… To further attract foreign talent to Luxembourg (while ensuring compliance with Directive (EU) 2021/1883), the Grand Ducal regulation of 20 June 2024 significantly reduced the minimum required salary level to be able to obtain an EU Blue Card in Luxembourg. Read more…

Public holidays

The law of 8 February 2024 clarifies and outlines the rules for situations in which two public holidays fall on the same day. Read more…

Economic dismissals

The Court of Appeal ruled on 11 July 2024 (CAL-2023-01092) that, in the context of dismissals for economic reasons, the economic situation should be assessed at the level of the employing entity and not at the group level. Similarly, the Court found that it is not necessary to detail the economic situation of the group in the letter giving reasons for the dismissal.

Whistleblowing and right to evidence

According to a court decision of 13 June 2024 (CAL-2024-00213), messages exchanged outside working hours on private communication platforms (WhatsApp) cannot be considered as evidence if their authors formally object in writing to their use in legal proceedings, citing their private nature. The Court of Appeal held that this is especially true where relying on such exchanges is not the only way to prove the facts in question.

Furthermore, in the context of whistleblowing, the Court ruled that a dismissal can only be deemed void if it is retaliatory, meaning that the employer must have known the employee was the author of reports or criticisms of irregularities before terminating them. According to the Court, it is reasonable to presume that an employer who is aware that an employee has reported something to the authorities might feel animosity toward the whistleblower. However, the Court held that requiring the employer to prove the dismissal was not motivated by revenge is unreasonable, as this would undermine the employer's legitimate right to dismiss employees.

Pregnancy and protection against dismissal

The Court of Appeal ruled on 16 May 2024 (CAL-2024-00315) that the pregnancy certificate issued by a midwife cannot secure the special legal protection against dismissal, even if accompanied by an early ultrasound, because the certificate is not issued by a doctor. In this case, the dismissal of the pregnant employee was declared valid.

Right to disconnect during holidays	In a decision dated 8 February 2024 (CAL-2023-00372), the Court of Appeal held that employees are entitled to rest during their vacation leave. While on leave, they may refrain from working remotely, they can disconnect and they are, in principle, not obliged to respond to their employer's requests. Employees who do not respond to their employer while on leave are therefore not guilty of refusing orders and/or of acts of insubordination.
New Luxembourg-Germany double tax treaty	The updated treaty applicable from 1 January 2024 introduces several key changes, including an extended 34-day tolerance threshold for cross-border workers. For more details, please refer to the “Tax Law” Section.
New collective bargaining agreements for employees in banking and insurance sectors	The 2024-2026 collective bargaining agreements for the insurance and banking sectors were signed respectively by the ACA and union representatives from the OGBL, LCGB and ALEBA on 4 June 2024 and by the ABBL and union representatives from the OGBL, LCGB and ALEBA on 1 August 2024. Read more…

Looking forward

Minimum wage	Directive (EU) 2022/2041 on adequate minimum wages in the EU entered into force on 14 November 2022. Read more… To align Luxembourg’s national rules with the new EU standards, bill of law 8437 implementing the Directive was submitted to Parliament on 30 August 2024. It adds criteria such as purchasing power and productivity to wage assessments and establishes a consultative body within the Ministry of Labour. It also strengthens protections against retaliation for employees claiming minimum wage rights and mandates the government to prepare a national plan to encourage collective bargaining by 2025. Read more… Additionally, bill of law 8459 introduced on 11 November 2024 proposes a 2.6% increase to the minimum social wage, effective on 1 January 2025. Read more…
Special leave for foster parents	Bill of law 7994 introduces a new leave of 10 days for individuals welcoming a minor into their family (with or without family connection). Back to 2023…
Employee information, consultation and participation in cross border operations	Bill of law 8225 aims to implement Directive (EU) 2019/2121 regarding cross-border conversions, mergers and divisions. It is currently being debated in the Luxembourg Parliament with a view to adapting the existing provisions on employee rights in the context of cross-border mergers and supplementing the Labour Code by introducing new rules governing employee information, consultation and participation in the event of cross-border conversions and divisions. Back to 2023…

Job Protection Plan	Bill of law 8153 seeks to strengthen the State's control over job protection plans and ensure that financial resources are properly allocated. Back to 2023…
Combining early retirement pension with non-salaried professional income	Bill of law 7922 aims to allow an individual to receive an early retirement pension while engaging in a minimal salaried or non-salaried paid activity at the same time.
Boost to inpatriate tax regime and new bonus regime for young employees	Bill of law 8414 proposes to simplify the inpatriate tax regime. Inpatriates should now benefit from a 50% exemption on their gross annual remuneration up to a maximum of EUR 400,000. The bill of law also proposes a new tax incentive for bonuses paid to young employees. Employers will be able to pay a partially tax-exempt bonus to employees under the age of 30, subject to income limits. This premium is available to individuals on their first permanent contract in Luxembourg and is limited to a duration of five years. Read more… Please also refer to the "Tax Law" section.

Insurance Law

Back to 2024

Solvency II amendments	The EU co-legislators have adopted the directive amending Directive 2009/138/EC on the prudential regime for insurance and reinsurance undertakings (known as Solvency II). Once published in the Official Journal of the EU, the adopted directive will enter into force on the twentieth day following its publication. Member States must implement the directive into their national law within 18 months following entry into force. Among other changes, the amendments to Solvency II will favour the investment of reserve into the European economy. To increase the resilience of the sector, liquidity management requirements will be introduced and cross-border supervision will be strengthened. A specific regime for small insurers will also be introduced.
Insurance Recovery and Resolution Directive (IRRD)	The EU co-legislators have adopted the directive establishing a framework for the recovery and resolution of insurance and reinsurance undertakings (known as IRRD). Once published in the Official Journal of the EU, the adopted directive will

enter into force on the twentieth day following its publication. Member States must implement the directive into their national law within 18 months following entry into force.

The new IRRD framework has been created to better prepare insurers and relevant authorities in the EU for situations of significant financial distress. It will, among other measures, permit supervisory authorities to intervene early, quickly and across borders. Back to 2023…

The European Insurance and Occupational Pensions Authority (EIOPA) has started its work on developing draft technical standards in accordance with the new rules.

Digital Operational resilience Act (DORA)

The Digital Operational Resilience Act (DORA) is part of the Digital Finance Package adopted in 2020 by the EU Commission. It aims to create an EU-wide regulatory framework whereby all European financial entities are required to ensure they can withstand, respond to and recover from all types of ICT-related disruptions and threats. DORA will apply from 17 January 2025. Back to 2023...

The EU Commission and the designated European Supervisory Authorities are completing the DORA framework and have published several policy documents consisting of regulatory and implementing technical standards as well as regulatory guidelines with which financial entities must comply. On 4 December 2024, the ESAs published a joint statement emphasising that financial entities must advance their preparations to ensure their readiness in view of the approaching application date.

To give effect to DORA, the national DORA law of 1 July 2024 (DORA Law) has been published in the Luxembourg Official Journal and will apply from 17 January 2025. The DORA Law *inter alia* appoints the CSSF and the *Commissariat aux Assurances* as Luxembourg competent authorities to ensure the application of DORA by the in-scope entities (as defined under DORA) under their respective supervision, amends the existing laws applicable to financial entities to take DORA into account and provides for administrative sanctions, including fines of up to EUR 5 million for natural persons and up to EUR 5 million or up to 10% of total annual turnover for companies, whichever amount is higher, in cases of non-compliance with DORA.

EIOPA recommendation to introduce capital charges for insurers' fossil fuel assets

On 7 November 2024, EIOPA published its final report on the prudential treatment of sustainability risks within the Solvency II framework. Among others, the report recommends additional capital requirements for fossil fuel assets held by insurers. EIOPA has submitted its conclusions and policy recommendations to the EU Commission for further evaluation. Read more...

Value-for-money benchmarks in insurance products

On 7 October 2024, EIOPA published its methodology on setting value-for-money benchmarks in unit-linked and hybrid insurance products. This methodology is designed to enhance clarity and reinforce the value-for-money standards within the product oversight and governance framework established by Directive (EU) 2016/97 (known as the Insurance Distribution Directive or IDD). Read more…

CAA updates notification procedures for changes in ownership of captive insurance and reinsurance undertakings

On 9 October 2024, the CAA issued Circular Letter 24/9 outlining updates to the procedure for notifying shareholding changes in captive insurance and reinsurance companies. The Circular introduced detailed guidelines and standardised forms that must be submitted to the CAA when notifying changes in ownership. The Circular applies from 1 November 2024.

CAA scrutiny of implementation of sustainable finance in insurance sector

In July 2024, the CAA published Information Note 24/9 to present the results of its study on how Luxembourg life insurance undertakings incorporate sustainability. Based on its key findings, the CAA identified several best practices that life insurance companies must implement. Read more... Prior to that, the CAA issued Information Note 24/4 in April 2024 announcing its increased scrutiny of the implementation of sustainable finance in entities under its supervision. Read more...

CAA publishes outcomes of on-site inspections

In January 2024, the CAA published Information Note 24/3 which summarises the outcomes of on-site inspections it has carried out. The CAA identified insufficient governance structures as one of the key shortcomings. Read more...

Looking forward

Slow progress on the Retail Investment Strategy package

The EU Parliament and the Council of the EU have both finalised their respective negotiation mandates and are ready to begin the interinstitutional negotiations, known as trilogue sessions. At this stage, the outcome of negotiations is unclear. Given the criticism, the legislative package may also be abandoned.

Should negotiations take place, we expect that the proposed ban on inducements received for execution-only, that is where no advice is provided to investors, could be removed and replaced by other safeguards on the prevention of conflict of interests, such as enhanced transparency or requirements for more tailored advice. As for the new concept of “value for money”, the proposed introduction of benchmarks on costs will most probably be maintained. However, it seems that the EU co-legislators intend for these benchmarks to be supervisory tools only, with the aim of helping national competent authorities to detect investment products that fail to offer value for money. The transition period is also still unclear, with the Council of the EU proposing 36 months and the EU Parliament and EU Commission proposing 18 months.

In May 2023, the EU Commission proposed legislative amendments to certain EU directives with the goal of enhancing retail investor participation in capital markets through the provision of clearer information about investment products and ensuring greater transparency and disclosure. Back to 2023...

Back to 2024

EMIR 3 to enter into force

On 4 December 2024, Regulation (EU) 2024/2987 (known as EMIR 3) was published in the Official Journal of the EU. The new rules aim to make the EU clearing landscape more attractive and resilient. Back to 2023... Among the changes which will directly impact counterparties to derivative transactions are the introduction of a requirement for certain EU entities subject to a clearing obligation to open and maintain an active account. This requirement aims to reduce excessive reliance on systemic central counterparties (CCPs) in non-EU countries. Furthermore, the clearing threshold calculation for non-financial counterparties (NFCs) will be changed, so that NFCs must only consider their own exposure towards OTC derivatives and will no longer be expected to include the exposure of other NFCs of the same group when assessing whether or not they exceed the relevant clearing threshold. Finally, the new Regulation removes the intragroup reporting exemption.

With some exceptions, the Regulation will enter into force and apply on 24 December 2024. To ensure consistency with EMIR 3, Directive (EU) 2024/2994, also published on 4 December 2024 in the Official Journal of the EU, amends, among others, Article 52 of the UCITS Directive concerning UCITS' risk exposure to counterparties in derivative transactions. Member States have to comply with the Directive by 25 June 2026.

Implementing and completing the AIFMD 2 and UCITS 6 framework

The publication of Directive (EU) 2024/927 (known as AIFMD 2 and UCITS 6) triggered the entry into force of new regulatory measures for these two legislative regimes. Member States will have to implement AIFMD 2 and UCITS 6 by 16 April 2026. Measures on reporting requirements will start applying as of 16 April 2027. Read more... Luxembourg is expected to start its implementation process in Q1 2025 with the publication of a bill of law amending the law of 12 July 2013 on alternative investment fund managers (AIFM Law) and the law of 17 December 2010 on undertakings for collective investments (UCI Law). Based on past experience, we expect the bill of law to be adopted shortly thereafter.

Investment fund managers are recommended to review, and if necessary, adapt their operational set-up and delegation arrangements in light of the amended rules. EU AIFMs managing loan originating AIFs must also ensure compliance with the new rules on loan originating AIFs. Any loan origination activities by AIFs they manage must also be conducted in conformity with the new rules. UCITS and AIFMs managing open-ended AIFs should review their liquidity risk management policies and procedures and, if necessary, bring them in line with the new requirements. Read more...

ESMA has been given a central role in completing the AIFMD 2 and UCITS 6 framework, with several mandates to develop new draft delegated regulations and new guidelines. ESMA kicked off its work in July 2024 with a consultation on liquidity management tools. In view of its mandate to report to the EU co-legislators on costs, ESMA also launched a related data collection exercise with national competent authorities on 14 November 2024. ESMA is mandated to assess the costs charged by AIFMs, UCITS and UCITS management companies to investors and submit its report by 16 October 2025.

Harmonisation of AIFM and UCITS notification processes for cross-border activities

On 25 March 2024, two regulatory technical standards (RTS) supplementing the AIFMD and the UCITS framework were published in the Official Journal of the EU. The RTS define the information that AIFMs, UCITS and UCITS management companies must communicate to competent authorities about their cross-border activities. The relevant implementing technical standards (ITS) for each of the two frameworks, which also provide for the form in which the information must be notified, were also published. The RTS and ITS have applied since 14 July 2024. They aim to harmonise the content and process of cross-border activity notifications for AIFMs and UCITS, and UCITS management companies, respectively.

In a related press release about the modified notification process, the CSSF highlighted that notifying entities will no longer have to request CSSF attestations. Since 14 July 2024, these attestations have been generated and added directly to the notification package by the CSSF.

Clarity on ELTIF 2.0 regulatory technical standards

The long-awaited Commission Delegated Regulation (EU) 2024/2759 (known as the ELTIF 2.0 RTS) entered into force and has applied since 26 October 2024. Read more... The ELTIF 2.0 RTS specify, in particular, the requirements for an ELTIF's redemption policy and liquidity management tools, including the proposed methods to determine the minimum percentage of liquid assets that ELTIFs can use to satisfy redemptions, the circumstances for the matching of transfer requests of units or shares of the ELTIF and certain elements of costs disclosure. Read more... ELTIFs authorised before 10 January 2024 (the date of entry into force of the ELTIF 2.0 regime) which opted to remain subject to the former ELTIF regime will remain subject to Commission Delegated Regulation (EU) 2018/480.

The legislative amendments in the recently adopted directive amending Directive 2009/138/EC on the prudential regime for insurance and reinsurance undertakings (known as Solvency II) may incentivise (re)insurers to invest more in long-term capital, including in ELTIFs and AIFs with a lower risk profile. Read more....

Digital Operational Resilience Act (DORA)

Please refer to the "Data Protection – Intellectual Property" section.

MiCA, DLT, Blockchain IV

Please refer to the "Banking & Financial Services" section.

CSRD, ESRS and CS3D	Please refer to the “Company Law – Capital Markets” section.
ESG rating activities	Please refer to the “Banking & Financial Services” section.
ESMA guidelines on fund names using ESG or sustainability-related terms	On 14 May 2024, ESMA published its Guidelines on funds’ names using ESG or sustainability-related terms. The Guidelines provide asset managers with clear and measurable criteria to assess their ability to use ESG or sustainability-related terms in their fund names. Read more... The CSSF has integrated the Guidelines into its administrative practice via Circular CSSF 24/863. The Guidelines apply from 21 November 2024 for any investment funds created on or after that date. Existing funds and sub-funds benefit from a transition period until 21 May 2025 to adapt their names, if necessary. The CSSF has set-up a priority processing procedure for existing funds which limit the updates to their issuing document or prospectus to amendments required in the context of the Guidelines. Read more...
ESA greenwashing reports	Please refer to the “Banking & Financial Services” section.
ESMA and ESA opinions on SFDR/sustainability framework	Please refer to the “Banking & Financial Services” section.
Regulation establishing European Single Access Point (ESAP)	Please refer to the “Company Law – Capital Markets” section.
CSSF clarifies its expectations on delegation of portfolio management	On 23 October 2024, the CSSF published a report summarising its observations made during a supervisory review of the monitoring processes put in place by investment fund managers who delegate the portfolio management function. While the CSSF approves of the overall compliance with the AIFMD and UCITS framework, it nonetheless provided several recommendations to further strengthen adherence to the legal and regulatory framework. Luxembourg investment fund managers (IFMs) must assess how they monitor the delegation of the portfolio management function by the end of March 2025 at the latest. Read more... The CSSF explicitly specified that, where relevant, IFMs should apply the CSSF’s recommendations to other delegated functions.

Ex-ante controls by depositaries of AIFs invested in illiquid assets

On 24 July 2024, the CSSF reminded Luxembourg depositaries that checks and controls must be carried out prior to the acquisition of illiquid assets to ensure compliance with the AIFMD framework, in particular the owner verification and record keeping obligations, and the timely settlement of transactions. The CSSF also reminded AIFMs managing AIFs invested in illiquid assets of their duty to provide the depositary with the relevant information in a timely manner.

CSSF reminder about annual obligation to update KIDs and KIIDs

In May 2024, the CSSF reminded UCITS and UCITS management companies of their duty to review the content of their PRIIPs KIDs and UCITS KIIDs at least every 12 months. Previously, on 28 December 2023, the CSSF clarified its expectations about the process that UCITS and AIFs must follow for the annual update of their PRIIPs KIDs and UCITS KIIDs. Read more...

Clarification on application of MiFID rules to marketing of funds by IFMs

On 3 April 2024, the CSSF updated its FAQ on the AIFM Law and its FAQ on the UCI Law to clarify when MiFID rules apply to the marketing of funds by an IFM. The CSSF states that MiFID rules may apply to the entity to which the marketing function is delegated, depending on where and to whom the fund is distributed and on the services provided. If the entity is another Luxembourg IFM, the CSSF may require the entity to have a MiFID authorisation. However, no such MiFID authorisation is required if that other IFM only brings a potential investor together with an IFM and/or its investment fund without providing the investment service of receipt and transmission of orders. The CSSF also clarifies that it is the responsibility of the other IFM to assess whether these activities qualify as pre-marketing under the AIFMD framework.

Clarified rules on NAV errors, non-compliance with investment rules and other errors concerning UCIs

Circular CSSF 24/856, published in March 2024, consolidates in one single document: (i) the rules under Circular CSSF 02/77 on the protection of investors in cases of NAV calculation error and correction of the consequences resulting from non-compliance, (ii) additional guidelines on selected topics, and (iii) the CSSF's administrative practice over the years since publication of Circular CSSF 02/77 in 2002. As such, Circular CSSF 24/856 (a) clarifies the roles and responsibilities of the different stakeholders involved in the handling of an error or breach of investment rules, (b) provides guidance on the processes to be implemented and maintained in cases of NAV calculation error, breach of investment rules and other errors mentioned in the Circular, as well as the remediation of those situations, and (3) provides guidance on the procedures to be implemented and maintained to compensate investors who have suffered losses due to those situations. Circular CSSF 24/856 will repeal and replace Circular CSSF 02/77 as per 1 January 2025. Read more... The CSSF intends to publish a FAQ document accompanying the new Circular. Publication is expected by the end of 2024.

CSSF clarifies meaning of "virtual assets" for investment fund sector	On 22 February 2024, the CSSF clarified through an update of its FAQ on virtual assets and UCIs that the term "virtual assets" does not include digital assets that fulfil the conditions of financial instruments within the meaning of the law of 5 April 1993 on the financial sector. Therefore, any assets that qualify as financial instruments under that law (including assets in the virtual ecosystem) may fall within the scope of eligible investments for UCITS. The CSSF also pointed out that AIFs may invest in virtual assets under the condition that the AIF's units are only marketed to well-informed investors.
CSSF Circular 24/847 on ICT outsourcing	Please refer to the "Banking & Financial Services" section.
New RCS filing formalities	Please refer to the "Company Law – Capital Markets" section.

Looking forward

ESMA's postponed report on UCITS Eligible Assets Directive review	On 7 May 2024, ESMA published a call for evidence on the review of Commission Directive 2007/16/EC (known as the UCITS Eligible Assets Directive or UCITS EAD). Feedback to the call closed on 7 August 2024. The EU Commission requested technical advice on the review in June 2023. Back to 2023... Taking account of the evidence and views received, ESMA will develop its technical advice on the review of the UCITS EAD and submit it to the EU Commission in 2025.
Slow progress on the Retail Investment Strategy package	The EU Parliament and the Council of the EU have both finalised their respective negotiation mandates and are ready to begin the interinstitutional negotiations, known as trilogue sessions. At this stage, the outcome of negotiations is unclear. Given the criticism, the legislative package may also be abandoned. Should negotiations take place, we expect that the proposed ban on inducements received for execution-only, that is where no advice is provided to investors, could be removed and replaced by other safeguards on the prevention of conflict of interests, such as enhanced transparency or requirements for more tailored advice. As for the new concept of "value for money", the proposed introduction of benchmarks on costs will most probably be maintained. However, it seems that the EU co-legislators intend for these benchmarks to be supervisory tools only, with the aim of helping national competent authorities to detect investment products that fail to offer value for money. The transition period is also still unclear, with the Council of the EU proposing 36 months and the EU Parliament and EU Commission proposing 18 months. In May 2023, the EU Commission proposed legislative amendments to certain EU directives with the goal of enhancing retail investor participation in capital markets through the provision of clearer information about investment products and ensuring greater transparency and disclosure. Back to 2023...

Back to 2024

Luxembourg District Court dismisses application to lift attachment granted on basis of exequatur order and partially set aside arbitral award

On 11 October 2024, a senior judge of the District Court (*Tribunal d'arrondissement*) of Luxembourg, sitting in the capacity of interim relief judge, dismissed an application to lift an attachment granted on the basis of a partially set aside arbitral award and an exequatur order (TAL-2023-04863). While the partial setting aside of the award did not render the attachment invalid, the interim relief judge exercised broad discretion to evaluate the probable value of the dispute. In doing so, the judge ordered the posting of security equivalent to the part of the award that had not been set aside. Upon payment of the security into court, the attached assets may be released for the remainder of the proceedings on the merits.

General Court upholds EU Commission Decision in European Food and Others v EU Commission

On 2 October 2024, the General Court of the EU dismissed actions seeking to annul the EU Commission's Decision arguing that the ICSID award ordering Romania to pay damages in the amount of EUR 178 million constituted unlawful state aid (T 624/15 RENV, T 694/15 RENV and T 704/15 RENV). The General Court found, *inter alia*, that the EU Commission was entitled to: (i) define the state aid measure at issue as the payment of sums under the award, (ii) consider that the payment of the award constituted an economic advantage and that such advantage did not constitute compensation for damages, and (iii) decide that the payment of damages under the award was a selective advantage that was imputable to Romania. In that context, the General Court found that, by virtue of Romania's accession to the EU, the arbitral award rendered after accession had not produced any effects vis-à-vis Romania, Romania was required to set aside the award and it was under no obligation to implement or execute the award.

General Court upholds EU sanctions prohibiting provision of legal advisory services to Russian government and entities established in Russia

On 2 October 2024, the General Court of the EU upheld the prohibition on the direct or indirect provision of legal advisory services to the Russian government or to legal persons, entities or bodies established in Russia (T-797/22 *Ordre néerlandais des avocats du barreau de Bruxelles and Others*). The General Court confirmed the importance of the fundamental right of all persons to be advised by a lawyer for the purposes of conducting, pre-empting or anticipating judicial proceedings and found that the prohibition at issue does not call that right into question. This is because the prohibition applies only to legal advice that has no link with judicial, administrative or arbitral proceedings and does not include legal advice provided to natural persons. With respect to the possibility of granting derogations from the prohibition, the General Court held that derogations do not *per se* entail interference with the protection of the professional secrecy of

lawyers. Nevertheless, when laying down conditions for the grant of derogations, Member States must ensure respect for the EU Charter of Fundamental Rights.

CJEU rules on breach of legal professional privilege in Luxembourg

Please refer to the “Tax Law” section.

Luxembourg District Court rules on *cautio judicatum solvi* claim (foreign litigant costs guarantee)

On 31 May 2024, the Vice President of the District Court of Luxembourg upheld that the presence of a business address in Luxembourg was sufficient to consider the claimant as "established" in Luxembourg (TAL-2024-03121). The Court held that the defendant, although residing privately in Vietnam, was considered as “established” in Luxembourg due to his business address. Accordingly, he was entitled to file a claim in *cautio judicatum solvi*.

Concept of “transferable activity” under Article 55 of Law of 7 August 2023

In a decision dated 27 February 2024, the Luxembourg Court of Appeal upheld a ruling by the Luxembourg District Court which had rejected a creditor’s request for a transfer by court order in the context of a judicial reorganisation (CAL-2024-00014). The Court concluded that the company in question did not meet the criteria set out under Article 55 of the law of 7 August 2023 on business preservation and modernisation of bankruptcy law (Law of 7 August 2023), which allows creditors of an indebted company to request, under certain conditions, the transfer of their debtor’s business or activities. The Court emphasised that the transfer must aim to preserve economic activity and employment, which was not the case here, as the only "activity" of the company in question was holding shares. Since the request to transfer did not involve an actual business or economic activity but rather the shares held, the Court determined that there was no transferable activity that could justify a judicial reorganisation transfer. As a result, the Court confirmed the lower court's decision, rejecting the opening of a judicial reorganisation transfer.

Applicability of the Law of 7 August 2023 in time

On 1 February 2024, the Luxembourg District Court issued a ruling regarding recent changes to the criminal provisions in bankruptcy law (289/2024). The Court noted that the Law of 7 August 2023 repealed Articles 573 to 583 of the Commercial Code and made amendments to the Criminal Code. Under the new law, the offence of simple bankruptcy (*banqueroute simple*) is now defined in Articles 489 and 490 of the Criminal Code, carrying penalties of imprisonment from one month to two years, along with fines ranging from EUR 251 to EUR 25,000.

The Law of 7 August 2023 came into effect on 1 November 2023, prior to the Court's judgment. Under Article 2 of the Criminal Code, if the penalty for an offence has changed between the time the crime was committed and the time of sentencing, the lighter penalty is applied. Therefore, despite the stricter penalties under the new law, the Court applied the previous, more lenient, penalties as per the legal provisions in effect at the time the offences were committed. The Court

emphasised that the new law imposes mandatory fines for simple bankruptcy offences, but the old provisions remained applicable in this case.

Territorial jurisdiction of Luxembourg courts under Law of 7 August 2023

On 18 December 2023, the Luxembourg District Court addressed a jurisdictional issue concerning a request for a transfer by court order under the Law of 7 August 2023 (TAL-2023-09113). The defendant company argued that, as it had transferred its principal establishment to the UK before the filing of the request, the Luxembourg courts lacked jurisdiction. The company also claimed that Regulation (EU) 2015/848 on insolvency proceedings was inapplicable, given the UK's departure from the EU.

The Court confirmed that the Regulation was not applicable in this case because the UK was no longer a Member State and there was no specific provision under the Law of 7 August 2023 regarding jurisdiction for transfer by court order requests. However, the Court determined that, since the company's registered office remained in Luxembourg, the Luxembourg courts had (non-exclusive) jurisdiction over the case, despite the transfer of the company's principal establishment to the UK.

Tax Law

Back to 2024

Professional secrecy considerations and exchange of information under DAC6

The Court of Justice of the EU (CJEU) held on 26 September 2024 in Case C-432/23 (*F SCS, Ordre des avocats du barreau de Luxembourg v Administration des contributions directes*) that legal advice falls within protected lawyer-client communications under Article 7 of the EU Charter of Fundamental Rights. Consequently, tax authorities' requests for lawyers to disclose client information constitute interference with this protection. The case arose when Luxembourg tax authorities requested a lawyer to share information about services provided to a Spanish company. The lawyer refused, citing professional secrecy.

The CJEU found that, while Directive (EU) 2011/16 on administrative cooperation (known as DAC) remains valid and need not include specific provisions for lawyer secrecy, Member States' laws must protect lawyer-client communications to comply with EU Charter protections. This enhanced protection only applies to (tax) lawyers registered with bar associations, creating a distinction between them and non-lawyer tax advisors.

WHT reclaims in Germany, Sweden and the Netherlands for Luxembourg funds

In 2024, positive developments shaped EU withholding tax practices for foreign investment funds seeking withholding tax (WHT) reclaims based on the EU free movement of capital principle:

- the German Federal Tax Court's ruling on foreign investment funds (cases I R 1/20 and I R 2/20);
- CJEU decision C-39/23 on Swedish taxation of foreign pension funds (*Keva et al. v Skatteverket*); and
- the EU Commission's infringement proceedings against the Netherlands' tax levy reduction regime, with several related cases pending before the Dutch Supreme Court.

These cases reflect the EU's growing emphasis on equal tax treatment between domestic and foreign investors. Luxembourg investment funds should assess whether to pursue any available reclaim opportunities.

BEFIT, HOT and Unshell proposals

The EU Commission has proposed three key tax directives in recent years. In 2023, it proposed BEFIT (Business in Europe: Framework for Income Taxation), which aims to create a common corporate income tax framework replacing existing national rules for in-scope companies, and HOT (Head Office Tax System), introducing a simplified computation of tax result for SMEs' permanent establishments located in other Member States. At the end of 2021, the Unshell proposal, targeting the misuse of shell companies, was issued.

However, there have been few developments in 2024. BEFIT still awaits the EU Parliament's opinion, while both HOT and the Unshell proposal require the Council of the EU's unanimous approval for adoption.

Mixed progress on Pillar 1: Amount B OECD report released, Amount A MLC delayed

The OECD/G20 Inclusive Framework released its report on Amount B of Pillar 1 on 19 February 2024, aiming to simplify and streamline the application of the arm's length principle to baseline marketing and distribution activities. The new rules have been incorporated into the OECD Transfer Pricing Guidelines. On 17 June 2024, additional guidance was released, including definitions of qualifying jurisdictions and covered jurisdictions.

Meanwhile, the OECD missed its 30 June 2024 deadline for finalising the Multilateral Convention (MLC) to implement Amount A of Pillar One, with negotiations ongoing.

New Luxembourg-Germany double tax treaty

The amending protocol to the Luxembourg-Germany Income and Capital Tax Treaty, signed on 6 July 2023, entered into force on 29 December 2023 with general application from 1 January 2024. On 11 January 2024, both countries signed a consultation agreement clarifying certain articles, which was followed by a Luxembourg direct tax authorities circular (*L.G.-Conv. D.I. no. 71*) issued on 18 March 2024. The updated treaty introduces several key changes, including an extended 34-day tolerance threshold for cross-border workers, a new "effectively taxed" clause to prevent double non-taxation, modified provisions for investment

funds, revised exit tax rules and the anti-abuse provisions from the BEPS multilateral instrument.

Directors' fees no longer subject to VAT

The CJEU delivered a landmark decision in case C-288/22 (*TP v Administration de l'enregistrement, des domaines et de la TVA*) on 21 December 2023, impacting the Luxembourg VAT treatment of directors' fees.

Under the previous regime (circular 781 issued by the Luxembourg VAT authorities on 30 September 2016), directors' fees were generally subject to VAT. In the context of investment funds, directors' remuneration was VAT-exempt. For general partner and management company directors, the remuneration was commonly split between the VAT-taxable portion (company management itself) and the VAT-exempt portion (fund management). Following a request for a preliminary ruling lodged by the Luxembourg District Court (*Tribunal d'arrondissement*), the CJEU determined that directors' activities fall outside the scope of VAT when the director does not act independently or bear economic risk. In response, the Luxembourg VAT authorities suspended VAT on directors' fees through circular 781-1 (issued on 22 December 2023) pending the District Court's final decision and the issue of guidance on the potential five-year retroactive VAT regularisation.

On 22 November 2024, the District Court ruled on the Luxembourg VAT treatment of the remuneration (*tantième*) received by a director of a Luxembourg company, thereby applying and confirming the CJEU's preliminary ruling of 21 December 2023. Read more…

Looking forward

Pillar 2: implementation updates

Luxembourg implemented Directive (EU) 2022/2523 (known as the Pillar 2 Directive) through the law of 22 December 2023. On 12 June 2024, the Luxembourg government presented bill of law 8396 to incorporate clarifications and technical provisions resulting from the OECD's Pillar 2 Administrative Guidance issued in February, July and December 2023 into domestic law. Key developments include clarifications on investment fund treatment, the definition of revenue and the Country-by-Country Reporting (CbCR) safe harbour. On 31 October 2024, the Luxembourg government published amendments to the bill of law to incorporate the OECD's June 2024 Administrative Guidance, notably concerning securitisation vehicles and intermediate flow-through entities. The provisions will apply to tax years starting from 31 December 2023, and the amendments are currently going through the parliamentary process. Read more…

In February and March 2024, the Luxembourg Accounting Standards Board (CNC) issued guidance on the impact of the Pillar 2 rules on the 2023 (consolidated) financial statements of the Luxembourg entities and groups concerned. Read more…

Adoption of the long-awaited ViDA package	The Council of the EU adopted the VAT in the Digital Age (ViDA) package on 5 November 2024, marking a significant modernisation of the EU's VAT system. The package introduces three major changes: mandatory e-invoicing for cross-border B2B transactions with a digital reporting system to be implemented by 2030, new rules making online platforms responsible for VAT collection on short-term accommodation and passenger transport services when providers are not VAT-registered, and an expanded One-Stop Shop system simplifying VAT registration across the EU. The package is currently awaiting EU Parliament consultation on the revised texts before final adoption and publication in the Official Journal. Read more…
DAC9 proposal: simplification of Pillar 2 filing obligations for MNEs	On 28 October 2024, the EU Commission proposed amendments to Directive (EU) 2011/16 on administrative cooperation in the field of taxation (known as DAC). The aim is to simplify Pillar 2 compliance for multinational enterprises (MNEs) by allowing returns to be filed by the ultimate parent entity of the MNE or by a designated entity, instead of each constituent entity of the group filing a separate report. This DAC9 proposal also establishes a framework to facilitate the exchange of top-up tax information returns between Member States. Once the directive is adopted, Member States must implement DAC9 by 31 December 2025, with the first returns due by 30 June 2026. Read more…
FASTER proposal	The Council of the EU reached an agreement on 14 May 2024 on the Faster and Safer Relief of Excess Withholding Taxes directive (known as FASTER), which aims to streamline withholding tax procedures and combat tax fraud in the EU. The directive introduces a common EU digital tax residence certificate, two fast-track relief procedures and a standardised reporting obligation. The directive was formally adopted on 10 December 2024. The text will now be published in the Official Journal of the EU. Member States must implement the directive by 31 December 2028, with application beginning on 1 January 2030.
Transfer pricing proposal	Following the 24 June 2024 ECOFIN report to the Council of the EU on tax issues, Member States have raised concerns about the text of the transfer pricing proposal published in September 2023. Member States are reportedly shifting away from the EU Commission's proposal and are instead exploring the creation of a successor to the previous Joint Transfer Pricing Forum. Member States prefer maintaining flexibility in applying OECD guidelines while fostering EU-level coordination. Discussions continue regarding potentially retaining some elements of the proposal but there is no clear consensus.
Boosting competitiveness: tax cuts for entities and individuals	Bill of law 8414 was submitted to the Luxembourg Parliament on 17 July 2024, introducing significant tax changes to enhance competitiveness and reduce individual tax burdens.

For entities: the bill of law reduces the corporate income tax rate from 17% to 16%, exempts actively managed UCITS ETFs from subscription tax and revises the SPF (private wealth management companies) regulations.

For individuals: the bill of law enhances the profit-sharing scheme, simplifies the inpatriate regime with a 50% salary exemption capped at EUR 400,000, introduces a young employee premium for workers under 30 and implements various personal tax relief measures, including adjustments to the tax scale and increased benefits for single parents. Please also refer to the "Employment Law section".

The law is expected to be adopted soon, with most provisions taking effect in 2025. Read more…

New tax rules, new opportunities: class of shares redemption and beyond

Bill of law 8388 introducing a number of significant tax changes was submitted to Parliament on 23 May 2024. In particular, the bill of law codifies the tax treatment of share buy-backs qualifying as a partial liquidation and validates the established practice of using alphabet or tracking shares. The bill of law also introduces mandatory reporting requirements for substantial participations held by individuals upon repurchase of a class of shares. Further, the bill of law streamlines the minimum net wealth tax to a simple balance sheet-based system (ranging from EUR 535 to EUR 4,815), introduces an opt-out from the participation exemption regime for investments qualifying solely based on acquisition price thresholds and mandates electronic filing for directors' fees withholding tax returns.

The law is expected to be adopted soon, with most provisions taking effect in 2025. Read more…

New VAT rules as from 1 January 2025

Bill of law 8406 contains significant VAT changes that are effective from 1 January 2025, implementing Directives (EU) 2020/285 and (EU) 2022/542. The bill of law introduces five key modifications: increase the domestic small business scheme threshold to EUR 50,000, establish a new EU small business scheme with a EUR 100,000 turnover threshold, extend the 8% reduced VAT rate to all art, antiques and collectors' items, shift the taxation of virtual events to the recipient's location and remove the VAT exemption for international passenger transport.

The law is expected to be adopted soon with no changes to the current bill of law. Read more…