



LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Administration de l'enregistrement,
des domaines et de la TVA

GUIDE

PROFESSIONAL OBLIGATIONS WITH REGARD TO THE FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING

- FOR ACCOUNTING PROFESSIONALS
- and TAX ADVISORS -

This guide is purely indicative

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Preface

In order to prevent and raise awareness among professionals subject to the 2004 AML/CFT Law, the AED, as the supervisory authority for accounting professionals and tax advisors, has decided to provide them with a guide to help them to comply with their AML/CFT obligations.

The guide is of an indicative nature, describing the minimum requirements to be complied with by accounting professionals and tax advisors.

The purpose of this guide is, above all, to raise awareness among professionals about the risks of money laundering and terrorist financing they may encounter in their professional activity, but also to provide guidance to the concerned professionals to enable them to avoid transactions linked to a risk of money laundering and terrorist financing, which could engage their responsibility.

This risk can be avoided by respecting AML/CFT obligations and more particularly the **IDENTIFICATION OF THE CUSTOMER AND OF THE BENEFICIAL OWNER**.

As a supervisory authority, the AED carries out its mission at two levels :

- on a **preventive** level and,
- on a **repressive** level.

Through this guide, the AED wishes to strengthen its approach in its AML/CFT prevention and awareness-raising mission in order to rebalance the lack of information leading to the commission of money laundering and terrorist financing offences.

Professionals can draw inspiration from this guide, but still have to adapt their internal AML/CFT procedures according to the size, the activity of the company and the nature of its customers.

MAKING A COPY-PASTE OF THIS GUIDE WILL NOT BE ACCEPTED AS AN INTERNAL PROCEDURE OF THE PROFESSIONAL.

For more information, it is recommended to consult the New AED website under the heading "**Blanchiment**"¹.

¹ <https://pfi.public.lu/fr/blanchiment.html>

Acronyms

| | |
|----------------------|---|
| AED | Registration, Duties, Estates and VAT Authority Administration de l'Enregistrement, des Domaines et de la TVA |
| AML/CFT ² | Anti-Money Laundering and Counter Terrorist Financing Lutte contre le blanchiment et le financement du terrorisme (LBC/FT) |
| BO | Beneficial owner Bénéficiaire effectif |
| CHIDA | Turnover/Sales revenue Chiffre d'affaires |
| FATF | Financial Action Task Force Groupe d'Action Financière (GAFI) |
| FIU | Financial Intelligence Unit Cellule de Renseignement Financier (CRF) |
| KYC | Know Your Client |
| NRA | National risk assessment Evaluation nationale des risques |
| OECD | Organisation for Economic Co-operation and Development Organisation de coopération et développement économiques (OCDE) |
| PEP | Politically Exposed Person Personne politiquement exposée (PPE) |
| RBA | Risk based approach Approche basée sur les risques |
| RBO | Law establishing a Register of Beneficial Owners Loi instituant un Registre des bénéficiaires effectifs |
| RCS | Trade and Companies Register Registre de Commerce et des Sociétés |
| RFT | Register of Fiduciary Contracts and Trusts Registre des fiducies et des trusts |

² The Law of 12 November 2004, as amended

SAF Anti-Fraud Unit
 Service Anti-Fraude

STR Suspicious Transaction Report
 Déclaration d'Opération Suspecte (DOS)

Introduction

In accordance with articles 2-1 (8) and 2 (l) (9a[bis]³, 13⁴), the AED is the supervisory authority for accounting professionals (other than chartered accountants) and for tax advisors.

9a (bis). Accounting professionals, within the meaning of Article 2(2) (d) of the Law of 10 June 1999 on the organization of the accounting profession.

13. Persons other than those listed above who:

a) exercise in Luxembourg by way of their business, **an activity of tax advice;**

b) [...]

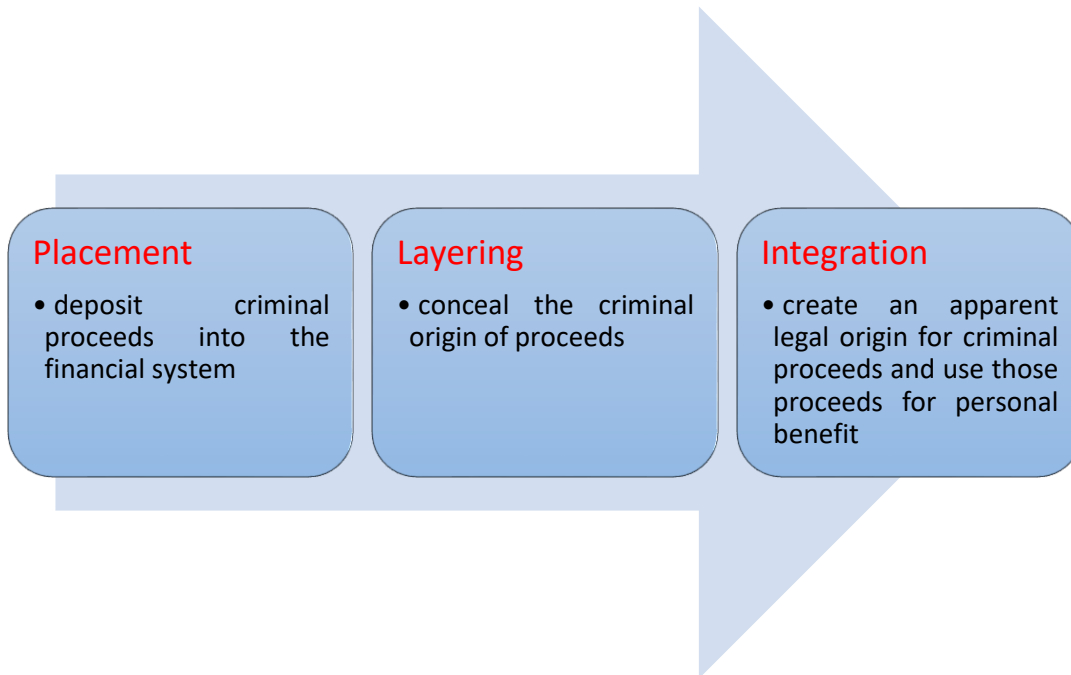
c) undertake to provide, directly or by means of other persons to which they are related, material aid, assistance or **advice on tax matters** as principal business or professional activity.

³ <http://legilux.public.lu/eli/etat/leg/loi/2008/07/17/n1/jo>

⁴ As amended by the Law of 25 February 2021.

What is money laundering⁵ ?

Money laundering is the operation which consists in concealing, by any means, the origin of funds acquired illegally in criminal activities (sale of arms, prostitution, drug trafficking, corruption, extortion, etc.) in order to reinvest them in legal activities. In addition, it compromises the integrity of legitimate financial institutions and systems and provides organized crime with the funds necessary to undertake other criminal activities.



What is terrorist financing⁶ ?

Terrorist financing consists in providing or collecting by any means, directly or indirectly, unlawfully and intentionally, funds, values or property of any kind for carrying out terrorist activities. This may involve the raising of funds from both legal sources, such as personal donations and profits from businesses or charities, and from criminal sources, such as drug trafficking, smuggling, fraud, etc.

⁵ Article 1 (1) of the 2004 AML/CFT Law, as amended.

⁶ See article 135-5 (1) and (3) (L. 26 December 2012) of the Penal Code.

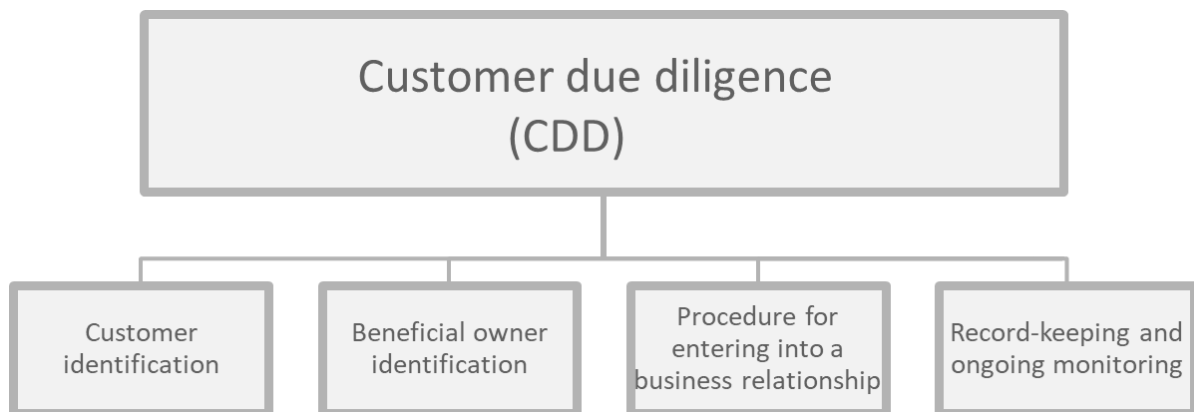
Part 1: The three main pillars of professional AML/CFT obligations

The inspection of money laundering revolves around **the 3 main pillars**:

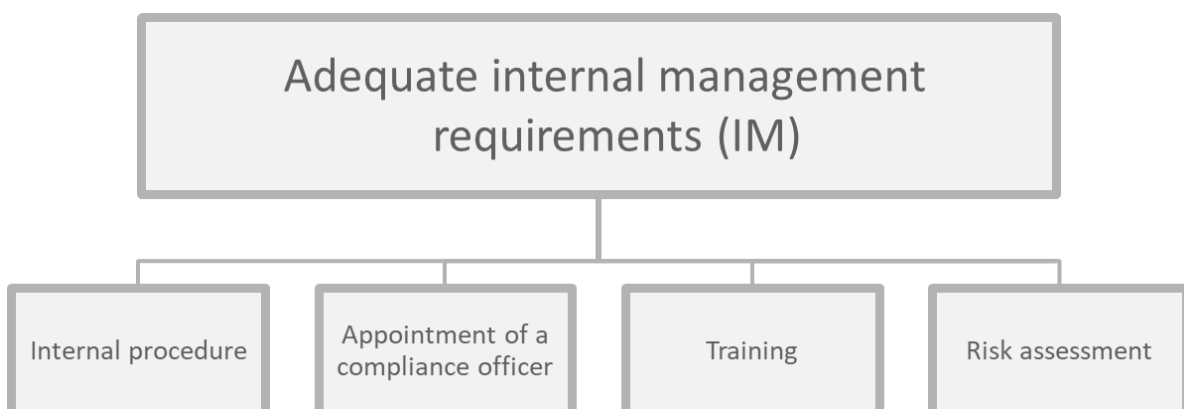
- **Customer due diligence** (articles 3, 3-1, 3-2, 3-3)
- **Adequate internal management requirements** (articles 4, 4-1 and article 2-2)
- **Cooperation requirements** (article 5)

These pillars are subdivided into several sub-pillars, according to the diagrams below.

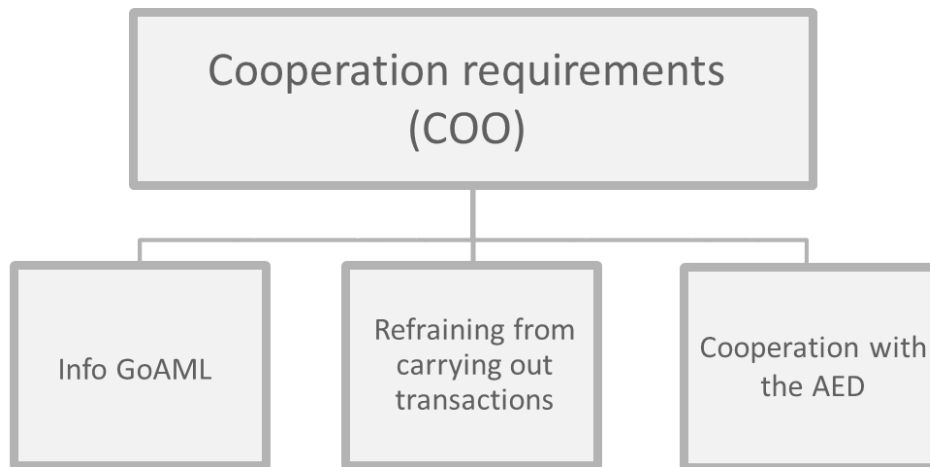
There are **4 sub-pillars** of the customer due diligence:



The adequate internal management requirements have **4 sub-pillars**:

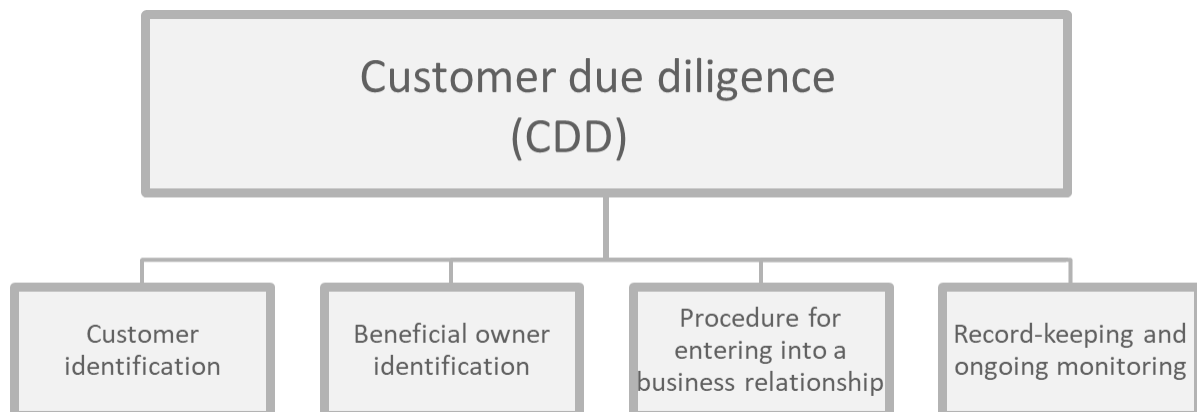


The cooperation requirements have **3 sub-pillars**:



AML/CFT inspection is based on the 3 main pillars: the customer due diligence, the adequate internal management requirements and the cooperation requirements AND their respective sub-pillars.

1. Customer due diligence (articles 3, 3-1, 3-2 and 3-3 of the 2004 AML/CFT Law, as amended)



1.1. Identification of the customer/representative⁷ (mandataire)

The identification and verification of the customer's identity is made on the basis of documents, data or information obtained from reliable and independent sources.

- **The identification** shall always take place **BEFORE** the business relationship is established and continue **throughout its duration**.

For the customers and beneficial owners - natural persons are to be provided :

Copy of an identity document :

- ✓ Identity card
- ✓ Passport
- ✓ Any other document from a reliable and independent source

⁷ For all customers, the obligation to verify that any person purporting to act on behalf of or for the customer is so authorized, and to identify and verify the identity of that person; article 3 (2) (d) a).

The professional must identify his customer by providing a **copy of an identity document⁸ that is understandable, intelligible and readable** for the professional and the supervisory authorities, including the AED.

Accordingly, the **indications (surname(s), first name(s), gender, nationality, date of birth, identity card number, expiry date, issuing country)** on a foreign (non-Luxembourgish⁹) identity document shall **at least be in English language** together with the original language, in order to guarantee the understanding of the content of the identity document for the professional as well as for the supervisory authority, including the AED.

The purpose of the application of an **apostille** by the public authority that issued the identity document is to attest the authenticity of the document. However, this formality does not exempt the identity document from fulfilling the above mentioned language requirements.

For any identity document that does not meet these language requirements, a **translation of the identity document** must be provided, and a copy of which will have to be presented or even handed in during an AML/CFT check.

Only a translation from a **sworn translator is admitted¹⁰**, guaranteeing the veracity and authenticity of such a translation.

Electronic identification must comply with the provisions of Regulation (EU) 910/2014¹¹.

➤ **The certification/verification of the identity by the professional :**

The verification of the identity of the customer (and of the beneficial owner) shall take place **before** the establishment of a business relationship or the carrying-out of a transaction.

The verification of the identity is done either by the professional himself (in case of a face-to-face business relationship) or by a competent authority (in case of a non-face-to-face business relationship).

The verification of the identity of the customer by the professional is made by means of a **copy of the identity card**, which must be certified by the professional himself and which must indicate:

- ✓ **The date of the meeting with the customer** (in principle the date of entering into the business relationship)
- ✓ **The name of the compliance officer or his or her delegate with signing authority on behalf of the professional.**

⁸ Identity card for European Union nationals, passport for non-European Union nationals, any other document from a reliable and independent source.

⁹ More specifically, this concerns identity cards, which are not in one of the Grand Duchy of Luxembourg's official languages.

¹⁰ The Ministry of Justice provides, by language, a list of translators sworn in the Grand Duchy of Luxembourg, available on the Ministry's website at the following link: <https://mj.gouvernement.lu/fr/professions-droit/expert-judiciaire/liste-experts-traducteurs.html>

¹¹ <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32014R0910&from=hr>

The certification of a valid identity document can be done by the professional himself (with signing authority) when he has met the person (his customer) and has verified his identity by obtaining a copy of the identity document.

Caution

The certification by the professional is to be understood as the material and effective demonstration of the verification of the customer's identity, carried out by the professional. The professional must not only demonstrate that he or she has properly identified the customer, but must also demonstrate that he or she has verified the customer's identity.

The burden of proof lies with the professional!

The expression of certification by the professional is not to be confused with the term of authentication, which is made by a competent and independent authority.

➤ **The certification of identification by a competent authority :**

- ✓ **Competent and independent authority** : police, embassies, municipalities, notaries or any other public authority ;
- ✓ The date of issuance of the certificate shall be **less than 3 months** from the date of entering into a business relationship.

In the case of a **non-face-to-face business relationship**, it is necessary to obtain a certification (from the police, embassies, municipalities or any certification authority) of the documents provided¹² by the customer.

For European Union nationals, the verification shall be done by either identity card or passport certification.

For third country nationals, the verification shall be done by passport certification.

¹² Provided documents: tax declaration, passport, driving license, social security card, birth certificate.

Customer representatives (person purporting to act on behalf of or for the customer)

It is about identifying the customer in the broadest sense.

Indeed, in cases where (a) **representative(s) intervene(s) on behalf of or for the customer**:

Cumulative conditions: 1. identification of the representative + 2. verification of his or her identity + 3. power to act on behalf of or for the customer (power of attorney/letter of assignment).

Indeed, pursuant to Article 3 (2) paragraph 5 a), ***the obligation of identification and verification includes for all customers, the obligation to verify that any person purporting to act on behalf of or for the customer is so authorized and to identify and verify the identity of that person.***

Caution: Responsibility of the professional if there is no certification of identification. (See details under point 1.1)

For the customers and beneficial owners - legal persons or legal arrangements are to be provided :

In the case of clients that are legal persons or legal arrangements, the professional is required to identify the beneficial owner and to take reasonable measures to verify the identity of the beneficial owners. (See details under **point 1.2 Beneficial owner**)

As for the legal entity, the following information must be verified and retained :

- ❖ Verify the legal status **of the legal person or legal arrangements (fiducies or trusts)**, in particular by obtaining :
 - a proof of incorporation deeds or a similar proof of establishment or existence ;
 - information concerning the name of the customer ;
 - the names of the administrators of fiducies (for fiducies) ;
 - the legal form ;
 - the address ;
 - board members/directors/managers (for legal entities) ;
 - the provisions governing the power to bind the legal person or legal arrangement (status) ;
 - RCS extracts.

The obligation to identify and verify the identity of legal persons or legal arrangements (fiducies or trusts) **includes the following obligations** :

- ❖ To understand the nature of their business and their ownership and control structure ;
- ❖ To verify the name, the legal form and the actual existence of the legal person or legal arrangement (by a proof of incorporation or a similar proof of establishment or actual existence) ;
- ❖ The obligation to obtain information concerning :
 - the name of the customer ;
 - the names of the administrators of fiducies ;
 - the legal form ;
 - the address of the head office (and, if different, a principal place of business) ;
 - the names of the relevant persons having a senior management position in the legal person or legal arrangement ;
 - the provisions governing the power to bind the legal entity or legal arrangement.

If the identification of the customer (natural or legal person) **is impossible**, the professional **is in principle required to refuse the business relationship** or the execution of the transaction with his or her customer.

1.2. Identification of the beneficial owner

The obligation to identify the beneficial owner and to verify his or her identity includes the **obligation to take reasonable measures** to verify the identity of the beneficial owner by means of relevant information or data obtained from a reliable and independent source so that the professional has satisfactory knowledge of the identity of the beneficial owner.

Documents to support identification :

- ✓ Organisation chart
- ✓ Register of partners/shareholders
- ✓ Identifying the ultimate beneficial owner (a shareholding considering **voting rights/shares**)
- ✓ Attendance list of the last ordinary general meeting/ordinary shareholders meeting

If the customer is a legal person, the obligation to verify the identity of the beneficial owners also includes¹³ :

- ❖ Any reasonable measure to determine which person(s) effectively exercise(s) control over that legal person (company) ;
- ❖ To verify that any person purporting to act on behalf of or for the customer is so authorized ;
- ❖ To identify and verify the identity of any natural person who ultimately holds a controlling ownership interest in the legal person → this implies the identification of any natural person holding, directly or indirectly through a or multiple corporate entity/ies, **more than 25% of the voting rights/shares** or has an **ownership interest of more than 25% in the customer**.

However, if **no person is identifiable** :

- ❖ If there is any doubt that the person identified as holding a controlling ownership interest is the beneficial owner, it is necessary to identify :
 - any natural person exercising control of the legal person through other means.
- ❖ If no natural person exercises control through a shareholding, it is necessary to identify :
 - any natural person exercising control of the legal person through other means.
- ❖ If no natural person could be identified, it is necessary to identify :
 - any relevant natural person who holds the position of senior managing official.
 -

Concerning costumers legal arrangements (fiducies or trusts), it is necessary to identify :

- Identify the settlor(s) ;
- Identify the fiduciaire(s) or trustee(s) ;
- Identify the protector(s), if any ;
- Identify the class of persons in whose main interest the legal arrangement is set up or operates and any person exercising ultimate control over the said legal arrangement.

¹³ Article 3 (2), first subparagraph, point b), paragraph 2.

Concerning other legal arrangements similar to fiducies or trusts, it is necessary to identify :

- Identify any person holding equivalent or similar positions to those referred to for fiducies or trusts.

Accounting professionals and tax advisors are required to conduct a **monitoring, an update and an ongoing due diligence** on customer and beneficial owner identification information.

In all circumstances, the professionals proceed with the identification of the costumer and the beneficial owner as described above¹⁴.

Concerning information about beneficial owners, it is highly recommended to ask :

- for **legal persons**, an extract on the beneficiary(ies) from the **register of beneficial owners** ;
- for **legal arrangements**, an extract on the beneficiary(ies) from the **register of fiduciary contracts and trusts**.

¹⁴ Article 3 (2a).

1.3. Procedure for entering into a business relationship

1.3.1. Assessment of a possible risk when entering into a business relationship

Under the law of 25 March 2020 amending the law of 12 November 2004, the customer due diligence includes "*assessing and understanding the purpose and intended nature of the business relationship and, as appropriate, obtaining information on the purpose and intended nature of the business relationship*"¹⁵.

The professional shall avoid any business relationship with a customer who does not ensure transparency (wish for anonymity, failure to obtain requested information, etc.).

This type of behavior is considered as a risk behavior → **business relationship to be avoided.**

1.3.2. Identification of the purpose¹⁶ and the nature¹⁷ of the transaction (business relationship entry form)

Accounting professionals and tax advisors are required not only to identify the parties involved in financial transactions but also to identify the purpose and nature of these transactions.

This implies, pursuant to article 3 (2), point c), *assessing and understanding the purpose and intended nature of the business relationship and, as appropriate, obtaining information on the purpose and intended nature of the business relationship.*

The operations taken into account are in particular :

- Operations related to the creation of a company ;
- Operations related to management consulting services ;
- Operations related to tax services ;
- Operations related to accounting services ;
- Operations related to payroll management services ;
- Any operation of the professional generating financial transactions resulting of a service regarding his or her professional activity.

Regarding the transactions carried out in the course of the accounting professional and tax advisor activity, the professional is required :

- to exercise ongoing due diligence of the business relationship, notably by examining the transactions carried out **throughout the duration of this business relationship** ;

¹⁵ Article 3 (2), point c).

¹⁶ Purpose of the transaction: company creation, management services, accounting services, consulting services, etc.

¹⁷ Nature of the transaction includes the contract detailing the service.

- to examine the source of the funds in order to **verify the consistency of the transactions in relation to the professional's knowledge of his customer, his business activities and his risk profile** ;
- to ensure that **particular attention is given to all unusual transactions**, of an abnormally high amount (i.e. check whether the transaction carried out is compatible with the customer's profile) ;
- to ensure that **the documents, data or information** collected in exercising the customer due diligence **are up to date and relevant**, allowing the identification of the purpose and nature of the transaction ;
- to examine existing elements, especially for higher risk customers.

1.4. Record-keeping and ongoing monitoring

Ensure **the retention** of documents, data or information collected for a period of **at least 5 years** after the end of the business relationship with the customer, in order :

- on the one hand, to be able to adapt the customer due diligence during the business relationship and ;
- on the other hand, to be able to make any useful AML/CFT information available to the competent authorities in the context of their supervision.

Evidentiary documents, identification data and information related to the business relationship shall be kept in such a way that the business relationship is traceable and verifiable by the supervisory authorities as well as for the professional himself.

The professionals shall be able to demonstrate to the supervisory authorities, including the AED, that the measures they apply in accordance with the customer due diligence are appropriate in view of the risks of money laundering and terrorist financing¹⁸.

How is this done?

For example : scanned or saved copies in the electronic customer file or copies/prints in the customer's paper record/record file.

The professional shall be able to explain his or her storage procedures provided in the internal formalized procedure/internal policies.

For any purpose or nature of the transaction, the accounting professionals and tax advisors shall identify any person involved in the transaction.

¹⁸ Article 3 (2a), 3rd subparagraph.

For any operation carried out under the professional activity, the required information to be provided for entering into a business relationship is as follows :

➤ **For any type of customer and beneficial owner:**

- Last name ;
- First name ;
- Address ;
- Date and place of birth ;
- Marital status ;
- Correspondence ;
- Registration number ;
- Profession ;
- Certified copy (true copy) of identity card or passport for non-European Union nationals¹⁹.

➤ **For the operation :**

- Description of the purpose of the operation (e.g. is it a service for creating a company, a management consulting service, a tax service, an accounting service, a payroll service or other ?) ;
- Description of the nature of the operation: the service agreement/contract, an engagement/assignment letter that provides information on the purpose of the operation and determines its details ;
- Information on the financing method used by the customer (cash, transfer, check, bitcoin, others).

Each service is based on a contract that the professional shall keep and make available to the inspectors of the Anti-fraud Unit at their request.

Information concerning the beneficial owners shall also be retained in the same way as those concerning the customers for a period of 5 years after the end of the business relationship.

The above-mentioned list of requested information is not exhaustive.

¹⁹ <https://pfi.public.lu/content/dam/pfi/pdf/blanchiment/ciruculaire/circulaire-ID-PP-traduction.pdf>

1.5. Types of due diligence

In any case, the professional is required to have a **customer due diligence** when entering into a business relationship.

When the professional identifies a lower risk of money laundering and terrorist financing, he may apply **simplified customer due diligence**.

In certain circumstances, the professional shall exercise **enhanced customer due diligence**, in particular when :

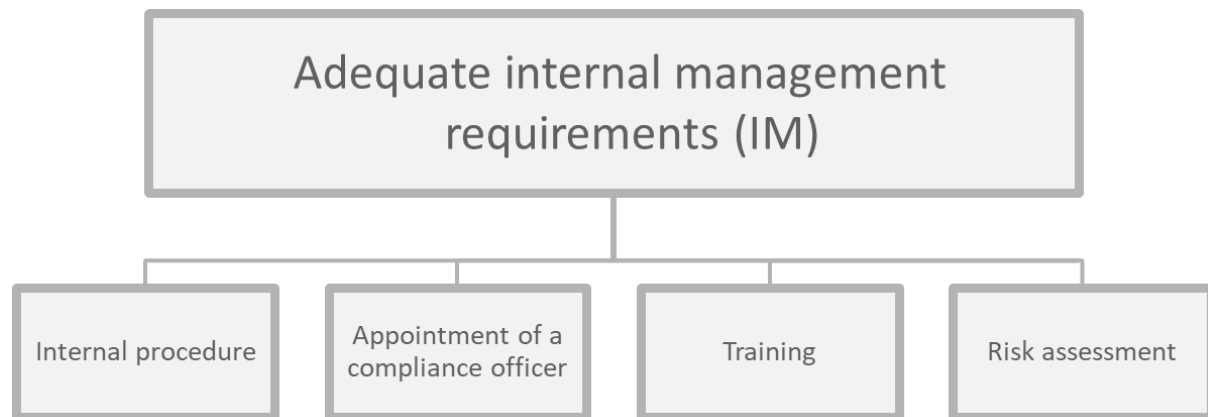
- the customer (natural person) is not physically present for identification ;
- it appears that the customer resides abroad ;
- the business relationship or transaction involves a high-risk country or is conducted in an unusual pattern ;
- the customer is a PEP ;
- the customer is a legal person or any other legal arrangement whose beneficial owner could be a PEP, as it could be the case for patrimonial companies, trusts, or family businesses that belong directly or indirectly to a PEP.

Simultaneously with the type of vigilance the professional is required to exercise, the professional is required to exercise **ongoing due diligence**.

Indeed, depending on the risk profile of his or her customer, the professional is required to regularly update the documents, data or information related to the business relationship, concerning the customer, the beneficial owner, the source and origin of the funds. This is an ongoing process.

The type of due diligence exercised by the professional must be consistent with the established internal procedure formalizing the risk analysis and determining the risk profile of the customer.

2. Adequate internal management requirements (articles 4, 4-1 and article 2-2 of the 2004 AML/CFT Law, as amended)



Considering the updated information, the risk assessment and the internal procedure must be readapted.

2.1. The implementation of an internal procedure by the professional

The professional is required to set up an adequate internal management that is adequate and proportionate to the size of his or her business in the context of his or her professional activity.

This requirement implies the implementation of an **internal procedure manual regardless of the size of the company and its activity** (instructions for use) which details the procedure put in place to prevent the risks of money laundering and terrorist financing.

The purpose of this document is :

- the description of the internal procedure in place to prevent the risks of money laundering and terrorist financing ;
- the conditions to appoint a person responsible for AML/CFT obligations (Compliance officer) ;
- the organization and/or participation in AML/CFT training programs for employees ;
- the description of the risk assessment adapted to the activity of professionals of the real estate sector and taking into account the results of the NRA and the SNRA.

The internal procedure manual shall be available to all employees.

- In order to prevent the risks of money laundering and terrorist financing, the employees are required to participate in one or more/several AML/CFT **training sessions**.

This training can be organized either internally by the professional him or herself or externally, for example by a professional chamber.

The purpose of participating in such training is to keep employees informed about new legal developments, new techniques, methods and trends regarding AML/CFT obligations.

As a reminder, AML/CFT training must take into account the legal developments of the 2004 AML/CFT Law, as amended.

- The adequate internal management requirements imply the appointment of a **person responsible** for compliance regarding AML/CFT obligations, also known as **compliance officer**, who is an independent person at an appropriate hierarchical level (e.g. at the level of the governing body).

He is adequately resourced to monitor compliance and must act independently.

Pursuant to the 2004 AML/CFT Law²⁰, as amended, the **compliance officer** shall be a member of the Senior management, i.e. any director (*dirigeant*, member of the authorised management) or employee with sufficient knowledge of the professional's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors.

The **compliance officer** is usually the contact person for the competent AML/CFT authorities.

2.2. The implementation of a risk assessment by the professional

- **Accounting professionals and tax advisors** are required to take appropriate measures to **identify, assess and understand** the risks of money laundering and terrorist financing.



The professional is required TO SET UP **A RISK-BASED APPROACH** (risk assessment)

²⁰ Article 1 (19).

The progress of a risk-based approach:



However, there is **no single methodology²¹ for assigning a given level of money laundering and terrorist financing risk to a customer**. Each professional has to provide in its internal management the risk qualification, management and mitigation mechanisms specific to each customer.

Each professional must determine his customer's risk level based on his risk analysis (**determination of the customer's risk level based on the risk assessment formalized in the internal procedure**).

Before classifying a customer into a risk category, the professional must consider all relevant risk factors.

Each customer will be classified as a customer according to its risk profile :

- Either low-risk ;
- Either medium-risk ;
- Either high-risk.

Circumstances that lead to a high-risk profile shall be **identified and documented**.

This process of determining the level of risk is an **ongoing process throughout the existence of the business relationship and will take place, in particular, at the following points in time** :

- a) when accepting the customer ;
- b) whenever an event justifies a review, e.g. change in ownership, change of business activities, relocation of head office, etc. ;
- c) on a regular basis, depending on the risk ranking: for a low-risk customer, this review will take place less frequently than for high-risk customers.

²¹ Obligation to adapt the risk assessment according to the professional activity, the size of the company, the type of customers, etc.

❖ **The classification of the customer may be based on :**

- a) **Risk criteria related to the country of residence** (customer's head office and operational headquarter(s) **of the costumer**, general headquarters or parent company) ;

Indeed, the customer may come from :

- Third countries ;
- Countries blacklisted by international organisations with competence in the field (FATF, UN, OECD) ;
- Countries subject to sanctions, embargos or similar measures issued for example by the UN or by the UE ;
- Countries identified by reliable sources (FATF, OECD, UN, UE) as not having adopted legislation, regulation or other anti-money laundering and counter terrorist financing measures ;
- Countries identified by reliable sources as having known high levels of corruption or of any other criminal activity.

The AED website under the heading "*Blanchiment*" sub-heading "*Prévention et sensibilisation*" provides professionals with circular letters on FATF public disclosures concerning **non or uncooperative countries** in the field of money laundering and terrorist financing.

It is therefore recommended to consult them regularly, particularly when they are updated during the months of February, June and October, in order to keep up to date with the latest information. These lists must imperatively be taken into account when carrying out the risk assessment and determining the costumer's risk level.

b) **Customer risk criteria ;**

Indeed, the risk may be related to :

- the reduced transparency/voluntary anonymity of the customer ;
- the customer's industry/activity sector ;
- the source and origin of the customer's funds²² ;
- the type of transaction chosen by the customer (cash²³, bank transfer, check, bitcoin, etc.)

²² When entering into a business relationship, as well as during all its duration, the professional will be required to have information about the origin of the funds (e.g. from which account the funds come) used to finance the service, as well as information concerning the origin of the funds which provides information on the customer's assets.

²³ **A lower cash payment threshold for persons dealing in goods.**

c) **The risk criteria related to the service or good, requested or used by the customer.**

Indeed, the risk may be related to the type of service (creation of a company, management consulting, tax services, accounting services, payroll management services, etc.) chosen by the customer.

❖ **The risk assessment shall be adapted :**

- to the professional's activity and remain proportionate to the nature and size of his or her business ;
- to the customer's profile and the importance of the transaction.

The above presented criteria are non-exhaustive and not fixed.

Indeed, other criteria than those presented may be taken into account.

These criteria may change according to :

- the Customer profile ;
- the importance of the transaction ;
- the purpose of the transaction ;
- the nature of the transaction.

The professional must ensure that he/she incorporates into his/her risk assessment all risk information identified and communicated by :

- **the national (NRA) and supranational (SNRA) risk assessment AND**
- **the national AML/CFT authorities.**

The risk assessment shall enable the professional to adapt his or her level of due diligence in light of the identified risks. In order to guide the professionals in their assessment, the Law includes three annexes²⁴ that list risk factors inherent to the customer, respectively risk factors indicative of a potentially lower or higher risk of money laundering or terrorist financing.

Persons dealing in goods are subject to the AML/CFT scheme when payments are made or received in cash in an amount of EUR 10,000 or more (previously the threshold was EUR 15,000), whether the transactions or series of transactions are executed in a single operation or in several operations which appear to be linked.

²⁴ See part 3, General information and forms

Based on these examples of situations and transactions which are likely to influence the risk degree, professionals must target, on the basis of an **individual assessment**, the **appropriate level of due diligence** to be implemented with regard to their customers.

It is up to the professionals to assess the risk of transactions, identify those presenting a low risk and apply the appropriate level of due diligence. For this purpose, professionals shall operate based on the risk criteria set out in the annexes to the Law. Indeed, when they assess the money laundering and terrorist financing risks related to :

- certain types of customers ;
- certain geographical areas ;
- certain types of products or services ;
- certain transactions ;
- certain specific distribution channels.

Professionals shall take into account, at a minimum, the risk factors set out in the annexes to the Law.

Article 3-2 of the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, identifies a certain number of higher risk situations in which professionals shall in any event implement enhanced due diligence measures.

These include situations in which professionals :

- maintain business relationships or carry out transactions implying countries identified as high-risk,
- in cross-border banking and financial relationships and other similar relationships,
- as well in the event of a business relationship or transactions with politically exposed persons, including nationals.

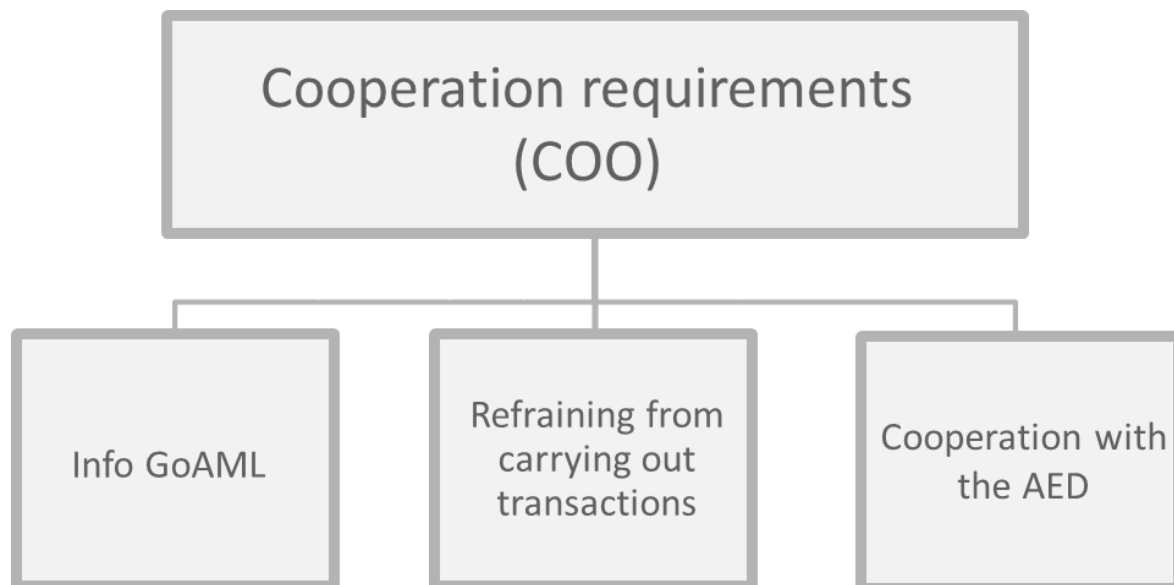
Beyond these situations expressly set out in the Law, professionals are required to assess the risk of all their transactions and apply enhanced due diligence measures when they identify a situation presenting a higher risk of money laundering and terrorist financing.

❖ **Conduct of the risk-based approach :**

In the presence of a high-risk customer, particular attention shall be paid to the following operations :

- Significant banking operations with foreign countries that do not correspond to the knowledge of the customer's activities ;
- Customer, supplier, bank or other third party accounts that are unpaid or without movement for a long period.

3. Cooperation requirements (article 5 of the 2004 AML/CFT Law, as amended)



The 2004 AML/CFT Law, as amended, requires that that special attention must be paid to **any operation or any fact considered as particularly susceptible to be linked to money laundering and/or terrorist financing**, due to :

- the nature or unusual character of the operation/fact in relation to the customer's activities ;
- the circumstances surrounding the operation ;
- the quality of the persons involved in the operation.

What is an unusual operation (transaction/activity) ?

When entering into a business relationship with a customer, certain signals lead to the fact that the operation or the event may be considered as particularly likely to be linked to money laundering and/or terrorist financing.

These signals may consist, for example, of :

- the provision of a service that has no connection with the customer and/or his or her professional activity ;
- the economic purpose does not appear from the transaction and is therefore not definable ;
- the presented invoices are not based on any provided services ;
- the intervention of a professional or a customer from a third country appearing on a black list (lists defined by the competent international organisations, notably the FATF, UN, OECD) ;

- the contribution in kind ;
- the acquisition of important fixed assets ;
- unusual sales or operations by their nature or amount ;
- very high margin operations that may lead to the payment of commissions or compensation ;
- large and unusual compensation payments, commissions or fees ;
-

Which procedure should be followed when one of the above signals is detected ?

- 1) Inform the responsible regarding AML/CFT obligations (Compliance Officer) ;
- 2) Obtain more information on the motivation of the operation and the origin of the funds and assets involved in the operation ;
- 3) Document all information obtained ;
- 4) Provide a description of the research conducted ;
- 5) Write a report/summary that :
 - Traces the history of the carried out research ;
 - Provides the professional's analysis of the operation or fact susceptible to be linked to money laundering and/or terrorist financing ;
 - Describes the procedure initiated by the professional.

When the professional knows, suspects, or has reasonable grounds to suspect that the operation is linked to a money laundering and/or terrorist financing offence, he or she is required to :

TRANSMIT A SUSPICIOUS TRANSACTION REPORT (STR) TO THE FIU (CRF)

The professional **is required to inform promptly²⁵, on his or her own initiative, the FIU** of any fact or operation that could be indicative of money laundering and/or terrorist financing.

All suspicious transactions, including attempted suspicious transactions, shall be reported²⁶.

²⁵ Requires prior registration by the professional in the goAML portal.

²⁶ Article 5 (1), a).

A mere suspicion is enough!



The professional is required to make a STR!

➤ **Who is required to make a STR?**

In principle, the person responsible for the implementation of the 2004 AML/CFT Law, as amended, (compliance officer) within the company is required to make a STR.

If this person is not available, his or her substitute will be required to do so.

If no AML/CFT compliance officer has been appointed within the company, the professional responsible for the customer's file will, if necessary, make the STR to the FIU.

The professional who has continued to execute a transaction suspected of money laundering and/or terrorist financing shall be **held responsible** for AML/CFT matters.

The only way to avoid such responsibility and consequently to avoid a sanction is to make a **suspicious transaction** report to the FIU on its **GoAML portal**²⁷.

In order to use GoAML, registration with a **LuxTrust certificate** is required.

Confidentiality of the STR : Any person in the company who may have knowledge of a STR is not authorised to disclose this information to the customer or to any other person.

The customer who is the subject of a STR shall be assigned a high-risk level of money laundering and/or terrorist financing which requires enhanced due diligence.

- **At the request of the FIU**, the professional is required to provide promptly any required information.
- The professional is in principle²⁸ required to **refrain from carrying out the transaction** that he or she knows or suspects to be linked to money laundering or terrorist financing before informing the FIU.

Where refraining from carrying out transactions is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected operation, the concerned professionals shall inform the FIU immediately afterwards (immediately after the transaction).

²⁷ <https://justice.public.lu/fr/organisation-justice/crf.html>

²⁸ Article 5 (3) of the Law of 12 November 2004, as amended.

- The professional is **obliged to cooperate fully with the Luxembourg authorities responsible for the fight against money laundering and terrorist financing.**

Indeed the professional is required :

- **for desk-based inspections** : to communicate the information requested by the AED;
- **for on-site-inspections** : to provide the requested documents²⁹ and to cooperate in such a way as not to hinder the proper conduct of the inspection by the Anti-fraud Unit.

In the context of the cooperation requirements, **THE PROFESSIONAL WILL BE SUBJECT TO AN INJUNCTION** inviting him or her to transmit all the documents useful for the inspection and/or inviting him or her to cease any behavior contrary to his or her professional obligations.

In accordance with **article 8-2 (1) e)**, the AED, as supervisory authority, has the means to enjoin the professional to cease any practice contrary to his or her professional AML/CFT obligations or to their implementing measures and to refrain from repeating that practice, within the time limit set by the AED.

The injunction is provided in the following legal provisions :

- **Article 8-2 (1) e)** : used to put an end to the violation of one or more of the three main pillar/s ;
- **Article 8-2 (2)** : provides the possibility to impose a coercive fine. The amount of this coercive fine, on the grounds of an observed failure to perform, may not be greater than EUR 1,250 per day, with the understanding that the total amount imposed due to an observed failure to perform may not exceed EUR 25,000 ;
- **Article 8-4 (4)** : possibility of an administrative sanction if the professional :
 - is obstructing the exercise of the supervisory and investigatory powers of the supervisory authorities (AED, CAA, CSSF) ;
 - fails to act in response to injunctions issued in accordance with **article 8-2 (1) e)** ;
 - purposefully provides documents or information that are incomplete, incorrect or false following a request based on **article 8-2 (1)** ;
 - does not comply with the protective provisions for persons having reported a suspicion of money laundering or terrorist financing to the FIU (**article 5 (4) subparagraph 3**) and for persons who have internally reported a suspected ML/FT (whistleblower) to the AED (**article 8-3 (3) subparagraph 1**).

²⁹ See Check-list in the annex.

For ease of understanding, **article 8-2 (1) e) and article 8-2 (2)** will be referred to as ***injunction-means***.

On the other hand, **article 8-4 (4)** will be referred to as ***injunction-sanction***.

The AED will pronounce the injunction only in the event of non-compliance with the cooperation requirements in accordance with **article 5 of the AML/CFT Law, as amended**.

Part 2: SANCTIONS AND REMEDIES

1. Administrative sanctions in the event of non-compliance with AML/CFT obligations

In accordance with **article 8-4 of the Law of 12 November 2004, as amended**, sanctions may be imposed for failure to comply with AML/CFT obligations.

As a supervisory authority, the AED has indeed the power to impose the following **administrative sanctions** on professionals falling under its supervisory scope :

- a warning
- a reprimand
- administrative fines of up to EUR 1,000,000 at the most
- a public statement
- a final or temporary withdrawal of the authorization of establishment (business license) based on the reasoned opinion of the director of the AED but taken by final decision of the Minister of Economy.

In order to comply with the proportionality principle of the sanctions, these will be imposed in a gradual manner, with the warning being the least severe sanction and the fine being, according to its amount, the most severe sanction.

When imposing the sanction, the AED will also take into account the professional's recidivist behavior, which will result in a heavier sanction (which can double the initial penalty).

Indeed, in order to guarantee the respect of the proportionality principle, article 8-5 of the Law of 12 November 2004, as amended, provides for criteria to be taken into account regarding the administrative sanctions pronounced, including :

- the gravity and the duration of the breach ;
- the turnover ;
- the level of cooperation ;
- the existence of previous breaches ;
- the benefit derived from the breach ;
-

2. Administrative remedies (right to appeal to the Administrative Tribunal)

In accordance with **article 8-7 of the Law of 12 November 2004, as amended**, the professional has a right to appeal to the Administrative Tribunal against administrative decisions of the AED imposing a sanction in AML/CFT matters.

Indeed, the article provides that "*The Administrative Tribunal can undertake a full review of the merits of the decision taken by the supervisory authorities in connection with this chapter. The case must be filed within **one month** from the date of notification of the contested decision, or otherwise shall be time-barred*".

Part 3: General information and forms

DEFINITIONS

Reasonable measures

The following is an indicative and non-exhaustive list of what might be considered as being reasonable measures :

- Residency certificate ;
- Criminal record ;
- Invoices showing the customer's address ;
- Documented Internet researches (Google, Bing, Yahoo, Facebook, Twitter, etc.) ;
- BIC (Bank Identifier Code) ;
- Description of the customer's business activity ;
- In case of a corporate group/affiliated company, presentation of the organisation chart ;
- Extracts from the RCS (even foreign) ;
- Identification by KYC software (CDDS, Worldcheck, Dow Jones, others).

The implementation of reasonable measures by the professional shall be verifiable. It is advised to provide for the drafting of an inventory of the research and information collected by the professional.

Outsourcing factors

When the professional delegates the implementation of his or her AML/CFT procedure to a third party, this refers to an outsourcing.

The professional must ensure that the outsourcing contract is established with his supplier, defining a clear and precise execution of the tasks in accordance with the internal AML/CFT procedure.

Article 3-3 provides for the performance of customer due diligence by third parties :

- ➔ Article 3-3 (2) engages the **sole responsibility of the professional**
- ➔ Article 3-3 (5) provides for a **shared responsibility** of the professional and the third party committed by the professional to handle KYC matters.

The inspectors of the Anti-fraud Unit shall have access to the outsourcing contracts concluded by the professional.

PEP

In accordance with article 3-2 (4), politically exposed persons are subject to **enhanced due diligence measures** and the notion of **PEP** is defined more broadly: this notion includes *any natural persons who are or have been entrusted with prominent public functions and family members or persons known to be close associates of such persons, regardless of whether these prominent functions are performed or have been performed abroad or on national territory.*

Customer profile

The customer can be defined according to several criteria :

- Customer from a third country ;
- Customer from a State on a black list established by the international organizations with competencies in the matter (FATF, UN, OECD) ;
- Professional customer of a SME or large company (capital and turnover/sales revenue) ;
- PEP Customer ;
- Unusual, punctual or regular customer ;
- Professional activity or sector of activity of the customer ;
- **TURNOVER/SALES REVENUE (CHIDA).**

The turnover/sales revenue (CHIDA) of the accounting professionals and tax advisors shall inform :

- on the one hand, about the services provided by the professional (creation of a company, management consulting, tax, accounting services, payroll management services, others...) ;
- on the other hand, about the number of transactions according to the provided services.

This list is purely indicative and non-exhaustive.

Non-face-to-face business relationship

In this case, the customer is a natural person who is not physically present at the time of the identification.

Check-list "Identification and entering into a business relationship" (minimas)

ANNEX I

- Customer identification (valid)
- Identification of the beneficial owner and take reasonable measures to verify his or her identity
- Enhanced due diligence for politically exposed persons
- Copy of the identity document certified by the professional :
 - ✓ Certify that you have seen the customer
 - ✓ Responsibility of the professional if no certification of the customer
- The business relationship entry and its purpose (identify the nature and the purpose of the business relationship)
- Identification of the customer company
- Statutes of the legal person/company statutes
- Extract from the RCS
- Organisational chart of the company
- Identification of the representative/mandatary engaging the customer company
- Signing authority on behalf of the customer company
- Record-keeping for a minimum of 5 years
- Origin of the funds (the origin of the future customer's assets and the origin of the funds used to finance the purpose of the business relationship, e.g. which account?)
- Cash payment from EUR 10,000 upwards
- Existence of fractioned payments
- Financing statement
-non-exhaustive list

NON-EXHAUSTIVE LIST OF RISK FACTORS PROVIDED BY 2004 AML/CFT LAW³⁰

ANNEX II

The following is a non-exhaustive list of risk variables that the professionals shall consider when determining to what extent to apply customer due diligence measures in accordance with **article 3 (2a)** :

- (i) The purpose of an account or relationship ;
- (ii) The level of assets to be deposited by a customer or the size of transactions undertaken ;
- (iii) The regularity or duration of the business relationship.

ANNEX III

The following is a non-exhaustive list of factors and types of evidence of potentially lower risk referred to in the **second subparagraph of article 3-1 (2)** :

1) Customer risk factors :

- (a) Public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership ;
- (b) Public administrations or enterprises from countries or territories having a low level of corruption ;
- (c) Customers that are resident in geographical areas of lower risk as set out in point (3).

2) Product, service, transaction or delivery channel risk factors :

- (a) Life insurance policies for which the premium is low ;
- (b) Insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral ;
- (c) A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme ;
- (d) Financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes ;

³⁰ Law of 12 November 2004, as amended

- (e) Products where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership (particularly, certain types of electronic money).

3) Geographical risk factors “registration, establishment, residence in” :

- (a) Member States ;
- (b) Third countries having effective anti-money laundering and counter terrorist financing systems ;
- (c) Third countries identified by credible sources as having a low level of corruption or other criminal activity ;
- (d) Third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the revised FATF Recommendations and effectively implement those requirements.

ANNEX IV

The following is a non-exhaustive list of factors and types of evidence of potentially higher risk referred to in **the second subparagraph of article 3-2 (1) :**

1) Customer risk factors :

- (a) The business relationship is conducted in unusual circumstances ;
- (b) Customers that are resident in geographical areas of higher risk as set out in point (3) ;
- (c) Legal persons or arrangements that are personal asset-holding vehicles ;
- (d) Companies that have nominee shareholders or shares in bearer form ;
- (e) Businesses that are cash-intensive ;
- (f) The ownership structure of the company appears unusual or excessively complex given the nature of the company’s business ;
- (g) Customer is a third-country national who applies for residence rights or citizenship in exchange of capital transfers, purchase of property or government bonds, or investment in corporate entities.

2) Product, service, transaction or delivery channel risk factors :

- (a) Private banking ;
- (b) Products or transactions that might favor anonymity ;
- (c) Non-face-to-face business relationships or transactions, without certain safeguards, such as electronic identification means, relevant trust services as defined in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognized, approved or accepted by the relevant national authorities ;
- (d) Payment received from unknown or unassociated third parties ;
- (e) New products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products;
- (f) Transactions related to oil, arms, precious metals, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or of rare scientific value, as well as ivory and protected species.

3) Geographical risk factors :

- (a) Without prejudice to **article 3-2(2)**, countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective anti-money laundering and counter terrorist financing systems ;
- (b) Countries identified by credible sources as having significant levels of corruption or other criminal activity ;
- (c) Countries subject to sanctions, embargos or similar measures issued by, for example, the European Union or the United Nations ;
- (d) Countries providing funding or support for terrorist activities, or that have designated terrorist organizations operating within their country.

Examples of FORMS

IDENTIFICATION FORM - NATURAL PERSON – CUSTOMER

Customer due diligence (article 3 and seq. of the Law of 12 November 2004, as amended)

| | |
|------------------------------|--|
| Reference/Folder No. | |
| Name of the customer | |
| Person in charge of the file | |

1. Estimating the risk of money laundering

Purpose and nature of the mission/operation/business relationship³¹:

Assessment of the risk of money laundering³² : YES NO

If YES, level of risk assessed :

- Low
 Medium
 High

Justification of the level of risk³³ :

2. Personal data

| | | | |
|----------------|--|---------------|--|
| First name | | Last name | |
| Place of birth | | Date of birth | |
| Street | | No. | |
| Postal code | | City | |
| Tel | | Mobile No. | |
| | | E-mail | |

³¹ Brief description of the purpose and nature of the mission/operation/business relationship.

³² Provisional estimate of the risks of money laundering (low/medium/high).

³³ List the elements justifying the level of risk.

| | | | |
|--|--|-------------------------|--|
| 3. Verification of the personal data³⁴ | | | |
| <input type="checkbox"/> “Face to Face”, the customer is physically present | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | |
| Passport ³⁵ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | |
| Validity date | | | |
| <input type="checkbox"/> “Non-face-to-face business relationship”, the customer is not physically present | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | |
| Passport ³⁶ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | |
| Certification | <input type="checkbox"/> Yes <input type="checkbox"/> No | Issued by ³⁷ | |
| Date of certification | | | |

| | |
|--------------------------------------|--|
| 4. “PEP” control³⁸ | |
| Is the individual a “ PEP” | <input type="checkbox"/> Yes ³⁹ <input type="checkbox"/> No |

| |
|--|
| 5. Nature and purpose of the business relationship |
| Description of the nature of the mission/operation/business relationship : |
| |

| | |
|---|--|
| 6. Identification of the beneficial owners (BO)⁴⁰ | |
| Are the BOs identified ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Is the BO’s declaration completed? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Established in | Signature |
| Last name and first name of the professional, responsible for the application of the 2004 AML/CFT Law ⁴¹ | |

| | |
|--|--|
| Mission for the customer completed at the date of | |
| Data compilation/verification on | |
| First name, last name and signature of the professional | |

³⁴ Take a copy (paper or electronic) of the document on the basis of which the identity was verified.

³⁵ Mandatory for all natural persons residing outside the European Union.

³⁶ Mandatory for all natural persons residing outside the European Union.

³⁷ Inform about the public authority that issued the certification.

³⁸ **PEP**: Politically Exposed Person or **PPE**: personne politiquement exposée.

³⁹ If so, enhanced due diligence shall be applied!

⁴⁰ BO: Beneficial owner, please use the BO declaration form.

⁴¹ Law of 12 November 2004, as amended.

IDENTIFICATION FORM – NATURAL PERSON – REPRESENTATIVE

Customer due diligence (article 3 and seq. of the Law of 12 November 2004, as amended)

| | |
|------------------------------|--|
| Reference/Folder No. | |
| Name of the customer | |
| Person in charge of the file | |

1. Estimating the risk of money laundering

Purpose and nature of the mission/operation/business relationship⁴²:

Assessment of the risk of money laundering⁴³ : YES NO

If YES, level of risk assessed :

- Low
 Medium
 High

Justification of the level of risk⁴⁴:

2. Personal data

| | | | | | |
|----------------|--|---------------|--|--------|--|
| First name | | Last name | | | |
| Place of birth | | Date of birth | | | |
| Street | | No. | | | |
| Postal code | | City | | | |
| Tel | | Mobile No. | | E-mail | |

⁴² Brief description of the purpose and nature of the mission/operation/business relationship.

⁴³ Provisional estimate of the risks of money laundering (low/medium/high).

⁴⁴ List the elements justifying the level of risk.

| | | | |
|--|--|-------------------------|--|
| 3. Verification of the personal data⁴⁵ | | | |
| <input type="checkbox"/> “Face to Face”, the representative is physically present | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | |
| Passport ⁴⁶ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | |
| Validity date | | | |
| <input type="checkbox"/> “Non-face-to-face business relationship”, the representative is not physically present | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | |
| Passport ⁴⁷ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | |
| Certification | <input type="checkbox"/> Yes <input type="checkbox"/> No | Issued by ⁴⁸ | |
| Date of certification | | | |

| | |
|--------------------------------------|--|
| 4. “PEP” control⁴⁹ | |
| Is the individual a “PEP”? | <input type="checkbox"/> Yes ⁵⁰ <input type="checkbox"/> No |

| |
|---|
| 5. Powers of representation |
| Description and documentation of the power of representation (mandate or other evidentiary and relevant documents) |
| |

| | | |
|---|--|------------------|
| Established in | | Signature |
| Last name and first name of the professional, responsible for the application of the 2004 AML/CFT Law ⁵¹ | | |

| | |
|--|--|
| Mission for the customer/ representative completed by /at the date of | |
| Data compilation/verification on | |
| First name, last name and signature of the professional | |

⁴⁵ Take a copy (paper or electronic) of the document on the basis of which the identity was verified
⁴⁶ Mandatory for all natural persons residing outside the European Union.
⁴⁷ Mandatory for all natural persons residing outside the European Union.
⁴⁸ Inform about the public authority that issued the certification
⁴⁹ **PEP**: Politically Exposed Person or **PPE**: personne politiquement exposée
⁵⁰ If so, enhanced due diligence shall be applied!
⁵¹ Law of 12 November 2004, as amended

IDENTIFICATION FORM – LEGAL PERSON – LEGAL STRUCTURE – CUSTOMER

Customer due diligence (article 3 and seq. of the Law of 12 November 2004, as amended)

| | |
|-------------------------------------|--|
| Reference/Folder No. | |
| Name of the customer | |
| Person in charge of the file | |

1. Estimating the risk of money laundering

Purpose and nature of the mission/operation/business relationship⁵²:

Assessment of the risk of money laundering⁵³ : YES NO

If YES, level of risk assessed:

- Low
 Medium
 High

Justification of the level of risk⁵⁴:

2. Is the legal person?⁵⁵

A credit or financial institution in Luxembourg or in the EU? Yes No

A company listed on the stock exchange in Luxembourg or in the EU? Yes No

A BO of grouped accounts kept by notaries or members of another independent legal profession? Yes No

A Luxembourg public authority? Yes No

3. Legal person

| | | | |
|----------------------|--|--------------------------------|--|
| Name | | Legal form | |
| Coordinated statutes | <input type="checkbox"/> Yes <input type="checkbox"/> No | RCS No. or other ⁵⁶ | |

⁵² Brief description of the purpose and nature of the mission/operation/business relationship.

⁵³ Provisional estimate of the risks of money laundering (low/medium/high).

⁵⁴ List the elements justifying the level of risk.

⁵⁵ If the legal person does not fall into one of these categories, continue the questionnaire. If yes, the following items are optional, unless there is a different acceptance procedure (internal procedure specific to the professional).

⁵⁶ e.g. foreign company number.

| Head Office | | | | | | |
|----------------------------------|--|------------|--|--------|-----|--|
| Street | | | | | No. | |
| Postal code | | City | | | | |
| Tel | | Mobile No. | | E-mail | | |
| Seat of operations ⁵⁷ | | | | | | |
| Street | | | | | No. | |
| Postal code | | City | | | | |
| Tel | | Mobile No. | | E-mail | | |

| 4. Management of the legal person | | |
|--|-----------------------|--|
| First name + Last name/ Legal form + company name ⁵⁸ | Quality ⁵⁹ | Publication : designation/powers of representation ⁶⁰ |
| | | |

| 5. Nature and purpose of the business relationship |
|---|
| Description of the nature of the mission/operation/business relationship: |

| 6. Identification of the beneficial owners (BO) ⁶¹ | |
|---|--|
| Are the BOs identified ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Is the BO's declaration completed? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

⁵⁷ Only if the address is different from the head office address.

⁵⁸ Individual directors, who are responsible for the day-to-day management and signing the contract or letter of assignment, shall be identified as natural persons.

⁵⁹ Manager, director, member of the management committee or other capacity as permanent representative of the legal person.

⁶⁰ Recent extract from the RCS or equivalent if it is a legal person not established in Luxembourg.

⁶¹ BO: beneficial owner, Please use the BO declaration form.

| | | |
|---|--|------------------|
| Established in | | |
| Last name and first name of the professional, responsible for the application of the 2004 AML/CFT Law ⁶² | | |
| | | Signature |

| | |
|--|--|
| Mission for the customer completed at the date of | |
| Data compilation/verification on | |
| First name, last name and signature of the professional | |

⁶² Law of 12 November 2004, as amended.

IDENTIFICATION FORM – LEGAL PERSON – LEGAL STRUCTURE – REPRESENTATIVE

Customer due diligence (article 3 and seq. of the Law of 12 November 2004, as amended)

| | |
|-------------------------------------|--|
| Reference/Folder No. | |
| Name of the customer | |
| Person in charge of the file | |

1. Estimating the risk of money laundering

Purpose and nature of the mission/operation/business relationship⁶³:

Assessment of the risk of money laundering⁶⁴: YES NO

If YES, level of risk assessed:

- Low
 Medium
 High

Justification of the level of risk⁶⁵:

2. Is the authorised legal person?⁶⁶

A credit or financial institution in Luxembourg or in the EU? Yes No

A company listed on the stock exchange in Luxembourg or in the EU? Yes No

A BO of grouped accounts kept by notaries or members of another independent legal profession? Yes No

A Luxembourg public authority? Yes No

3. Legal person acting as representative

| | | | |
|-----------------------------|--|--------------------------------------|--|
| Name | | Legal form | |
| Coordinated statutes | <input type="checkbox"/> Yes <input type="checkbox"/> No | RCS No. or other⁶⁷ | |

⁶³ Brief description of the purpose and nature of the mission/operation/business relationship.

⁶⁴ Provisional estimate of the risks of money laundering (low/medium/high).

⁶⁵ List the elements justifying the level of risk.

⁶⁶ If the legal person does not fall into one of these categories, continue the questionnaire. If yes, the following items are optional, unless there is a different acceptance procedure (internal procedure specific to the professional).

⁶⁷ e.g. foreign company number.

| Head Office | | | | | | |
|--|--|------------|--|--------|-----|--|
| Street | | | | | No. | |
| Postal code | | City | | | | |
| Tel | | Mobile No. | | E-mail | | |
| Seat of operations⁶⁸ | | | | | | |
| Street | | | | | No. | |
| Postal code | | City | | | | |
| Tel | | Mobile No. | | E-mail | | |

| 4. Management of the representative legal person | | |
|--|-----------------------|---|
| First name + Last name/ Legal form + company name ⁶⁹ | Quality ⁷⁰ | Publication : designation /powers of representation ⁷¹ |
| | | |

| 5. Powers of representation |
|---|
| Description and documentation of the power of representation (mandate or other evidentiary and relevant documents) |
| |

⁶⁸ Only if the address is different from the head office address.

⁶⁹ Individual directors, who are responsible for the day-to-day management and signing the contract or letter of assignment, shall be identified as natural persons.

⁷⁰ Manager, director, member of the management committee or other capacity as permanent representative of the legal person.

⁷¹ Recent extract from the RCS or equivalent if it is a legal person not established in Luxembourg.

| | | |
|---|--|------------------|
| Established in | | Signature |
| Last name and first name of the professional, responsible for the application of the 2004 AML/CFT Law ⁷² | | |

| | |
|---|--|
| Mission for the customer / representative completed at the date of | |
| Data compilation/verification on | |
| First name, last name and signature of the professional | |

⁷² Law of 12 November 2004, as amended.

DECLARATION OF BENEFICIAL OWNER(S) FORM

| | |
|-------------------------------------|--|
| Reference/Folder No. | |
| Name of the customer | |
| Person in charge of the file | |

The customer declares that on the date of __ / __ / ____, the following natural persons are its beneficial owners and attaches the documents (e.g. a copy of the identity card or passport) on the basis of which the identity of the persons concerned is established.

Mr. / Mrs., declares to be the beneficial owner of the company up to% of shareholding.

| Data of the beneficial owner 1 | | | | | |
|--|--|-------------------------|--|--------|-----|
| First name | | Last name | | | |
| Place of birth | | Date of birth | | | |
| Street | | | | | No. |
| Postal code | | City | | | |
| Tel | | Mobile No. | | E-mail | |
| Verification of the identity documents of the beneficial owner 1 ⁷³ | | | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | | | |
| Passport ⁷⁴ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | | | |
| Validity date | | | | | |
| Certification | <input type="checkbox"/> Yes <input type="checkbox"/> No | Issued by ⁷⁵ | | | |
| Date of certification | | | | | |

⁷³ Collect or take a copy (paper or electronic) of the document on the basis of which the identity was verified.

⁷⁴ Mandatory for all natural persons residing outside the European Union.

⁷⁵ Inform about the public authority that issued the certification.

Mr. / Mrs., declares to be the beneficial owner of the company up to% of shareholding.

| Data of the beneficial owner 2 | | | | | |
|--|--|-------------------------|--|--------|-----|
| First name | | Last name | | | |
| Place of birth | | Date of birth | | | |
| Street | | | | | No. |
| Postal code | | City | | | |
| Tel | | Mobile No. | | E-mail | |
| Verification of the identity documents of the beneficial owner 2 | | | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | | | |
| Passport ⁷⁶ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | | | |
| Validity date | | | | | |
| Certification | <input type="checkbox"/> Yes <input type="checkbox"/> No | Issued by ⁷⁷ | | | |
| Date of certification | | | | | |

Mr. / Mrs., declares to be the beneficial owner of the company up to% of shareholding.

| Data of the beneficial owner 3 | | | | | |
|--|--|-------------------------|--|--------|-----|
| First name | | Last name | | | |
| Place of birth | | Date of birth | | | |
| Street | | | | | No. |
| Postal code | | City | | | |
| Tel | | Mobile No. | | E-mail | |
| Verification of the identity documents of the beneficial owner 3 | | | | | |
| ID Card | <input type="checkbox"/> Yes <input type="checkbox"/> No | ID Card No. | | | |
| Passport ⁷⁸ | <input type="checkbox"/> Yes <input type="checkbox"/> No | Passport No. | | | |
| Validity date | | | | | |
| Certification | <input type="checkbox"/> Yes <input type="checkbox"/> No | Issued by ⁷⁹ | | | |
| Date of certification | | | | | |

⁷⁶ Mandatory for all natural persons residing outside the European Union.

⁷⁷ Inform about the public authority that issued the certification.

⁷⁸ Mandatory for all natural persons residing outside the European Union.

⁷⁹ Inform about the public authority that issued the certification.

The professional reserves the right to terminate his or her relationship with the customer if it appears that the information provided is inaccurate or incomplete. The data will be treated confidentially.

I/we declare on my/our honor that the provided data in this declaration is true and correct and make the commitment to notify any changes as soon as possible.

| Established in | | |
|--|--|------------------|
| Last name(s) and first name(s) and signature(s) of the manager(s), director(s), beneficial owner(s) or other authorized representative(s) who drew up this declaration | | Signature |

