



FAQ - Persons involved in AML/CFT for a Luxembourg Reserved Alternative Investment Fund (“RAIF”) supervised by the AED for AML/CFT purposes

Question 1: How do the requirements of Article 4(1) of the Law of 12 November 2004 as amended (“the Law”) that call for the appointment of two different persons in charge of AML/CFT need to be implemented by a Luxembourg RAIF supervised for AML/CFT purposes by the AED?

Article 4 (1) (fourth paragraph and second paragraph, sub-paragraph a) of the Law requires professionals to appoint:

1. a person among the members of their management bodies, responsible for compliance with the professional obligations as regards the fight against money laundering and terrorist financing (the original French version of the law refers to a “responsable du respect des obligations” and thus, the acronym “RR” will be used hereafter), and
2. if the size and nature of the activity so require, a compliance officer at appropriate hierarchical level (the original French version of the law refers to a “responsable du contrôle du respect des obligations” and thus, the acronym “RC” will be used hereafter).

Considering the similarities of RAIFs with regulated funds of the collective investment sector and taking into account its ML/FT risk exposure identified by the National Risk Assessment the AED would like to recall that every RAIF subject to its AML/CFT supervision, is legally required to appoint, both an RR and an RC. The following guidelines should be considered when appointing the RR and the RC:

- The RR can be the Board of directors (“BoD”) (or other governing body depending on the legal structure of the RAIF) acting as a collegial body. Alternatively, the BoD may appoint one of its members as RR. The RR must be reachable for any contact by the Luxembourg AML/CFT competent authorities.
- The RC shall be mandated *intuitu personae* by the BoD (or other governing body) of the RAIF.



- The RC may be a member of the BoD with appropriate experience meeting the conditions set forth in the answer to Question 2 below.
- Or, where the RAIF appoints a third party RC, it must enter into a contractual relationship with the RC personally or, where the contract is concluded with the employer of the RC, (i) the contract must name the RC, (ii) any replacement of the RC must be subject to the RAIF's approval and (iii) the RC must acknowledge its appointment in writing.
- Said appointee can for example be chosen among the staff of the designated Alternative Investment Fund Manager (AIFM) of the RAIF.
- As a principle, the RC must be available in Luxembourg for the accomplishment of his/her tasks. However, on an exceptional basis, and under the conditions set forth in the answer to Question 2 below, it is acceptable that the RC is located outside of Luxembourg, if the AIFM and its relevant staff member acting as RC are not domiciled in Luxembourg.

Question 2: What are the conditions applicable to the persons in charge of AML/CFT pursuant to Article 4(1) of the Law?

With respect to the RR, the AED requests notably that the RR:

- has sufficient AML/CFT knowledge with regard to the applicable Luxembourg legislation and regulation and can demonstrate (e.g. trainings) this upon request,
- is knowledgeable about the investments and distribution strategies of the RAIF,
- will be available without delay upon contact by the Luxembourg AML/CFT competent authorities (if the RR is a collegial body, at least one of its members must fulfil this requirement).

With respect to the RC, the AED requests notably that the RC:

- has sufficient AML/CFT knowledge and expertise with regard to the applicable Luxembourg legislation and regulation and can demonstrate (e.g. trainings, work experience, etc.) this upon request,



- is knowledgeable about the investments and distribution strategies of the RAIF,
- will be available without delay upon request by the Luxembourg AML/CFT competent authorities, and
- has access to all internal documents and systems required necessary for performing its tasks. This condition is particularly relevant where the RC is not present in Luxembourg on an on-going basis.

The RC implements the AML/CFT policies and procedures of the RAIF and has the power to propose, on its own initiative, to the BoD (or other governing body depending on the legal structure of the RAIF) any measure useful for this purpose. He must furthermore ensure the quality of the AML/CFT controls performed with regards to his professional obligations.

The RC is the primary contact person of the RAIF for the AED.