

FAQ: Fight against money laundering and terrorist financing in Luxembourg

What are the money laundering and terrorist financing threats and risks for Luxembourg?

Luxembourg periodically updates its National Risk Assessment (NRA) and vertical risk assessments to identify, assess and understand its money laundering and terrorist financing (ML/TF) risks. Overall, the inherent risks associated with ML/TF (i.e. before taking into account the mitigation measures currently in place) are linked to its international financial centre, characterised by a large number of institutions, the importance of assets under management and cross-border flows, fostered by an open and diversified economy.

The mitigating factors put in place by the national framework in anti-money laundering and counter terrorist financing matters (AML/CFT) at the national level, within the various sectors and the authorities responsible for combating ML/TF, reduce the inherent risks to a residual risk level. In general, mitigating factors are greater in the financial sector, which has been the subject of the EU's ML/TF framework since 1991 and which has a good knowledge of the risks and applies AML/CFT measures in a consistent manner.

Threats to Luxembourg arise mainly from the laundering of the proceeds of predicate offences committed abroad. The terrorist financing threat is moderate overall. This can be deduced from the large number of international letters rogatory (CRI) received from abroad and aimed at the seizure of assets derived from predicate offences committed abroad. Most of the suspicious transaction reports received by the Financial Intelligence Unit (CRF) concern cross-border transactions, foreigners or suspicious acts that were carried out abroad.

From 2017-2019, the judicial authorities received 1 701 requests for international mutual assistance, of which 362 related to money laundering. The seizures made based on CRI during the same period amounted to approximately €311.5 million, compared to approximately €92.1 million seized for domestic cases. The CRF, prosecutors and investigative judges cooperate regularly with their foreign counterparts, particularly within the EU.

The most frequent predicate offences relate to fraud and forgery, tax offences, corruption and drug trafficking. Worldwide, it is estimated that these four categories of predicate offences account for more than 70% of criminal proceeds. At the national level, these four categories of offences account for approximately 57% of the CRIs received between 2017 and 2019 and for approximately 45% of the seizures made.

The latest NRA can be found at:

<https://mj.gouvernement.lu/dam-assets/dossiers/blanchiment/NRA-2020.pdf>

How are holding companies, investment companies and investment vehicles supervised in terms of the fight against ML/TF?

The rules on combating ML/TF apply to these companies in the same way they would to any other company. In Luxembourg, professionals advising and assisting groups or fund managers in the creation of a new company are subject to the AML/CFT legislation.

They are subject to all professional obligations and, in particular, the due diligence obligations. Professionals must identify their client, the beneficial owners, assess and understand the purpose and nature of the business relationship and conduct ongoing due diligence of the business relationship, in particular by examining the transactions entered into throughout the duration of the business relationship and, if necessary, by verifying the origin of the funds.

Furthermore, professionals, their directors and employees are obliged to report suspicious transactions, including attempted suspicious transactions, to the CRF, regardless of the amount of the transaction, without professional secrecy applying. The identity of the reporting entities is protected.

In addition to cooperating with the CRF, professionals are obliged to cooperate fully with supervisory authorities and self-regulatory bodies. These supervisors are responsible for ensuring compliance with professional obligations by regulated professionals in the financial and non-financial sector. In 2019, supervisors conducted more than 250 on-site inspections, in addition to desk-based inspections. They applied more than 90 corrective measures (in the form of warnings, reprimands, fines, etc.) to remedy approximately 300 cases of non-compliance with professional obligations.

What is the number of prosecutions and convictions in ML matters?

In 2019, 361 people were convicted for ML, of which 217 received prison sentences.

What is the mechanism to combat money laundering and terrorist financing?

Luxembourg has a comprehensive AML/CFT system covering prevention, detection, prosecution and asset recovery. In 2009, Luxembourg implemented a wide-ranging reform of its AML/CFT legal framework and strengthened its institutional structures. Since then, this framework has been continuously adapted to the evolution of ML/TF risks and to international standards in this area.

The Law of 12 November 2004 on the fight against money laundering and terrorist financing (2004 AML/CFT Law), as amended, is the cornerstone of this system. In particular, it contains provisions relating to professional obligations, supervisory powers of supervisors, administrative, disciplinary and criminal sanctions and national and international cooperation arrangements.

The 2004 AML/CFT Law has been amended on numerous occasions, in particular to transpose the 4th and 5th European Directives and to extend its scope of application to new categories of professionals, such as virtual asset service providers (VASPs). In addition, the supervisory and sanctioning powers of self-regulatory bodies (SRBs) were harmonised in 2020.

Following the last mutual evaluation of Luxembourg by the FATF (2009), the means of the financial sector supervisory authorities were considerably strengthened. As such, all their supervisory activities are dictated by the risk-based approach. Following the first national risk assessment in 2018, some SRBs increased the level of specialisation of their supervisory teams and are in the process of finalising their risk-based approach. In general, supervisors have increased their level of engagement with professionals.

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The role of the CRF

The CRF receives and analyses suspicious transaction reports (STRs) and other information and disseminates the results of its analyses to the competent national authorities and foreign counterparts. The CRF is independent and autonomous. It is headed by magistrates administratively attached to the General State Prosecutor's Office.

The CRF operates a secure portal, called goAML, to communicate with regulated professionals and certain competent authorities. All STRs made by professionals and requests for information addressed to professionals pass through this portal.

The CRF has access to a wide range of databases and has significant IT capacity to carry out its analyses.

In addition, the CRF has the power to freeze assets for an indefinite period of time.

With regard to the physical transport of cash, the CRF can freeze cash for up to three months upon request of the Customs and Excise Administration (ADA).