

Luxembourg, 14 November 2023

Circular letter 23/14 of the Commissariat aux Assurances on the Guidelines on policies and controls for the effective management of money laundering and terrorist financing risks when providing access to financial services

Ladies and Gentlemen,

This Circular letter is addressed to all undertakings and persons under the supervision of the CAA (the "professionals"), who are subject to the obligations as regards the fight against money laundering and terrorist financing ("AML/CFT").

The purpose of this circular letter is to draw the attention of the professionals to the publication by the European Banking Authority (EBA) of the Guidelines EBA/GL/2023/04 (hereinafter, the "Guidelines"), complementing the Guidelines on money laundering and terrorist financing risk factors (ref. EBA/GL/2021/02), as amended (cf. Circular letter CAA 23/13 of 14 November 2023).

The Guidelines follow up on the publication in January 2022 of an opinion¹ by EBA on de-risking within the EU, which analysed, amongst others, the impact of credit and financial institutions' decisions to refuse to enter into or to terminate business relationships with individual customers or categories of customers associated with higher money laundering and terrorist financing (ML/TF) risk, and the European Commission's request to EBA to issue guidelines on the steps institutions should take to facilitate access to financial services by the categories of customers identified in the opinion as being particularly vulnerable to unjustified de-risking.

The Guidelines EBA/GL/2023/04 specify the policies, procedures and controls credit and financial institutions should have in place to mitigate and effectively manage ML/TF risks in accordance with Article 8(3) of Directive (EU) 2015/849. The Guidelines also specify that the approach by institutions to applying customer due diligence (CDD) measures should not result in them unduly denying customers legitimate access to financial services.

The Guidelines also address aspects relating to the complaint mechanism that the professionals should have put in place to ensure that customers can complain if they feel they have been treated unfairly.

The Commissariat aux Assurances notified EBA (European Banking Authority) of its compliance with the Guidelines. In this regard it should be noted that since 1 January 2020, the EBA has been solely responsible for leading, coordinating and monitoring AML/CFT efforts across the entire EU financial system, following changes to Regulation (EU) No 1093/2010 by Regulation (EU) 2019/2175.

¹ EBA Opinion on de-risking (uniquement en anglais)

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Opinions/2022/Opinion%20on%20de-risking%20%28EBA-Op-2022-01%29/1025705/EBA%20Opinion%20and%20annexed%20report%20on%20de-risking.pdf

We invite you to consult the Guidelines EBA/GL/2023/04 at the following Internet address:

https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2023/1054144/Guidelines%20on%20MLTF%20risk%20management%20and%20access%20to%20financial%20services.pdf

Please note that the English version of the publication of the Guidelines contains a 'Final Report' which has not been included in its translations.

The Executive Committee