

Circular letter 23/9 from the Commissariat aux Assurances on the information sheet of the insurance agencies' annual reporting

Dear Sir or Madam,

By way of the Law of 7 December 2015 on the insurance sector, as amended (hereinafter the "LSA") the activity of an insurance agency is submitted to the supervision of the Commissariat aux Assurances (hereinafter the "**CAA**").

In order to carry out properly its supervisory role and adopt a risk-based approach, the CAA must not only ensure that the information it holds on supervised insurance agencies is reliable and up to date, but it must also be aware of the size of the agency's business, the type of policies it markets and, more generally, an understanding of the agency's overall business.

The purpose of this circular letter is therefore to introduce Annual Reporting for Agencies, designed to make the CAA's supervision of insurance agencies more effective.

The Agencies' Annual Reporting File will be divided into two parts:

- A. the "report" section of the Annual Reporting File;
- B. the "information sheet" section of the Annual Reporting File;

The first part (A) concerns the figures for the insurance agency's distribution business for the reference year.

The second part (B) concerns general information about the insurance agency.

To allow insurance agencies to familiarise themselves with the Annual Reporting process, **only part (B)** will initially be sent to insurance agencies, which must return it to the CAA, duly completed and accompanied by the documents listed in this circular letter, **by 31.07.2023 at the latest**. The purpose of this circular letter is therefore to provide clarification on the completion of part (B) only.

From 2024 onwards, insurance agencies will have to complete the full Annual Reporting File each year, i.e. including the first part (A) **and** the second part (B). A circular letter containing details of how to complete part (A) will be published in due course so that insurance agencies can familiarise themselves with it before having to fill in details of their insurance business during the 2023 reference year for the first time in 2024.

1. **Part (B) of the Annual Reporting File and the documents listed under point 4 below must be in the CAA's possession by 31.07.2023 at the latest.**
2. **The insurance agent(s) responsible for the day-to-day management of the agency in terms of insurance distribution is/are responsible for the quality and accuracy of the information provided and the documents supplied as part of the annual reporting.**
3. The Agencies' Annual Reporting File should only be sent electronically to the email address reporting_agences@caa.lu. Agencies are asked to refrain from providing the Annual Reporting File in paper form, unless expressly requested to do so by the CAA.
4. The following documents and information must be sent by any agency by email to the CAA officer in charge of Annual Reporting who is specified in the *table of content* (ToC) of the Annual Reporting File:
 - a) A covering letter, where required by this circular letter; (*)
 - b) The report of the statutory auditor or the réviseur d'entreprises (agr  ), as the case may be ;
 - c) For all insurance agents responsible for the day-to-day management of the insurance distribution business, a declaration on their honour concerning
 - the address of the private residence; and
 - the absence or existence of criminal convictions in the European Union; (*)
 - d) an up-to-date version of the articles of association, i.e. the company's memorandum and articles of association, or in the case of subsequent amendments, a version of the articles of association including all the amendments made thereto;
 - e) An up-to-date group chart, dated and signed by the insurance agency
 - i. showing all direct or indirect shareholders/associates, whether natural persons or legal entities, holding at least 10% of the capital or voting rights ("qualifying holding") in, or exercising control over, the insurance agency, as indicated in modules "FIR.A.0070" and "FIR.A.0071";
 - ii. showing all the insurance agency's contributions, as entered in the module "FIR.A.0080";
 - iii. showing all the branches of the insurance agency, as entered in the module "FIR.A.0060";
 - iv. indicating the respective LEI codes, if any,
 - v. indicating the respective participation rates,
 - vi. indicating the date of the first qualifying shareholding, and
 - vii. highlighting by way of colour code the supervised entities and the respective supervisory authorities. (*)

The standard organisation chart provided with the Annual Reporting File shall be used as a mandatory basis for the group chart of the insurance agency.

 - f) An extract from the Trade and Companies Register (RCS) that is up to date on the date of submission of the Annual Report and less than 3 months old;
 - g) An extract from the register of beneficial owners (RBE) that is up to date on the date of submission of the annual report and less than 3 months old.

(*) Documents marked with an asterisk must also be submitted to the CAA in their original version, unless they include a qualified electronic signature.

5. Module FIR.A.0010 "Information on the insurance agency"

The most common legal forms can be selected from the drop-down menu in column "R0020". If the legal form of the agency is not listed, please select the "other type of commercial company" option and specify the legal form of the insurance agency in the covering letter. For information purposes, the legal form is specified in the insurance agency's articles of association.

Concerning the LEI code in line "R0030", reference is made to *Circular letter 22/13 of the Commissariat aux Assurances on the revised EIOPA Guidelines on the use of the Legal Entity Identifier (LEI) by insurance and reinsurance intermediaries and insurance intermediaries on an ancillary basis*.

Line "R0120" must include all trade names, signs and/or brands used by the insurance agency that differ from its corporate name.

For lines "R0130", "R0140" and "R0150", if the option "Other" is selected in the drop-down menu, the agency is asked to specify the activity in question in the covering letter and to provide the relevant NACE code (https://guichet.public.lu/fr/outils/code_nace.html).

6. Module FIR.A.0020 "Approved agents linked to the insurance agency"

All agents linked to the agency must be entered in the module. If the agent is linked to the agency by an employment contract, the "true" option must be selected in column "C0040". However, if the agent is not linked to the agency by an employment contract, the agency must select "false" in the "C0040" drop-down menu and specify the means by which the approved agent is linked to the agency.

Columns "C0050" and "C0060" must show the date on which the agent began, or ceased, working as a licensed insurance agent for the insurance agency.

"Registration in a register of distributors in another Member State" (column "C0070") means authorisation or registration in a personal capacity as an insurance intermediary issued by a competent authority in another State (whether or not a member of the EEA). Activities carried out in another EEA Member State under the freedom to provide services or the freedom of establishment, as provided for in Directive (EU) 2016/97 on insurance distribution, do not need to be indicated here. If "true" is selected in the drop-down menu, details, including at least the State of registration, the category of (re)insurance intermediary and the identification number of the register of distributors must be provided in the covering letter.

By "Position with an insurance or reinsurance undertaking or another intermediary" (column "C0080") is meant both positions held with Luxembourg and foreign insurance or reinsurance undertakings and positions held with Luxembourg or foreign insurance or reinsurance intermediaries other than the agency itself. If "true" is selected in the drop-down menu in column "C0080", the agency must specify in the covering letter exactly which function is concerned and with which entity.

The following options are available:

- The agent is personally registered in the register of distributors of another Member State and works for a (re)insurance company or another intermediary (e.g. director, manager or employee of a Luxembourg or foreign insurance agency).
→ "True" must be selected in columns "C0070" and "C0080".
- The agent is not personally registered in the register of distributors of another Member State, but works for a (re)insurance company or another intermediary (e.g. director, manager or employee of a Luxembourg or foreign insurance agency).
→ "False" must be selected in column "C0070" and "True" must be selected in column "C0080".

- The agent is personally registered in the register of distributors of another Member State, but does not work for a (re)insurance company or another intermediary.
→ "True" must be selected in column "C0070" and "False" must be selected in column "C0080".
- The agent is not personally registered in the register of distributors of another Member State and does not work for a (re)insurance company or another intermediary.
→ "False" must be selected in columns "C0070" and "C0080".

It is important to specify that the business telephone number (mobile or landline) (column "C0130") and the business e-mail address (column "C0140") of the agents must correspond to their professional data and not to the general contact information of the insurance agency.

7. Module FIR.A.0030 "Distribution points in Luxembourg".

This module must include any local distribution points that the agency has in addition to its head office. This includes any offices of the insurance agency located at an address other than the agency's head office, and where agents linked to the insurance agency carry out distribution activities on its behalf.

This does not include branches of the insurance agency, as defined in article 279, point 31 of the LSA, located abroad, which must be entered exclusively in the module "FIR.A.0060".

8. Module FIR.A.0040 "Composition of the statutory body".

All members of the statutory bodies of the insurance agency must be listed, as well as the persons delegated for day-to-day management, if any.

For limited liability companies with a "technical manager" and an "administrative manager", these two people must be indicated as the "manager".

The term "person appointed for the day-to-day management" refers to the person listed as such on the extract from the RCS. Where the agency carries out other activities in addition to insurance distribution, this person need not necessarily correspond to the agent(s) responsible for the agency's day-to-day management regarding its insurance distribution activity, who must be entered in module "FIR.A.0050".

In the drop-down menu in column "C0050", please select the predominant country of residence for the last 5 years.

"Start of mandate" (column "C0070") refers to the date of the person's first appointment as a member of the statutory body.

If the statutory body of the insurance agency comprises a member being a legal entity, the permanent representative of that entity must be entered in this module. The exact corporate name of the legal entity represented shall be indicated in column "C0090", followed by the registration number in the Trade and Companies Register (RCS or foreign equivalent).

If the option "Member of a statutory body of another type of commercial company" is selected in the drop-down menu in column "C0010", the agency is asked to specify in the covering letter the statutory body of the agency to which the person entered belongs.

If a natural or legal person performs more than one function for the agency (e.g. manager and delegate for day-to-day management), the agency must specify all the functions performed by entering the person concerned several times in the module.

9. Module FIR.A.0050 "Key function holders"

The "Agent in charge of the day-to-day management of the distribution activity" must be the authorised agent or agents who are authorised to manage the company for its activity as an insurance agency, in accordance with Article 284, paragraph 1, point b), of the LSA, i.e. who are responsible for the day-to-day management of the agency with regard to its insurance distribution business.

Among the persons entered in this module as "agent responsible for day-to-day management", the agency must :

- choose one privileged contact person for the CAA for all exchanges relating to the business of the insurance agency and
- also enter this person in this module as the "contact person for the CAA".

10. Module FIR.A.0060 "Branches (outside Luxembourg)"

Article 279, point 31, of the LSA defines a branch as being "*an agency or a branch of an intermediary which is located in the territory of a Member State other than the home Member State*".

This module must be completed for all permanent establishments, i.e. all forms of permanent presence of the insurance agency in the territory of another State, on the date of submission of the information sheet. Where an insurance agency carries out several activities, only permanent establishments active, exclusively or not, in insurance distribution need to be indicated in this module.

11. Module FIR.A.0070 "Shareholders or members legal persons with a qualifying holding (≥10% of shares or voting rights or other means of control)".

If the "Other" option is selected from the drop-down menu in column "**C0080**", the agency is asked to specify in the covering letter the principal activity of the legal entity shareholder, ideally accompanied by the relevant NACE code.

A distinction is made between equity interests and voting rights (columns "**C0120**" to "**C0150**").

If "*true*" is selected in column "**C0160**", the insurance agency is asked to explain in the covering letter what means of control are involved (e.g. existence of an agreement between different shareholders).

12. Module FIR.A.0071 "Shareholders or members natural persons with a qualifying holding (≥10% of shares or voting rights or other means of control)".

The explanations provided for the various headings under point 11 also apply to this module.

13. Module FIR.A.0080 "Shareholdings held"

All qualifying shareholdings (≥10% of shares or voting rights or other means of control) held directly or indirectly by the insurance agency in other legal entities must be disclosed.

The explanations provided for the various headings under point 11 also apply to this module.

14. Module FIR.A.0090 "Review of the accounts"

In case no *réviseur d'entreprises (agrée)* has been appointed, the person(s) appointed as statutory auditor(s) ("*commissaire aux comptes*") must be indicated.

Start of term" (column "**C0040**") refers to the date on which the natural or legal person was first appointed to the audit function.

If an end of mandate date is entered in column "**C0050**", the new natural or legal person who will occupy this position must also be entered in this module.

15. Module FIR.A.0100 "Undertakings for which the agency is granted approval".

This module is pre-filled and is for information purposes only. It must not be modified by insurance agencies.

The Executive Committee