

**Circular letter 17/4 of the Commissariat aux Assurances  
on the reporting of brokerage firms and  
individual insurance brokers**

**Consolidated version as of 17 March 2020<sup>1</sup>**

Dear Sir or Madam,

Article 4, point a), of the Law of 7 December 2015 on the insurance sector, as amended, (hereinafter the "Law") foresees that the Commissariat aux Assurances (the "CAA") issues instructions with regard to accounting and other documentation to be forwarded to the CAA by those natural and legal persons of the insurance sector which are approved in the Grand Duchy of Luxembourg. Point b) of the same article provides that the CAA may request natural and legal persons approved in the Grand Duchy of Luxembourg to provide any information and documentation deemed useful or necessary for the exercise of its supervision.

It was deemed appropriate to issue this new Circular letter, replacing Circular letter 12/6 of the Commissariat aux Assurances, in view of the need to adapt the terminology to that used by the law of 7 December 2015 on the insurance sector, as amended, and the willingness to improve the statistical exploitation of data provided by individual insurance brokers and brokerage firms (hereinafter together referred to as "brokers").

General explanations regarding the reporting and detailed explanations on the information to be provided for the different modules are provided below:

**1. GENERAL EXPLANATIONS**

1.1. This Circular letter provides the necessary instructions for the proper completion of the reporting by brokers, which must have been received by the CAA latest by the last Friday of April each year.

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<sup>1</sup> Circular letter 17/4 was amended by Circular letter 20/7.

1.2. The reporting to the CAA includes :

- a) A module FR\_A called "Informations générales" (General information) ;
- b) A module FR\_B called " Autres dirigeants agréés de la société de courtage au Grand-Duché de Luxembourg " / "Autres courtiers agréés au Grand-Duché de Luxembourg " (Other directors of the brokerage firm approved in the Grand Duchy of Luxembourg/ Other individual insurance brokers approved in the Grand Duchy of Luxembourg);
- c) A module FR\_C called "Sous-courtiers agréés au Grand-Duché de Luxembourg" /Sub-brokers approved in the Grand Duchy of Luxembourg);
- d) A module EN\_D1 called "Administrateurs ou gérants, personnes physiques" (Directors or managers, being natural persons);
- e) A module EN\_D2 called "Administrateurs ou gérants, personnes morales" (Directors or managers, being legal persons)';
- f) A module EN\_E1 called "Actionnaires ou sociétaires, personnes physiques" (Shareholders or members, being natural persons);
- g) A module EN\_E2 called "Actionnaires ou sociétaires, personnes morales" (Shareholders or members, being legal persons) ;
- h) A module EN\_F called "Participations détenues"(Participations held) ;
- i) A module TBL\_A which details the geographical breakdown of premiums relating to the new production for the financial year ;
- j) A module TBL\_B that includes all premiums written on contracts for which the insurance broker acts as an intermediary;
- k) A module TBL\_C1 that provides details on the placement of life insurance business ;
- l) A module TBL\_C2 that provides details on the placement of non-life insurance business ;
- m) A module TBL\_D that provides a breakdown of the turnover.

1.3. Individual insurance brokers shall not complete modules FR\_D1, FR\_D2, FR\_E1, FR\_E2 and FR\_F.

1.4. The currency in which the various reporting documents shall be completed must be the euro (EUR). Should the accounts of a brokerage firm be kept in a currency other than the euro, the exchange rate applied for the conversion of the amounts into euro must be indicated in an accompanying letter.

1.5. The modules referred to in points 1.2.i) to 1.2.m) above, shall cover

- for individual insurance brokers the reference calendar year,
- for brokerage firms always the firm's financial year as defined in its articles of association. If a brokerage firm does not close its financial year on 31 December, the annual reporting must cover the last financial year closed before 31 December of the reference year.

For the modules mentioned in points 1.2.a) to 1.2.h), the headings contained in the reporting and/or the explanations in this Circular letter indicate the date on which the data are requested or the period covered, due to the processing of the data by the CAA.

1.6. The electronic file of the annual reporting must be duly completed and returned to the CAA both in electronic and paper form (with the signature of an approved executive of the brokerage firm or the individual insurance broker). The reporting file must also be initialled by the signatory on each page under the words "certifié exact et conforme au fichier informatique" (certified accurate and in conformity with the electronic file).

The paper version of the annual reporting must be accompanied by the following documents:

- a) Final annual accounts for the financial year under review (or, failing that, draft annual accounts) (cf. 1.5.) ;
- b) Minutes of the general meeting of shareholders/partners that approved these annual accounts ;
- c) For all approved executives of a brokerage firm and for all individual insurance brokers: a declaration on honour concerning
  - the address of the private residence; and
  - the absence or existence of criminal convictions in the territory of the European Union ;
- d) If the articles of association were amended during the reference year, a copy of the minutes of the relevant extraordinary general meeting of shareholders/partners and the latest consolidated articles of association ;
- e) A group chart which shall be up-to-date on the date of submission of the annual reporting, dated and signed by the approved executive and showing the direct and indirect shareholders of the brokerage firm up to the beneficial owner(s) and its holdings and branches, if any;
- f) An up-to-date extract from the commercial register (less than 3 months old);
- g) An up-to-date extract from the register of beneficial owners (less than 3 months old);
- h) The certificates relating to anti-money laundering or anti-terrorism training, indicated in module FR\_A;
- i) If not previously provided to the CAA, a copy of the broker's professional indemnity insurance certificate issued by the insurance undertaking covering that risk and valid on the day the reporting is submitted.

## 1.7. Definitions

### 1. Primes non-vie émises (Non-life premiums written) :

Premiums relating to contracts of insurance under one of the classes of insurance listed in Annex I to the Law and for which a notice of payment has been sent to the policyholder.

### 2. Primes vie émises (Life premiums written) :

Premiums paid on contracts of insurance under one of the classes of insurance listed in Annex II to the Law.

### 3. Etat d'établissement (State of establishment) :

The State where an undertaking is established. If, for instance, Belgium is the State where an undertaking has its registered office and the contract is taken out with the Luxembourg branch of the Belgian insurer, the State of establishment to be indicated is Luxembourg.

### 4. Commissions :

Any form of gross remuneration received for activities related to insurance intermediation as defined by Article 279 of the Law.

a) Commissions sur nouvelles affaires (Commissions on new business):

Commissions received for business underwritten during the reference year

b) Commissions récurrentes (Recurring commissions) :

Commissions received on contracts taken out prior to the reference year for which the broker is remunerated on the basis of a premium issued on a recurring basis (e.g. annual premium)

c) Commissions sur encours (Commissions on outstandings) :

Commissions received for business written prior to the reference year without a recurring premium being issued on these contracts (e.g. life insurance contracts with a single premium but where the commissions paid to the intermediary are split/spread over time.)

### 5. Other remuneration:

Any remuneration received by the broker for services provided but originating from activities not falling within the scope of insurance intermediation as defined in Article 279 of the Law.

## **2. EXPLANATIONS RELATING TO THE DIFFERENT MODULES OF THE REPORTING**

### **2.1. MODULE FR\_A "INFORMATIONS GENERALES" (GENERAL INFORMATION)**

1. Données de contact (Contact details)

The contact details to be provided under this point are those valid at the time of submission of the reporting.

2. Dirigeant agréé de la société de courtage, représentant celle-ci envers le CAA / Courtier, personne physique (déclarant) (Approved executive of the brokerage firm, representing the brokerage firm towards the CAA / Individual broker (declarant))

It is important to specify that the business e-mail address must be the personal e-mail address of the approved executive of the brokerage firm or of the individual insurance broker, if different from the general e-mail address (e.g., info@..... ).

If the private address of the approved executive or individual broker is located outside the territory of the Grand Duchy of Luxembourg, he is requested to indicate below his address for service (“election de domicile”) in the Grand Duchy of Luxembourg. In principle, the latter is the address from which he mainly carries on his activity (e.g. address of the registered office of the brokerage firm for which he works).

“Agrément d’intermédiaire d’assurances dans un autre Etat” (approval as an insurance intermediary in another State) means an authorisation, license or registration issued by a competent authority of another State (EEA or non-EEA). Activities carried out in another EEA Member State under the freedom to provide services or the freedom of establishment, as provided for by Directive (EU) 2016/97 on insurance distribution, do not need to be reported.

All data to be provided under this point should be up-to-date at the time of submission of the reporting.

### 3. Employés (Employees)

All persons who were active for the broker on 31 December of the reference year and who are engaged in insurance brokerage activities must be indicated under this point.

In the first subsection are listed the natural persons linked to the broker by an employment contract, a distinction being made as to whether the person is assigned to insurance intermediation on a full-time or part-time basis.

In the second subsection should be indicated, natural persons working on behalf and under the responsibility of the broker, but who are not bound to him by an employment contract, a distinction being made as to whether the person is assigned to insurance intermediation on a full-time or part-time basis.

The approved executive responsible for the day-to-day management of the brokerage firm, the individual insurance brokers, other approved executives and sub-brokers are to be included under either heading depending on whether or not they have an employment contract with the broker.

### 4. Lutte contre le blanchiment et contre le financement du terrorisme (LBC/FT) (Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT))

The name of the AML/CFT compliance officer ("AML/CFT Compliance Officer") and his contact details must be those up-to-date at the time of the submission of the reporting.

Such person must be appointed at the management level of the brokerage firm, even if he delegates the exercise of his function in accordance with the legal and regulatory provisions.

For individual insurance brokers the AML/CFT Compliance Officer is the broker himself, even if the latter delegates the exercise of his functions in accordance with the legal and regulatory provisions.

The number of suspicious transaction reports as well as the number of persons trained in AML/CFT matters are those for the reference calendar year.

The "nombre de personnes ayant suivi une formation en matière de LBC/FT" (number of persons trained in AML/CFT matters) includes all persons active in insurance brokerage for the broker, whether bound to it by an employment contract or not, who received AML/CFT training during the reference year.

Brokers who fall within the scope of the Law of 12 November 2004 on the fight against money laundering and terrorist financing (AML/CFT Law), as amended, are requested to:

- confirm that they have written procedures in place that comply with legal and regulatory requirements on the day the reporting is submitted. In view of the numerous legislative and regulatory changes in the area of AML/CFT, the CAA stresses the importance of reviewing these on a regular basis and at least annually. The same applies to the assessment of the AML/CFT risks to which brokers are exposed.
- answer five questions relating exclusively to contracts concluded during the reference calendar year/financial year.

In answering these questions, the following definitions shall apply:

- o “politically exposed person” means any person as defined in Article 1, paragraph 9, of the AML/CFT Law
- o “beneficial owner” means any person as defined in Article 1, paragraph 7, of the AML/CFT Law.
- o “investment of his premium in unlisted instruments in excess of 50% of the issue of unlisted securities” means any investment enabling the client to exercise a right of control over the unlisted instrument (shares, corporate units, etc.).

All brokers are required to put in place adequate arrangements to implement United Nations Security Council resolutions and acts adopted by the European Union containing prohibitions and restrictive measures in financial matters in respect of certain persons, entities or groups in the fight against terrorist financing.

#### 5. Activités du courtier (Broker's activities)

“Nombre de contrats conclus” (number of contracts concluded) refers only to new contracts subscribed during the reference financial year and for which the broker acted as intermediary. This item does not need to indicate:

- a) contracts amended by a rider during the year,
- b) or pre-existing contracts taken over during the year by the broker as part of a portfolio transfer.

The accounting data are assumed to be those of the balance sheet and profit and loss account for the reference year.

Under "Activités dans d'autres Etats membres de l'EEE" (Activities in other EEA Member States) are to be listed all permanent establishments in the territory of another Member State which serve as branches, representative offices or contact addresses of the broker, operational at the date of submission of the reporting.

Under "Activités au Grand-Duché de Luxembourg" (Activities in the Grand Duchy of Luxembourg), all other activities of the broker which are subject to approval, authorisation, recording or registration with an authority other than the CAA are to be indicated.

#### 6. Organigramme de l'actionnariat et des participations (Group chart of shareholdings and holdings)

An ascending and descending group chart, as explained in the reporting document under this point, shall be attached.

## **2.2. MODULE FR\_B "OTHER APPROVED EXECUTIVES OF THE BROKERAGE FIRM IN THE GRAND DUCHY OF LUXEMBOURG" / "OTHER INDIVIDUAL INSURANCE BROKERS APPROVED IN THE GRAND DUCHY OF LUXEMBOURG"**

The explanations given under point 2.1.2. shall also apply to this point.

With the "ajouter un autre courtier" (add another broker) and "supprimer le dernier courtier" (remove last broker) buttons the number of pages may be changed as needed.

## **2.3. MODULE FR\_C "SUB-BROKERS APPROVED IN THE GRAND DUCHY OF LUXEMBOURG".**

Only insurance sub-brokers who held a Luxembourg licence when the reporting was submitted are to be indicated.

With the "ajouter un autre sous-courtier" (add another sub-broker) and "supprimer le dernier sous-courtier" (remove last sub-broker) buttons the number of pages may be changed as needed.

## **2.4. MODULE FR\_D1 AND FR\_D2 "DIRECTORS OR MANAGERS".**

The information to be provided under this point should be up-to-date at the time of submission of the reporting. For practical reasons, two different modules for natural persons (FR\_D1) and legal persons (FR\_D2) have been created.

For directors, being natural persons, the CAA requires the communication of the private address under this point.

With the "ajouter un autre administrateur" (add another director) and "supprimer le dernier administrateur" (remove last director) buttons the number of pages may be changed as needed.

## **2.5. MODULE FR\_E1 AND FR\_E2 "SHAREHOLDERS OR MEMBERS" MODULE**

The information to be provided under this point should be up-to-date at the time of submission of the reporting. For practical reasons, two different modules for natural persons (FR\_E1) and legal persons (FR\_E2) have been created.

For shareholders, being natural persons, the CAA requires the communication of the private address under this point.

With the "ajouter un autre actionnaire" (add another shareholder) and "ajouter un autre actionnaire" (delete last shareholder) buttons the number of pages may be changed as needed.

## **2.6. MODULE FR\_F 'PARTICIPATIONS HELD'**

All companies in which the brokerage firm holds a participation should be indicated.

The information to be provided under this point should be up-to-date at the time of submission of the reporting.

## **2.7. MODULE TBL\_A 'VENTILATION GEOGRAPHIQUE DES PRIMES NEGOCIEES' (GEOGRAPHICAL BREAKDOWN OF PREMIUMS NEGOTIATED)**

This table only takes into account premiums relating to contracts concluded through the broker during the reference year (new production).

Premiums relating to the new production for the financial year are to be broken down by reference to the State of the risk situation or the State where the commitment is made, as provided for in Article 43, points 15 and 17, of the Law.

Any amounts indicated under "Rest of the world" must be broken down by country. A drop-down menu has been included in order to select the State(s) concerned.

## **2.8. MODULE TBL\_B "NOUVELLE PRODUCTION ET PRIMES RECURRENTES" (NEW PRODUCTION AND RECURRENT PREMIUMS)**

This table takes into account all premiums written during the reference year on insurance contracts for which the broker has acted as an intermediary.

The amount of premiums collected directly by the Insurer and the amount of premiums collected by the broker must be indicated for each of points 1 and 2.

## **2.9. MODULE TBL\_C1 " DETAILS SUR LE PLACEMENT DES AFFAIRES VIE" (DETAILS ON THE INVESTMENT OF LIFE BUSINESS)".**

This module is intended to provide details on the life insurance activity and consists of three tables:

*(a) Les entreprises d'assurance auprès desquelles les affaires ont été placées directement et indirectement (Insurance undertakings with which the business has been placed directly and indirectly)*

Shall be indicated the insurance undertakings with which insurance contracts that the broker holds in his portfolio, whether they are/have been placed either directly or through another insurance intermediary.

The broker shall also indicate whether a brokerage agreement with these firms is in effect at the end of the reference year. In addition, the broker must list in this table any other insurance undertaking with which such a brokerage agreement exists, even if there are no insurance contracts in force, i.e. even if there are no premiums written or commissions to be reported.

The importance of the insurance undertakings for the broker is defined according to the premiums written during the reference year, with the most important amount at the top and in descending order towards the bottom of the table.

Brokers are requested to provide the full names of the insurance companies. For Luxembourg insurance undertakings, a drop-down menu has been included to enable brokers to select the undertaking(s) concerned.

*b) Les 10 principaux intermédiaires d'assurances à travers lesquels des affaires ont été placées (Top 10 insurance intermediaries through which business was placed)*

Shall be indicated the top ten insurance intermediaries through which the broker has placed business on behalf of his clients.



The importance of insurance intermediaries to the broker is defined in terms of the premiums written during the reference year, with the largest amount at the top and in descending order towards the bottom of the table.

Brokers are requested to provide the full names of the insurance undertakings and intermediaries.

*c) Les 10 principaux intermédiaires d'assurances ayant placé des affaires via votre société (The top 10 insurance intermediaries who placed business through your company).*

Shall be indicated the top ten insurance intermediaries who have placed business through the broker for their clients.

The importance of insurance intermediaries to the broker is defined in terms of the premiums written during the reference year, with the largest amount at the top and in descending order towards the bottom of the table.

Brokers are requested to provide the full names of the insurance undertakings and intermediaries.

## **2.10. MODULE TBL\_C2 "DETAILS SUR LE PLACEMENT DES AFFAIRES NON VIE" (DETAILS ON THE INVESTMENT OF NON-LIFE BUSINESS)**

This module is intended to provide details of non-life insurance activity and includes three tables similar to those described above.

The explanations given above are also valid for this module.

## **2.11. MODULE TBL\_D "VENTILATION DU CHIFFRE D'AFFAIRES" (BREAKDOWN OF TURNOVER)**

This table is intended to provide details of the gross turnover as shown in the profit and loss account of the annual accounts.

The total in this table must therefore correspond to the gross turnover as shown in the profit and loss account.

The commissions received, as defined in point 1.7.4. are to be indicated in the first row of this table and broken down into four columns according to their origin:

- insurance undertakings (= modules TBL C1A + TBL C2A - (modules TBL\_C1B + TBL\_C2B),
- intermediaries (= modules TBL\_C1B + TBL\_C2B),
- policyholders,
- others.

For all other remunerations included in the turnover, to be filled in the 2<sup>nd</sup> line, no breakdown by origin needs to be provided. Only the total amount of these remunerations is to be indicated in the fifth column of this table. However, any amount entered in the second line must be explained in an accompanying letter.

### **3. REPEAL PROVISIONS**

Circular letter 12/6 of the Commissariat aux assurances concerning the reporting of insurance brokers, legal and natural persons, is repealed.

For the Directorate,

Claude WIRION  
Director