

Luxembourg: Important Clarification for AIFs Regarding Appointment of RR / RC

On 12 October 2022, Luxembourg's Registration Duty, Estate and VAT Authority, the *Administration de l'enregistrement, des domaines et de la TVA* ("AED") confirmed¹ that unregulated alternative investment funds ("AIFs") subject to its AML / CFT supervision are legally required to appoint two individuals responsible for AML / CFT:

- a person responsible for compliance with the professional obligations as regards the fight against money laundering and terrorist financing (*responsable du respect des obligations*) ("RR"); and
- a compliance officer at appropriate hierarchical level (*responsable du contrôle du respect des obligations*) ("RC").

Background

This confirmation follows previous guidance issued by both the AED² and Luxembourg's financial regulator, the *Commission de Surveillance du Secteur Financier* ("CSSF")³ in relation to reserved alternative investment funds, which are supervised by the AED for AML / CFT purposes, and regulated Luxembourg funds and investment fund managers, which are supervised by the CSSF for AML / CFT purposes. This

earlier guidance confirmed that these entities are required to appoint both an RR and an RC.

As a reminder, the AED's authority stems from the law of 25 March 2020⁴, which amended the law of 12 November 2004⁵ on the fight against money laundering and terrorist financing ("AML Law"). Under the AML Law, the AED is one of the supervisory authorities responsible for ensuring certain professionals, such as unregulated AIFs, comply with their AML / CFT obligations.

Mandatory RC and RR Appointments

On its website, the AED issued a statement reiterating its responsibility for AML / CFT supervision of unregulated AIFs and also published a FAQ⁶ and a dedicated AIF RC-RR identification form⁷ in this context.

The FAQ contains two questions and relevant responses:

- Question 1 clarifies that unregulated AIFs are legally required to appoint two different persons responsible for AML / CFT (a requirement which stems from article 4(1) of the AML Law):

¹ [Luxembourg Alternative Investment Funds \(AIF\)](#)

² [Luxembourg Reserved Alternative Investment Funds \(FIAR\)](#)

³ [FAQ regarding persons involved in AML/CFT for a Luxembourg Investment Fund or Investment Fund Manager supervised by the CSSF for AML/CFT purposes](#)

⁴ [Law of 25 March 2020 Establishing a Central Electronic Data Retrieval System](#)

⁵ [Law of 12 November 2004 on the Fight Against Money Laundering and Terrorist Financing](#)

⁶ [FAQ - Person Involved in AML/CFT for a Luxembourg Alternative Investment Fund \("AIF"\) supervised by the AED for AML/CFT Purposes](#)

⁷ [RR RC Identification Form FIAR](#)

- One person from among the members of its management body or the management body itself collectively (e.g. the board of managers), i.e., RR; and;
- One person at the appropriate hierarchical level, i.e., RC. The RC may either be a member of the management body or a third party delegate.
- Question 2 clarifies the criteria for appointment to the role of RR as well as RC and designates the RC as the AED's primary contact.

The dedicated AIF RC-RR identification form is available on the AED's website and must be completed and submitted, without delay, to AED.finvehicles@en.etat.lu. Furthermore, the executed legal documentation relating to the RC and RR appointments, i.e., the circular resolutions or minutes of the relevant board meeting(s), must be provided to the AED.

AML / CFT Questionnaire

In addition to clarifying the appointment of an RR and an RC, the AED also took the opportunity to introduce a new requirement for unregulated AIFs to complete and submit the 'AIF AML / CFT questionnaire 2021'⁸ (the "Questionnaire") for the 2021 financial year.

The deadline for submission of the Questionnaire is 12 November 2022 and should be submitted by the RR (or the RC if mandated to do so by the RR) to AED.finvehicles@en.etat.lu. Submission of the Questionnaire will be required on an annual basis. To assist AIFs in completing the Questionnaire, the AED has also published a user guide⁹ which is available on its website.

How the Maples Group Can Help

The Maples Group has extensive experience in assisting clients to navigate the various AML /

CFT requirements in Luxembourg. In addition, the Group can provide suitably experienced and qualified staff to act as RC to unregulated AIFs in order to ensure compliance with the AED's expectations and deadlines as outlined in its recent guidance.

For further information, please contact one of the below contacts or your usual Maples Group contact.

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October 2022

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⁸ [AIF AML/CFT Questionnaire 2021](#)

⁹ [Guide to the AIF AML/CFT Questionnaire](#)