

Preventing Terrorism Financing

Seminar by the CRF, CSSF, ABBL and ALFI

8 NOVEMBER 2024



LA JUSTICE
GRAND-DUCHÉ DE LUXEMBOURG



Agenda



01. Introduction by CSSF and CRF

Vertical Risk Assessment on Terrorist

02. Financing

Legal framework: Offences of Terrorism

03. Financing and Terrorism

Targeted Financial Sanctions regarding

04. terrorism financing

**Terrorism Financing Supervision by
CSSF: offsite and onsite views from the
05. supervisor**

06. Typologies and risks analysed by the CRF

**Presentations by private sector
07. representatives**

08. Q&A



Terrorist financing vertical risk assessment

Preventing terrorist financing
8 November 2024



LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Justice



Agenda

Part I – Introduction

Part II – Approach and methodology

Part III – Analysis results and conclusions



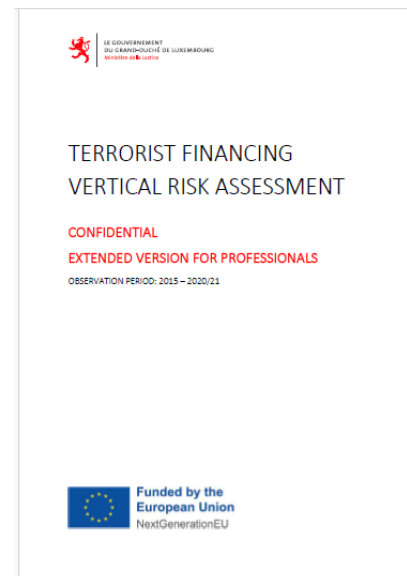
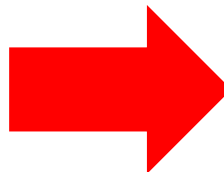
Part I

Introduction



Introduction (1/2)

- Public version, published in June 2022
- Luxembourg MER, October 2023 (see next slide)
- Extended confidential version for professionals, disseminated via goAML in May 2024





Introduction (2/2)

Reminder Luxembourg MER conclusions about TF understanding:

- Priority action 3: “Luxembourg should: [...] Further **develop** and **disseminate** its **understanding of TF risks and vulnerabilities**, including misuse of legal persons for TF purposes, stemming from its exposure as international financial centre. Luxembourg should also ensure that **all public and private stakeholders have a better understanding of TF risk, methods and exposure to larger-scale TF** through guidance or other forms of outreach.”
- Recommended action 1, IO1: “Luxembourg should **further develop its understanding of TF risks and vulnerabilities stemming from its role as international financial centre, and transit jurisdiction for foreign TF financial flows and businesses linked to TF activity**, including undertaking a qualitative assessment of what Luxembourg legal persons are used for, their links to higher-risk jurisdictions and other intelligence and investigatory materials from law enforcement and other authorities. Authorities should also **engage in outreach regarding those findings and other typologies to enhance relevant authorities’ and obliged entities’ understanding of larger-scale TF**”.



Part II

Approach and methodology



Approach and methodology (1/2)



Key reference:

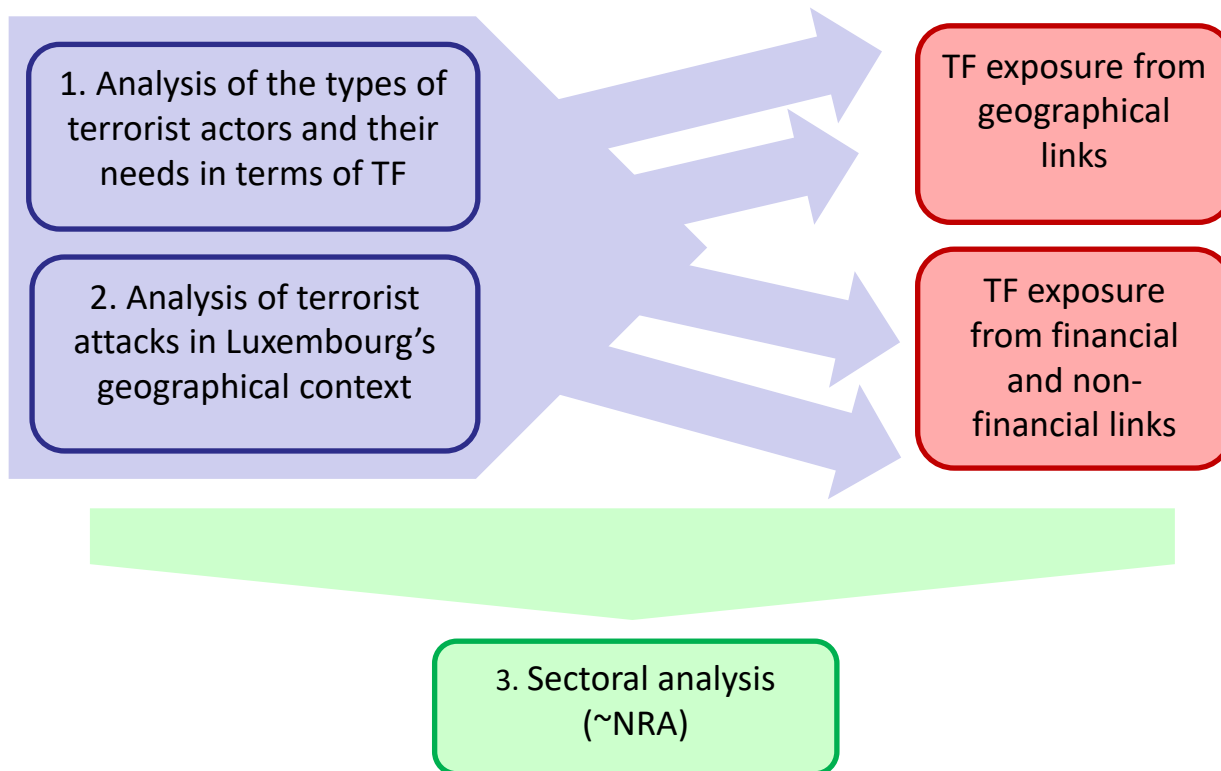
FATF, Terrorist Financing Risk Assessment Guidance, 2019, §39 and §40 ([link](#)).

☞ Assessing TF risks in jurisdictions with financial centres and low domestic terrorism risk

→ *Suitable for Luxembourg's particular situation*



Approach and methodology (2/2)





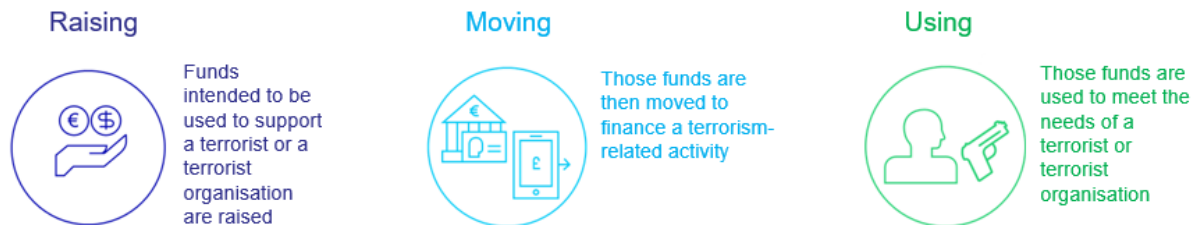
Part III

Analysis results and conclusions




Analysis results and conclusions (1/8)

1. Analysis of the types of terrorist actors and their financial needs in terms of TF throughout the different stages of TF:



Overall conclusion:

- Small cells, lone actors and foreign terrorist fighters (FTFs) → small financial requirements 
- International terrorist organisations and their wealthy sponsors → important financial requirements





Analysis results and conclusions (2/8)

1. Analysis of the types of terrorist actors and their financial needs in terms of TF throughout the different stages of TF – detailed conclusions

Terrorist activity in...	Type of terrorism actor	Financial requirements	TF stage likely to take place in Luxembourg
...EU and UK	FTFs	Small financial requirements (<€10 000); FTF are either self-funded or via recruitment networks	Raising (through legitimate income) Moving (by abusing services of Luxembourg's financial centre commensurate with their lower TF needs)
	Lone actor and small terrorist cells	Small financial requirements (<€10 000); mostly funded from legitimate activities	Using (by executing a hypothetical attack)
Third countries, especially the world regions most impacted by ISIL	International terrorist organisations	Very high financial requirements	Raising (by abusing NPOs carrying out humanitarian and development projects abroad) Moving (by sending funds to international terrorist organisations by abusing Luxembourg's services commensurate with their higher financial needs)
	State sponsors of terrorism and terrorist safe havens		Moving (by abusing Luxembourg's financial centre commensurate with their higher TF needs)
	"Corporate" terrorist groups		



Analysis results and conclusions (3/8)

2. Analysis of terrorist attacks (observation period 2015-2020) and assessment of TF exposure arising from small and large funds

→ Analysis of terrorist attacks in certain regions to which Luxembourg is connected through its **geographical proximity** or its **financial centre** (third countries)

✓ Risk exposure arising from **geographical links**: the EU and the UK

- Type of actors:

Lone actors and small cells operating within the EU and the UK. Most ISIL-related attacks and extreme-right wing (ERW) terrorism in a lesser extent

- TF exposure from such hypothetical actors in Luxembourg and in the EU:

Small movements of funds channeled through specific services of the financial sub-sectors, such as retail banking and the money value and transfer services (MVTs) sector



Analysis results and conclusions (4/8)

✓ Risk exposure arising from **financial and non-financial links with** specific jurisdictions

- Larger organisations (ISIL) are active in third countries and have the ability to manage large funds thanks, among others, to the control of territory
- ERW do not have the ability to raise large funds thanks to the control of territory

TF risks stemming from **larger flows of funds transiting through Luxembourg's FC** - the analysis was conducted as follows:

1. Where does ISIL operate as a terrorist organisation? Middle East and North Africa (MENA) and Sub-Saharan Africa regions
2. Selection of target jurisdictions (TJ) for analysis - Multifactor criteria: international guidance (e.g. Europol, FATF, Global Terrorism Index); effectiveness in combating TF (results of FATF evaluations, IO9)
3. Analysis of the links with each of these TJ by considering:
 - ✓ Financial flows (e.g. deposits, loans, corresponding banking relationships, investments, FDI, use of ATMs)
 - ✓ Non-financial flows (e.g. imports, exports, occurrence of directors and beneficial owners (BOs) in Luxembourg legal persons, NPO activities, etc.)

→ **Do the observed links make sense? Coherence with Luxembourg's economic and bilateral relations**



Analysis results and conclusions (5/8)

3. Sectoral analysis

Overall analysis (all (sub-)sectors)

Identification of TF vulnerable (sub-)sectors

Sectoral analysis of TF vulnerable sectors (similar to the NRA methodology)

	TF activities linked to FTFs, lone actors and small terrorist cells	TF activities linked to international terrorist organisations, State sponsors, terrorist safe havens and corporate terrorist groups
TF needs	Small financial requirements	Important financial requirements
TF stages that may take place in Europe (including Luxembourg)	Raising, moving and using	Raising and moving
TF vulnerable sectors	Retail and business banking, payment institutions, e-money institutions	Private banking, investment sector, NPOs carrying development and humanitarian projects abroad
TF cross-sector vulnerabilities	Cash, prepaid cards, social media, crowdfunding, VAs	Crowdfunding, prepaid cards, social media, VAs



Analysis results and conclusions (6/8)

Key risk drivers		Inherent TF risk	Residual TF risk
Banks	Private banking	Medium	Low
	Retail and business banks	High	Medium
Investment sector	Wealth and asset managers	Medium	Low
	Collective investments	Medium	Low
Money value and transfer services	Payment institutions (PI)	High	Medium
	E-money institutions (EMI) Agents and e-money distributors acting on behalf of PI/EMIs established in other European Member States	High	High
NPOs carrying out development and humanitarian projects abroad	NPOs (<i>Associations sans but lucratif</i> (ASBLs) and <i>fondations</i>) carrying out development and humanitarian projects abroad	High	High

Size, international exposure nature/type of clients served

Products (debit/credit cards, wire transfers, ATM withdrawals)

Size

Impact of mitigating factors

Donations received and destination of funds

Products (easy access to fast and convenient cross-border transactions)



Analysis results and conclusions (7/8)

To conclude, the following table depicts Luxembourg's TF residual risk at the three stages of TF: raising, moving and using funds for terrorist purposes for the different assessed (sub)sectors:

	Raising	Moving	Using
Retail and business banking	Small cells, lone actors and FTFs may raise legitimate funds such as salaries, social benefits, non-paid-off customer loans, overdrafts	Basic financial services (e.g. wire transfers/ ATM withdrawals) might be misused to move funds intended for TF purposes to small cells, lone actors and FTFs	Small cells, lone actors and FTFs may use funds to commit terrorist acts
Private banking and Investment sector	Relevant for wealthy terrorism sponsors outside the EU	Discretionary asset management is not suitable for moving funds for TF purposes. Funds managed by the asset manager under a discretionary contract are inaccessible to the customer. Generated returns that are no longer subject to discretionary management may be transferred to terrorists or terrorist organisations	Not applicable as long as the funds are under discretionary management This does not exclude the investment sector from performing (enhanced) due diligence on investment projects in regions impacted by terrorism and companies operating in such regions



Analysis results and conclusions (8/8)

(...)	Raising	Moving	Using
MVTS	Small cells, lone actors and FTFs may abuse MVTS providers to raise funds for TF purposes (including payments related to crowdfunding services)	MVTS might be misused to move funds intended for TF purposes to small cells, lone actors and FTFs	Small cells, lone actors and FTFs may use funds to commit terrorist acts
NPOs carrying out development and humanitarian projects abroad	NPOs may raise funds (advertently or inadvertently) for TF purposes	Some high-risk jurisdictions have limited access to the international correspondent banking systems and some NPOs carrying out development and humanitarian projects abroad may be tempted to use informal or non-regulated channels (e.g. <i>Hawala</i> or other service providers) to transfer funds to those jurisdictions No evidence of <i>Hawala</i> or other service providers operating in Luxembourg	Not applicable, except for NPOs raising funds advertently for TF purposes



Anti-Money Laundering and Counter Terrorist Financing



CONTENTS	-
Anti-money laundering and terrorist financing	
Legislation	
Publications	

Anti-money laundering and terrorist financing

The Directorate for Combating Money Laundering and the Financing of Terrorism (AML/CFT Directorate) is a department of the Ministry of Justice.

It represents Luxembourg during meetings of the Financial Action Task Force (FATF) and participates in the FATF's work to develop international standards on combating money laundering and the financing of terrorism and proliferation. It leads and coordinates the preparatory work for the mutual evaluation of Luxembourg in the framework of the 4th round of FATF mutual evaluations.

At the European Union level, it participates in various working groups.

At the national level, it ensures the national coordination of the fight against money laundering and terrorist financing. It acts as the Executive Secretariat of the Committee for the prevention of money laundering and terrorist financing and of the inter-ministerial Steering Committee for the fight against money laundering and terrorist financing. It leads and coordinates the work of updating the national AML/CFT risk assessment and conducts so-called "vertical" risk assessments on specific topics.

It should be noted that the fight against money laundering and terrorist financing is a cross-cutting issue, which also involves other ministries, supervisors, the financial intelligence unit and law enforcement authorities, as well as certain professional organisations and associations.

Legislation

The AML/CFT Directorate contributes to the legislative texts concerning the fight against money laundering and terrorist financing and to the transposition of the relevant directives. In particular, it participates in the negotiation of regulations and directives forming the "anti-money laundering and anti-terrorist financing package" proposed by the Commission.

Publications

Risk assessments

- › Min.Jus_ National risk assessment of money laundering and terrorist financing 2020 (NRA 2020)
- › Min.Jus_ Vertical risk assessment on terrorist financing 2022 (VRA TF 2022)
- › Min.Jus_ ML/TF vertical risk assessment on legal persons and legal arrangements 2022 (VRA LP LA)
- › Min.Jus_ML/TF vertical risk assessment on virtual asset service providers 2020 (VRA VASP)

<https://mj.gouvernement.lu/en/dossiers/2020/lutte-blanchiment.html>

TERRORISM AND TERRORIST FINANCING OFFENCES – LUXEMBOURG POSITIVE LAW

PARQUET GENERAL DU GRAND-DUCHE DE LUXEMBOURG



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Disclaimers

- 1) Personal views
- 2) Binding legal texts are published in the Mémorial (official journal)

In case of discrepancies between the French and the English texts, the French text shall prevail.

Role of the Prosecution Service

- 1) The State Prosecutor receives complaints and denunciations and assesses action to be taken (Art. 23 CPP – criminal proceedings code)
- 2) The State Prosecutor carries out or arranges for the carrying out of all acts necessary for the investigation and prosecution of offences under criminal law (art. 24 (1) CPP)
- 3) The Prosecutor General represents the Prosecution Service at the Court of Cassation and the Court of Appeal, either in person or through his delegates ((first) advocate general, Deputy Prosecutor General) (art. 17 (1) CPP)
- 4) The Prosecutor General is responsible for the enforcement of criminal law throughout the national territory (Art. 18 (1) CPP)

Intervention of the Public Prosecutor

Principle: Intervention once the offence is committed

Generally: When the damage is already done

Exceptions:

- Attempt (Execution failed by circumstances beyond the perpetrator's control)
- Criminal group (association of organization) (art. 322ss CP – criminal code)
- The Terrorist group
- Offences related to terrorist activities
- Terrorism financing
- Preventive regime (Terrorist financing – AML)
- Obstruction (art. 140 CP)



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TERRORISM

An act of terrorism is any felony or misdemeanor punishable by a maximum term of at least three years or by a more serious penalty (or infringements of articles 509-1, 514, 533 and 534 CP and art. 61, paragraph 1, letter a) of the amended law of December 19th, 2008 relating to water) which, by its nature or context, may cause serious harm to a country, an organization or an international body and has been committed intentionally with the aim of:

- seriously intimidate a population
- unduly compel public authorities, an organization or an international body to perform or refrain from performing any act, or
- seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country, an organization or an international body (art. 135-1 CP)

Sanction: 15-20 years servitude (réclusion) – life servitude if human life lost



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Examples

- Assault and Battery (intentional bodily harm) without incapacity for work: maximum 6 months (art. 398 CP)
- with temporary incapacity for work: maximum 2 years (art. 399 CP)
- permanent incapacity for work: maximum 5 years (art. 400 CP)

TERRORIST ATTACKS USING EXPLOSIVES

Without prejudice to art. 520, anyone who unlawfully and intentionally delivers, places or detonates an explosive or other lethal device in or against a public place, a government or other public facility, a public transportation system or infrastructure:

- 1) with intent to cause death or serious bodily harm; or
- 2) with intent to cause massive destruction of such place, installation, system or infrastructure, where such destruction results or is likely to result in considerable economic loss, shall be punished by servitude for a term of five to ten years.

(... Aggravation of penalties depending on the result ...) (art. 135-9 CP)

Definition of terms: art. 135-10 CP



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TERRORIST ASSOCIATION (art. 135-3 CP; penalties 135-4)

- 1) A terrorist group is a structured association of at least two persons, established over a period of time, with a view to committing in concert one or more of the acts of terrorism referred to in paragraph (2) of this article.
- 2) Paragraph (1) of this article refers to the offences provided for in:
 - art. 112-1, 135-1, 135-2, 135-5, 135-6, 135-9, 135-11 to 135-16 and 442-1 (CP)
 - art. 31 and 31-1 of the amended law of January 31st, 1948 on the regulation of air navigation
 - art. 2 of the amended law of April 11th, 1985 approving the Convention on the physical protection of nuclear material, opened for signature in Vienna and New York on March 3rd, 1980;
 - art. 65-1 of the amended law of April 14th, 1992 instituting a disciplinary and criminal code for the navy.

Offences related to terrorist activities

- Provocation to terrorism (art. 135-11 CP)
- Recruitment to terrorism (including oneself !) (art. 135-12 CP)
- Training for terrorism (art. 135-13 CP)
- Preparation of a terrorist act (art. 135-14 CP)
- Departure from Luxembourg to another country with a view to preparing a terrorist act (including organizing/facilitating the travel of others) (art. 135-15 CP)
- For Luxembourg nationals: Violation of the ban on leaving the country / surrendering identity documents (art. 135-16 CP)

TERRORISM FINANCING

135-5 (1) CP

It is an act of terrorist financing to provide or collect by any means, directly or indirectly, unlawfully and deliberately, funds, securities or property of any kind, with the intention that they should be used or in the knowledge that they will be used, in whole or in part, with a view to committing or attempting to commit one or more of the offenses referred to in paragraph (2) of this article, even if they have not actually been used to commit or attempt to commit one of these offences, or if they are not linked to one or more specific terrorist acts.

Paragraph (1) of this article refers to offences provided for in:

- art. 112-1, 135-1, 135-2, 135-5, 135-6, 135-9, 135-11 to 135-16 and 442-1 (CP)
- art. 31 and 31-1 of the amended law of January 31st, 1948 on the regulation of air navigation
- art. 2 of the amended law of April 11th, 1985 approving the Convention on the physical protection of nuclear material, opened for signature in Vienna and New York on March 3rd, 1980;
- art. 65-1 of the amended law of April 14th, 1992 instituting a disciplinary and criminal code for the navy.



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TERRORISM FINANCING

135-5 (3) CP

It is also an act of terrorist financing to provide or collect by any means, directly or indirectly, unlawfully and deliberately, funds, securities or property of any kind, with the intention that they be used or in the knowledge that they will be used, in whole or in part, by a terrorist or terrorist group, including in the absence of a link with one or more specific terrorist acts, even if they have not actually been used by the terrorist or terrorist group.

NON-COMPLIANCE WITH PROFESSIONAL OBLIGATIONS (art. 9 amended law of November 12th, 2004)

A fine of between EUR 12.500 and EUR 5.000.000 shall be imposed on any person who knowingly contravenes the provisions of Articles 2-2, 3, 3-1, 3-2, 3-3, 4, 4-1, 5, 7-1(2) and (6), 7-2(1) and 8-3(3).



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OBSTRUCTION (art. 140 (1) CP)

Any person (few exceptions exist for family or professional secrecy reasons (art. 458 CP, ~~art. 41 Law of April 5th 1993 on the financial sector~~) – 140 (2)) who has knowledge of a felony (crime) whose effects can still be prevented or limited, or whose perpetrators are likely to commit new felonies that could be prevented, and fails to inform the judicial or administrative authorities, shall be punished by a prison sentence of one to three years and a fine of 251 to 45.000.-EUROS.

Some special rules of procedure

Art. 26 (2) CPP :

The State Prosecutor and the Courts of the judicial district of Luxembourg have sole jurisdiction in cases involving breaches of articles 112-1, 135-1 to 135-6, 135-9 and 135-11 to 135-16 of the criminal code.

Art. 5-1 CPP:

Any Luxembourg national, any person habitually resident in the Grand-Duchy of Luxembourg, as well as any foreigner found in the Grand-Duchy of Luxembourg, who has committed abroad one of the offences provided for in articles 112-1, 135-1 to 135-6, 135-9 and 135-11 to 135-16 (...), may be prosecuted and tried in the Grand-Duchy, even if the act is not punishable under the legislation of the country where it was committed and the Luxembourg authority has not received either a complaint from the offended party or a denunciation from the authority of the country where the offence was committed.



TARGETED FINANCIAL SANCTIONS

regarding terrorism financing

8 NOVEMBER 2024



Legal framework

- **Law of 19 December 2020** on the implementation of restrictive measures in financial matters.
- **Repealing** the Law of 27 October 2010.
- **Law of 20 July 2022** setting up a committee to monitor restrictive measures in financial matters and modifying:
 - 1° The article 506-1 of the Penal Code
 - 2° Law of 19 December 2020 on the implementation of restrictive measures in financial matters
- Applicable sanctions in Luxembourg:
 - ❖ **United Nations** (UN sanctions)
 - ❖ **European Union** (EU sanctions)
 - ❖ **Luxembourg** (sanctions decided at national level)





Financial sanctions landscape

- More than **30 sanctions regimes** EU/UN directly applicable in Luxembourg (**automatic transposition**).
- **Not limited** to terrorism financing (e.g. human rights, cyberattacks, proliferation and use of chemical weapons etc.)
- Competent authorities in Luxembourg in matters relating to financial sanctions:
 - ❖ **Ministries** (Finance, Foreign and European Affairs)
 - ❖ **Supervisory authorities** (CSSF, CAA, AED)
 - ❖ **SRBs** (IRE, OEC, Ordres des avocats, Chambre des Notaires, Chambre des huissiers)
 - ❖ **FIU**



The competence of the Ministry of Finance

- Deal with matters relating to the **implementation of financial restrictive measures** on the part of the natural and legal persons, entities and groups concerned, as well as on the part of the natural and legal persons obliged to apply them.
- Exceptionally **issue authorizations** derogating from the prohibitions and restrictive measures imposed if the legal texts imposing restrictive measures provide this possibility.



Targeted financial sanctions

➤ Freezing of funds

"**freezing of funds**" means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management.

➤ Freezing of economic resources

"**freezing of economic resources**" means preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.

NOTE: These are standard definitions; always look up the definition in the text that serves as legal basis to the restriction.



United Nations Security Council Resolutions

UNSC Resolutions	Content	Transposition
UNSC Resolution 1988 (2011), as amended	<p>Reiterates the 'Afghanistan' section of UNSC Resolution 1267 (1999)</p> <p>Member States are required to freeze without delay the funds and other financial assets or economic resources of the listed individuals and/or entities.</p>	<p>Regulation (EU) 753/2011 of 1st August 2011</p> <p>Automatic transposition allowed by the Law of 19 December 2020</p>
UNSC Resolution 1989 (2011), as amended	<p>Reiterates the 'ISIL (Da'esh), Al-Qaida' section of UNSC Resolution 1267 (1999)</p> <p>Member States are required to freeze without delay the funds and other financial assets or economic resources of the listed individuals and/or entities.</p>	<p>Regulation (EU) 881/2002 of 27 May 2002</p> <p>Automatic transposition allowed by the Law of 19 December 2020</p>
UNSC Resolution 1373 (2001)	<p>Member states are required, among other things, to implement a framework enabling the freezing of assets at national level.</p>	<p>2001/931/CFSP of 27 December 2001</p> <p>Regulation (EU) 2580/2001 of 27 December 2001</p> <p>Law of 19 December 2020</p>



EU Regulations

EU Regulations imposing additional restrictive measures	Content	Transposition
Council Regulation (EU) 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaeda and natural and legal persons, entities or bodies associated with them	Travel ban on individuals and asset freeze on individuals and entities that are identified as being associated with ISIL (Da'esh)/ Al-Qaida.	Law of 19 December 2020
Council Regulation (EU) 2024/386 of 19 January 2024 establishing restrictive measures against those who support, facilitate or enable violent actions by Hamas and the Palestinian Islamic Jihad	Travel ban on individuals and asset freeze on those who support, facilitate or enable violent actions by Hamas and the Palestinian Islamic Jihad	Law of 19 December 2020



Reporting obligations

To report the Ministry of Finance	Not to report to the Ministry of Finance
Frozen funds (EU, UN, Luxembourg) without delay	Third countries restrictive measures
Quarterly reporting of frozen funds	Preventive measures
Violation and circumvention of restrictive measures (CRF must be informed as well)	Request without prior analysis (e.g. extract of a screening tool)



FATF - Luxembourg Mutual Evaluation Report

Technical Compliance:

- **Recommendation 6** - Targeted financial sanctions related to terrorism and terrorist financing
- **Recommendation 7** – Targeted financial sanctions related to proliferation financing

Ratings:

R6: largely compliant.

R7: largely compliant.

Outcome:

Minor shortcomings concerning guidance provided to DNFBPs.



FATF - Luxembourg Mutual Evaluation Report

Effectiveness:

- **Immediate Outcome 10.1** (TF preventive measures and financial sanctions)
- **Immediate Outcome 11** (PF financial sanctions)

Ratings:

IO10 has a Moderate level of effectiveness.

IO11 has a Moderate level of effectiveness.

Outcome:

TFS understanding in the private sector varies.

Recommended Actions:

Additional guidance

Enhance outreach and trainings activities



Extraterritoriality

- The EU introduced the Blocking Statute in 1996.
- The European Union and Luxembourg do not recognise the extra-territorial application of laws adopted by third countries.
- Operators are not discouraged to consult others lists for information purpose only but these lists must not be considered as compulsory and binding.



Questions?





Thank you for your attention!

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Targeted Financial Sanctions regarding terrorism financing

Conference 8 November 2024



Commission de Surveillance
du Secteur Financier

Legal Framework

- ❖ Law of 19/12/2020 on the implementation of restrictive measures in financial matters (the « 2020 Law »)
- ❖ Grand-ducal Regulation of 14/11/2022 providing details on the 2020 Law
- ❖ CSSF Regulation 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing, as amended (the « CSSF Regulation »)
- ❖ Law of 20/07/2022 setting up a monitoring committee for restrictive measures in financial matters (with the CSSF as representative)

Role of the CSSF



→The CSSF is responsible for the supervision of the persons (natural/legal) falling within its competence for the purposes of the implementation of the 2020 Law (art. 6, para. 2)

→The CSSF ensures effective monitoring of the implementation of financial restrictive measures (art. 6, para. 2 of the 2020 Law)

→For that:

- * **CSSF must be informed** of the implementation of **each** restrictive measure applied by the professional (art. 33, para. 2 of the CSSF Regulation)
- * **together with the information sent to the Ministry of Finance**

Obligations of the professional

- ❖ **to identify without delay** the States, persons, entities or groups involved in a transaction or business relationship subject to restrictive measures in financial matters in the context of the fight against terrorist financing (art. 33 (1) of the CSSF Regulation)
- ❖ **to apply without delay** the required restrictive measures (art. 33 (2) of the CSSF Regulation)
- ❖ **to have procedures and to implement control mechanisms that allow the professional, when accepting customers or monitoring the business relationships, to detect** the States/persons/entities/groups referred to in art. 33 of the CSSF Regulation, which includes (among others) the implementation of a complete and up-to-date customer database (art. 39 of the CSSF Regulation)
- ❖ **to ensure that the internal system used for this control is adapted without delay** (art. 33 (3) of the CSSF Regulation)

TF and OFAC sanctions lists or from other foreign authorities

- ❖ Only Luxembourg, European and UN lists governed by the provisions of the 2020 Law are applicable in Luxembourg to the professional falling under the AML/CFT supervision of the CSSF
- ❖ Nevertheless and depending on its situation, the professional may be required to consult other lists
- ❖ In relation with OFAC financial sanctions lists (for expl.), the professional has to assess its business relationship applying additional due diligence measures (EDD) based on the information available and which comes from its KYC/KYT files
- ❖ Should the professional have a suspicion of TF or an associated predicate offence, it has to inform without delay the FIU (CRF)
- ❖ It is not the CSSF's responsibility to take a decision on the termination of the business relationship

Sanctioning powers of the CSSF

❖ **Article 6 (4) of the 2020 Law** → same powers as those conferred by the Law of 12 November 2004 regarding the fight against money laundering and terrorist financing, among others:

- investigatory powers (for instance access to any document)
- injunction power
- imposing administrative sanctions
- publication of the decision

❖ **Where are the documents relating to the various international financial sanctions available?**

- Website of the CSSF, Section “Financial Crime”, “International Financial Sanctions”

[https://www.cssf.lu/en/international-financial-sanctions/ternational-financial-sanctions – CSSF](https://www.cssf.lu/en/international-financial-sanctions/ternational-financial-sanctions-CSSF)

❖ **Where does the professional has to send the copy of its communication to the CSSF regarding the implementation of financial restrictive measures?**

- **information** has to be sent to the following email address : **adm_jurcc@cssf.lu**

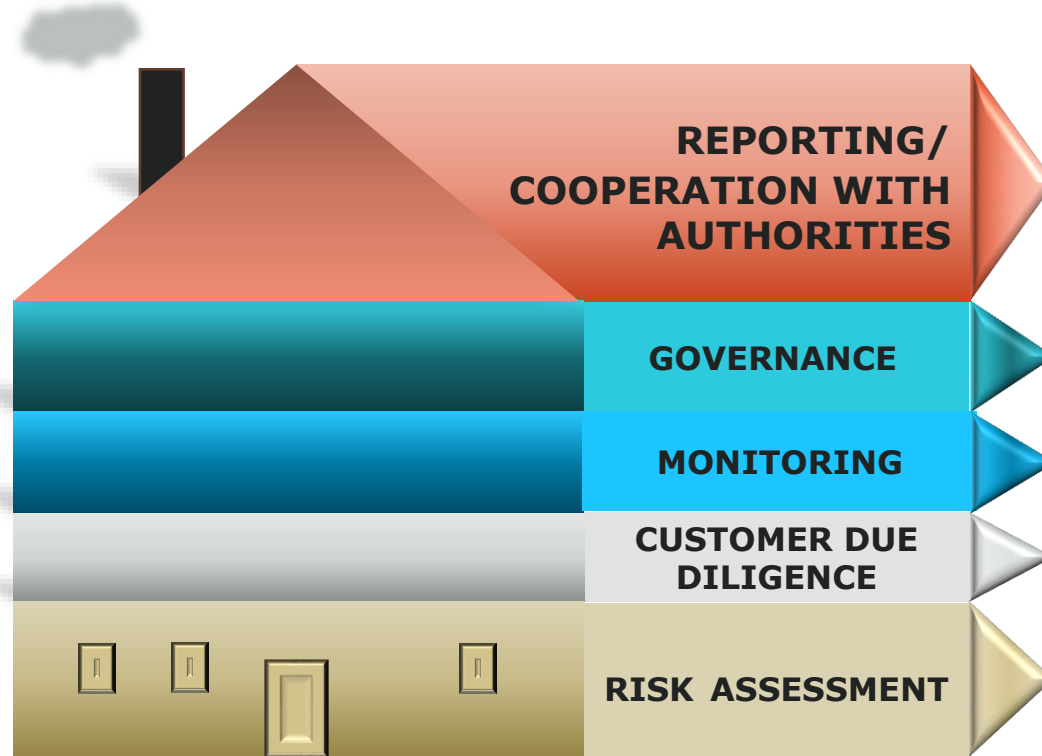


Key take-aways Terrorism Financing Supervision by CSSF

November 8, 2024



CSSF expectations/good practices



TF Risk Assessment

- Dedicated TF risk assessment and score
 - Main risk factors to consider: geographic, customer, products/services, delivery channels
 - No specific form (sub-section or stand-alone) but documented and kept up-to-date
 - Examples of sources: supranational and national risk assessments, risk assessments communicated by supervisory authorities, ESAs, typology reports, etc.
-
- Focused assessment regarding exposure to restrictive measures (financial sanctions) and circumvention risks

Customer Due Diligence



- First step: Customer acceptance processes and risk assessment / score
- CDD/KYC as performed for AML but where required, completed/adjusted to take into account **specific TF risk factors** as certain types of customers may be more exposed (e.g. certain types of NPOs, crowdfunding platforms, money remitters, PEPs, etc.) pursuant to the risk assessments performed by the professional
- Higher risks shall not trigger systematic de-risking

Relationship/Transaction monitoring (1)



Differentiate scenarios that target TF risks in order to detect one/all of the different steps of terrorism financing (**raise, move, use of funds**) for which the professional may be misused/abused



Establish specific TF-related quantitative limits, control rules, activation parameters in order to trigger relevant TF alerts (**often cumulative criteria**)



Leverage on **technology/AI solutions/automation** for collecting and screening information and monitoring transactions (for ex. dedicated machine learning monitoring tools), Blockchain analysis where relevant, etc.

Relationship/Transaction monitoring (2)

Examples of controls and indicators:

- **Correspondence checks/screening:** name of ordering/receiving party, related counter-parties, including involved vessels where relevant, of the transaction/underlying operation, against official RM lists (UE, UN, ...), commercial databases or open source, relating to:
 - Foreign terrorist fighters
 - Religious terrorist groups (e.g. Daesh, Al-Qaida, Al-Shabaab, BokoHaram)
 - Known recruiters, facilitators, members of networks of recruitment
 - Islamic militants
 - Members of Extreme-right/-left wing political parties, National separatists
 - Persons in relation with islamophobic/anti-semitism behaviour, etc.

Relationship/Transaction monitoring (3)

- Checks regarding **underlying products** mentioned for a **transaction**, especially if in combination or together with other suspicious/higher risk factors, notably considering the geographical risk (e.g. arms and ammunition; military products; chemical products (e.g. Glycerin, Ammonium Nitrate, Hydrogen Peroxide, Acetone, Propane, Castor Oil) or pyrotechnical material and even transport means (e.g. plane/bus/train tickets where acquired for other persons or indicators that not for personal use (number, destinations)); etc.
- **Geographical risk**: indicators on localisation and use of credit/payment cards; especially if unusual places of use, high risk countries; etc.
- **Unusual behaviour**: spending/receiving operations; cash withdrawals/remittance operations; emptying of account; re-activation of dormant account; 'Many to one and one to many' activity; transfers to prison; etc.

Relationship/Transaction monitoring (4)

- Checks in the **transaction messages**: suspicious communications? Use of specific key word controls; countries involved (all parties, including FIs); etc.
- **Restrictive measures/sanctions'** monitoring and screening:
 - update of lists and checks without delay: the speed of application is key
 - automated screening unless justifiable
 - fuzzy matching options, take into consideration language issues...
- Measures to detect **sanction evasion/circumvention**

TF internal management / governance



Principle: application of a **risk-based approach**

Organisation: Clarify roles and responsibilities, Specialised TF expertise, maintenance of lists, regular reviews on the quality and utility of the professional's data, control plan by line of defence, involvement of management, etc.



Dedicated **Policies and Procedures/manuals or dedicated section in AML/CFT documents**, focusing on TF and restrictive measures



➤ CTF/Restrictive measures' **Training** for staff and management:

- Focus on TF, restrictive measures, risk factors, typologies, preventive measures
- Review of available guidance (CRF, EUROPOL, FATF, CSSF Newsletter, etc.)

Cooperation/reporting obligations

Cooperation with **competent authorities**: CRF, CSSF and Ministry of Finance

- Suspicious activity/transaction reporting to CRF:
 - Use of special forms of CRF (TFTR/TFAR)
 - Perform preliminary assessments on the relationship/transactions; where doubt persists, immediately inform CRF
 - Provide complete reports
- **Reports on RM** without delay to Ministry of Finance, CSSF in copy, and to CRF where suspicions on TF or predicate offence
- **Central electronic data retrieval system** ("CRBA") reporting to CSSF: important tool for the fight against TF

07

Presentations by private sector representatives

Amazon Payments Europe S.C.A

Paypal (Europe) S.à r.l. et Cie

Worldline Financial Services (Europe) S.A.

Fidelity International (Luxembourg) S.A.

