

Administrative sanction of 14 October 2024 for non-compliance with professional obligations related to restrictive measures in financial matters

Luxembourg, 22 January 2025

Administrative decision

On 14 October 2024 the CSSF imposed a reprimand on the credit institution J.P. Morgan SE, Luxembourg Branch (hereafter the “professional”).

Legal framework/motivation

The reprimand was imposed by the CSSF pursuant to Article 6 (2) and (4) of the Law of 19 December 2020 on the implementation of restrictive measures in financial matters, as amended (“**Law**”), and Article 8-4 (2) of the amended Law of 12 November 2004 on the fight against money laundering and terrorist financing (“**AML/CFT Law**”) for non-compliance with professional obligations with regard to restrictive measures in financial matters, taking into account the criteria defined in Article 8-5 (1) of the AML/CFT Law, in particular the duration and the gravity of the breaches observed at the time of the review. The CSSF also considered the level of cooperation of the professional with the CSSF and the absence of prior breaches by the professional in relation to restrictive measures in financial matters.

The CSSF has duly taken into consideration the remedial actions undertaken by J.P. Morgan SE, Luxembourg Branch to resolve the breaches identified.

The professional obligations in relation to which the breaches were observed are set out in particular in:

- Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, as amended (“**Regulation (EU) No 269/2014**”);
- the Law;
- Grand-ducal Regulation of 14 November 2022 providing details on the Law (“**Grand-ducal Regulation**”); and
- CSSF Regulation N° 12-02 of 14 December 2012, as amended, on the fight against money laundering and terrorist financing (“**CSSF Regulation 12-02**”)

as applicable at the time of the facts, i.e. in 2022 and 2023.

Legal bases for the publication

This publication is made pursuant to the provisions of Article 8-6 (1) of the AML/CFT Law, to which Article 6 (2) of the Law refers, in so far as, following an assessment of proportionality, the CSSF considers that the publication on a nominative basis is not disproportionate and jeopardises neither the stability of the financial markets nor an ongoing investigation.

Context and major cases of non-compliance with the professional obligations identified

This reprimand follows an initial self-disclosure by the professional and several exchanges between the professional and the CSSF that took place in the context of the off-site supervision performed by the CSSF notably as regards the implementation of restrictive measures in financial matters. These exchanges related to breaches of professional obligations relating to the implementation of restrictive measures in financial matters, which pertained in particular to the following points:

- late implementation of restrictive measures in financial matters (such as the freezing of funds without delay) towards a person listed in Annex I of Regulation (EU) No 269/2014, as amended, and subsequently, the late information reported to the Ministry of Finance of the implementation of the relevant restrictive measures towards this person, which constitute a failure to comply with Article 2 and Article 7 of the aforementioned (EU) Regulation, Article 6 (1) of the Law, Article 1 and Article 2 of the Grand-ducal Regulation, as well as Article 33 (2) of CSSF Regulation 12-02, which require that restrictive measures in financial matters be implemented without delay and also communicated without delay to the Ministry of Finance;
- whilst initial screening was conducted, an absence of ongoing screening against the list of sanctioned persons in Appendix I of Regulation (EU) No 269/2014 as amended, of several investors as well as of parties related to investors (including for example the beneficial owners or the representatives of a legal entity) in traditional and alternative funds for which the professional acts as transfer agent, and this during a number of months, which constitutes a breach of Article 3 of the Law, as well as of Article 33 (1) and (3) of CSSF Regulation 12-02 which foresee the obligation (which is rules-based) for the professional subject to the Law to identify without delay the States, persons, entities or groups involved in a transaction or a business relationship subject to restrictive measures in financial matters;
- serious deficiencies in the professional's organisation and internal control system leading to inadequate implementation of restrictive measures in financial matters and to failure to detect, upon regular controls, the above-mentioned breaches to the applicable legal and regulatory provisions, breaches that have continued for a number of months, which constitute a breach of Article 38 (2) and Article 39 (1), (2), (6) and (7) of CSSF Regulation 12-02 which require the professional to put in place policies and procedures that cover all its obligations related to the fight against money laundering and terrorism financing, including those related to restrictive measures in financial matters, and to implement a complete and up-to-date customer database, while performing regular checks to ensure the proper functioning of this system.