

Administrative sanction of 17 January 2024 for non-compliance with the obligation of cooperation with the CSSF referred to in the provisions of the amended law of 12 November 2004 relating to the fight against money laundering and the financing of terrorism

Luxembourg, 14 June 2024

Administrative sanction imposed on the alternative investment fund manager Fonds AAA S.à r.l.

Administrative decision

On 17 January 2024, the CSSF imposed a fine of 10,000 euros against the alternative investment fund manager Fonds AAA S.à r.l. (« AIFM »), covered by the provisions of Article 3 (2) of the amended law of 12 July 2013 relating to alternative investment fund managers.

Legal framework/motivation

The administrative fine was imposed by the CSSF in application of the provisions of Articles 8-4 (1), 8-4 (2) f), and 8-4 (3) of the amended law of 12 November 2004 relating to the fight against money laundering and the financing of terrorism ("AML/CFT law") due to non-compliance with the obligation of cooperation with the CSSF referred to in Article 5 (1) of the AML/CFT law.

Legal base for the publication

This publication is made in accordance with the provisions of Article 8-6 (1) of the AML/CFT law, the CSSF having considered that this publication on a nominative basis was neither disproportionate nor likely to compromise the stability of the financial markets or an ongoing investigation.

Context and identified breach

Article 49 of CSSF Regulation No. 12-02 of 14 December 2012 relating to the fight against money laundering and the financing of terrorism, as amended ("RCSSF 12-02") requires from certain professionals of the collective investment sector the submission to the CSSF of a dedicated report on the fight against money laundering and the financing of terrorism according to the terms detailed in Circular CSSF 21/788. Said report, also called "AML/CFT External Report", must be prepared by an approved statutory auditor and must be submitted annually to the CSSF, within 6 months

following the closing of the annual accounts. The said report forms an essential source of information in the context of the CSSF's AML/CFT supervision.

In the case at hand, said report relating to the closing of the annual accounts on 31 December 2022, had to be submitted to the CSSF no later than the 30 June 2023.

The report not having been submitted to the CSSF by 30 June 2023, the CSSF sent two reminders to the AIFM requiring the latter to submit the required report. Despite these reminders, the CSSF had to note the non-submission of the said report on 24 October 2023, which constitutes a violation of the obligation of cooperation laid down by Article 5 (1) of the AML/CFT Law.

As the AIFM did not make use of its right to be heard and did not provide to the CSSF any information to explain the lack of submission, the CSSF informed the AIFM of its decision to impose the said administrative fine.