

Administrative sanction of 28 August 2024 for non-compliance with the obligation to cooperate with the CSSF as referred to in the provisions of the law of 12 November 2004 relating to the fight against money laundering and the financing of terrorism

Luxembourg, 28 October 2024

Administrative sanction imposed on the alternative investment fund manager FONDS AAA SÀRL.

Administrative decision

On 28 August 2024, the CSSF imposed an administrative fine of 10,000 euros on the alternative investment fund manager FONDS AAA SÀRL (« AIFM »), covered by the provisions of Article 3 (2) of the 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 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 to cooperate with the CSSF referred to in the provisions of 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 2-1 (1) of the AML/CFT Law provides that the CSSF as the supervisory authority in charge of ensuring compliance, among others, by the professionals supervised, authorised or registered by it, with their professional obligations as regards the fight against money laundering and terrorist financing provided for in Articles 2-2 to 5 of the AML/CFT law and their implementing measures.

As part of the exercise of its AML/CFT supervisory mission, the CSSF submits annually to the aforementioned professionals, on the basis of Article 5 (1) of the AML/CFT law, a questionnaire on financial crime ("Questionnaire").

In the case at hand, the said Questionnaire relating to the year ending on 31 December 2023, had to be submitted to the CSSF by 2 April 2024 at the latest.

Since the Questionnaire had not been submitted to the CSSF by 2 April 2024, the CSSF sent two reminders to the AIFM, requiring the latter to submit the Questionnaire. Despite these reminders, the CSSF noted that as of 28 August 2024 the Questionnaire had still not been submitted, which constitutes a breach of the obligation to cooperate provided for in Article 5 (1) of the AML/CFT law.

As the AIFM did not exercise its right to be heard and did not provide any evidence that could justify the failure to submit the said Questionnaire, the CSSF informed it of its decision to impose the aforementioned administrative fine.