



Section 1: General Information

1) Overview

Reference number / name:	CSSF CIRCULAR 94/112: Measures to combat money laundering and prevention of the use of the financial sector for the purposes of money laundering.
General subject:	Anti-Money Laundering Rules.
Date of circular:	25 November 1994
Date of last review:	10 AUG 200X
Deadline (if any)	N/A
Internal ownership:	Compliance Officer / Compliance unit

2) Overall status (open/closed/ongoing/sequential) *(in this case – all...)*

3) Ongoing obligations (if any) yes, at all times

	(1) Internal Audit to test compliance with circular on a regular basis. (2) Yearly communication of designated AML officer to the CSSF. (3) Maintain up-to-date procedures. (4) Report suspicious transactions.	Done on: Done on: Done on: Done on:
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4) Comments (if any) *Amended by Circulars 1998/153, 2000/21, 2001/40, 2002/78.*

(1) Copy of the Bank's Policy was requested by CSSF

5) Ongoing processes (this section would be specific to each organization according to internal procedures in place)

	(1) AML training to new staff. (2) AML annual refreshment training to all staff. (3) AML newsletter to all staff. (4) Quarterly review of transactions.	Done on: Done on: Done on: Done on:
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Section 2: Initial Compliance Officer review and assessment


Applicability for organization (Yes/No): yes


If yes, Departments of organization concerned in particular private banking, front office, fund transfer, transfer agent, compliance.

Actions required (Yes/No): yes / no

Gaps in actual policies/procedures identified: yes / no

Section 3: Details of requirement and inventory of controls:

Action required		Responsibility						Policies & Procedures / Training & Communication / Monitoring, Self- Assessment	Comments (in Compliance or Gaps identified and action required) / Deadline
		Page number of circular	Management	Accounting	Treasury	IT	To be determined		
									
1	Scope								
	Reflect the legislative changes introduced by the Law of 5 April 1993 (Art. 38 to 41)	3							
	Background								
	Law of 7 July 1989 introducing the concept of ML	3							
	FATF/GAFI recommendations	3							
	EU Directive 91/308/EEC	3							
	Law of 17 March 1992 ratifying Vienna Convention of UN on illegal traffics of drugs	3							
	Law of 19 February 1973 on the sale of medicinal substances	3							
2	Relevant Financial Professionals.	4							
	* CI / Foreign branches or subsidiaries of CI / other FSP: provisions of the law are applicable in Lux and abroad	4							
	IAD is required to verify on a periodic basis that foreign subsidiaries are observing Lux legislation	5							
	Lux FSP should appoint 1 person for the prevention of ML in foreign branches & subsidiaries	5							
	* UCI: obligation to KYC and to cooperate with the authority	5							
3	Concept of ML.	6							
	- ML presupposes an underlying criminal offence	6							
	- ML = laundering of related proceeds	6							
	Criminal law determines:	6							
	* Criminal offence + punishment	7							
	* Money launderers (acted as knowingly or unwittingly) are punished	7							
	* FSP having knowingly or by ignorance of their duties facilitated ML	7							
4	Identification of customers when entering into business relations particularly when opening a/c, saving a/c or safe custody activities.	7							
	Preliminary steps:	8							
	* Complete identification of the client/economic beneficiary BEFORE executing transaction	9							
	* Funds can be placed on a block account during the ID BUT professional is responsible	9							
	* If ID incomplete=> not allowed to release the assets	9							
	Basis of Identification + responsibility	9							
	* A/c opening implies judgment + info on customer and the purpose of entering into relationship	9							
	* Particular attention to financial structure and economic justification	9							
	* Professional MUST NOT accept certificate of ID	9							
	* Account opening request requires written approval from a designated person	9							
	* FSP cannot delegate responsibility for establishing the client ID and avoid KYC duties	10							
	* Professional may delegate CERTAIN TECHNICAL ASPECTS of ID but FSP remains responsible and docs must be available in Lux to:	11							
	- CI & FSP established in Lux or abroad if supervised by competent authority imposing similar obligations	11							
	than those applicable in Luxembourg	11							
	Definition of a customer: account holder but also joint account holders and co-signatories	11							
	Customers: physical persons	11							
	* ID based on official docs (compare signature + photos)	11							
	* If by correspondence: docs must be certified copies by a competent authority	12							
	Customers: legal entities	12							
	* Extract form register of commerce	12							
	* articles of association, etc.	12							

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5	Identification of occasional customers: ID procedure is required	12							
	* If suspicion of ML => stop transactions and escalate to reporting line and AMLCO	13							
	* Article 23 of the law of 16 May 1891 on the loss of bearer securities which requires that all financial professionals should check and record the exact identity of persons with whom they effect an operation involving securities	13							
6	Identification of economic beneficiaries:	13							
	* Professional must obtain from customer a statement that they are acting or not on their own behalf	13							
	* Identification of economic beneficiaries or Statement not required if id. not compulsory or if customer's activity = depositing third party assets	14							
	* Professional has the duty to examine transactions and to cooperate with authorities.	14							
7	Documents to retain as evidences:	15							
	* Copy of docs (A/C opening form, proof of identity of customer and economic beneficiaries) for a period of at least 5 years after the end of the relationship without prejudice with longer periods prescribed by other laws	16							
	* Underlying source documents (transactional documents) for a period of 5 years after the transaction	16							
	* Documents required must be kept UP TO DATE	16							
8	Internal procedures and training:	16							
	* Establish adequate procedures, policies and internal control to prevent ML in a precise, complete manual regularly updated with:	17							
	- Forms and content of the procedures to be followed when entering into business	17							
	- Procedures for the monitoring of transactions	17							
	- Procedures to be followed when ML is suspected	17							
	- Definition of the responsibilities of the persons in these procedures	17							
	* A programme for the review of these procedures by Internal Auditor must be defined	17							
	* A continuous staff awareness programme should be prepared for staff	18							
9	Examination of transactions: Professional are required to monitor the history of transactions effected:	18							
	-> if serious doubt but no proof of ML => consider to stop the relationship with the customer	19							
	-> Must keep record of investigation for Internal and External audit review	19							
	-> Periodic review of transactions for monitoring purposes (ongoing and periodic checks)	19							
10	Transmission of information to the authorities. Professional must:	19							
	* Cooperate to any legal request from authorities	20							
	* Inform, via the AMLCO, the Public Prosecutor and the CSSF ON THEIR OWN INITIATIVE of any fact indicating ML	20							
11	In case of suspicious transaction: refrain to carry out transactions until Public Prosecutor has been informed	21							
	State Prosecutor will provide instructions as to execute or not the transaction	21							
12	Notification of the investigation SHALL NOT be disclosed to the customer	21							
13	Bank Secrecy cease when information has been legally revealed	21							
14	Verification by the External Auditor to ensure compliance with part II of Law of 1993	21							

Prepared by
Reviewed by
Date