

Circular no. 5 / 2019-2020

Luxembourg, 15 May 2020

Regarding: Risk mapping for the legal sector

Dear Colleagues,

The Bar, in its efforts to raise awareness of the fight against money laundering and terrorist financing ("AML/CFT"), has mapped the activities and risks inherent to the legal sector.

Pursuant to the provisions of Article 8-1 of [the amended law of 12 November 2004 on the fight against money laundering and terrorist financing](#) ("the AML Act"),

Please fill in the relevant questionnaire by logging on to the following link:

[Link to the questionnaire](#)

Who should answer?

Lawyers in the following cases:

- The lawyer who firms as an individual,
- The associate lawyer of an association of lawyers, having the power to bind the association and decision-maker in AML matters,
- The associate lawyer of a law firm, with the power to bind the firm and a decision-maker in AML matters,
- The salaried lawyer of a law firm, who deals with individual cases in parallel,
- The associate lawyer of a law firm, who deals with individual cases in parallel,

Please specify which applies to you at the beginning of the questionnaire (question 1). **Several choices are possible.**

I would be grateful for a response within 15 days. Please insert your answers directly into the application. The questionnaire is provided in Annex 1 for information purposes only. The sole purpose is to evaluate your responses for the purpose of mapping the risks relating to the legal sector.

If you have any questions regarding the questionnaire, please refer to the FAQ in **Annex 2** or send an email to the Compliance Department at AML@barreau.lu

Sincerely

For the Bar Council
François KREMER
President of the Bar

ANNEX 1 - QUESTIONNAIRE

PRACTISING

1. Type of firm

- ☐ Lawyer practicing as an individual
☐ Partner of a lawyers' association
☐ Partner/shareholder of a law firm
☐ Employee
☐ Self-employed

2. Total number of staff in the firm (all staff combined)

- ☐ 1 to 10 people
☐ 11 to 50 people
☐ 51 to 100 people
☐ More than 100 people

3. Number of people in charge of AML/CFT issues or staff in the Compliance Department

4. Activities carried out in your law firm in the fields of law (rank in order of importance from 0 to 5 corresponding to 0: not at all; 1: very rarely; 2: occasionally; 3: often; 4: very often; 5: main activity):

Companies	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Financial (investment funds, banking law)	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Maritime/Aircraft	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Fiscal / tax structuring	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Civil and Commercial Litigation / Mediation / Arbitration	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Liquidations / bankruptcies	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Estates	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Labour and social security	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Administrative / public	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Real estate	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Bodily injury and property damage	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Information technology	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Intellectual Property	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Immigration / Human Rights	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Family and over-indebtedness	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
European Union	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Environment	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Criminal Litigation	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Consumer protection	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Family Office (1)	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Mandate as administrator / liquidator of companies	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Custodian of bearer securities (2)	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
Company domiciliations (3)	0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>

<p>5. Activities other than those mentioned in question 4, if applicable (specify order of importance from 0 to 5):</p> <p>.....</p> <p>.....</p> <p>.....</p>	
<p>6. If the firm provides a domiciliation service, this is done:</p>	<p>In the firm <input type="checkbox"/></p> <p>At another address <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p>
<p>7. If the firm provides a domiciliation service at an address other than that of the firm, please specify the address:</p> <p>.....</p>	<p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>8. Does the firm provide services to companies and trusts (4) within the meaning of the amended law of 12 November 2004 ("the AML Act") on the fight against money laundering and terrorist financing?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>9. Does the firm deal with activities / cases falling within the scope of the AML Act?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>10. Does the firm verify the identity of the beneficial owners (5) in the framework of the processing of litigation files?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>11. Does the firm verify the origin of the funds credited to its third-party account when handling litigation files?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>12. What percentage of turnover does the firm estimate to be within the scope of the AML Act?</p>	<p>Less than 10% <input type="checkbox"/></p> <p>Between 11 and 33% <input type="checkbox"/></p> <p>Between 34 and 50% <input type="checkbox"/></p> <p>More than 50% <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p><u>RISK ANALYSIS</u></p>	
<p>13. Have you consulted the National Risk Assessment (6) (full version)?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>
<p>14. Has the AML/CFT inherent risk level (7) and risk assessment been defined and approved by a senior member of the management (8)?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Not applicable <input type="checkbox"/></p> <p>Does not wish to answer <input type="checkbox"/></p>

15. Is there a procedure for accepting clients based on a risk-based approach?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
16. Does your study have a Client Acceptance Committee (9) ?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
17. Has a specific level of risk been defined for individual or corporate clients whose beneficial owners are tax residents in countries that do not firm automatic exchange of information (10)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
18. Is the risk assessment regularly monitored and updated?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
<u>DUE DILIGENCE WITH REGARD TO CLIENTS</u>	
19. How many high-risk clients (11) does the firm estimate it has (as a percentage of total caseload)?	Less than 10% <input type="checkbox"/> Between 11 and 33% <input type="checkbox"/> Between 34 and 50% <input type="checkbox"/> More than 50% <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
20. Do you have clients among your clientele who have not been met in person (remote relationship)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
21. Do you have any clients for whom the collection of KYC document is carried out by a third-party introducer (12)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
22. Do you have written and specific procedures regarding due diligence measures, client risk profiles and monitoring of transactions for higher risk clients?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
23. Do you have written and specific procedures concerning due diligence measures, client risk profiles and monitoring of transactions for PEP clients (13)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
24. Do you have written and specific procedures concerning due diligence measures, client risk profiles and monitoring of transactions for remote business relationships (14)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
25. For corporate clients, including those whose securities are represented by bearer securities, do you always identify and verify the identity of the	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>

beneficial owners?	
26. Do you check the consistency of information obtained on your clients' beneficial owners with RBE publications (15)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
27. Do you regularly monitor the information obtained on your clients' beneficial owners?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
<u>INTERNAL ORGANISATION</u>	
28. Under the AML Act , do you have an internal written procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
29. Are AML/CFT policies and procedures documented, up to date and approved by a senior member of management?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
30. Are AML/CFT policies and procedures implemented and harmonised at network level (16) as applicable?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
31. Are AML/CFT policies and procedures applied and understandable to the members of the firm, including newcomers?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
32. Are measures taken to raise awareness among the members of the firm of their obligations under the AML Act, whether in terms of knowledge of clients or cooperation with the authorities, and of the procedures to be followed in this respect?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
33. What measures has the firm taken to raise awareness among employees of their obligations under the AML Act (several choices possible)?	In-house training <input type="checkbox"/> External trainings <input type="checkbox"/> E-learning <input type="checkbox"/> Others <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
34. According to the laws transposing the 4th and 5th European Directives on AML/CFT, are you updating your AML procedures?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
35. Are measures taken to train employees on the provisions contained in the AML Act to help them recognise transactions that may be related to money laundering or terrorist financing and to instruct them on how to	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>

proceed in such cases?	
36. What is the average number of annual AML/CFT training hours per employee for lawyers?	0 to 5 hours <input type="checkbox"/> 6 to 10 hours <input type="checkbox"/> More than 10 hours <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
37. What is the average number of annual AML/CFT training hours per employee for the compliance department?	0 to 5 hours <input type="checkbox"/> 6 to 10 hours <input type="checkbox"/> More than 10 hours <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
38. What is the average number of annual AML/CFT training hours per employee (excluding the compliance department)?	0 to 5 hours <input type="checkbox"/> 6 to 10 hours <input type="checkbox"/> More than 10 hours <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
39. For domiciliation services, are there separate policies and procedures?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
40. Is there a Compliance Officer/Money Laundering Reporting Officer in your firm?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
41. If you have a Compliance Officer/Money Laundering Reporting Officer in your firm, does he or she share other responsibilities?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
42. If you have a Compliance Officer/Money Laundering Reporting Officer in your firm, does he or she report directly to a senior member of the hierarchy?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
43. If you have a Compliance Officer/Money Laundering Reporting Officer in your firm, does he or she attend the meetings of the client Acceptance Committee?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
44. For firms belonging to a network, do you outsource your KYC controls via an outsourced unit (17) within the network?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
45. For firms belonging to a network, do you receive compliance reports from this unit, and do you analyse these reports within your network?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>

46. For firms belonging to a network, have you set up procedures with this unit to obtain all KYC documentation on request?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
47. What is the frequency of review of KYC files for clients subject to enhanced due diligence (18)?	Every 3 months <input type="checkbox"/> Every 6 months <input type="checkbox"/> Once a year <input type="checkbox"/> Less than once a year <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
48. What is the frequency of review of KYC files for clients subject to normal due diligence?	Every 3 months <input type="checkbox"/> Every 6 months <input type="checkbox"/> Once a year <input type="checkbox"/> Less than once a year <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
49. What is the frequency of review of KYC files for clients subject to simplified due diligence (19) ?	Every 3 months <input type="checkbox"/> Every 6 months <input type="checkbox"/> Once a year <input type="checkbox"/> Less than once a year <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
<u>COOPERATION WITH THE AUTHORITIES</u>	
50. Is your firm registered on the FIU's GoAML application?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
51. If your firm is not registered on GoAML, do you intend to register it?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
52. Has your firm designated a contact person responsible for contact with the FIU?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
53. If your firm has designated a contact person, please specify who this person is:	
Not applicable <input type="checkbox"/>	Does not wish to answer <input type="checkbox"/>

54. Does this person have specific AML/CFT skills?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
55. Is this person a senior member of the hierarchy?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
56. Can this person act independently?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
57. Does your procedure allow your staff to internally report breaches of professional AML/CFT obligations through a specific, independent and anonymous channel?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>
58. Has your firm ever reported any suspicious transactions (20)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/> Does not wish to answer <input type="checkbox"/>

ANNEX 2 - FAQ

BAR ASSOCIATION OF LUXEMBOURG

FIGHT AGAINST MONEY LAUNDERING AND TERRORISM FINANCING

ANNEX 2 - FAQ / QUESTIONNAIRE TO LAWYERS

Legal basis:

- The amended law of 12 November 2004 on the fight against money laundering and terrorist financing (hereinafter the "**AML Act**");
- The Grand-Ducal Regulation of 1 February 2010 specifying certain provisions of the law on money laundering and terrorist financing (AML/CFT Act), as amended;
- The amended law of 10 August 1991 on the legal profession;
- The Internal Regulations of the Luxembourg Bar Association;
- The FIU Guidelines;
- The Luxembourg Bar Regulation of 12 September 2018 on the fight against money laundering and terrorist financing.

Question 4:

- (1) Family Office: activity defined by Article 1 of the [Law of 21 December 2012 on the activity of the Family Office](#) and amending:
- The amended law of 5 April 1993 on the financial sector,
 - The amended law of 12 November 2004 on the fight against money laundering and terrorist financing.
- (2) Custodian of bearer shares: activity defined by the [law of 28 July 2014 relating to the immobilisation of bearer shares and units and the keeping of the register of registered shares and the register of bearer shares](#) and amending 1) the amended law of 10 August 1915 on commercial companies and 2) the amended law of 5 August 2005 on financial collateral agreements.

(3) Domiciliation of companies: activity defined by the [law of 31 May 1999 governing the domiciliation of companies](#) and

- amending and supplementing certain provisions of the amended law of 10 August 1915 concerning commercial companies;
- amending and supplementing certain provisions of the amended law of 23rd December 1909 creating a trade and companies register;
- amending and supplementing the amended law of 28 December 1988 regulating access to the professions of craft, trader, industrialist and certain liberal professions;
- supplementing the law of 12 July 1977 on financial holding companies;
- amending and supplementing certain provisions of the amended law of 5 April 1993 on the financial sector.
- supplementing the amended law of 6 December 1991 on the insurance sector.

Question 8.

(4) Service providers to companies and trusts: activities defined in Article 1 (8) of the AML Act.

Question 10.

(5) Beneficial owners: within the meaning of Article 1(7) of the amended law of 12 November 2004 on the fight against money laundering and terrorist financing, this means any individual who ultimately owns or controls the client or any individual for whom a transaction is executed or an activity is carried out. The notion of beneficial owner includes at least:

- a) In the case of companies:
 - i) Any individual who ultimately owns or controls a legal entity by virtue of owning directly or indirectly a sufficient percentage of shares or voting rights or an equity interest in that entity, including through bearer shares or control by other means, other than a company listed on a regulated market which is subject to disclosure requirements compatible with European Union law or equivalent international standards which ensure adequate transparency of ownership information.
A shareholding of 25 per cent plus one or a capital interest of more than 25 per cent in the client, held by an individual, is a sign of direct ownership. A shareholding of 25 per cent plus one, or a shareholding of more than 25 per cent in the client, held by a company, which is controlled by one or more individuals, or by several companies, which are controlled by the same individual(s), is a sign of indirect ownership;
 - ii) If, after having exhausted all possible means and provided that there are no grounds for suspicion, none of the persons referred to in (i) is identified, or if it is not certain that the person or persons identified are the beneficial owners, any individual who holds the position of chief executive;
- b) In the case of fiduciaries or trusts:
 - i) The settlor;
 - ii) Any fiduciary or trustee;
 - iii) The protector, as applicable;
 - iv) The beneficiaries or, where the persons who will be the beneficiaries of the structure or legal entity have not yet been designated, the category of persons in whose main interest the structure or legal entity was set up or operates;
 - v) Any other individual exercising ultimate control over the trust by direct or indirect ownership or by other means;
- c) For legal entities such as foundations and legal arrangements similar to fiduciaries or trusts, any individual performing equivalent or similar functions to those referred to under (b).

Question 13.

- (6) National Risk Assessment: Within the framework of the 4th round of mutual assessments by the Financial Action Task Force (FATF), member countries, including Luxembourg, are assessed on their technical compliance with the FATF 40 Recommendations as well as on the effectiveness of their anti-money laundering and anti-terrorist financing systems. A first assessment of Luxembourg according to this new methodology will take place in 2020 with an on-site visit. The FATF plenary discussion of the report is scheduled for 2021. In view of this Peer Review process in 2020/2021, on 20 September 2018 Luxembourg published a public version of the National Risk Assessment (NRA) on the fight against money laundering and terrorist financing. This assessment responds to FATF Recommendation 1 that "countries should identify, assess and understand the money laundering and terrorist financing risks to which they are exposed and should take steps, including designating an authority or mechanism to coordinate risk assessment actions, and mobilise resources, to ensure that risks are effectively mitigated". Professionals under the supervision of the Luxembourg and Diekirch Bars may now consult the full version (confidential document in English) of the Luxembourg National Risk Assessment on Money Laundering and Terrorist Financing ("NRA") by contacting the Luxembourg Bar at AML@barreau.lu.

Question 14.

- (7) Inherent risks: Inherent risks are defined as money laundering and terrorist financing risks before taking into account the mitigation measures in place. These are threats (offences generating proceeds to be laundered or used to finance terrorist activities) and vulnerabilities (the sectors most exposed and likely to be exploited for money laundering and terrorist financing purposes).
- (8) Member of the senior management: according to Article 1(19) of the amended law of 12 November 2004 on the fight against money laundering and terrorist financing, this means any manager or employee with sufficient knowledge of the professional's exposure to the risk of money laundering and terrorist financing and occupying a sufficiently high hierarchical position to take decisions affecting such exposure, without necessarily being a member of the board of directors.

Question 16.

- (9) Client Acceptance Committee: A Client Acceptance Committee may be set up within a firm, which generally consists of at least one person in charge of AML/CFT issues. This Committee meets on an ad hoc basis in order to deliberate and take decisions on the matter. The Committee is generally competent to decide whether a suspicious transaction report should be made and, if so, to decide on the suspension of any ongoing transaction or operation and the termination of a business relationship.

Question 17.

- (10) Countries not practising automatic exchange of information: Automatic exchange of information is a standard defined by the OECD. Countries sign agreements to automatically exchange information on bank accounts held by persons - individuals or legal entities - resident in any signatory state.

Question 19.

(11) High risk client: The following is a non-exhaustive list of the factors and types of elements indicative of a potentially higher risk set out in annex IV of the AML Act:

- 1) Risk factors inherent to clients:
 - a) Business relationships taking place in unusual circumstances;
 - b) Clients residing in the high-risk geographical areas referred to in point 3);
 - c) Legal entity or legal arrangements that are structures for holding personal assets;
 - d) Companies whose capital is held by nominee shareholders or represented by bearer shares;
 - e) Activities requiring a lot of cash;
 - f) Companies whose ownership structure appears unusual or overly complex in view of the nature of their activities;
- 2) Risk factors relating to products, services, transactions or distribution channels:
 - a) Private banking;
 - b) Products or transactions likely to favour anonymity;
 - c) Business relationships or transactions which do not involve the physical presence of the parties and which are not accompanied by certain guarantees such as an electronic signature;
 - d) Payments received from unknown or unrelated third parties;
 - e) New products and business practices, including new distribution mechanisms, and the use of new or developing technologies for new or pre-existing products.
- 3) Geographical risk factors:
 - a) Without prejudice to Article 3(2)(2), countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published monitoring reports, as lacking effective systems to combat money laundering and terrorist financing;
 - b) Countries identified by credible sources as having significant levels of corruption or other criminal activity;
 - c) Countries subject to sanctions, embargoes or other similar measures imposed, for example, by the European Union or the United Nations;
 - d) Countries that finance or support terrorist activities or in whose territory designated terrorist organisations operate.

Question 21.

(12) Third party introducer: Within the meaning of Article 3-3(1) of the AML Act, "third parties" means the professionals listed in Article 2 of the AML Act, the organisations or federations that are members of these professionals, or other institutions or persons, located in a Member State or a third country:

- a) Which apply due diligence and document and evidence retention measures with respect to clients that are compatible with those provided for in the AML Act or in Directive (EU) 2015/849; and
- b) Which are subject, with regard to compliance with the requirements of the AML Act, Directive (EU) 2015/849 or equivalent rules applicable to them, to supervision compatible with Chapter VI, Section 2 of Directive (EU) 2015/849.

Question 23.

(13) PEP: "politically exposed persons" within the meaning of Article 1 paragraph (9) of the AML Act means individuals who hold or have been entrusted with an important public function as well as their family members or persons known to be closely associated with them.

The procedures to determine whether the client or his agent or beneficial owner is a politically exposed person, as defined in Article 1 paragraphs 10, 11 and 12 of the AML Act and required in Article 3-2 (4) letter a) of that Act, may include, inter alia, the solicitation of relevant information from the client, the use of publicly available information or access to computer databases on politically exposed persons.

Question 24.

(14) Business relationship: within the meaning of Article 1 paragraph (13) of the AML Act this means a business, professional or commercial relationship connected with the professional activities of institutions and persons subject to that law and which is intended, at the time the contact is established, to be of a certain duration.

Question 26.

(15) RBE: within the meaning of Article 1 1° of the [Law of 13 January 2019 establishing a Register of Beneficial Owners](#) and implementing 1. the provisions of Article 30 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council repealing Directive 2005/60/EC of the European Parliament and of the Council and Directive 2006/70/EC of the Commission; 2. the amendment of the amended law of 19 December 2002 on the trade and companies' register and the accounting and annual accounts of undertakings, "Register of beneficial owners" means the file in which information on beneficial owners is kept.

Question 30.

(16) Network: In order to comply with Article 2 (12) paragraph 2 of the AML Act and Article 4 of the Grand-Ducal Regulation, and subject to other applicable laws, the Lawyer coordinates his anti-money laundering and anti-terrorist financing policy with his branches and subsidiaries abroad.

The lawyer is obliged to ensure compliance with AML/CFT obligations by his branches and subsidiaries, in Luxembourg and abroad, in which he has the legal means to impose his will on the conduct of business.

Where the minimum AML/CFT standards of host countries differ from those applicable in Luxembourg, branches and subsidiaries in host countries should apply the most rigorous standard, insofar as the laws and regulations of the host country permit.

Question 44.

(17)Outsourced unit: The due diligence measures provided for in Article 3 (2) points (a) to (c) of the AML Act may be carried out by an outsourced unit. The outsourcing relationship between the Lawyer and the relevant third party as referred to in article 3-3(5) of the AML Act must be the subject of a contract. It should be noted that the third party referred to as the "provider of the outsourced service or the agent", according to the AML Act, must be considered as part of the professional subject to this same law.

Question 47.

(18)Enhanced due diligence: Professionals must apply, based on their assessment of the risk, enhanced customer due diligence measures, in addition to the measures referred to in Article 3 of the AML Act, in situations which by their nature may present a high risk of money laundering and terrorist financing and, at the very least, in the cases referred to in paragraphs 2, 3 and 4 "in order to adequately manage and mitigate such risks". When assessing the risks of money laundering and terrorist financing, professionals shall at a minimum take into account the factors of potentially higher risk situations set out in annex IV of the AML Act.

Question 49.

(19)Simplified due diligence: Where professionals identify a lower risk of money laundering and terrorist financing, they may apply simplified due diligence measures in respect of clients.

Question 58.

(20)Suspicious transaction reports: A suspicious transaction is a transaction for which the professional subject to the report knows, suspects or has reasonable grounds to suspect that money laundering, an associated underlying offence or terrorist financing is being carried out, has taken place or has been attempted, in particular because of the person concerned, their performance, the origin of the assets or the nature, purpose or methods of the transaction.