

Circular

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Periodic questionnaire on combating money laundering and terrorist financing

Scope

- *all credit institutions, including EU and non-EU branches;*
- *all stockbroking firms, including EU and non-EU branches;*
- *all insurance companies authorised to conduct life insurance business, including EU and non-EU branches;*
- *all payment institutions and electronic money institutions, including EU and non-EU branches;*
- *all payment institutions and electronic money institutions which are authorised in other member states of the European Economic Area and which are established in Belgium (through one or more agents and/or distributors);*
- *all settlement institutions, including EU and non-EU branches.*

Summary/Objectives

Through this circular, the National Bank of Belgium seeks to obtain standardised information from the financial institutions in order to strengthen its risk-based approach in exercising its legal supervisory powers in the fight against money laundering and terrorist financing.

Structure

1. *Introduction*
2. *Evolution of the periodic questionnaire since 2013*
3. *Submission of the answers to the periodic questionnaire through OneGate*
4. *Deadline*
5. *Practical aspects*
6. *Methodology for answering the questionnaire*

Dear Sir,
Dear Madam,

Attached to this circular, you will find a questionnaire through which the National Bank of Belgium (hereinafter "the Bank") seeks to obtain standardised information about, on the one hand, the inherent risks of money laundering and terrorist financing (hereinafter ML/FT) which threaten your institution, and, on the other hand, the quality of the risk management measures taken by your institution. The Bank expects your financial institution to return the completed questionnaire according to the following modalities.

1. Introduction

The International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (also known as the FATF Recommendations), which were adopted in February 2012, strongly emphasize the importance of adopting a risk-based approach in combating money laundering and terrorist financing. Not only should the financial institutions themselves establish a risk-based ML/FT organisation, but the relevant supervisory authorities should also have an ML/FT supervisory model allowing them to exercise their supervisory powers based on the risks to which the financial institutions under their supervision are exposed.

The requirement for supervisory authorities to organise their supervision using a risk-based approach is explicitly included in the European ML/FT regulations¹ and is also laid down in Article 87 of the Law of 18 September on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

In addition, the European Supervisory Authorities² (hereinafter "the ESAs") published joint guidelines on risk-based ML/FT supervision of financial institutions on 16 November 2016. These guidelines contain concrete recommendations for the development of a risk-based supervisory model by the national ML/FT supervisory authorities of financial institutions. In particular, these recommendations concern the following steps:

- Step 1: identifying the different ML/FT risk factors;
- Step 2: implementing a risk assessment for each of the financial institutions under supervision;
- Step 3: exercising the supervision itself; and
- Step 4: reviewing, adjusting and monitoring the risk-based supervisory model.

In order to allow the Bank to perform a risk assessment for each of the different financial institutions under its supervision (step 2 of the ESA guidelines) and enable it to determine supervisory priorities based on this assessment, it must possess, on the one hand, information on the inherent ML/FT risks to which the institutions are exposed and, on the other, information on the quality of the risk management measures taken by the financial institutions. On the basis of both assessments, the residual ML/FT risk and the supervisory priorities can then be determined for each institution.

The periodic questionnaire annexed to this circular therefore aims to collect the above-mentioned information from each of the supervised institutions, so that the Bank can determine its supervisory priorities on the basis of this information.

¹ Directive (EU) 2015/849 of 20 May 2015 and Regulation (EU) 2015/847.

² I.e. the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA).

Additionally, the Bank notes that the information it receives from financial institutions through the periodic questionnaires on ML/FT risks is, in practice, supplemented by and assessed in light of other sources of information which the Bank can either access or gain access to. These sources include findings made as a result of on-site inspections, contacts between the supervisory authority and financial institutions, reports of and contacts with accredited auditors, information exchanged with the CTIF-CFI, the prudential supervisors and ML/FT supervisors from other member states and third countries, information provided by the judicial authorities, etc.

2. Evolution of the periodic questionnaire

In 2013 the Bank for the first time submitted an ML/FT questionnaire to the financial institutions. The main aim of this questionnaire was to verify compliance of the internal ML/FT procedures of the financial institutions with the Belgian ML/FT regulations. Therefore it mainly focused on the quality of the risk management measures taken by the financial institutions. In subsequent years, new questions and/or chapters were successively added to this periodic questionnaire. In 2017, the Bank for the first time also gathered information about the inherent ML/FT risks that threaten the institutions under its supervision.

Since 2018, the questions regarding inherent ML/FT risks and compliance, which have also been thoroughly amended, are bundled in a single questionnaire³.

The 2019 periodic ML/FT questionnaire has not undergone any new developments compared to the previous questionnaire, with only some clarifications and specific adjustments having been added. As announced, the Bank aims for a certain stability of the questionnaires wherever possible.

The reporting period has not changed; the information to be transmitted by the institutions should, as before, relate to the previous calendar year and the state of the internal procedures as at 31 December of the previous calendar year.

3. Submission of the answers to the periodic questionnaire through OneGate

The financial institutions must submit their answers to the periodic questionnaire through OneGate, where it will be available in electronic form. The Bank automatically receives the information provided by your institution as soon as the electronic form has been closed and sent.

In order to guarantee the safety of the information provided by your institution, your institution must have an electronic certificate to access the OneGate application. These certificates can be obtained from various external service providers (inter alia Globalsign, Isabel and/or Quo Vadis). Institutions that do not have a Belgian CBE number can exceptionally request to be exempted from using an electronic certificate by sending an e-mail to supervision.ta.aml@nbb.be. If the requested exemption is granted, the institution in question is granted a login and password to access the OneGate application in order to reply to the periodic questionnaire.

More information about the OneGate application and how to access it can be found under the following links:

- English: https://www.nbb.be/doc/dq/onegate/en/login_en.html
- French: https://www.nbb.be/doc/dq/onegate/fr/login_fr.html
- Dutch: https://www.nbb.be/doc/dq/onegate/nl/login_nl.html

³ Circular NBB_2018_01 of 15 January 2018 - Periodic questionnaire on combating money laundering and terrorist financing.

4. Deadline

The answers to the periodic questionnaire must be submitted through OneGate by **30 June 2019** at the latest. The electronic form in which the requested information is to be furnished will be available in OneGate from 1 May 2019.

5. Practical aspects

The Bank chose to prepare separate questionnaires for each category of institutions under supervision, which – to the extent possible – take into account the specific activities performed in the different sectors. A total of four different questionnaires were prepared for the following categories of institutions: (i) credit institutions, (ii) stockbroking firms, (iii) life insurance companies and (iv) payment institutions and electronic money institutions.

All questionnaires are available in English, French and Dutch.

You will not receive the various questionnaires in paper form. Please consult the Bank's website to find the questionnaire which is to be answered by your institution, and download it. The authorisation granted to your institution by the Bank is of course decisive in this regard. Settlement institutions should answer the questionnaire for credit institutions.

The questionnaires can be found on the Bank's website by following these instructions:

1. Go to www.nbb.be
2. Go to: Financial oversight → Prevention of money laundering and terrorist financing (AML/CFT website) → Useful links and documents → Main reference documents → click on this circular

For any questions regarding these questionnaires, please contact the Bank's ML/FT supervisory team using the following e-mail address: supervision.ta.aml@nbb.be.

6. Methodology for answering the questionnaire

a) Answering the questions

In the electronic form that will be available in OneGate, your institution should provide the necessary information by selecting in the drop-down menu, for each question, the answer that best suits the organisation of your institution (e.g. yes, no or not applicable).

Where numerical information is requested, your institution usually has the choice between the options 'not available' or 'digit'. If your institution does not have the statistical information required to provide a reliable answer to the question, your institution should choose the option 'not available'. If your institution does have the required information, you should select the option 'digit' and enter the correct figure. Finally, if a question is not relevant to your institution, you should select the option 'digit' and enter '0'.

Please note:

Numbers should always be entered without points or commas to separate the thousands. Points may only be used as a decimal separator. If you have not entered the number in the correct format, you will receive an error message and will not be able to close the form.

- Example error message:

The screenshot shows a form with a blue input field containing the value '4.2'. To the right of the input field, there is a radio button labeled 'Number' which is selected. Below the input field, a red error message box contains the text 'The given inputvalue contains illegal characters'. To the right of the error message, there is another radio button labeled 'Not Available' which is also selected. The value '41.422.45' is displayed in a red box to the right of the error message.

- Correct entry:

The screenshot shows a form with a blue input field containing the value '4.2'. To the right of the input field, there is a radio button labeled 'Number' which is selected. The value '422.45' is displayed in a white box to the right of the input field.

b) Reference date for answering the questions

As regards the reference date for answering the questions, the following distinction must be made.

The questions aimed at obtaining statistical information in principle always provide the necessary information about the date or period to which the information requested should relate. In almost all cases, the information requested should (i) relate to the situation on 31 December of the previous calendar year (e.g. number of customers as at 31 December 20XX), (ii) or relate to the previous calendar year (e.g. number of payments made to high-risk countries in 20XX).

As regards the qualitative questions, which are aimed, for example, at verifying compliance of the internal procedures with the legislation in force, or which relate to the checks, if any, performed by the institution, the information provided by the institution must always relate to the situation as at **31 December of the previous calendar year**.

c) Responsibility for the accuracy of the answers

The answers to the questionnaire should be submitted to the Bank under the ultimate responsibility of the responding financial institution's senior management.

However, it should be noted that the person responsible assigned within each financial institution in accordance with Article 9, § 2, of the Law of 18 September 2017 is, pursuant to the same legal provision, not only primarily tasked with analysing atypical transactions in order to determine whether these transactions should be considered suspicious and notified to the Financial Intelligence Processing Unit (CTIF-CFI), but also with implementing the policies and procedures referred to in Article 8 of the Law, particularly the internal control measures and procedures which are necessary to ensure compliance with the Law and which are covered in the questionnaire. Article 9 of the Law also states that this person responsible should ensure in general, that the institution fulfils all its obligations with regard to the prevention of money laundering and terrorist financing and, more in particular, that the institution establishes an adequate administrative organisation and internal control measures as required pursuant to Article 8 of the Law. This person responsible should also be authorised to propose, on his/her own initiative, all necessary or useful measures to the senior management of the institution, including the release of the necessary resources.

The Bank therefore expects the financial institution's senior management to decide which answers should be given to the questionnaire, on the proposal of the person responsible for the prevention of money laundering and terrorist financing.

The Bank can, in the context of specific control actions or on-site inspections, verify the accuracy and quality of the answers provided by the institutions.

A copy of this circular is being sent to the auditor(s) of your company or institution.

Yours faithfully,

Pierre Wunsch
Governor

Annexes (5) – available only on www.nbb.be:

- *Questionnaire credit institutions;*
- *Questionnaire life insurance companies;*
- *Questionnaire stockbroking firms;*
- *Questionnaire payment institutions and electronic money institutions;*
- *List of high-risk countries, EU sanction countries and off-shore countries (annex 1 to the above-mentioned questionnaires).*