

NEW LAW ON THE FIGHT AGAINST MONEY LAUNDERING AND THE FINANCING OF TERRORISM

The Luxembourg legislature adopted on 17 July 2008, and published in the Mémorial on 23 July 2008, the new law on the fight against money laundering and the financing of terrorism and the prevention of the use of the financial sector for the purpose of money laundering and terrorist financing (the “Law”). It amended the law of 14 November 2004 on the fight against money laundering and the financing of terrorism and the prevention of the use of the financial sector for the purpose of money laundering and terrorist financing.

The Law provides for some significant changes regarding the fight on money laundering and terrorist financing, particularly regarding the application of customer due diligence.

Probably the most dramatic change in this regard is the introduction of a risk-based approach as the determining principle. The risk-based approach enables the assessment by the relevant professional of the risks involved with certain clients or products and the tailoring of the customer due diligence procedures to these risks.

The Law does not dictate how a professional should specifically conduct its customer due diligence, but only which objectives should be achieved. The level of due diligence required depends on the type of customer involved, country and transaction in question, and customers are to be identified based on application of the newly established standards of “simplified customer due diligence” or “enhanced customer due diligence”.

In addition, the legislature finally recognizes that professionals may refer to third parties regarding identification measures to be taken.

Further, the Law provides an extension in the coverage of application to service providers and trusts as well as merchants dealing in an amount equal or higher to 15,000 Euros.

Finally, the legislature provides for follow-up obligations by professionals in the fight against money laundering and the financing of terrorism.