

Payment transactions - Guidelines on missing payee/payer information

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By Circular 18/680 of 23 January 2018, the CSSF adopted the Joint Guidelines of the European Supervisory Authorities (“**ESAs**”) under Article 25 of Regulation (EU) 2015/847 on the measures payment service providers should take to detect missing or incomplete information on the payer or the payee, and the procedures they should put in place to manage a transfer of funds lacking the required information (“**Guidelines**”). Regulation 2015/847 aimed to bring EU law in line with certain recommendations of the Financial Action Task Force, which sets international anti-money laundering standards.

The Guidelines, applicable as of 16 July 2018, are addressed to payment service providers (“**PSPs**”) where they act as the PSP of the payee as well as to intermediary payment service providers (“**IPSPs**”), notions defined in Regulation 2015/847. They indicate what these entities should do to comply with Regulation 2015/847 and are also addressed to competent authorities responsible for supervising compliance.

They set out the factors PSPs and IPSPs should consider when establishing and implementing procedures to detect and manage transfers of funds that lack required information on the payer and/or the payee as well as the measures they should take to manage the risk of money laundering or terrorist financing (“**ML/TF**”) where the required information on the payer and/or the payee is missing or incomplete. They have to establish effective policies and procedures proportionate to the nature, size and complexity of their business and proportionate to the ML/TF risks to which they are exposed setting out clearly, for instance, which transfers of funds have to be monitored in real time and which transfers of funds can be monitored on an ex-post basis.

In addition, as the CSSF recalls, PSPs and IPSPs have to take into account the Guidelines of the ESAs on risk factors discussed in its Circular CSSF 17/661, in particular where a country associated with high ML/TF risk has been identified. They set out factors firms should consider when assessing the

ML/TF risk associated with a business relationship or occasional transaction.

Finally, the Guidelines contain certain documentation and record-keeping obligations for the entities concerned.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter

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