

Tax Alert

Luxembourg

Central Bank of Luxembourg implements new statistical reporting requirements for Luxembourg financial companies

The new regulation provides for the collection of statistical data from the Luxembourg finance sector that is not covered at present by any other data collection scheme. Within the framework of its tasks the BCL has to transmit comprehensive and reliable statistics on the balance of payments and the international investment position to the European Central Bank ("ECB") based on the Guideline ECB/2004/15.

In April and June 2011, the Luxembourg Central Bank (BCL) issued regulations on the collection of statistical information.

- ▶ 2011/n°7 - collection of statistics from credit institutions in the field of balance of payments
- ▶ 2011/n°8 - collection of statistics from companies contracting loans or issuing debt securities or derivative instruments to finance their affiliated companies
- ▶ 2011/n°9 - collection of statistical data on instruments and operations from Luxembourg banks, payment institutions and electronic money institutions

The purpose of this alert is to provide a brief but comprehensive description of the new BCL regulations focusing on the requirements deriving from regulation 2011/n°8 and on the related reporting deadlines.

BCL reporting requirements for Luxembourg finance companies

In April 2011, the BCL released Regulation 2011/n°8 concerning the collection of statistics from non-regulated Luxembourg domiciled companies/branches which contract loans or issue debt securities or derivative instruments in order to finance the activities of their affiliated companies. The Regulation entered into force on 13 May 2011.

The statistical reporting obligations which arise from this regulation apply to any Luxembourg companies/branches whose principal activity consists of

- ▶ Contracting loans
- ▶ Issuing debt securities
- ▶ Issuing derivative instruments which are sold by public offer or by private placement in order to finance the activities of affiliated companies (the "Issuers").

Since releasing the regulation the BCL has informed a number of Issuers that they fall within the scope of the regulation and of their new obligations in this respect. However the regulation does not only apply to those Issuers which have been specifically informed but to any Issuer as described above.

Notification requirements

Companies within the scope of the regulation are supposed to inform the BCL within one month after their incorporation in case they issue or plan to issue debt securities. This also applies to companies which issued securities in the past which have not yet matured.

Statistical reporting requirements

The following monthly and quarterly reports are to be transmitted to the BCL:

- ▶ A quarterly statistical balance sheet in line with the BCL accounting standards (the "S 2.16 report"): assets and liabilities must be split according to four criteria: 1. country of the counterpart, 2. original currency, 3. economic sector of the counterpart and 4. initial maturity
- ▶ Quarterly information on transactions (the "S 2.17 report"): the purpose is to breakdown the movements of fixed assets, derivative instruments purchased and derivative instruments issued according to 1. actual transaction, 2. pricing effect and 3. exchange rate variation
- ▶ A monthly reporting on securities (on a line by line basis)

The transmission will be done by using the current available electronic transmission channels offered by Finesti and SOFiE.

The BCL provides an Excel template to fill in the different reports. The data files transmitted to the BCL must be established in XML (eXtensible Markup Language) and/or XBRL (eXtensible Business Reporting Language). The Issuers must keep the statistical reports and the related documentation for a period of twenty-four months. No information will be published within the public domain.

Issuers are required to transmit the statistical reporting for the first time as per the reference period ended 30 September 2011.

The first S 2.16 report is due to be transmitted to the BCL by 21 October 2011 at the latest whereas the first S 2.17 report is due to be transmitted 20 January 2012 at the latest.

Exemptions

The Regulation 2011/n°8 provides for the possibility for Issuers to be totally or partially exempt from the statistical reporting requirements but does not provide any precise guidelines in this respect.

It appears from the "Frequently Asked Questions - FAQ" issued in August 2011 that Issuers with a balance sheet total not exceeding EUR 500 million (or equivalent amount in foreign currency) are exempt from the statistical reporting requirements. These companies remain nonetheless subject to the general notification requirement, i.e. the obligation to inform the BCL that they issue or plan to issue debt securities and would thus in principle fall within the scope of the regulation. Regulated entities that are already subject to another reporting to an administrative authority (i.e. CSSF) are not covered by this regulation, to avoid double reporting.

Ernst & Young can offer assistance to fulfill the reporting requirements deriving from this regulation.

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Contacts

Bob Fischer
Partner
+352 42 124 7526
bob.fischer@lu.ey.com

Pascale Wagner
Executive Director
+352 42 124 7487
pascale.wagner@lu.ey.com

Estelle Vodouhé
Senior Manager
+352 42 124 7377
estelle.vodouhe@lu.ey.com

Fatima Calvo-Rodriguez
Manager
+352 42 124 7521
fatima.calvo-rodriguez@lu.ey.com

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