Sectoral assessment of the money laundering risks in the Belgian financial sector subject to the supervisory authority of the National Bank of Belgium – version of 8 september 2020

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1 SUBJECT

This document presents a sectoral assessment of money laundering risks in the Belgian financial sector subject to the supervisory authority of the National Bank of Belgium ("the Bank" or "the NBB"). This sectoral risk assessment is intended to serve as a guide for the Bank in conducting its AML/CFT checks in accordance with its risk-based approach, and therefore supplements the risk-based supervision policy which it has adopted. This document is also intended to provide input for the national risk assessment in regard to the risks associated with the Belgian financial sector and, more specifically, the institutions for which the NBB is the supervisory authority pursuant to the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and restrictions on the use of cash.[1]

The methodology adopted aims both to formalise the expertise developed by NBB staff and to form the basis for a process of rationalising sectoral AML risk assessments, which will need to keep pace with developments in the financial sector.

This analysis is based in particular, though not exclusively, on the European Commission's supranational risk assessment COM(2019) 360 final and its annexes of 24 July 2019 (the "SNRA"), risk factors identified by the European Supervisory Authorities in their Joint Guidelines (JC 2017 37 of 4 January 2018), and the Joint Opinion of the European Supervisory Authorities JC2019 59 of 4 October 2019 on the risks of money laundering and terrorist financing affecting the European Union's financial sector.

2 METHODOLOGY

The starting point was the desire to produce something of more value than the excessively aggregated holistic information that would have been provided by an overall assessment of the financial sector without identification of the different characteristics implying specific risks and vulnerabilities.

The methodology used therefore aims to identify - within the various categories of institutions subject to the NBB's supervision – specific activities which are central to the various business models and which have characteristics linked to inherent levels of risks and vulnerability and specific residual, potentially differentiated risks.

Owing to problems in accessing precise aggregate data per activity, it is not always possible to draw fully documented general conclusions on completion of the exercise. However, we compensate for that by using the expertise gained in carrying out supervision ("expert judgment"), so that the analysis permits a series of sufficiently substantiated observations which highlight the risks associated with the institutions' activities and their vulnerabilities in connection with compliance with the anti-money laundering laws and regulations.

2.1 IDENTIFICATION OF THE ACTIVITIES COVERED

For this first exercise, twelve activities pursued by four groups of institutions subject to the NBB's supervision were identified, permitting the desired degree of granularity for this first version of the exercise.

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[1] The "AML Law". Moniteur belge of 6 October 2017 – Chamber of Representatives (www.lachambre.be) Documents: 54-2566.

For the credit institution sector, the activities of private banking, savings banks, correspondent banking (in which connection aspects relating to clearing/settlement, custody and central depositoies will also be addressed) and corporate banking services were identified as activities which are sufficiently separate to be analysed individually. However, it is important to understand that these activities may be conducted by institutions which vary in size and nature, ranging from large universal banks - which offer the whole spectrum of financial activities - to institutions specialising solely in one particular activity.

For the payment institution sector, the various activities specified by the PSD2 are considered but a specific section is devoted to payment initiation services, account information services, remittances and electronic money. Five categories of activities are therefore examined.

For the insurance sector, a distinction is made between long-term life insurance products and life insurance as an investment product, partly because of the differences between the types of product and the associated risks, and partly because these products are occasionally offered by different institutions prone to specific vulnerabilities.

Finally, a specific section is devoted to the investment advice sector offered by stockbroking firms.

This non-exhaustive list may change, if necessary, at the time of subsequent updates of this sectoral risk assessment and the associated methodology.

2.2 ACTIVITIES AND RISKS NOT COVERED

In accordance with Belgium's decision to conduct a national assessment of the money laundering risks separately from the assessment of the terrorist financing risks, this sectoral risk assessment is confined to money laundering aspects and does not include dimensions relating to the battle against terrorist financing, although the risks and vulnerabilities identified below may also be applicable in whole or in part to certain activities considered in this analysis.

Furthermore, this analysis does not cover the risks relating to transactions that Belgian or foreign customers might effect via institutions operating in Belgium under freedom to provide services without an agent/distributor. Such institutions are in fact outside the NBB's supervisory scope. Their potential influence in regard to the money laundering risks relating to the financial activities of Belgian customers may not be marginal if they are not adequately taken into account by the authorities of the Member States of origin.

Nor does this analysis cover or measure the risks of illicit activities conducted by unauthorised persons or institutions, which consequently evade the supervisory powers of the Bank or any other national or foreign supervision authority.

2.3 TRANSVERSAL RISK FACTORS

Certain standard transversal risk factors, such as the use of cash, or the level of risk associated with distribution methods, have long been known.

However, since criminal money laundering activities are still changing in line with the transformation of financial activities and the associated regulatory, preventive and repressive environment, new transversal money laundering risk factors relating to the financial sector have now emerged.
Apart from the standard transversal risk factors mentioned above, these new risk factors resulting from changes to the sector at the level of its players and the design of its products concern all financial activities, in varying degrees, and ultimately expand the scope for money laundering.

For instance, new conditions exist today which often make money laundering harder to detect or identify than before. In addition, it is worth noting that the Covid crisis may have had implications for all financial institutions subject to supervision, even if that does not mean the emergence of new forms of crime but crimes committed in a new context.

2.3.1 CHANGES TO THE FINANCIAL SECTOR AND BUSINESS MODELS

Although this analysis does not cover the risks generated by the financial activities of institutions operating in Belgium without an agent/distributor under freedom to provide services (see point 2.2), it must be said that changes to the financial sector influence the business models of institutions subject to the NBB's supervision and the general knowledge that institutions may have about customers and their characteristics (see also point n°.2.3.3).

As more products are offered to customers in Belgium, the significant increase in competition on markets with low profitability may occasionally exacerbate the risk-taking models of institutions aiming to maintain a profitable market margin. The Commission's report to the European Parliament and to the Council on the assessment of recent alleged money laundering cases involving EU credit institutions specifically mentions, as one of the four major vulnerabilities, the pressure on risk propensity models and the potential danger that it represents for financial activity in terms of money laundering risks.

At the same time, the fragmentation of these expanding financial activities into an array of separate, heterogeneous products makes it more difficult for institutions to find out about their customers' activities and characteristics, and may even reduce what they know (see also point n° 2.3.3). An institution may be less able to detect an atypical transaction by a customer if it only has information on that customer in connection with a limited activity: thus, in principle, an institution offering only one specific type of financial product or service naturally has less information on its customers' characteristics than an institution with more detailed knowledge of its customer via a more inclusive, transversal commercial approach.

2.3.2 USE OF CASH

Criminals still prefer to use cash since it cannot be traced and therefore permits anonymous transactions.

That is why there is a greater risk that financial products involving the use of cash are potentially more likely to be linked to one of the three money laundering processes (placement, layering and integration). The same applies to assets such as gold and diamonds, which can be safely stored and readily traded, transported and conserved.

Products relating to the use of cash are therefore considered to be riskier, especially given the steady, confirmed reduction in the use of cash in the economy, as demonstrated by the following three points.

First, the figures for cash withdrawals from ATMs are continuing to fall: in 2018, there were around 260 million such withdrawals totalling € 35 billion; in relation to the Belgian population, that means 23 withdrawals averaging € 134 per Belgian citizen per annum.

Next, as regards reducing this risk, the AML Law also limits cash payments and gifts to € 3000.

Finally, on the subject of counterfeiting, the number of forged banknotes withdrawn from circulation in Belgium has been declining steadily since 2016, notably as a result of improvements in banknote authenticity and the NBB's efforts to raise awareness in that respect.

2.3.3 DISTRIBUTION METHODS/DIGITALISATION

The distribution methods used for financial products and activities have some influence on the risk of money laundering in that they may comprise loopholes that lead to poor identification of customers and their characteristics.

In particular, if a financial institution uses self-employed agents to market its products, there is a risk that, in the absence of any chain of command, some of them may be tempted to pay more attention to fulfilling the expectations of their customers on whom their fees depend – even if those expectations are unlawful - rather than obeying the internal instructions and procedures of the financial institution which they represent. The institution must therefore implement reliable and effective supervision mechanisms and allocate the necessary resources to them. This risk is even greater if the agent is not exclusive and can therefore divide his customers' substantial transactions into less conspicuous transactions for smaller amounts, executed by recourse to the various financial institutions which the agent represents, thus making detection of the suspicious nature of such transactions more difficult and less likely.

Furthermore, as revealed in the Joint Opinion of the European Supervisory Authorities on the risks of money laundering and terrorist financing affecting the European Union's financial sector, the growing digitalisation of financial activities may also make it more difficult to identify the customer and know his characteristics, either via evasion of the automatic checks (or even by electronic identity theft), or more traditionally by multiple transactions being intertwined with the aim of disguising the recipient of the laundered funds.

Digitalisation does in fact represent an increased risk of money laundering in cases where the vigilance procedures relating to customers are not suited to taking account of the technical characteristics of the digital distribution channel used, or are not applied correctly in the distribution methods that these new players prefer.

2.3.4 IDENTIFICATION OF CUSTOMERS AND THEIR CHARACTERISTICS

As identified in the European Commission's supranational risk assessment of 24 July 2019, anonymity remains a vital characteristic sought by criminals for laundering the money derived from an illegal activity.

In practice, certain financial activities offering products which are entirely or partly anonymous in their composition therefore imply an increase in the risk of money laundering.

Customer identification remains the cornerstone of the current system for combatting money laundering in that it is the only way of establishing adequate knowledge of the customer's characteristics, ultimately permitting the detection of transactions which are potentially suspicious in relation to the customer's profile and may need to be passed on, following analysis, to the Belgian Financial Intelligence Unit (CTIF).

Document falsification, which is a reality in Belgium[2], or the use of mules or front men for various financial activities therefore represent certain risks of circumvention of the vigilance measures set up by institutions and based on customer identification.

Customer identification and knowledge may also be hampered where criminals in the business world resort to complex legal structures involving multiple shell companies or "letterbox" companies.

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[2] In 2019 the Belgian police seized almost 3,000 false identity papers. In regard to terrorism, see also the case of the false documents that enabled the Paris and Brussels cell to finance the terrorist attacks.

However, as regards reducing this risk, on 31 October 2018 Belgium set up the register of beneficial owners provided for in Article 73 of the AML Law, which helps to reduce the difficulties due to the interlinking of financial transactions, although FPS Finance granted some tolerance up to 31 December 2019 regarding submission of the required data to the register. Moreover, this register does not prevent the establishment of opaque structures in high-risk foreign countries which money launderers can use to attempt to become customers of financial institutions based in Belgium while endeavouring to conceal their true identity.

2.3.5 HIGH CONCENTRATION OF POLITICALLY EXPOSED PERSONS

Belgium's hosting policy, and particularly the presence of the headquarters of NATO and the European Union, affect the concentration of politically exposed persons in Belgian territory.

Alongside the network of international organisations and national embassies, Belgium also attracts multinational companies, lobby groups, NGOs and the international press, and that likewise tends to increase the number of politically exposed persons who could potentially be customers and/or beneficiaries of an institution pursuing its activity in Belgium.

This potentially high concentration of PEPs represents an increased risk for institutions which are subject to certain vulnerabilities, such as those relating to the pursuit of activities in Belgium without sufficient knowledge or grasp to establish the origin of the assets and to ensure that they are not derived from corruption and/or intended for corrupt purposes.

2.3.6 FINTECHS

In regard to Fintechs, apart from the risk relating to distribution channels (see above), the emergence of promoters (shareholders and directors) of these new entities with a culture which is essentially or even purely focused on IT, so that they lack any adequate and sufficiently detailed understanding of the ALM/CFT constraints relating to the marketing of their new products, may represent a significant risk.

2.4 PERIOD CONSIDERED

In view of the availability of data on the institutions subject to NBB supervision, this assessment is based on the situation as at 31 December 2018, and may be subject to periodic updating.

2.5 SCORING

First, the "inherent risks" of each activity considered are assessed and quantified by assigning them a score (of 1 to 5)[3] . "Inherent risk" means the risk of the activity being used for money laundering purposes on account of its nature and its objective characteristics, disregarding any measures that financial institutions may take to reduce and manage those risks. An activity's inherent risk level is also influenced by its relative importance in the Belgian financial sector.

Next, each activity is given a score (of 1 to 5) for the vulnerabilities identified in institutions pursuing these activities. Vulnerability should be understood as the risk that financial institutions engaging in the activity concerned may not have an adequate set-up and internal control system or sufficient resources to reduce and manage the inherent risks of that activity. This score will be based partly on the various insights gained by the NBB, in particular but not exclusively via its off-site supervision and various inspections, and the associated findings and recommendations.

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[3] 1 = low; 2= moderate; 3 = significant; 4 = high; 5 = critical

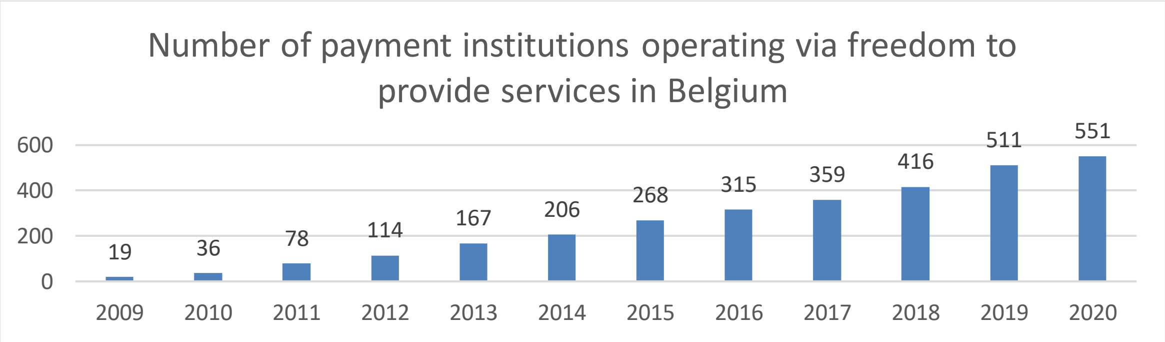
The two scores for the various activities assessed are then entered in a matrix forming the basis of the overall assessment for the sector as a whole, which determines the "residual risk" relating to each activity resulting from the combination of the inherent risk level and the vulnerability level. For example, an activity considered to present a high inherent risk but low vulnerability may be given a lower residual risk score ("overall score") than an activity with a lower inherent risk but higher vulnerability.

3 PAYMENT AND ELECTRONIC MONEY INSTITUTIONS

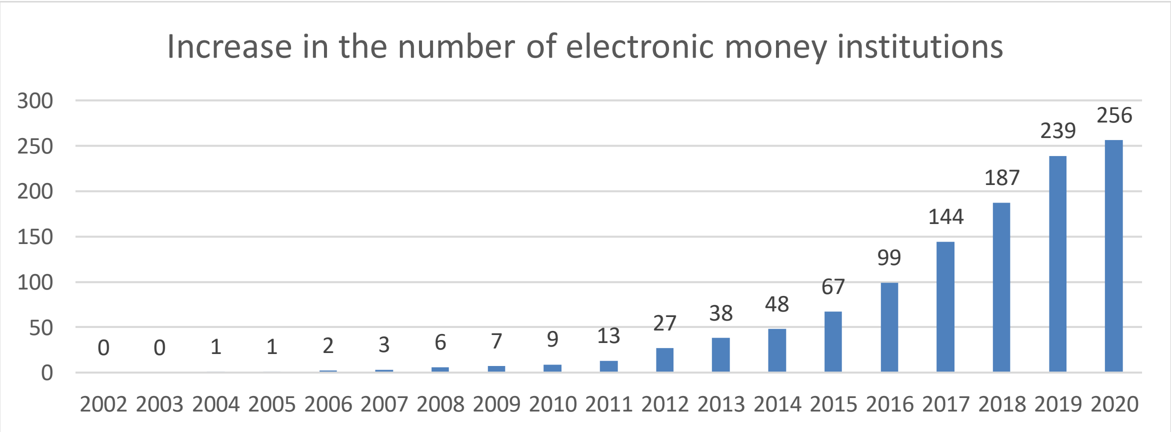
This section identifies five specific types of activity: (i) traditional payment activities, (ii) money remittance activities, (iii) payment initiation services, (iv) account information services, and (v) electronic money activities.

As stated in point n° 2.3.1, the payment and electronic money institutions sector is still undergoing profound changes following the arrival of a number of new players on the Belgian market.

The large increase in players from other countries in the European Economic Area, combined with the significant growth in the number of players offering products via freedom to provide services, i.e. without being established in Belgium via a branch or one or more agents and/or distributors, is radically altering the sector's dynamics and influencing both risk propensity models and the knowledge that payment institutions may have about financial activities fragmented into a multitude of players and products (see point n° 2.3.1).



As well as the increase in the number of payment institutions pursuing their activities under freedom to provide services in Belgium, there is also the equally large increase in the number of electronic money institutions operating in Belgium and similarly offering payment services via freedom to provide services.



Most of these institutions originate from the United Kingdom and the Netherlands, in the case of payment institutions, and the United Kingdom, Lithuania and Cyprus in the case of electronic money institutions.

With the exception of institutions specialising in one particular activity, such as account information service providers or payment initiators, most institutions declare and pursue multiple payment activities simultaneously or in conjunction with other partners.
Among the payment institutions which stated the actual nature of their activities in their replies to the periodic questionnaire on AML risks for payment institutions as at 31 December 2018, we find that 39.5 % of institutions declare a single activity, 31.5 % declare two and 18.4 % declare three activities. Only 10% of these institutions declare that they engage in four or five different payment service activities. These figures show that, in practice, the great majority of payment institutions provide payment services with little or no diversification.

3.1 PAYMENT SERVICES (EXCLUDING REMITTANCE SERVICES: SEE 3.2, PAYMENT INITIATION SERVICES: SEE 3.3, AND ACCOUNT INFORMATION SERVICES: SEE 3.4)

3.1.1 DESCRIPTION OF THE ACTIVITY

3.1.1.1 What is meant by a payment activity?

Payment services cover various types of specific activities provided in whole or in part by payment and electronic money institutions (including EU and non-EU branches) and by payment institutions and electronic money institutions approved in other member countries of the European Economic Area and established in Belgium via one or more agents and/or distributors.

These activities include:

1. All operations necessary for managing a payment account (including services enabling cash to be paid into a payment account).
2. Services permitting cash withdrawals from a payment account.
3. The execution of payment operations:
   - The execution of direct debits, including one-off direct debits
   - The execution of payments by means of a payment card or similar device
   - The execution of transfers, including standing orders.
4. The execution of payments for which the funds are covered by a credit line granted to the payment services user:
   - The execution of direct debits, including one-off direct debits;
   - execution of payments by means of a payment card or similar device
   - The execution of transfers, including standing orders.
5. The issuance and/or acquisition of payment instruments.
6. Transmission of funds
7. Payment initiation services
8. Account information services.

Since the activities mentioned in the first three items on the above list have their own specific characteristics as regards the risk of money laundering, those risks are analysed separately in points 3.2 to 3.4 below.

Although the banking sector has always traditionally taken charge of payment activities in the strict sense, the advantages of these services when they are offered by payment institutions compared to traditional banking activities include not only their digitalisation, shorter transaction times, and their integration and distribution network but also their competitive advantage in terms of exchange rate margin or correspondent banking costs, or in non-financial ancillary services linked to the products of these activities.

3.1.1.2 What does the activity of payment institutions represent in Belgium

On 31 December 2018, there were 19 Belgian authorised payment institutions, 3 payment institutions governed by the law of another EEA country and maintaining a branch in Belgium, and 21 institutions pursuing activities in Belgium via freedom to provide services and an agent. In addition, there were 2 limited payment institutions.

Finally, in addition to that total there were 12 institutions authorised as electronic money institutions but also providing payment services, and 3 limited electronic money institutions, making a total of 60 institutions subject to NBB supervision.

Situation as at 31/12/2018	
Authorised payment institutions governed by Belgian law	19
Payment institutions which are account information service providers	0
Payment institutions governed by the law of another EEA country and having a branch in Belgium	3
Limited payment institutions	2
Payment institutions operating in Belgium under freedom to provide services	21
Electronic money institutions operating in Belgium under freedom to provide services	5
Electronic money institutions governed by Belgian law	5
Limited electronic money institutions	3
Electronic money institutions governed by the law of another EEA country and having a branch registered in Belgium	2
TOTAL	60

Apart from electronic money services (see 3.5) and remittance services (see 3.2.), payment activities in Belgium are concentrated on the provision of accounts and means of payment for private individuals plus payment terminals and on-line payment solutions for business users.

These institutions also offer their services primarily on line or via a network of agents/distributors, and do not necessarily have a physical presence in Belgium.

3.1.2 RISKS INHERENT IN THE ACTIVITY

As the payment activities category includes a large number of different products, it is first necessary to separate the risks according to the institution's involvement in the transaction: a payment initiator (activity 7) or an account information service provider (activity 8) is not in fact subject to the same risks as a service involving cash payments/withdrawals or the transmission of funds. That is one of the reasons why the EBA risk factors do not state any particular risk factor specific to payment activities.

As regards product-related risks, payment activities permit faster, higher-volume transfers than other financial products, thus making them particularly attractive for the mass transfer of funds originating from illegal activities.

Moreover, most payment activities are still linked to the use of cash. For instance, only 35% of payment institutions offering payment services in Belgium and responding to the questionnaire do not offer any products involving the use of cash (deposit and/or withdrawal).

What is more, the sector is also particularly prone to transversal risks connected with knowledge of the customers and their characteristics via digitalisation, and with the distribution network when it involves physical agents who are not in themselves subject to the AML Law.[4] Digitalisation also makes it easier to effect P2P transfers.

Apart from the usual money laundering risks which also apply to deposit activities, for example, the Supranational Risk Assessment (SNRA) specifically identifies the high-risk case in which payment services are used, diverted or controlled directly by criminal organisations for money laundering purposes without adequate vigilance measures being implemented within a reasonable period of time to permit prompt intervention.
The inherent risk of payment activities varies greatly according to the product characteristics and distribution arrangements, and is therefore consistently assessed as significant (3 out of 5).

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4 See point n°120 of the guidelines on risk factors: "*Distribution through intermediaries that are not themselves obliged entities under Directive (EU) 2015/849 or national legislation where applicable, where the e-money issuer: i. Relies on the intermediary to carry out some of the AML/CFT obligations of the e-money issuer; and ii. has not satisfied itself that the intermediary has in place adequate AML/CFT systems and controls.*"

3.1.3 VULNERABILITIES OF INSTITUTIONS PURSUING THE ACTIVITY

Although the sector comprises institutions with differing profiles and activities (electronic payment terminal or large firm in a global financial group), the institutions' vulnerabilities identified by the NBB, via either its off-site supervision or its on-site inspections, are often but not solely concentrated on:

- a lack of detailed knowledge of the Belgian legal and regulatory framework concerning the prevention of money laundering;
- a lack of experience and relevant, ongoing training of management and/or personnel on the subject of AML/CFT ;
- non-application of the legal provisions owing to the absence of checks relating to PEPs;
- inadequate resources allocated to supervision of the distribution network, whether digital or comprising physical outlets;
- poor organisation of the three AML lines of defence: some outsourced functions were not adequately supervised or subjected to proper due diligence.

Consequently, the vulnerabilities of payment institutions subject to NBB supervision are assessed as significant (3 out of 5), according to their nature, their product characteristics and their distribution networks.

3.1.4 ASSESSMENT OF THE ACTIVITY'S RESIDUAL RISK

In view of the significant inherent risks in payment activities and the substantial vulnerabilities of the institutions offering these products, the residual risks relating to money laundering via payment activities are generally considered significant (3 out of 5).

3.2 MONEY REMITTANCE ACTIVITIES

3.2.1 DESCRIPTION OF THE ACTIVITY

The activity of money remittance means "*a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee."* [5]

The feature distinguishing it from other payment activities is that the transfer is made without any account necessarily being created in the name of the payee and/or the person effecting the transfer.

Money remittance activities are mostly aimed at private individuals, although some products are specifically offered to businesses and professionals since they sometimes imply certain advantages over more traditional correspondent banking.

With their vast network of local agents and outlets, money remittance activities can reach people throughout the world in countries or regions where few if any financial institutions have a presence.

In view of their ease of access, the speed of transfer and more advantageous rates than those offered by banks on the foreign exchange market, money remittance institutions aim to attract customers who would not naturally turn to a bank for this type of services.

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5 Article 4, n° 22 of Directive 2015/2366

3.2.2 THE ACTIVITY IN BELGIUM

Among the 60 payment institutions subject to NBB supervision, 15 institutions declared that they engaged in money remittance activities as at 31 December 2018. [6]

On 31 December 2018, money remittances by supervised institutions represented € 1.1 billion per annum, of which € 400 million was transferred in cash. Almost half the volume of remittances was destined for a country regarded as high risk.

The main routes for money remittances in Belgium are destined for Morocco and the Democratic Republic of Congo, and originate from Congo and Cameroon. The other main risk countries originating or receiving the remittances are Afghanistan, Ivory Coast, Tunisia and Turkey.

The great majority of institutions in Belgium accept cash as the means of effecting transfers, and most operate both on-line and via a network comprising a large number of non-exclusive agents consisting mainly of retail businesses.

3.2.3 RISKS INHERENT IN THE ACTIVITY

Money remittance activities are, by their nature, less likely to create effective awareness of customers' activities, not only for detecting when transactions go beyond the occasional nature typical of the business model, but particularly owing to the fundamental characteristic relating to the absence of accounts: again, there is the question of procedures for ascertaining the customer's identity and characteristics, especially if the transfer takes place to or from a risk country.

In regard to geographical risk, it seems that money remittance services are aimed mainly at persons with limited access to banking services, dealing with countries regarded as high risk in terms of money laundering. Money remittance activities are thus often linked to a high geographical risk, and remittances to a country where informal fund transfer systems coexist do indeed represent an additional risk and hence an extra attraction for money laundering purposes.

Since money remittance activities are also aimed at customers from sectors of the illegal economy or those known for their money laundering risks, that further exacerbates the customer-related risk.

In regard to the product risk, money remittance services remain intrinsically linked to the use of cash, as they are – by nature – aimed at profiles with little or no access to banking services. The product risk is therefore high in the case of the remittance of funds.

In the light of these considerations, the inherent risk relating to money remittance activities by payment institutions is considered to be high (4 out of 5).

3.2.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

In regard to the distribution risk, money remittance services are based primarily on local distribution networks, consisting mainly of retail businesses which, by nature, do not offer the necessary guarantees for the proper application of the legal requirements of the AML legislation. All the institutions subject to NBB supervision which engage in the activity are SMEs (- 250 FTEs), but some of them use a network of more than 2,500 agents/distributors most of whom are not exclusive and can therefore offer multiple competing products.

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[6] It should be noted that credit institutions are also able to remit funds but in practice, for those institutions, this activity is largely linked to creation of an account, which is a decisive criterion in the definition of money remittance as understood in this analysis.

Continuous monitoring and recent inspections of payment institutions involved in money remittances revealed the following vulnerabilities:

- poor supervision of the agent network: either owing to a lack of personnel and/or material resources allocated to training and supervision, or because the institution's monitoring measures are inappropriate;
- the fact that many agents are not exclusive also weakens the ability of payment institutions to supervise all the remittance activities pursued by those agents, and enables the agents to divide large remittances into smaller transactions effected via the various money transmitters that they represent;
- an incomplete overall risk analysis taking no account of the risks presented by new products or specific geographical risks;
- poor organisation of the three lines of defence;
- insufficiently thorough monitoring of transactions effected by agents in their own name.

In particular, continuous monitoring and individual inspections have led to improvements in methods of reporting to the CTIF and control systems relating to prevention of the money laundering risk.

In conclusion, the vulnerabilities of institutions engaging in money remittances in regard to money laundering risks are considered to be high (4 out of 5).

3.2.5 THE ACTIVITY'S OVERALL SCORE

In accordance with the high inherent risk (4 out of 5) of money remittance activities and the identification of high vulnerabilities (4 out of 5), the residual risk is considered high (4 out of 5).

3.3 PAYMENT INITIATION ACTIVITIES

3.3.1 DESCRIPTION OF THE ACTIVITY

Payment initiation involves giving instructions, in the name of another person, to the financial institution with which that other person has a payment account, to execute payments from that account which is not held by the payment initiator himself.

This service may be offered in connection with a business relationship formed by a payment initiation service provider (PISP) with a trader (usually engaging in a business activity on the internet) in order to enable that trader's customer to pay the price of their purchases and thus to give the trader a guarantee that those payments will actually be made. In this case there is no business relationship with the trader's customers, and the trader is the sole potential recipient of payments initiated by the PISP.

However, the PISP may also offer this service to a person who is the holder of the account(s) from which the payments will be initiated, with the aim of facilitating payments to be made by that person from the account(s) in question. In this case, payments are made to an extremely large range of recipients with whom the PISP does not have any business relationship, and the service permits the initiation of payments for reasons which are not necessarily linked to the business activities of the payees, and are unknown to the PISP.

This service can be offered by all payment service providers (credit institutions, payment institutions, electronic money institutions), in which case it supplements the range of services which they offer to their customers. However, it may also be offered by payment institutions specialising solely in this activity.

3.3.2 THE ACTIVITY IN BELGIUM

At present, of the 9 Belgian payment institutions offering payment initiation services, only 4 institutions specialise in offering this service, in combination with the account aggregation service (see chapter 3.4 below), but without simultaneously offering payment accounts, credit services or payment instrument issuance services. In this chapter, it is only the latter that are considered to be PISPs.

3.3.3 RISKS OF THE ACTIVITY

PISP activity is not entirely devoid of money laundering risks.

- Product-related risks:
  - remittances originating from different payment accounts and sent to the same person where the total represents a large amount without any economic justification;
  - initiation of payments to a very wide range of recipients without it being possible to establish the reason, where the service is offered to the holders of the payment accounts concerned.

- Risks relating to the geographical region:
  - sending or receipt of remittances where the counterparties are based in “high-risk third countries”.

However, it should be pointed out that:

- at no time is the PISP in possession of funds belonging to the holder of the payment accounts concerned;
- the intervention of the PISP in no way impedes the performance of the duties of vigilance (in particular, monitoring of the transactions) of the financial institution maintaining the payment account concerned.

In view of these considerations, the inherent risk associated with payment initiation activity is classed as moderate (2 out of 5).

3.3.4 VULNERABILITY OF INSTITUTIONS PURSUING THIS ACTIVITY

PISPs must be acknowledged as vulnerable to money laundering in some degree, in particular because:

- unlike the financial institution maintaining the account concerned, the PISP does not have full information on all the transactions effected via that account, but only those initiated by the PISP itself;
- PISP activities are often pursued by small firms focused mainly on developing new technological solutions and not necessarily having any detailed knowledge of the Belgian legal and regulatory framework for the prevention of money laundering.

Conversely, where the payment initiation service is offered in the context of a business relationship with the trader, the PISP is able to ensure that the initiated payments are consistent with the trader’s profile and commercial activities.

In conclusion, in regard to money laundering risks, the vulnerabilities of institutions pursuing payment initiation activities are considered significant (3 out of 5).

3.3.5 <u>THE ACTIVITY'S OVERALL SCORE</u>

Despite a significant level of vulnerability (3 out of 5), since the inherent risk associated with payment initiation activities is moderate (2 out of 5), the residual risk can be considered moderate (2 out of 5).

3.4 ACCOUNT INFORMATION SERVICES

3.4.1 DESCRIPTION OF THE ACTIVITY

These are services that enable the customer to collate on one interface all the data relating to balances and transactions effected via multiple institutions.

Account Information Service Providers (AISPs) may offer this service as their primary activity or as an ancillary activity.

3.4.2 THE ACTIVITY IN BELGIUM

Apart from the 4 Belgian payment institutions offering account information services solely in conjunction with payment initiation (see chapter 3.3 above), there are only 3 companies authorised in Belgium to offer exclusively account information services.

3.4.3 RISKS OF THE ACTIVITY

The account information services activity does not involve any intervention in the execution of customers' transactions, and in particular does not place the AISP in possession of customers' funds. Furthermore, the account information service does not in any way impair the ability of financial institutions to fulfil their vigilance obligations in regard to transactions effected via the accounts concerned. There is therefore no evident risk.

3.4.4 VULNERABILITY OF INSTITUTIONS PURSUING THIS ACTIVITY

Since no inherent risk can be identified, the assessment of the vulnerability of these operators is irrelevant.

3.4.5 THE ACTIVITY'S OVERALL SCORE

In view of the absence of risks and vulnerabilities, the overall score of the account information services activity is zero.

3.5 ELECTRONIC MONEY ACTIVITIES

3.5.1 DESCRIPTION OF THE ACTIVITY

Electronic money, as defined in point 77 of Article 2 of the Law of 11 March 2018 on the status and supervision of payment institutions and electronic money institutions, and access to the activity of payment services provider is "*electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 22° of this article and which is accepted by a natural or legal person other than the electronic money issuer*".

It is possible to make a number of distinctions in regard to the form of the products offered for this activity, ranging from corporate cards and digital wallets to prepaid credit cards.

However, electronic money activities involve varying usage thresholds but necessarily always require the user (or a third party) to load electronic money onto a digital medium (hardware or software) and applications for possible payments, generally including cash withdrawals.

3.5.2 THE ACTIVITY IN BELGIUM

On 31 December 2018, in regard to electronic money institutions, the supervisory scope of the NBB comprised five Belgian institutions authorised for electronic money, one e-money institution governed by the law of another EEA country which had a branch registered in Belgium, and six e-money institutions governed by the law of another EEA country and operating in Belgium under freedom to provide services with an agent and/or distributor.

As well as issuing electronic money, these institutions also offer payment services and are thus subject to the same risks as those mentioned in point n° 3.1, including cash withdrawals and payments. In addition, the products offered are also increasingly digitalised and are intended for both private individuals and businesses.

The amount of electronic money issued in Belgium by the twelve institutions subject to NBB supervision in connection with the activity came to around € 350 million, and only one institution offered the option of using credit loaded by a third party.

3.5.3 RISKS INHERENT IN THE ACTIVITY

E-money activity is particularly subject to the risk of customer characteristics identification, either owing to anonymised products or to the use of front men. Digitalisation has also amplified this process, as the use of virtual money mules now makes it easier to envisage large-scale money laundering operations via electronic means in the following way: the use of numerous (real or fictitious) commercial websites makes it possible to pass on cash from illegal operations by converting it into electronic money.

E-money products in fact remain subject to the transversal risk relating to cash, either because it is possible to use cash to load up electronic money credit, or because the product permits the withdrawal of cash from a vast network of terminals throughout the world. Criminals wanting to launder cash will in fact continue to prefer products that make use of cash and will also favour products which can be bought/reloaded with cash, as well as those permitting withdrawals in Belgium or elsewhere in the world. Moreover, in comparison with cash, electronic money has the additional characteristic of being dematerialised, so that it is easier to transport and/or transfer to third parties, implying an additional specific risk.

However, it should be noted that, apart from the limits on anonymous use, set at € 250[7], the relative ease of tracing electronic money from its issuance to its distribution via its use, is in itself a potential relative risk reduction factor, in contrast to other payment activities involving the use of cash which, by definition, cannot be traced.

Apart from the possibility of cash withdrawals, and leaving aside the relatively small problem of anonymous products, the main risk of this activity is therefore that electronic money may be used simply as a medium for a larger-scale money laundering process.

The inherent risk of electronic money activities is therefore considered low by nature if they do not involve cash, but potentially more significant in that this activity is often offered in parallel with other payment services which – by their nature and their distribution methods - imply more risks (3 out of 5).

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7 Article 25 of the AML Law, threshold reduced to € 150 by the Law of 20 July 2020.

3.5.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

As stated in the SNRA, police forces have detected numerous cases of money laundering via prepaid cards, and the use of distribution agents is sometimes preferred to front men who are considered more expensive. Once again, this use of mules is made possible by digitalisation and electronic devices.

As electronic money activities are generally offered via a network of physical agents, some of whom are not in themselves subject to the AML Law, supervision of the agent network becomes crucial and must form the central focus of measures to prevent money laundering, from the integration of the agents to monitoring of their activities and transactions, and including their training.

However, other players in Belgium have developed monitoring systems, from acquisition to use, which are assessed via continuous supervision and one-off thematic inspections designed to ensure, among other things, that the risk management measures are adequate to meet the challenges of money laundering. This dual supervision has not revealed any major anomalies in the operation of payment institutions as regards payment activities in the strict sense.

Consequently, the vulnerabilities of those institutions pursuing this activity are considered to be relatively moderate to significant, with no potentially structural negative implications for the management of the money laundering risk (3 out of 5).

3.5.5 THE ACTIVITY'S OVERALL SCORE

As stated in the EBA Guidelines, "*the level of ML/TF risk associated with electronic money(e-money) depends primarily on the features of individual e-money products and the degree to which e-money issuers use other persons to distribute and redeem e-money on their behalf*".

In view of the relevant considerations concerning the Belgian market, the residual risk of e-money activities ranges from moderate to significant, depending primarily on the specific features and terms of the products offered and the characteristics of the institutions and their distribution methods. The residual risk is significant (3 out of 5).

4 CREDIT INSTITUTIONS

Approved credit institutions may pursue four types of activity.

4.1 PRIVATE BANKING ACTIVITIES

4.1.1 DESCRIPTION OF THE ACTIVITY

This concerns services provided by a financial institution and featuring
- the management of a customer's assets or economic resources involving amounts in excess of a certain threshold defined by each financial institution; and
- a range of specific services, products and advice suited to each customer's specific profile.

Asset management may comprise the following products and services (non-exhaustive list):
- banking services (account maintenance, loans including Lombard facilities);
- investment services (investment advice, portfolio management);
- life insurance products;
- financial engineering, business transfer advice, etc.

4.1.2 THE ACTIVITY IN BELGIUM

In Belgium, this activity is offered both by Belgian specialist credit institutions and by specialist divisions of major universal banks (BNPPF, ING, KBC, Belfius, Deutsche Bank, etc.) or by Belgian branches of institutions governed by the law of another EEA country (ABN Amro, Deutsche Bank, Edmond de Rothschild, etc.). It should be noted that this activity may also be pursued by stockbroking firms (Capitalatwork, Leleux, etc.), and that the points made in this chapter are therefore also applicable to those firms.

This activity is very important in Belgium, estimated at € 584 billion at the end of June 2019.

4.1.3 RISKS INHERENT IN THE ACTIVITY

This is a particularly sensitive activity owing to the risk relating to the management of substantial assets the origin of which is sometimes difficult to establish, the discretion required by some very wealthy people, and the repatriation of funds in connection with fiscal transparency, which directives have made compulsory in the European Union in recent years.

In addition, as stated above, the amounts involved are generally large and make it easy to conceal illicitly obtained funds among funds of legal origin, so that suspicions are less likely to be aroused.

The risks inherent in this activity also include:

- the frequency of cross-border movements;
- complicated wealth structures in exotic countries;
- the lack of transparency concerning the origin of funds.

Once the origin of the funds becomes clear, the inherent risk declines dramatically, as the management operations are initiated by the financial institution itself pursuant to its mandate, which is why the main vigilance efforts must be deployed when funds are received, and primarily concern proof of the funds' origin and consistency with the customer's characteristics.

The inherent risks also include:

- Customer-related characteristics:
  - customers with income and/or assets originating from high-risk economic sectors (armaments, construction, gambling, extractive industries, the diamond industry);
  - customers against whom credible allegations of offences have been made;
  - customers demanding an unusual degree of confidentiality or discretion, particularly in regard to the origin of the funds (see above);
  - customers whose transaction level does not correspond to their profile;
  - very wealthy, influential customers;
  - non-resident customers and PEPs.
- Risks relating to the products and services offered
- Requests for large sums in cash or in precious metals
- Financial arrangements involving countries or territories associated with a higher ML/TF risk
- Use of complex commercial structures, such as trusts. That appears to be fairly uncommon practice in Belgium.
- Commercial activities pursued in multiple countries
- Cross-border arrangements which may include uncooperative countries or territories
- Products encouraging anonymity.

In view of the foregoing, the inherent risk score can be set at 3.5 out of 5 (significant to high).

4.1.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

It is possible to establish measures to limit these risks, such as

- strengthening the vigilance measures if the customer or beneficial owner is a PEP or is located in a risk country;
- introducing an AML/CFT policy at group level;
- strengthening the vigilance measures for repatriations.

Nevertheless, the following vulnerabilities were detected:

- an inadequate AML/CFT monitoring culture which may be related to the specific links developed between relationship managers and their customers;
- the sophisticated technical and regulatory knowledge required to combat money laundering, whether or not connected with tax evasion;
- deployment of insufficient resources for that purpose, because AML/CFT monitoring is often considered to cost money for no return, and to be in conflict with commercial imperatives;
- problems relating to the exchange of information within groups where the same person is a customer of multiple entities in the same group (this sometimes seems to cause problems for some third countries).

In view of the foregoing, vulnerability can be considered high (4 out of 5).

4.1.5 THE ACTIVITY'S OVERALL SCORE

The activity's overall score is 4 (high risk).

4.2 RETAIL BANKING ACTIVITY

4.2.1 DESCRIPTION OF THE ACTIVITY

Retail banks offer a wide range of services, such as current accounts and savings accounts, payment services (transfers, direct debits, bank cards, etc.) and loans (consumer loans, mortgage loans, etc.) for both private customers and small or medium-sized businesses.

4.2.2 THE ACTIVITY IN BELGIUM

Retail banks have a strong presence in Belgium, be it in the form of banks incorporated under Belgian law or branches of foreign banks (mainly from the EEA). They range from large universal banks to small banks and include medium-sized institutions (Argenta, Crelan).

Competition is therefore very fierce, featuring:

- margins under pressure in the context of very low interest rates;
- increasing digitalisation and a drastic reduction in the number of physical outlets;
- ever more frequent references to the ethical concept: institutions claiming that their business is based on ethical values include Triodos (branch) and New B, a Belgian bank which is also one of the newest players on the market.

4.2.3 RISKS INHERENT IN THE ACTIVITY

The retail activity has a vast number of customers and executes a very large number of operations (particularly payments) for those customers, concerning highly variable amounts, in which it can be difficult to identify transactions potentially linked to money laundering. On the other hand, these transactions are executed in the context of what are often long-standing business relationships which means that, in principle, the bank has relatively detailed knowledge of the customers, making it easier to detect atypical operations. Also, the money laundering risk factors associated with retail transactions have long been relatively well known, and that could likewise reduce the inherent risk associated with this activity.

In this context, retail banks are subject, in particular, to the risk of cash use (see cash deposits/withdrawals) and to a lesser extent products favouring anonymity (though that risk is now fairly low in Belgium, except in a few cases such as the repayment of loans by unidentified third parties). The risk relating to digitalisation and its practical implications (such as remote identification) is also growing rapidly.

Thus, the inherent risk factors associated with this activity are:

- the accessibility and very widespread availability of bank accounts;
- the nature of the products and services offered;
- the methods of funding accounts (question of being able to trace cash deposits);
- the large volume of transactions to be monitored;
- exposure to cross-border risk;
- a credit institution's incomplete view of the bank assets of a customer using more than one bank;
- use of new technologies for products which are not always properly managed.

The inherent risk can be classed as significant, with a score of 3 out of 5.

4.2.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

The main vulnerabilities affecting retail banks are as follows:

- provision of insufficient resources, particularly in regard to IT and staff, to monitor what can be an extremely large flow of transactions;
- the potentially high number of atypical operations;
- establishment of mechanisms limiting the number of alerts to be addressed by AMLCO;
- use of automated monitoring systems based on models without a proper understanding of the basis and the assumptions (black box);
- staffing of Compliance with "Junior" employees or persons lacking experience of AML/CFT.

The vulnerability can be considered significant, with a score of 3 out of 5.

4.2.5 THE ACTIVITY'S OVERALL SCORE

The overall score can be set at 3 out of 5 (significant risk).

4.3 CORPORATE BANKING ACTIVITY

4.3.1 DESCRIPTION OF THE ACTIVITY

Corporate banking consists of business banking services, such as:

- finance services (in the form of loans, cash advances/overdrafts, investment loans excluding leasing, factoring and mortgages, discounting, refinancing of invoices, assignments of trade receivables);
- payment services;
- custody services;
- savings (sight accounts, savings accounts, deposit accounts) and investment services.

4.3.2 THE ACTIVITY IN BELGIUM

The Corporate Banking service is provided mainly by two types of institutions in Belgium: large universal banks and around twenty subsidiaries or branches of foreign institutions, created to support the foreign activities of domestic businesses.

Outsourcing may be used for associated functions such as IT or accounting. In the case of small establishments, such as subsidiaries and branches, outsourcing may extend to the Internal Audit and Compliance functions where in-house capacity is insufficient. Outsourcing can never extend to essential elements of the activities for which an operating authorisation is required.

4.3.3 RISKS INHERENT IN THE ACTIVITY

Corporate banking services are subject to the following inherent risks:

- in regard to business loans:
  - interposing of a legal person as the debtor: that may make it possible to conceal the illegal origin of the funds used to repay the loan;
  - risk of documentary fraud giving an untrue picture of the firm’s accounting position and thus potentially enabling offences to be committed (bankruptcy fraud, misuse of company assets);
  - lending to businesses which are in a highly compromised position or subject to collective insolvency proceedings;
  - refinancing of false claims not originating from the supply of goods or services: the establishment buys a claim which does not correspond to any actual supply of goods or services and pays the creditor, who receives funds from a financial institution. The latter is then paid by the debtor on the basis of a false claim, using funds of dubious origin which are thus laundered;
  - over-invoicing, enabling the buyer and the seller to recover an amount in excess of the value of the goods or services supplied: the vendor will be able to hand the excess amount invoiced back to the buyer (“trade based money laundering”). Particularly sensitive sectors are construction and public works and import/export, whether or not relating to public contracts in emerging countries, where there is a risk of an underlying crime relating to corruption or unlawful acquisition of an interest;
  - the possibility of using funds of dubious origin to repay the loan, especially if the customer operates in sectors with a high money laundering risk, where cash is heavily used;
  - excessive recourse to borrowing may be a means of fraudulently arranging bankruptcy. A firm may act as guarantor for a loan granted to another firm or to a person (entrepreneur), and that may constitute misuse of company assets.
- In regard to the financing of international trade (Trade Finance):
  - these operations can be used to repatriate funds accumulated apparently legally abroad, or to export assets of dubious origin. Under- or over-invoicing may be used to transfer funds of dubious origin from one country to another, to artificially increase the amount of VAT which can be reclaimed, or to reduce the amount due by way of customs duties. International trade financing operations may also be used to fund breaches of embargos on goods or the countries for which those goods are destined;
  - multiple invoicing (issuance of multiple invoices for the same transaction) may be used to provide an economic justification for transferring funds of dubious origin.
- In regard to leasing:
  - leasing may enable criminals to acquire tangible movable assets of significant value (such as luxury cars) while avoiding having to purchase the item and thus justify the origin of the funds corresponding to the purchase price.

At the end of 2019, the total amount of corporate credit came to around € 146 billion.

In view of the foregoing, the inherent risk score can be set at 3 out of 5 (significant).

4.3.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

Actions taken by institutions:

- there has been a steady decline in the number of banks dealing with firms active in sensitive sectors such as the diamond industry. In recent years, firms in the diamond industry have had to find a dedicated service provider, owing to a degree of derisking;
- in general, financial institutions no longer offer services to businesses organised in the form of a trust.

The vulnerability is considered significant, with a score of 3 out of 5.

4.3.5 THE ACTIVITY'S OVERALL SCORE

The corporate banking sector is considered to present a moderate but significant risk (score of 3).

4.4 CORRESPONDENT BANKING/CLEARING SETTLEMENT/CUSTODY/CENTRAL DEPOSITORIES

4.4.1 DESCRIPTION OF THE ACTIVITY

Correspondent banking is the provision of banking services by one bank as a correspondent for another bank as the customer, including the provision of a current account and the associated services, such as cash management, international remittances, foreign exchange services, relationships between and among credit institutions and financial institutions, etc. The correspondent institution thus conducts operations on behalf of third parties.

This chapter also deals with clearing settlement (execution of operations concerning the sale/purchase of securities by transferring securities from one account to another against payment of the price) also intended for large firms and institutions without "under supervision" status, custody and the activities of central depositories. In the case of central depositories, this involves holding the securities of other financial institutions or large companies which have a trading room.

4.4.2 THE ACTIVITY IN BELGIUM

In Belgium, correspondent banking is concentrated on a few of the main credit institutions. Clearing settlement, custody and central depository activities are also particularly significant, with the presence of two essential, central players in the country's financial landscape.

4.4.3 RISKS INHERENT IN THE ACTIVITY

For correspondent banking, the inherent risks are as follows:

- The provision of banking services for fictitious banks or banks which are not subject to adequate supervision facilitates indirect access to the banking system for unregulated or inadequately regulated institutions. Fictitious or inadequately regulated banks established in off-shore areas are thus particularly exposed to ML/CFT risks.
- Since the correspondent bank provides the customer bank with services consisting in the execution of transactions initiated by the latter's customers, the inherent risk of money laundering associated with the activity of correspondent banking is very greatly influenced by the quality and effectiveness of the anti-money laundering mechanisms applied by the customer bank.
- The inherent risks of this activity are also greatly influenced by geographical risks if the customer banks are based in countries or territories which have serious weaknesses in their anti-money laundering legislation and/or the supervision of its effective implementation.
- The risks are even greater if the customer bank uses the correspondent banking relationship not only to serve its own customers but also to offer the same or similar correspondent services in turn to various other banks based in the same country, or even in other countries ("netting"): in that case, the ML risks incurred by the correspondent bank

are greatly influenced by the quality of the AML mechanisms applied by those other banks which are customers of its own customers, and by any associated geographical risk.

The inherent risks associated with clearing settlement, custody and central depository activities are similar to the risks in correspondent banking if the customer is also a bank or financial institution subject to AML obligations (see above).

However, where these services are offered to customers to whom that does not apply (notably large firms), the vigilance measures to be implemented cannot be based on the quality of the measures applied by the customer.
The inherent risk in this activity is likewise influenced by the risk that the customer may adopt aggressive tax optimisation strategies and use illicit schemes such as “cum-ex / cum-cum”.

The inherent risks of these activities are assessed as high, and given a score of 4.

4.4.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

The main vulnerability in this respect is that financial institutions providing these services have difficulty in obtaining reliable, relevant information on the activities of the customer institutions and the quality of their AML mechanisms, and in allocating sufficient human resources with adequate knowledge and experience to conduct individual assessments of the risks associated with each customer institution and to analyse its operations. Correspondent banks also need to have specifically designed tools to conduct adequate monitoring of the customer banks’ operations, taking account of each bank’s profile.

Conversely, it is noted that only top-ranking or specialist financial institutions with substantial resources and the ability to recruit specialist personnel provide this type of financial services.

The vulnerability of institutions pursuing this activity is considered significant and given a score of 3.

4.4.5 THE ACTIVITY’S OVERALL SCORE

The residual risk is assessed as high and given a score of 4.

5 INVESTMENT ADVICE (STOCKBROKING FIRMS)

5.1 DESCRIPTION OF THE ACTIVITY

In the case of stockbroking firms, the two main activities are private banking (for this aspect, see the comments in point 4.1. concerning credit institutions engaging in this activity) and receiving/transmitting instructions. In this connection, stockbroking firms are authorised to open securities accounts and cash accounts for their customers, with specific rules being laid down on the use of those accounts. Here it should be noted that the authorisation granted to stockbroking firms is compartmentalised, and that these firms may also pursue other activities such as own account trading or underwriting. This report does not discuss those activities.

5.2 THE ACTIVITY IN BELGIUM

In this sector there is a trend towards consolidation and a reduction in the number of Belgian institutions under supervision. Reasons for that trend include the critical mass required for profitability, digitalisation, an ageing clientele and the difficulty of coping with regulatory inflation.

At the end of May 2020, the sector comprised 17 Belgian companies, 10 being family-owned and 7 belonging to a group. Three of the ten family-owned companies are set to disappear by the end of 2020.
It should also be noted that among the 7 companies belonging to a group, two stockbroking firms focus exclusively on one specific asset management activity.
For these 17 Belgian stockbroking firms, the amount of assets under management totalled € 8.88 billion at the end of March 2020.
In addition, there are 16 branches of stockbroking firms governed by the law of another EU Member State.

5.3 RISKS INHERENT IN THE ACTIVITY

The inherent risks associated with the activities of receiving and executing instructions are as follows:

- The unusually large amount of the transactions.
- The reasons underlying the investment have no obvious economic purpose, e.g.:
  - the customer requests the repurchase or redemption of a long-term investment after a short time, without any clear justification, and thereby incurs a financial loss;
  - the customer transfers funds for an amount in excess of that required for the investment and requests repayment of the excess;
  - the customer is reluctant to supply information regarding legitimate vigilance measures;
  - etc.
- The nature of the customer (unregulated third investment vehicle, PEP, etc.).
- The customer’s activities (e.g. if the funds come from sectors of activity associated with a high risk of financial crime).
- Geographical risk (investor or depositor based in a risk country or territory, or funds originating from such a country or territory).
- Insufficient knowledge of the origin of the funds.

The level of vulnerability may vary according to the nature of the product (listed/unlisted, simple/complex, products traded on the less regulated over-the-counter market, etc.).

On the basis of the foregoing, the level of inherent risk can be considered to range between “moderate” (level 2) for receiving/transmitting instructions and high for private banking (level 4). The overall inherent risk can thus be rated at 3 out of 5 (significant).

5.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

The following vulnerabilities can be highlighted:

- The absence of adequate monitoring. Thus, stockbroking firms are only allowed to open cash accounts for private individuals if the accounts are to be used to receive either funds awaiting investment or funds resulting from the sale of financial instruments. Such accounts are therefore not intended for effecting ordinary payments. Consequently, there could be a danger in that such accounts could be used to carry out suspicious or abnormal transactions without any adequate monitoring capable of detecting such suspect movements.
- Fintech/Regtech development is creating new risks such as non face-to-face identification, the expansion of outsourcing for CDD checks, or reliance on third party service providers. The question is therefore whether the AML organisation is adequate for managing these new risks.
- Experience of services in this sector has shown that some stockbroking firms underestimate the money laundering risk associated with their activity, and therefore do not have the human and/or technical resources to address it, nor the necessary expertise, and do not devote the necessary resources to training their personnel.

The vulnerability score can be considered moderate (2) for the activity of receiving/transmitting instructions, and high for the private banking aspect (4). The average score can be set at 3 (significant).

5.5 THE ACTIVITY'S OVERALL SCORE

The overall score is "moderate" for the activity of receiving/transmitting instructions and high for private banking. The average score is therefore 3.

6 LIFE INSURANCE INSTITUTIONS

6.1 DESCRIPTION OF THE ACTIVITY

Life insurance comprises products designed to protect the beneficiary against the risk of occurrence of a future event relating to the length of human life.

Life insurance activity consists in selling life insurance products for individuals (such as savings insurance and investment insurance) and for groups (pension insurance).

The various life insurance products are divided into classes (from 21 to 29) according to their characteristics and the associated degree of risk.

21. Life insurance not linked to investment funds except for marriage assurance and birth assurance.

22. Marriage assurance and birth assurance not linked to investment funds.

23. Life insurance, marriage assurance and birth assurance linked to investment funds.

24. The insurance available in Ireland and the United Kingdom known as "permanent health insurance" (long-term non-cancellable health insurance).

25. Tontines.

26. Capital redemption operations.

27. Management of group pension funds.

28. Operations such as those referred to by the French Insurance Code in Book IV, Title 4, Chapter1.

29. Operations dependent on the length of human life, defined or provided for by the social insurance legislation, when practised or managed in compliance with a Member State's legislation by insurance undertakings at their own risk.

Apart from the type of risk, division of the products into classes also makes it possible to distinguish aspects relating to any tax advantages, taxes on premiums, and withholding tax.

6.2 THE ACTIVITY IN BELGIUM

In 2020, the Belgian life insurance sector comprises 40 approved or authorised institutions (compared to 45 in 2017). These are divided into 29 approved or authorised insurance institutions governed by Belgian law and 11 EEA branches.
Over 50% of institutions active in life insurance form part of *bancassurance* group. At the end of 2018 the sector employed 16,748 persons, 157 of whom worked in compliance and 61 in AML.

The fifteen main insurance groups together represented 94 % of total receipts in 2018.

Individual guaranteed yield life insurance (class 21) and group insurance remain the commonest products, but in 2018 classes 26 and 23 recorded the strongest growth in terms of premium income.

6.3 RISKS INHERENT IN THE ACTIVITY

Fintech/Regtech development is liable to create additional risks relating to remote identification or the outsourcing of AML.

The following risk factors can be highlighted:

- payment flexibility (originating from unidentified third parties, high or unlimited premiums, cash payments, etc.);
- product tradability;
- product anonymity;
- the nature of the customer (PEP, active in a sector entailing substantial amounts of cash or exposed to a corruption risk, etc.);
- the customer's behaviour (the customer transfers the contract to a third party with no apparent link, or incurs high costs by requesting early cancellation of a product, pays in cash, etc.).

Long-term life insurance products

Most traditional life insurance products (i.e. excluding investment products) are designed for the long term, and many of them are insufficiently flexible to be a preferred vehicle for money launderers. Moreover, the costs of early redemption and contract cancellation make the money laundering process expensive if it takes place in the short term. However, the risk that funds used to effect life insurance may originate from a criminal activity cannot be ruled out, especially in the case of single premium contracts for large amounts.

The risks associated with the activity ultimately depend on the type of life insurance.
For instance, pension insurance is regarded as presenting a significantly lower risk of money laundering if the premiums are low and the model is based on a limited, defined contribution. Group insurance is also considered less risky if the volume of premium payments is also limited and premiums are deducted from remuneration and reserved exclusively for the employer and the employee.

Insurance products as investment instruments

Conversely, life insurance policies consisting of capital redemption contracts (class 26) present a higher inherent risk in that they may facilitate the short-term investment of money originating from a criminal activity or tax evasion (repatriation of funds/undeclared donations).
The risk of class 23 insurance linked to investment funds may likewise be higher, as this is an investment product which differs from the traditional class 21 life insurance and which has a favourable tax profile compared to more conventional bank investments. It also offers the possibility of withdrawals free of any tax on the policy. In recent years, class 23 insurance has seen very strong growth, often to the detriment of class 21 where guaranteed yields have fallen sharply owing to the general decline in interest rates. Class 23 products permit indirect investment in the financial markets.

There may also be inherent risks as follows:

- in the origin of the funds, e.g. if they comprise money repatriated from abroad;

- being flexible, class 23 savings products may involve complex structures which conceal the identity of the beneficiary;
- possibility of withdrawing funds invested in class 23 with no tax penalty.

Consequently, the inherent risk of life insurance activity in Belgium is considered moderate in the case of traditional life insurance (2 out of 5) and significant for life insurance as an investment instrument (3 out of 5). The average score can be set at 2.5.

6.4 VULNERABILITIES OF INSTITUTIONS PURSUING THIS ACTIVITY

In general, it became apparent that insurance companies – in principle less likely than other financial institutions to face the risk of money laundering – had neglected this issue to some extent, both as regards the human and material resources devoted to it, and as regards their in-house expertise (particularly by not providing suitable training).
Furthermore, the use of third parties for marketing insurance products and for identifying customers and business relationships as well as for storing the relevant AML data could constitute a vulnerability for insurers if adequate checks are not carried out.

Traditional life insurance

Traditional life insurance products are less widely distributed than other financial services, which could make them less attractive to criminals.

On the subject of money laundering risks in financial intermediation, we refer to the work of the FSMA, and in particular its latest findings following a number of inspections of insurance intermediaries.

Institutions offering life insurance activities are also relatively less exposed to possible clandestine/unregistered transactions because the resulting customer knowledge is more qualitative in that a great deal of information on the customer has to be collected.

In the light of the foregoing, the vulnerabilities of insurance institutions are considered to be low to moderate (1 out of 5) in the case of traditional life insurance.

Life insurance as an investment product

Life insurance policies as investment products are subject to general vulnerabilities as set out above. The presence of inadequate resources and a lack of AML expertise may be particularly harmful in the case of a fairly flexible product such as class 23 insurance.
Although the risk is still relatively low, the vulnerability in that respect can be considered moderate to significant (2.5 out of 5).

The overall vulnerability score can be set at 2 (moderate).

6.5 THE ACTIVITY'S OVERALL SCORE

In view of the low to moderate inherent risk and moderate to significant vulnerabilities of institutions offering private insurance activities, the residual risk of life insurance activity is considered to be moderate (2 out of 5).

7 SUMMARY OF THE SCORES