

AML/CFT oversight of distribution channels



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Line Augeli, Pareto Asset Management AS

Pareto Asset Management AS

- ▶ Konesjoner: Fondsforvaltning, forvaltning av alternative investeringsfond og aktiv forvaltning.
- ▶ Hovedkontor i Oslo og filial i Sverige.
- ▶ Eies av ansatte og Pareto AS v/Svein Støle.
- ▶ 55 ansatte, hvorav 2 på compliance og 1 på risk.
- ▶ Forvalter fond hjemmehørende i Norge, Luxembourg og Irland – totalt ca. 40 milliarder.
- ▶ Direktesalg og tredjeparts distribusjon.

Norge? Europa? Luxembourg?

“AML Distributor Due Diligence: it’s not an option – it’s an obligation”

▶ **Verdipapirfondsforskriften**

§ 2-5. Melding om utkontraktering

▶ **Verdipapirfondsforskriften**

Kapittel 13.

▶ **Hvitvaskingsloven**

§ 5. Risikobasert kundekontroll



▶ **CSSF Regulation 12-02**

▶ Enhanced level of due diligence must be performed on all third party distributors.

▶ The final responsibility of AML/CFT lies with the investment funds or their management companies.

▶ Investment funds and management companies must ensure that third party distributors have AML measures in place equivalent to those in Luxembourg.

Kilde: PwC Luxembourg

Risk-based AML assessment

The Distributor

Companies subject to financial supervision in EU/EEA or equivalent country.

Companies subject to financial supervision in a country outside EU/EEA or equivalent country.

Companies in high-risk and non-cooperative jurisdictions.

Non-regulated entity i.e. introducing broker etc.

Companies in jurisdictions subject to international sanctions – sanctions must be analysed.

The company is subject to investor alerts.

Sub-Distribution

The company does not engage in sub-distribution.

The company has sub-distributors within its group belongings.

The company has sub-distributors.

The company has several layers of sub-distribution.

Risk-based AML assessment

Place of business

Type of business

The Distributor has its main operations in a low risk country or equivalent country.

The Distributor conducts business out of a low risk country, EU/EEA or equivalent country.

The Distributor conducts business out of high risk or non-cooperative jurisdictions.

The fund provider does not have sufficient insight into how the Distributor operates, target markets/clients, etc.

The Distributor conduct business in jurisdictions subject to international sanctions – sanctions must be analysed.

The Distributors type of business is considered as low risk.

The fund provider has insight into how the Distributor operates, and their business is of low risk part.

The fund provider does not have insight into how the Distributor operates.

“Distributor” includes branches, subsidiaries and other distributors.

Risk-based AML assessment

Custody

Distributor acting as nominee.

Third party nominee, which the fund provider has a close business relationship with.

Distributors acting in its own name (fund-of-funds or the custodian of the fund).

Distributor acting in its own name as insurance undertaking.

Third party nominee.

Settlement

Settlement through a bank in EU/EEA or equivalent country.

Settlement through a bank outside EU/EEA or equivalent country.

Settlement through a bank in high-risk and non-cooperative jurisdictions.

Third party receivers of payment (other than Distributor in case of third party nominee).

Transactions with Shell Banks.

Risk-based AML assessment

Level of due diligence

Simplified assessment: All green elements.	Internal assessment annually.	
Standard assessment: No orange or red elements.	Internal assessment annually.	Standard Due Diligence Questionnaire is sent every 2 year.
Standard plus risk assessment: No red elements.	Internal assessment annually.	Detailed due Diligence Questionnaire is sent every year.
Enhanced risk assessment: Any red elements require clearance from compliance and CEO, unless red elements is de facto not high risk.	Internal assessment annually.	Detailed Due Diligence Questionnaire is sent every year.
Any grey elements, suggests a distribution agreement should not be entered into.		

Vedlegg

Tilleggsinformasjon for spesielt interesserte



Sources

Investor alerts, third country equivalence and sanctions

- ▶ https://www.iosco.org/investor_protection/?subsection=investor_alerts_portal
- ▶ <http://www.esma.europa.eu/page/Investment-Firms>
- ▶ Third country equivalence (Common understanding between Member States 2012): Australia, Brazil, Canada, Hong Kong, India, Japan, South Korea, Mexico, Singapore, Switzerland, South Africa, The United States of America.
- ▶ High-risk and non-cooperative jurisdictions (FATF): Afghanistan, Bosnia Herzegovina, Democratic People's Republic of Korea, Iran, Iran, Lao People's Democratic Republic, Syria, Uganda, Vanuatu, Yemen.
- ▶ Sanctions in force by EU: http://eeas.europa.eu/archives/docs/cfsp/sanctions/docs/measures_en.pdf
- ▶ Sanctions in force by USA: <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

Luxembourg CSSF Regulation N 12-02

Chapter 2 Scope, Article 3

- ▶ *“Where the units or shares of an undertaking for collective investment or an investment company in risk capital are subscribed through an intermediary acting on behalf of his customers, the undertaking for collective investment, its management company, the investment company in risk capital or, where applicable, the respective proxy of the professionals shall put in place enhanced customer due diligence measures for this intermediary which is applied mutatis mutandis pursuant to the terms of Article 3-2(3) of the Law, Article 3(3) of the Grand-ducal regulation and Article 28 of this regulation in order to ensure that all the obligations under the Law, the Grand-ducal regulation and this regulation or at least equivalent obligations are complied with.”*

Pareto

Asset Management



Pareto Asset Management AS
Dronning Mauds gate 3
0250 Oslo
977 287 677

www.paretoam.com