

THE CSSF INFORMED SUPERVISED ENTITIES IDENTIFIED AS ESSENTIAL SERVICE OPERATORS UNDER NIS

Under Directive (EU) 2016/1148 on security of network and information systems (the "**NIS Directive**") - the first EU-wide piece of legislation addressing cybersecurity - identified operators of essential services ("**OES**") will have to take appropriate security measures and notify serious cyber incidents to the relevant national authority.

Pursuant to the NIS Directive, which has been transposed in Luxembourg by the law of 28 May 2019 (the "**NIS Law**"), private businesses or public entities with an important role to provide security in healthcare, transport, energy, banking and financial market infrastructure, digital infrastructure and water supply can be considered as OES. Luxembourg credit institutions and financial market infrastructures supervised by the CSSF can therefore fall within this category and be bound by cybersecurity obligations under the NIS Law, and notably the requirement to notify serious cyber incidents to the CSSF.

The NIS Law designates the CSSF as the competent cybersecurity authority with respect to institutions under its supervision. In its Regulation N° 20-04¹, the CSSF listed the services which it deemed "essential". For credit institutions, such essential services include the custodian bank function, deposit management, the granting of credit, investment services, payment services and for financial market infrastructures, it only encompasses the admission to trading of financial instruments on a regulated market-type trading platform.

As required by the NIS Law, the CSSF still needed to identify the institutions, among credit institutions and financial market infrastructures under its supervision, that it considers to be OES.

On 15 October 2020, the CSSF issued a *communiqué*² confirming that all entities identified as OES have been notified on 15 September 2020. Supervised institutions which have not been notified can therefore assume that they are not considered OES and consequently do not fall within the scope of the NIS Law.

Key issues

- The NIS Directive provides for EU-wide cybersecurity obligations on OES
- Credit institutions and financial market infrastructures can under certain circumstances be considered as OES
- The NIS Law designates the CSSF as the competent cybersecurity authority for the financial sector
- The CSSF listed the services considered "essential" in CSSF Regulation N° 20-04
- The CSSF has now notified all supervised institutions considered as OES

¹ Available in French at: <http://data.legilux.public.lu/file/eli-etat-leg-rclf-2020-07-15-a621-jo-fr-pdf.pdf>

² Accessible on its website: <https://www.cssf.lu/fr/2020/10/designation-des-operateurs-de-services-essentiels/>

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