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20 MARCH 2022 – Royal Decree on the composition, organisation, operations, supervision and the independence of the Financial Processing Unit (CTIF-CFI)

Table of contents

CHAPTER I.	<i>Financial Processing Unit (hereinafter CTIF-CFI)</i>	Art. <u>1</u>
CHAPTER II.	<i>Composition of CTIF-CFI</i>	Art. <u>2</u> - <u>3</u>
CHAPTER III.	<i>Organisation</i>	Art. <u>4</u>
CHAPTER IV.	<i>Decision-making</i>	Art. <u>5</u> - <u>6</u>
CHAPTER V.	<i>Secretariat</i>	Art. <u>7</u>
CHAPTER VI.	<i>CTIF-CFI's headquarters</i>	Art. <u>8</u>
CHAPTER VII.	<i>Collecting information and consultation</i>	Art. <u>9</u>
CHAPTER VIII.	<i>Remuneration</i>	Art. <u>10</u>
CHAPTER IX.	<i>Rules of procedure</i>	Art. <u>11</u>
CHAPTER X.	<i>Operating expenses</i>	Art. <u>12</u> - <u>13</u>
CHAPTER XI.	<i>Repealing provision</i>	Art. <u>14</u>
CHAPTER XII.	<i>Implementing provision</i>	Art. <u>15</u>

PHILIPPE, King of the Belgians,

To all present and future citizens, greetings.

Having regard to the Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash (hereinafter the Law of 18 September 2017), Article 77, § 3;

Having regard to the Royal Decree of 11 June 1993 on the composition, organisation, operations and supervision and the independence of the Financial Processing Unit CTIF-CFI;

Having regard to the regulatory impact assessment conducted on 16 November 2021 in accordance with Articles 6 and 7 of the Law of 15 December 2013 on miscellaneous provisions regarding administrative simplification;

Having regard to the advice of the Inspector of Finance, given respectively on 24 November 2021 (Finance) and on 26 November 2021 (Justice);

Having regard to the approval of the Secretary of State for the Budget, given on 3 December 2021;

Having regard to the advice number 70.711/2 of the Council of State, given on 12 January 2022, in accordance with Article 84, § 1, subparagraph 1, 2°, of the Laws on the Council of State, coordinated on 12 January 1973;

Whereas Article 190 of the aforementioned Law of 18 September 2017 repealed the Law of 11 January 1993 on the prevention of the use of the financial system for purposes of money laundering and terrorist financing from 16 October 2017 onwards;

Whereas the Law of 20 July 2020 on miscellaneous provisions on the prevention of money laundering and terrorist financing and on the restriction of the use of cash, in particular Article 32 of the aforementioned Law, according to which the scope *ratione personae* of the aforementioned Law of 18 September 2017 is amended and broadened to ten new categories of obliged entities.

Whereas the composition, organisation, operations, supervision and the independence of the Financial Processing Unit CTIF-CFI should be settled without delay, given that the aforementioned Law of 20 July 2020 entered into force on 15 August 2020, and that CTIF-CFI should be operational in order to have all provisions of the aforementioned new Law come into force, in particular regarding the new obliged entities.

Upon proposal of the Minister of Finance and the Minister of Justice and the advice of the Ministers who deliberated in the Council of Ministers;

We have decreed and decree:

CHAPTER I. – *Financial Processing Unit (hereinafter CTIF-CFI)*

Article 1. The Decree partially transposes Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, in particular Article 32.3, second subparagraph.

CHAPTER II. – *Composition of CTIF-CFI*

Art. 2. CTIF-CFI shall be composed of at least three full members and no more than eight full members, including the Director, the Deputy Director(s) and the Vice-President.

The members, other than the magistrates referred to in Article 77, § 1 of the Law of 18 September 2017, shall be appointed upon proposal of the Minister of Finance, the Minister of Justice and the Ministers responsible for Economic Affairs and small and medium-sized businesses, and with regard to the member of CTIF-CFI, senior officer, seconded from the federal police, by the Minister responsible for Home Affairs.

Art. 3. The term of office of members of CTIF-CFI shall be six years. It may be carried out on a part-time basis.

A member who is appointed to replace a member who has resigned or died, shall complete this member's term of office.

The term of office of all members can be renewed.

The King may allow members of CTIF-CFI to use their position's honorary title at the end of their term of office.

CHAPTER III. – *Organisation*

Art. 4. CTIF-CFI's Bureau shall be composed of the Director and the Vice-President and shall be assisted by the Secretary-General. The Bureau, together with the Secretary-General, shall organise CTIF-CFI's activities and shall be in charge of the daily management.

The Bureau shall hire the staff of the secretariat under a contract of employment, determine the staff remuneration and take decisions on the secondment of staff at CTIF-CFI.

CHAPTER IV. – *Decision-making*

Art. 5. For the purposes of Articles 80, 82 and 84 of the Law of 18 September 2017 CTIF-CFI shall form a collegiate body.

It may only deliberate when at least a simple majority of its members, including the Director or a Deputy Director, is present.

It shall take its decisions by a simple majority of votes of the members present at the meeting.

In the event of a tied vote, the Director, or in his absence a Deputy Director, shall have the casting vote.

In urgent cases decisions shall be taken by at least two members, including the Director or a Deputy Director.

The urgency shall always be duly substantiated in the minutes of the meeting in which a decision to disseminate to the Public Prosecutor's Office or the Federal Public Prosecutor is taken.

Art. 6. CTIF-CFI may delegate to one of its members the power to halt the execution of a transaction in accordance with Article 80, §§ 1 and 4 of the Law of 18 September 2017 before the expiry of the deadline provided by the obliged entities of the aforementioned Law or another financial intelligence unit.

CHAPTER V. – *Secretariat*

Art. 7. CTIF-CFI shall be assisted by a secretariat, led by the Secretary-General, composed of administrative staff and staff in charge of assisting the financial experts.

Members of staff may not carry out any function or be employed by any of the obliged entities referred to in Article 5, § 1, of the Law of 18 September 2017.

CHAPTER VI. – *CTIF-CFI's headquarters*

Art. 8. CTIF-CFI's headquarters shall be located in the bilingual region of Brussels-Capital Region.

CHAPTER VII. – *Collecting information and consultation*

Art. 9. To fulfil its statutory task CTIF-CFI may request, in its original form or as a copy, any additional information it deems useful.

Without prejudice to the provisions of Articles 52 and 53 of the Law of 18 September 2017, it may also carry out on-site inspections of documents useful for its statutory task that belong to the obliged entities referred to in Article 5, § 1 of the same Law or that are in their possession.

CTIF-CFI shall be authorised to use external experts of its choice.

Except when they are required to do so because of their status, they shall commit to secrecy in writing prior to commencing their task.

CHAPTER VIII. – *Remuneration*

Art. 10. The Minister of Justice and the Minister of Finance shall determine the remuneration of CTIF-CFI's Director, Deputy Directors, Vice-President and of the other members of CTIF-CFI.

CHAPTER IX. – *Rules of procedure*

Art. 11. CTIF-CFI shall establish its rules of procedure.

These rules of procedure shall be approved by the Minister of Justice and the Minister of Finance and published in the Belgian Official Gazette.

In particular the rules of procedure shall determine the rules regarding the replacement of the Director and the Vice-President in case he is unavailable and shall also define the tasks of the Bureau.

In particular the rules of procedure shall determine the delegations of power that CTIF-CFI can grant to the Director and to the Bureau and shall determine the conditions and shall also define the tasks of the Bureau.

CHAPTER X. – *Operating expenses*

Art. 12. § 1. Each year in the course of the month of December CTIF-CFI shall draw up its budget for the following year. CTIF-CFI shall do so independently according to its needs determined in the framework of carrying out its activities.

The maximum amount of this budget shall be determined by the Minister of Justice and the Minister of Finance.

The Bureau shall prepare the budget and the annual report on the operating expenses.

§ 2. The entities referred to in Article 5, § 1, 1° to 27°, and 29° to 33° of the Law of 18 September 2017, shall pay a fixed contribution to CTIF-CFI each year before 1 March.

This fixed contribution shall be:

1° EUR 4.400 for the obliged entities referred to in Article 5, § 1, 1° and 15°, of the same Law;

2° EUR 8.750 for the obliged entity referred to in Article 5, § 1, 3° of the same Law;

3° EUR 880 for the obliged entities referred to in Article 5, § 1, 4° to 14°/2, 16 and 32°, of the same Law;

4° EUR 440 for the obliged entities referred to in Article 5, § 1, 18°, 20° and 21° of the same Law;

5° EUR 19 for the obliged entities referred to in Article 5, § 1, 17°, 19°, 23° to 27°, 29°, 30°, 31° and 31°/1 to 31°/5 of the same Law;

6° for the obliged entities referred to in Article 5, § 1, 33° of the same Law, with an operating licence A and/or A+:

a) EUR 3.750 if the annual gross gaming revenue is less than EUR 2.500.000;

b) EUR 7.450 if the annual gross revenue is between EUR 2.500.000 and EUR 5.000.000;

c) EUR 11.200 if the annual gross revenue is more than EUR 5.000.000 and less than EUR 7.500.000;

d) EUR 14.900 if the annual gross revenue is more than EUR 7.500.000 euros and less than EUR 10.000.000, and

e) EUR 18.600 if the annual gross revenue is more than EUR 10.000.000.

Each year these obliged entities shall provide CTIF-CFI, in accordance with CTIF-CFI's terms, with the information necessary to determine their contribution.

7° EUR 770 for the obliged entities referred to in Article 5, § 1, 33° of the same Law, with an operating licence B, B+, F1 and/or F1+;

8° EUR 75 for the obliged entities referred to in Article 5, § 1, 33° of the same Law, with an operating licence F2;

9° EUR 38 for the obliged entities referred to in Article 5, § 1, 33° of the same Law, with an operating licence F1P.

The contributions to be paid by estate agents, bailiffs, notaries, company auditors, trainee company auditors, audit firms, (certified) (tax) accountants [*experts-comptables (fiscaux) (certifiés)*], certified tax consultants [*conseillers fiscaux certifiés*] as well as their trainees, consultants in tax matters [*conseillers en matière fiscale*], insurance intermediaries, intermediaries in banking and investment services, dealers in diamonds, operators of games of chance, shall be paid to CTIF-CFI through respectively: the Professional Institute of Estate Agents [*Institut professionnel des agents immobiliers*], the National Chamber of Bailiffs [*Chambre nationale des huissiers de justice*], the Chambers of Notaries referred to in the Law of 25 ventôse year XI on the organisation of the profession of notary [*Chambres des notaires visées à la loi du 25 ventôse an XI contenant organisation du notariat*], the Institute of company auditors [*Institut des réviseurs d'entreprises*], the Institute of Accountants and Tax Consultants [*Institut des Conseillers fiscaux et des Experts-comptables*], the FSMA, the FPS Economy and the Gaming Commission.

The Minister of Justice and the Minister of Finance can, by Ministerial Decree, adjust the amount of this contribution to changes in the consumer price index of the Kingdom.

§ 3. CTIF-CFI's operating expenses that are not covered by the contributions referred to in § 2, shall be shared among:

1° the obliged entities referred to in Article 5, § 1, 4° of the aforementioned Law;

2° the obliged entities referred to in Article 5, § 1, 5° of the aforementioned Law;

3° the obliged entities referred to in Article 5, § 1, 8/1° of the aforementioned Law;

- 4° the obliged entities referred to in Article 5, § 1, 10° of the aforementioned Law;
- 5° the obliged entities referred to in Article 5, § 1, 11° of the aforementioned Law;
- 6° the obliged entities referred to in Article 5, § 1, 12° of the aforementioned Law;
- 7° the obliged entities referred to in Article 5, § 1, 13° of the aforementioned Law;
- 8° the obliged entities referred to in Article 5, § 1, 14°/1 and 14°/2 of the aforementioned Law;
- 9° the obliged entities referred to in Article 5, § 1, 16° of the aforementioned Law;
- 10° the obliged entities referred to in Article 5, § 1, 20° of the aforementioned Law.

The prudential supervisory authorities referred to in Article 85 of the Law of 18 September 2017 shall notify CTIF-CFI, for the categories of obliged entities for which they are competent, of the contributions to the operating expenses that these entities owed them the previous year.

Based on the total amounts of which it is notified, CTIF-CFI shall calculate the distribution key for each category, in proportion to the share of each of these categories in the total of the amounts notified.

CTIF-CFI will subsequently calculate the distribution key for each obliged entity, in proportion to the share of each entity in the category involved.

CTIF-CFI shall apply these distribution keys referred to in the first subparagraph for calculating the contributions to the operating expenses it is due.

CTIF-CFI shall treat the information received from the prudential supervisory authorities as confidential.

CTIF-CFI shall not communicate this information to third parties.

The obliged entities referred to in the first subparagraph shall pay their contribution following a notification by CTIF-CFI before 30 June and before 30 November.

§ 4. The contributions referred to in this Article shall be paid into CTIF-CFI's account.

On the liabilities side of the balance sheet CTIF-CFI shall establish a cash reserve to ensure the continuity of its operations for at least 6 months and to meet its future, including social, obligations.

Any excess contributions received compared to the charges actually identified during the financial year shall be used for this reserve. If at the closure of CTIF-CFI's annual accounts it is identified that the contributions received are less than the charges actually incurred in the financial year then this deficit can be covered by this reserve.

§ 5. CTIF-CFI can instruct the department of the Federal Public Service Finance responsible for the collection and recovery of non-fiscal debts to collect the contributions that remain unpaid.

Art. 13. Every year CTIF-CFI shall provide the Minister of Justice and the Minister of Finance with a report on its operating costs of the previous calendar year.

CHAPTER XI. – *Repealing provision*

Art. 14. The Royal Decree of 11 June 1993 on the composition, organisation, operations and supervision and the independence of the Financial Processing Unit CTIF-CFI shall be repealed.

CHAPTER XII. – *Implementing provision*

Art. 15. The Minister of Finance and the Minister of Justice shall be responsible, each insofar as he is concerned, for the implementation of this Decree.

Done at Brussels on 20 March 2022.

PHILIPPE

For the King:

The Minister of Finance,
V. VAN PETEGHEM

The Minister of Finance,
V. VAN QUICKENBORNE