LC 23/3: FREQUENTLY ASKED QUESTIONS (FAQ)

Preliminary remarks: It is essential to read the Circular (LC 23/3, caa.lu) carefully, particularly Annex 1, as well as Information Note 23/7 (Note Info 23/7).

Note also that :

- *Reporting* will have to be carried out from year to year on the same file used for 2023 with the accumulation of years.
- This method will enable the CAA to check that all the contracts of each office have been examined, over a period of 7 years, and thus generate statistics on all the contracts in the market.
- If a contract analysed in 2023 is reviewed again in 2024*,* document the latest *scoring.*
- If 2 significant transactions on the same contract were made in the same year, both must be carried forward.
- A reminder is given that the *scoring* history must be kept in the contract files, so the results of the quantitative report must be kept and filed in the customer file (as a basis for the periodic review).

For 2024:

- Contracts documented in the 2023 *reporting* that have been bought back or whose brokerage has been taken over will not be included in the 2024 file.
- However, it will need to be updated with new customers, file revisions, risk levels, corrective measures, etc.
- The remediation of a file must be documented in the *reporting.*
- It should be remembered that risk levels are to be defined by the brokerage structure in its procedures and according to its risk appetite, to be validated *by the Board.*
- However, it should be noted that contracts generating red boxes in the CAA *reporting* are to be considered as *High Risk*. If this is not the case, you will need to explain why.

Given that the Excel *template* provided by the CAA allows only 100 lines and that the file will have to accumulate the years, each office must find a solution to extend the file while retaining the initial formulas. We would remind you that suitable *reporting* solutions have been proposed by CALISOL for 2023.

1. Scope of LC 23/3

LC 23/3 excludes "pure protection" and "small savings and investment" contracts from its scope. Group life insurance contracts are also excluded.

Below is the **CAA's response of May 2023** concerning the scope of application:

"LC 23/5 (coordinated version as at 19 April 2023) on brokers' annual reporting defines the different types of contracts (individual contracts - group contracts). These definitions have been included in the circular letter on reporting since 23 March 2021 (LC 21/7 amending LC 17/4).

LC 23/3 states in the glossary that "pure protection" contracts and "small savings and investment" contracts do not fall within its scope.

Group life insurance policies are also excluded.

The contracts listed in yellow below are therefore excluded from the scope of application:

LC 23/3 Annex II - Glossary.

Pure protection" contracts Life insurance contracts covering death, certain incapacities or physical harm to the person, which often require medical evidence, which do not include a savings or investment element and which are generally financed by regular (modest) premiums (e.g. outstanding balance insurance in favour of a bank, covering the amount borrowed). Policies with a savings element should be classified in one of the other 3 categories below. It should also be noted that a

life insurance policies with death or disability benefits must be classified as "Savings and investment other" type policies if the benefit exceeds €2.5 million.
These contracts do not fall within the scope of this circular.

Low-value savings and investment policies Savings and investment policies with an annual premium of no more than €1,000 or a single premium of no more than €2,500. Policies whose premiums exceed these thresholds but are less than or equal to the tax deductible limit in Luxembourg may also be classified in this category. *Ex art .111bis.*

These contracts do not fall within the scope of this circular.

Circular letter 23/5 of the Commissariat aux Assurances relating to the annual reporting of brokerage companies and insurance or reinsurance brokers, natural persons, as amended1

For contracts relating to the life classes in Annex II to the LSA, the broker is required to make a breakdown between the following types of contracts:

- for individual life insurance policies, those defined as :

o "**Pure protection",** i.e. life insurance policies covering death, certain disabilities or physical injury, which often require medical evidence, which do not include a savings or investment element and which are generally financed by regular (modest) premiums (e.g. outstanding balance insurance in favour of a bank, covering the amount borrowed). Policies with a savings element should be classified in one of the other 3 categories below. It should also be noted that a life insurance policy with death or disability benefits should be classified as a "Savings and investment other" type policy if the benefit exceeds €2.5 million.

o "**Small savings and investment",** i.e. savings or investment insurance policies with an annual premium of no more than €1,000 or a single premium of no more than €2,500. Policies whose premiums exceed these thresholds but remain below or equal to the tax-deductible ceiling in Luxembourg may also be classified in this category

o ~~"Other savings and investment", i.e. single premium, regular or pay-as-you-go contracts, typically aimed at savings and investment flexibility, which allow surrenders and transfers.~~

~~o "Bearer contracts", i.e. contracts which, regardless of their other characteristics, favour the anonymity of the policyholder and/or beneficiaries.~~

- for group life insurance contracts (pension scheme financed within an insurance contract), those defined as

o "Regulated and registered plans", i.e. group life insurance contracts that are regulated and registered with the Inspection générale de la sécurité sociale (IGSS) in Luxembourg.

o "Contracts with no savings component", i.e. group life insurance contracts with no savings or investment component.

o "Other group contracts", i.e. group life insurance contracts that do not fall into the other two categories above

2. Arbitration transactions must be reported ?

Arbitrages (e.g. general fund to FID arbitrage) are not specified as deferrable. According to the LC 23/3 glossary, arbitrage is not considered a '*movement*' or '*material change'*. The dealer may update a 23/3 analysis in the event of arbitrage, but is not obliged to do so.

3. What date should be taken into account for the conclusion of the contract? Particularly if you are taking over an existing contract.

Date of conclusion of the contract: the date on which the contract takes effect must be taken into account.

Then lines 11 and 12 fill in automatically, so there's no need to enter a date.

B	C	D
	Année de référence	**2023**
	Contrat #	1
	Informations sur le contrat	
	Id/Réf du contrat	1234
	Date de conclusion du contrat	15/07/2023
	Date de fin d'intermédiation (p ex. si rachat total, prestation décès, changement intermédiaire ...)	
	Nom de la personne en charge de l'évaluation	*Nom, Prénom*
	Date de l'évaluation	*Date*
	Motif de l'évaluation	*Souscription, mouvement (versement additionnel, rachat, ...), modification significative, révision sans mouvement/modification*
	Autre information jugée utile par l'Intermédiaire (p.ex. ID transaction, détail du mouvement ...)	*texte libre*
	Souscription intervenue au cours de l'année	Oui
	Contrat toujours en Stock à la fin de l'année	Oui

4. What risk categories does the CAA use?

Reminder: in general, the definition of country risks should be included in your procedures, and it is to this definition that you should refer.

According to the glossary of LC 23/3 :

"The CAA uses 3 risk categories in the Quantitative Questionnaire:
- Low-risk country (GDL or other low-risk country)
- Medium-risk countries
- High-risk countries

If you use a 4-level country rating scale, your levels 2 and 3 should be considered as "Medium risk countries".
If you are using a 2-level country rating scale, the risk categories "Low-risk country" and "High-risk country" should be entered.
High-risk countries" within the meaning of Article 1(30) of the AML/CFT Law fall into the category "High-risk countries".

5. How should Question 21 be answered: The banking institution from which the Premium(s) originate(s) is/should originate(s) in a State other than that of the Client's residence <u>without any obvious economic justification?</u>

It is up to the professional to determine when the situation is "obvious" and "economical".

Here are a few examples:

- Customer is resident in ITA and pays a premium from an ESP account.
  The customer has no family in ESP and the customer does not invest in ESP -> no reason to have an account there.

- The slightest link between him/her and ESP might make it no longer "obvious".
  But this minimum link must still be economic in our scope, so a link such as "I have knowledge of ESP" might not justify "a sufficient economic reason".

You need to look at the KYC and let your context speak for itself

7. Is LC 23/3 applicable to French brokerage clients of a Luxembourg bank branch?

A priori, the LC 23/3 questionnaire is not applicable to the French branch. However, the Luxembourg professional must harmonise his AML/CFT rules within his group, which could require the adoption of a similar questionnaire for the branch, especially if there are operational flows between the two entities. Indeed, if there are operational flows on contracts from the branch to Lux, this will be included in the CAA statistics and this questionnaire will have to be used (e.g. co-brokerage between LUX and its branch -> reminder of this distribution activity under Luxembourg).

8. How do you answer questions I22 and I23 if the contract has a premium > 2,500,000?

The answer to question I22 is NO and the answer to question I23 is YES.

I22	La/ les Prime(s) est/sont comprise(s) (ou fait/font basculer le Contrat) entre 250.000 et 2.500.000 euros inclus
I23	La/ les Prime(s) est/sont supérieure(s) à (ou fait/font basculer le Contrat à plus de) 2.500.000 euros

9. Should contracts that have been fully redeemed during the year (and are therefore no longer in stock) be included in the report?

A contract that has been fully redeemed during the 2024 financial year should indeed no longer be included in the 2024 report. The only exception is if the contract ends in the same year as the establishment of the business relationship, in which case the contract must be included in the appendices relating to the establishment of business relationships (table RLB.C.0110 and table RLB.C.0120).

10. For the first time, I have a case where an insurance policy has been transferred to another broker.When completing my LC 23/3 questionnaire, should I use the termination date of the brokerage mandate as the contract end date?

In practice, the insurance policy is still in force, but it is no longer part of my portfolio.

In the event of a policy being transferred to another broker, the intermediary who loses the brokerage mandate is no longer required to complete or update the LC 23/3 quantitative questionnaire for that contract. Consequently, there is no need for that intermediary to indicate a contract end date.

The quantitative questionnaire only needs to be completed or updated when a triggering event occurs, namely:

the establishment of a business relationship;

a transaction or a significant change relating to the contract (as defined in the LC 23/3 Glossary); or

the review and updating of documents, data or information (see Article 33(1) of the AML/CFT Regulation 20/03).

The transfer of a brokerage mandate is not considered one of these triggering events.