

Ns. Rif.: 80/25/VD

Milano, 7 marzo 2025

OGGETTO: COMMISSIONE CONTROLLI INTERNI E GRUPPO DI LAVORO ANTIRICICLAGGIO
 Consultazione EBA sulle nuove regole relative al pacchetto antiriciclaggio e di contrasto al finanziamento del terrorismo

Cordiali saluti

Il Segretario Generale
 Alessandro Carretta

DISTRIBUZIONE:

	COMMISSIONE CONTROLLI INTERNI	GDL ANTIRICICLAGGIO	e p.c.
AOSTA FACTOR	Fabio BADERY Stefano SPANDONARI	Fabio BADERY Stefano SPANDONARI	Alessandro BERTOLDO
BANCA CF+	Francesco LABELLARTE Pietro OTTAVIANI		DIREZIONE GENERALE Michele RONCHI
BANCA DEL FUCINO	DIREZIONE GENERALE	DIREZIONE GENERALE	DIREZIONE GENERALE Stefano CUPPERI
BANCA IFIS	Angelo FERRACCHIATI	Giovanna BAZZARO Ginevra BRANDI	Andrea BERNA Alberto STACCIONE
BANCA MONTE DEI PASCHI DI SIENA	Alessandro CAPANNOLI		Carmelo GIANIRACUSA
BANCA PROGETTO	Carolina KOWALCZUK Luca Pietro NOCERA		Giorgio GRAZIANI Giuseppe PIGNATELLI
BANCA SISTEMA	Franco POZZI	Valentina CIAPANNA Elia MARINO Salvatore MARRONE	Andrea TRUPIA
BANCA VALSABBINA	DIREZIONE GENERALE	DIREZIONE GENERALE	DIREZIONE GENERALE Antonio ARMILLOTTA
BANCO DI DESIO E DELLA BRIANZA	DIREZIONE GENERALE		Davide TOGNETTI
BARCLAYS BANK IRELAND	Massimo AGOSTI		Alessandro RICCO
BCC FACTORING	Giacomo BORGIOLO Rossella SABATELLI	Chiara GONZADI Rossella SABATELLI	Paolo IACHETTINI
BFF BANK	Marina CORSI (*) Gianluca POLETTI	Michela DELLA PENNA Andrea FANTUZZI Marco MISCIA	Massimiliano BELINGHERI
BPER FACTOR	DIREZIONE GENERALE Matteo BIGARELLI (**)		Matteo BIGARELLI Vittorio GIUSTINIANI
BURGO FACTOR	DIREZIONE GENERALE		Luca BERTINI
CLESSIDRA FACTORING	Rossella MAZZARINO Luca SIMIONATO		Gabriele PICCINI Keoma GARBILLO
CREDEMFACTOR	Lina SANTUCCI	Carmela DE DONATO Lina SANTUCCI Rosamaria VITALE	Moris FRANZONI
CREDIT AGRICOLE FACTORING	Luca CAIAZZO Giulio CESCATO	Sascha LA SCALEA	Ivan TOMASSI
EXPRIVIA	DIREZIONE GENERALE	Maria DI TOMASO Dario GRECO Paola LONGHI	Dario GRECO
FACTORCOOP	Riccardo VANNINI		Franco TAPPARO
FACTORIT	Tiziana MEZZANZANICA Alberto PONTI	Alberto PONTI Carla RONCHI Anna TOSON	Fabio BOLLINI
FERCREDIT	Virginia SALATINO		Stefano PIERINI
FIDIS	Simonetta ARNULFO		Andrea FAINA
GENERALFINANCE	Tommaso TOVAGLIERI John TSCHUOR	Federica FRASCHINI Tommaso TOVAGLIERI	Massimo GIANOLLI
GUBER BANCA	Stefania ROSSETTI		DIREZIONE GENERALE
IFITALIA	Luca BELLONI	Francois BOUVAIS	Chiara BRACCI
ILLIMITY BANK	Franco MARCARINI		Franco MARCARINI
INTESA SANPAOLO	Andrea GARRONE Maurizio QUARZAGO		Anna CARBONELLI
ISTITUTO PER IL CREDITO SPORTIVO E CULTURALE	Giuseppe NUSINER		DIREZIONE GENERALE
MBFACTA	Alessia CASTAGNOLI	Alessandra DE LORENZI	Enrico BUZZONI
MCC FACTOR	Antonio BALOTTA		DIREZIONE GENERALE Alberto ROMANI
SACE FCT	Filippo RIZZUTO Cristina SPIZZICHINI	Filippo RIZZUTO	Valerio PERINELLI
SG FACTORING	Maria Cristina MINERVINO	Fabio REALE	Sylvain LOISEAU
UNICREDIT FACTORING	Filippo MERAVIGLIA MANTEGAZZA Stefano SALA	Antonio RUSSO	Daniela FERRARI

(*) Coordinatore della Commissione

(**) Presidente della Commissione

L'Autorità Bancaria Europea (EBA) ha avviato una consultazione pubblica su quattro bozze di Regulatory Technical Standards (RTS) in risposta al [Call for advice](#) della Commissione Europea del 12 marzo 2024. Questi standard saranno centrali per il nuovo regime dell'UE a contrasto del riciclaggio di denaro e del finanziamento del terrorismo (AML/CFT), delineando le modalità con cui istituzioni e autorità di vigilanza dovranno adempiere ai nuovi obblighi normativi.

Le proposte dell'EBA riguardano quattro profili principali:

- il processo decisionale dell'Autorità UE per l'AML (AMLA) su quali istituzioni saranno sottoposte a supervisione diretta,
- la metodologia armonizzata per valutare i rischi di riciclaggio e finanziamento del terrorismo per ciascuna istituzione,
- i requisiti di due diligence sui clienti e
- i criteri per l'imposizione di sanzioni e misure amministrative.

L'iniziativa dell'EBA fa parte del nuovo pacchetto normativo AML/CFT, pubblicato il 19 giugno 2024.

Il documento, allegato per pronto riferimento, è disponibile sul sito dell'EBA al seguente indirizzo: [The EBA consults on new rules related to the anti- money laundering and countering the financing of terrorism package | European Banking Authority](#)

La consultazione rimarrà aperta fino al 6 giugno 2025.

Si invitano i membri della Commissione Controlli Interni e del Gdl Antiriciclaggio a trasmettere eventuali osservazioni e commenti a efact@assifact.it entro **lunedì 31 marzo p.v.**

Si ricorda altresì che il presente documento, riservato agli Associati e non divulgabile all'esterno, è pubblicato nell'Area Commissioni dell'Area Riservata del sito associativo, a cui i membri delle Commissioni Tecniche possono accedere attraverso le credenziali personalizzate ricevute e che è possibile recuperare in autonomia le credenziali di accesso con il proprio indirizzo email cliccando su password o nome utente dimenticato: <https://areariservata.assifact.it>.

EBA/CP/2025/04

06/03/2025

Consultation Paper

Proposed Regulatory Technical Standards in the context of the
EBA's response to the European Commission's Call for advice on
new AMLA mandates

Contents

1. Responding to this consultation	3
2. Executive Summary	4
3. Background and rationale	5
3.1 Background	5
3.2 The EBA's approach	5
4. Draft regulatory technical standards	16
4.1 Draft RTS on the assessment of the inherent and residual risk profile of obliged entities under Article 40(2) of the AMLD	16
4.2 Draft RTS on the risk assessment for the purpose of selection of credit institutions, financial institutions and groups of credit and financial institutions for direct supervision under Article 12(7) of the AMLAR	26
4.3 Draft RTS under Article 28(1) of the AMLR on Customer Due Diligence	34
4.4 Draft RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments	54
5. Accompanying documents	63
5.1 Draft cost-benefit analysis / impact assessment – RTS under Article 40(2) of the AMLD on the assessment of obliged entities' risk profile	63
5.2 Draft cost-benefit analysis / impact assessment – RTS under article 12(7) of the AMLA Regulation, on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA	69
5.3 Draft cost-benefit analysis / impact assessment – RTS under Article 28(1) AMLR on Customer Due Diligence	73
5.4 Draft cost-benefit analysis / impact assessment – RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments	75
5.5 Overview of questions for consultation	79
6. Annexes	84

1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 06.06.2025. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

On 12 March 2024¹, the EBA received a Call for Advice (CfA) from the European Commission on certain draft regulatory technical standards (RTSs) under the new EU AML/CFT framework. The EBA's response to the CfA will inform the work of the new AML/CFT Authority (AMLA).

The CfA covers inter alia the following mandates:

- The mandate, under Article 40(2) of Directive (EU) 2024/1640, to develop draft RTS on the assessment and classification of the inherent and residual risk profile of obliged entities and the frequency at which such profile must be reviewed.
- The mandate, under Article 12(7) of Regulation (EU) 2024/1620 (AMLAR), to develop draft RTS on the risk assessment for the purpose of selection for direct supervision.
- The mandate, under Article 28(1) of Regulation (EU) 2024/1624 (AMLR), to develop draft RTS on customer due diligence (CDD).
- The mandate, under Article 53(10) of AMLD6, to develop draft RTS on pecuniary sanctions, administrative measures and periodic penalty payments.

This Consultation Paper includes the EBA's proposals for the draft RTSs mentioned above. They address supervisors and obliged entities that fall within the EBA's remit. When putting together its proposals, the EBA was guided by the principles of a proportionate, risk-based approach that can be applied effectively by financial institutions and their AML/CFT supervisors and is conducive to limiting the cost of compliance where possible.

Next steps

This Consultation Paper is published for a three-month period. During this time, the EBA will consult the European Data Protection Supervisor (EDPS) on these mandates on the basis of Article 57(1)(g) of the Regulation (EU) 2018/1725 (EUDPR) and the European Data Protection Board.

The EBA will consider feedback to this consultation when preparing its response to the European Commission, which it will submit on 31 October 2025.

¹https://www.eba.europa.eu/sites/default/files/2024-03/2d15a537-adaa-49ce-8b2a-54467772dfb6/CfA%20RTSs_GL%20EBA_fin_rev.pdf

3. Background and rationale

3.1 Background

1. On 12 March 2024, the EBA received a Call for Advice (CfA) from the European Commission (EC) on certain draft regulatory technical standards (RTSs) under the future EU AML/CFT framework. The EBA's response to the CfA will inform the work of the new AML/CFT Authority (AMLA).
2. The CfA includes a mandate under Article 12(7) of Regulation (EU) 2024/1620 (AMLR) on the risk assessment for the purpose of selection for direct supervision and a mandate under Article 40(2) of Directive (EU) 2024/1640 (AMLD6) on the methodology for assessing the inherent and residual risk profile of obliged entities.
3. The CfA also includes a mandate under Article 28(1) of Regulation (EU) 2024/1624 (AMLR) on customer due diligence (CDD) and a mandate under Article 53(10) of AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments.
4. In addition, the EC asked the EBA to consider possible guidance on the base amounts for pecuniary sanctions under Article 53(11) of the AMLD6 and on the minimum requirements for group-wide policies under Article 16(4) of the AMLR.

3.2 The EBA's approach

5. The EBA's work on the call for advice is guided by five principles:
 - A proportionate, risk-based approach;
 - A focus on effective, workable outcomes;
 - Technological neutrality;
 - Maximum harmonisation across supervisors, Member States and sectors;
 - Limiting disruption by building on existing EBA standards where possible, whilst aligning with global AML/CFT benchmarks;
6. The proposed drafts RTSs focus on the financial sector. In line with the European Commission's request, the EBA's response to the Call for Advice will highlight which aspects of the draft RTSs could also be relevant for the non-financial sector. The intention is to minimise divergence across sectors and Member States to the extent that this is possible.
7. In drafting this consultation paper, the EBA obtained input and feedback from national supervisors. It also liaised closely with the European Commission, ESMA, EIOPA and the ECB and built on his own work including the findings from AML/CFT implementation reviews, the data collected through the AML/CFT database EuReCA, and the work on AML/CFT colleges.
8. In addition, the EBA engaged with the following stakeholders:

- a. The EBA's Banking Stakeholder Group.
- 9. The private sector during a roundtable that took place on 24 October 2024 with 120 representatives that had been nominated by EU financial sector trade associations from all EU/EEA Member States. In parallel, seven supervisors hosted similar roundtables at a national level.
- b. The FIU Platform.
- c. The European Data Protection Supervisor (EDPS) and the European Data Protection Board (EDPB).
- 10. In regards to possible guidance on the base amounts for pecuniary sanctions under Article 53(11) of the AMLD6 and on the minimum requirements for group-wide policies under Article 16(4) of the AMLR, the EBA will provide a response based on information held by the EBA or contained in existing regulatory instruments. Because this response will draw on existing requirements, it is not subject to public consultation.

3.2.1 The draft RTS on the assessment of the inherent and residual risk profile of obliged entities

- 11. Article 40 of the AMLD requires supervisors to apply a risk-based approach to AML/CFT supervision. Under a risk-based approach, supervisors are required to adjust the frequency and intensity of supervision based on the ML/TF risk profile of each entity. This means that supervisors must understand the ML/TF risks present in their Member State, and how these risks affect obliged entities within their scope in light of each entity's business model, operation and customer base.
- 12. Article 40, paragraph 2, of the AMLD requires AMLA to develop a common methodology that all supervisors will use to assess the level of ML/TF risks to which obliged under their supervision are exposed. As part of this, AMLA must set out in a draft RTS the benchmarks and methodology supervisors will apply to assess and classify the inherent and residual risk profile of each obliged entity and the frequency at which such risk profile must be reviewed.

Rationale

- 13. The methodology proposed by the EBA comprises three steps, namely:
 - a. Assessing each obliged entity's level of exposure to inherent ML/TF risks and classifying its inherent risk profile in one of the following categories: low risk (1), medium risk (2), substantial risk (3), or high risk (4).
 - b. Assessing the quality of the AML/CFT controls put in place by the obliged entity to address these risks and classifying the obliged entity in one of the following categories on the basis of this assessment: very good quality of controls (A), good quality of controls (B) moderate quality of controls (C), or poor quality of controls (D).
 - c. Assessing the level of exposure to ML/TF risks to which the obliged entity remains exposed after taking into account the quality of its AML/CFT control framework and classifying its

residual risk profile on the basis of this assessment in one of the following categories: low risk (1), medium risk (2), substantial risk (3), or high risk (4).

14. The EBA proposes that the assessment of inherent risks and the quality of controls would be performed based on an automated scoring system, with a possibility to adjust the scores based on duly justified considerations. More specifically:
 - a. The overall inherent risk score could be adjusted to the extent that this is necessary to reflect national specificities or specific insights obtained by supervisors in the course of their supervisory activities.
 - b. The scores assigned to certain sets of controls indicators could be adjusted, to the extent that this is warranted based on the outcome of supervisory activities carried out in relation to the obliged entity.
15. An automated scoring system would then combine the obliged entity's inherent risk score and controls quality score to produce its residual risk score. Since the residual risk score would represent the inherent risk score as mitigated by the obliged entity's AML/CFT control framework, the residual risk score could not be greater than the inherent risk score.
16. Findings from the EBA's AML/CFT implementation reviews, Opinions on ML/TF risk and a 2023 stocktake of supervisors' approaches to assessing entity-level ML/TF risk suggest that supervisors' approaches to assessing ML/TF risk vary significantly in terms of quality and scope. This can hamper AML/CFT supervision and undermines efforts to develop a common understanding of ML/TF risks at the level of the EU as results are not comparable. It also creates costs for financial institutions that operate on a cross-border basis. For example, feedback obtained by the EBA during its AML/CFT implementation reviews and the 2024 private sector roundtable suggests that divergent approaches by supervisors mean that financial institutions that operate on a cross-border basis have to report on the same risks in different Member States using different formats and timelines.
17. The rationale underpinning the EBA's proposal is to ensure that supervisors' entity-level ML/TF risk assessment methodologies are consistent across Member States, with comparable outputs going forward. They should reliably inform supervisors' strategies and inspection plans, and help them target their resources on those institutions that present the highest ML/TF risk. The proposed approach should also ensure that the cost of compliance with the new requirements does not exceed what is strictly necessary to achieve this goal.
18. The EBA therefore proposes that:
 19. The draft RTS introduces a single set of data points that all supervisors would be required to use to establish the aforementioned indicators. An interpretive note will accompany the final version of the draft RTS to ensure that these data points are understood in the same manner in all Member States and by all obliged entities. AMLA would not specify how supervisors collect these data points, because the relevant sources of information may vary from one Member State to another. For instance, in some cases, supervisors may be able to collect part of the information from their prudential counterparts or from the local FIU, while in other cases, they will need to collect all the data from the obliged entities. Supervisors will

be free to identify and use all the relevant sources of information they have at their disposal. Lastly, supervisors will still have the option to collect additional information for other purposes, not directly related to the risk assessment methodology, such as conducting offsite supervision.

20. When designing the scoring methodology, the EBA tried to favour the use of objective data over subjective assessment to the extent that it was possible. To fulfil this objective, the methodology does not leave any room for self-assessment by obliged entity and instead, relies on objective indicators. In addition, even though some adjustments are possible based on expert judgment, these adjustments need to be duly justified and are subject to certain rules and limits, to ensure that they do not introduce an element of discretion.
 - a. Because risks vary and evolve, risk indicators and weights would not be included in the draft RTS. Instead, it would be the role of AMLA, in cooperation with national supervisors, to define the risk indicators and weights for each review cycle and to monitor the effective application of these indicators by supervisors in all Member States.
 - b. The draft RTS adjusts the frequency of entity-level risk assessments based on the nature and size of financial institutions. Under this approach, to have an up-to-date understanding of the risks to which obliged entities under their supervision are exposed and in line with most national supervisors' current practice, supervisors would review the inherent and residual risk profile of obliged entities once per year unless an institution is very small or carries out activities that do not justify a yearly review. In those cases, a review could take place once every three years instead. However, supervisors would be expected to review an entity's risk profiles and if necessary, obtain risk assessment data more frequently should risks crystallise or new information emerge that suggest that the ML/TF risk profiles may no longer be accurate.
21. The approach proposed by the EBA builds on existing works and standards, such as the EBA's Guidelines on ML/TF risk factors of 01 March 2021, the EBA's Guidelines on risk-based supervision of 16 December 2021, and the FATF's Recommendations of February 2012, as amended. For additional information on options the EBA considered and the rationale underpinning the policy choices made, please refer to Section 5.
22. The EBA will be testing the proposed methodology using data provided by supervisors and may as a result adjust the list of data points and the methodology before submitting its response to the Call for Advice.

3.2.2 The draft RTS on the risk assessment for the purpose of selection of credit institutions, financial institutions and groups of credit and financial institutions for direct supervision

23. Article 5(2) of the AMLAR requires AMLA to directly supervise selected obliged entities that are credit institutions, financial institutions and groups of credit and financial institutions. The mandate under Article 12(7) of the AMLAR complements the provisions laid down in Article 12 of the AMLAR in respect of the selection process. It requires AMLA to further specify the following two stages of the selection process:

- (i) Determining the number of Member States in which an obliged entity operates (either via establishment or via the freedom to provide services), by defining the minimum activities obliged entities need to carry out under the freedom to provide services to be considered as 'operating in a Member State that is different from the one where it is established' (Article 12 (7)(a) of the AMLAR); and
- (ii) Determining the level of risk of each eligible entity, by defining the methodology for classifying the ML/TF risk profile of an obliged entity as low, medium, substantial or high (Article 12 (7)(b) of the AMLAR).

Rationale

24. The establishment of an EU AML/CFT authority with direct supervision powers over some obliged entities constitutes a significant departure from the current regime, where AML/CFT supervision is performed solely by national supervisors. Nevertheless, under the new legal and institutional framework, national and supranational approaches remain closely intertwined. The EBA proposes that AMLA, when selecting entities that will be supervised directly by it, builds on the work of national authorities where possible to limit disruption and make the operation of the EU's AML/CFT supervisory system more efficient.

Minimum activity under the freedom to provide services

25. According to Article 12(1) of AMLAR, credit institutions, financial institutions and groups of credit and financial institutions that are operating in at least six Member States, including the home Member State, regardless of whether through the freedom of establishment or the freedom to provide services, are eligible to be directly supervised by AMLA.
26. A key feature of the freedom to provide services is the possibility to enter new markets without incurring the administrative and financial commitment that setting up an establishment entails. As a result, obliged entities often notify to their supervisors of their intention to operate in another Member State through the freedom to provide services but then do not provide this service in practice, or provide such services in a way that is not relevant to its overall business. AMLA should therefore be able to distinguish between those situations where the free provision of services constitutes a material part of an entity's business, and situations where it does not.
27. Considering the above, the draft RTS establishes thresholds to determine whether operations under the freedom to provide services in a Member State are material and count towards the number of Member States in which the entity is considered to be operating for the purpose of Article 12 (1) of the AMLAR. These thresholds are based on: (i) the number of customers that are resident in each Member State where the obliged entity is operating under the freedom to provide services, which have to be above 20,000; (ii) the total value in Euro of incoming and outgoing transactions generated by these customers, which have to be above 50,000,000 Euros. The rationale behind this approach is that it would enable AMLA to focus on the most relevant high ML/TF risk institutions with the largest geographic footprint.
28. Regarding the number of customers, feedback from private sector representatives at the EBA's roundtable suggests that identifying customers that have been acquired under the freedom to

provide services could be burdensome as not all institutions have at their disposal a breakdown of all customers onboarded under freedom to provide services per each Member State of operation. Therefore, the EBA proposes to use the number of customers that are resident in the Member State where the entity is operating under the freedom to provide services as a proxy. Regarding the volume of transactions, the aim of having such threshold is to capture situations where the number of customers that are resident in a certain Member State is limited but where these customers generate a high volume of transactions.

29. These thresholds are alternative. This means that it is sufficient for an obliged entity to meet just one of them to be considered as having a material operation under the freedom to provide services in a certain Member State.
30. The RTS does not define free provision of services for other purpose than determining whether an entity is to be considered as operating in a certain Member State where it is not established. The scope of the mandate under article 12(7)a AMLAR does not aim at identifying, under a qualitative perspective, what kind of activities fall under the perimeter of free provision of services rather than under other means of activities.
31. An interpretive note will be available in the response to the European Commission to the Call for advice, to ensure that the data points used to elaborate these thresholds are understood in the same manner in all Member States and by all obliged entities.

Methodology for the selection

32. Recital (21) of the AMLAR states that, where appropriate, the AMLA should ensure alignment between the methodology for the risk assessment at the national level and the methodology for selection. Considering the synergies between the mandate under Article 12(7), point (b) of AMLAR and that under Article 40(2) of the AMLD6, the EBA proposes that the methodology for the risk assessment of eligible credit institutions and financial institutions under Article 12(7)(b) of the AMLAR builds on the methodology for entity-level risk assessment under Article 40(2) of the AMLD6. Using the same methodology for both risk assessments also limits the operational burden on the obliged entities and on supervisors that divergent approaches would entail.
33. Key principles underpinning the selection methodology are harmonization and the level playing field. This presupposes that entity-level risk assessment methodologies are consistent, with comparable outcomes. Based on that, the possibility to adjust the inherent risk score based on national specificities or other considerations identified by supervisors has been excluded from this methodology. Nevertheless, the methodology will allow adjustments of the controls' quality score based on supervisory judgment.
34. Due to the divergence of approaches in place currently, including supervisory judgement in the calculation of the ML/TF controls quality score from the start could affect the comparability of the scores and, ultimately, the results of the first selection itself. For this reason, the EBA proposes to introduce a transitional rule according to which for the purpose of the first selection, AMLA will base its assessment on the automated score resulting from the application of the Art 40(2) AMLD methodology. According to this rule, manual, supervisory judgement-based adjustments of controls quality score would only be possible in strictly limited, exceptional circumstances.

35. As regards the group-wide risk assessment, the draft RTS provides a methodology for the calculation of the group-wide ML/TF risk score. This methodology is based on an aggregation of entity - level residual risk scores. This aggregation consists of a weighted average, which reflects the importance of each entity within the group. The intention is to give due consideration to those entities that carry a high ML/TF risk and whose operations represent a sizeable part of the group's operations. It is to avoid lower-risk entities unduly lowering the group's overall ML/TF risk score.
36. During the consultation period, the EBA will be testing the proposed methodology using data provided by supervisors and may refine it before submitting its response to the Call for Advice.

3.2.3 The RTS on Customer Due Diligence

37. Article 28(1) of the AMLR requires AMLA to harmonise customer due diligence requirements by specifying which information obliged entities must collect to perform standard customer due diligence (CDD), simplified due diligence (SDD) and enhanced due diligence (EDD). AMLA has to set out which reliable and independent sources of information obliged entities may use to verify the identity of natural or legal persons for the purposes of Article 22(6) and (7) of the AMLR.
38. The mandate in Article 28(1) of the AMLR also covers the risk factors associated with features of electronic money instruments that should be taken into account by supervisors when determining the extent of the exemption for electronic money under Article 19(7) of AMLR, and the list of attributes which electronic identification means and relevant qualified trust services referred to in Article 22(6), point (b) of AMLR, must feature in order to fulfil the requirements of Article 20(1), points (a) and (b) of AMLR.
39. The mandate in Article 28(1) of the AMLR interacts with other mandates in the AMLR, for example a mandate for AMLA to issue guidelines on the ML/TF risk factors obliged entities shall take into account and guidelines on ongoing monitoring of a business relationship and on the monitoring of the transactions carried out in the context of such relationship. The European Commission did not ask the EBA for advice on these mandates and they are therefore outside of the scope of this consultation paper.

Rationale

40. CDD is central to obliged entities' AML/CFT efforts. Under the current framework, differences in the national transposition of the AMLD's CDD requirements and, as a result, divergent expectations of obliged entities' CDD efforts by supervisors have led to regulatory arbitrage, created uneven conditions of competition, and hampered innovation and the cross-border provision of financial services. They also exposed the EU's financial sector to ML/TF risk. To address this, the AMLR introduces a single AML/CFT rulebook that sets out in detail what obliged entities in all Member States should do to comply. It therefore constitutes a significant departure from current EU AML/CFT practices.
41. When drafting the RTS on CDD, the EBA consulted with private sector representatives to understand the impact the new CDD requirements would have on their businesses and operations. Representatives suggested that the AMLR's CDD requirements will have a significant impact. They also said that the detailed requirements of the AMLR and a prescriptive approach to

discharging the mandate in Article 28(1) AMLR could further increase the cost of compliance, without tangible benefits. To mitigate this risk, where this is warranted and to the extent that the Level 1 requirements permit it, the EBA proposes that the draft RTS follows a principles-based, risk-based approach that focuses on effective outcomes. In some cases, this means that the proposed draft RTS remains silent where sufficient detail is provided in the AMLR. It also means that where possible, and desirable in terms of the overall outcomes, the draft RTS adopts a principles-based approach in relation to the type and source of information to be collected by obliged entities but does not list specific documents.

42. Another example relates to the provision in Article 22(6) of the AMLR, which could be read as suggesting that only tools and solutions that are eIDAS-compliant can be used to verify the identity of customers in an online context. Electronic identities are not mandatory for individuals or for legal persons under Regulation (EU) No 910/2014 (the eIDAS Regulation). What is more, certain customers may be unable to obtain electronic identities, for example because they are not resident in the EU, or because they are disadvantaged or belong to other vulnerable groups. Restricting online verification of identity to eIDAS-compliant solutions only could therefore exclude certain customers from access to online financial services. To address this, the EBA proposes that eIDAS tools and solutions be mandatory only to the extent that an eIDAS-compliant electronic identity is available and can be reasonably expected to be provided by the customer. Obligated entities should use alternative, similarly robust means of online verification, in line with the EBA guidelines on remote onboarding², where customers cannot provide eIDAS-compliant electronic identity.
43. Finally, in relation to the date at which obliged entities are expected to comply with the new CDD measures, the AMLR could be read as suggesting that obliged entities will have to comply with it from 10 July 2027. This would mean that obliged entities would have to apply the new CDD standards to all existing customers at that date. The EBA acknowledges that it may not be possible for obliged entities to apply the new CDD standards to all of their existing clients at that date and therefore proposes that the draft RTS clarifies that obliged entities apply a risk-based approach. Specifically, when updating CDD information for existing customers, obliged entities would prioritise higher ML/TF risk business relationships in the first instance. CDD information for other business relationships, which are not high- ML/TF risk, could be completed at a later date, provided that obliged entities do not exceed a 5-year transition period.
44. The structure of the draft RTS follows the sequencing of the mandate, focussing first on the CDD, SDD and EDD measures an obliged entities must take, then on the ML/TF risk factors associated with features of electronic money instruments that should be taken into account by supervisors and finally, on the list of attributes which electronic identification means and relevant qualified trust services must feature in order to fulfil the requirements of Article 20(1), points (a) and (b) of the AMLR, in the case of CDD, SDD and EDD.

² EBA/GL/2022/15 of 22/11/2022, accessible here:

https://www.eba.europa.eu/sites/default/files/document_library/Publications/Guidelines/2022/EBA-GL-2022-15%20GL%20on%20remote%20customer%20onboarding/1043884/Guidelines%20on%20the%20use%20of%20Remote%20Customer%20Onboarding%20Solutions.pdf

45. To the extent possible, the draft RTS builds on and aligns with existing EBA works and standards, such as the EBA's Guidelines on ML/TF risk factors, the EBA Guidelines on remote customer onboarding and the EBA Guidelines on the implementation of EU and national restrictive measures.

3.2.4 The RTS on pecuniary sanctions, administrative measures and periodic penalty payments

46. The mandate in Article 53(10) of AMLD6 relates to enforcement. It covers three aspects: (i) the indicators to classify the level of gravity of breaches, (ii) the criteria for setting the level of pecuniary sanctions and applying administrative measures and (iii) the methodology for the imposition of periodic penalty payments (PePPs). The proposed RTS follows this structure.

Rationale

47. The draft RTS complies with the principle stipulated by the AMLD6 that pecuniary sanctions, administrative measures and periodic penalty payments may be imposed separately or in combination. It aims to achieve the highest possible level of harmonisation to ensure that the same breach of AML/CFT requirements is assessed in the same way by all supervisors in all Member States and that the resulting enforcement measure is proportionate, effective, and dissuasive.
48. The EBA first stressed the importance of a proportionate, effective, dissuasive and harmonised approach to enforcement in its 2020 response to the European Commission's Call for Advice on the future AML/CFT framework. Progress since then has been limited. For example, the 4th round of the implementation reviews carried out by the EBA in 2023/2024³ showed that, while national supervisors assessed during that round had taken steps to strengthen their approach to enforcement, enforcement measures did not always constitute a deterrent, and not all supervisors were using their powers effectively. Moreover, while most supervisors had taken some enforcement actions, it was not always clear on what basis they had selected the supervisory or administrative measures and how they had calculated the value of the fine: this was because more than half of all supervisors in this round did not have a comprehensive internal enforcement and sanctioning policy or procedures in place.
49. The need to ensure convergence is also highlighted by the data collected in EuReCA⁴, that contains information on serious deficiencies identified in financial institutions and the measures supervisors have taken to address these AML/CFT-related deficiencies. According to EuReCA data, supervisors' approaches to enforcement are not aligned. For example, EuReCA's data underline that similar breaches by financial institutions in similar situations currently result in different supervisory responses.

³ REPORT ON NCAS' APPROACHES TO THE SUPERVISION OF BANKS WITH RESPECT TO ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (ROUND 4 – 2023/24)

⁴ Central database of AML/CFT related information collected by the EBA pursuant to Article 9a (2) of the Regulation (EU) No 1093/2010 and Commission Delegated Regulation (EU) 2024/595.

50. To address this, the draft RTS sets out a list of common indicators that supervisors will take into account when assessing the level of gravity of breaches. It also provides that supervisors classify the level of gravity of a breach in one of four categories of increased severity. The RTS builds on the policy work already done by the EBA to the extent possible, including the RTS on the central AML/CFT database (EuReCA)⁵ and the Joint ESAs Report on the withdrawal of authorisation for serious AML/CFT breaches⁶.
51. To ensure a consistent approach to assessing the severity of a breach across Member States, the draft RTS sets out in Article 2 specific situations in which, when some indicators are met or have a certain impact on the obliged entity, the breach should be classified in a certain category.
52. For the same reason, the draft also explains the legal effect of the classification of level of gravity of breaches, clarifying in Article 3 that a breach with a level of gravity classified as category three or four shall be deemed serious, repeated or systematic in the meaning of Article 55(1) of Directive (EU) 2024/1640.
53. As regards to the criteria to be taken into account '*when setting the level of pecuniary sanctions*', the term 'level' is understood as the amount. The draft RTS therefore contains criteria that that will help competent authorities decide whether to increase or decrease the level of pecuniary sanctions. They are aligned with the enforcement provisions that apply to AMLA where possible.
54. At the same time, the EBA finds that the draft RTS provides for sufficient flexibility by recognising that, for enforcement to be effective, supervisors must take into account the context in which the breach has occurred and therefore, apply supervisory judgement. A specific Recital stresses the importance of this step. Similarly, to provide for sufficient flexibility, the draft RTS do not create a full classification of the breaches and the specific situations set out in the draft RTS do not prevent supervisors from classifying other breaches in those categories.
55. Regarding the criteria for applying administrative measures, the EBA decided to focus on the most serious measures listed in Article 56(2) of the AMLD6, i.e. point (f) withdrawal or suspension of authorisation, point (e) restriction or limitation of business, and point (g) change in governance structure. To provide for further convergence across the EU, the draft RTS sets out the criteria supervisors should take into account when considering applying those measures. The policy objective is to simultaneously trigger a more consistent approach in the way supervisors consider applying those measures and to ensure that the appropriate criteria are assessed.
56. The draft RTS pays particular attention to the natural persons that are not themselves obliged entities. This includes senior management and the management body in its supervisory function. EU trade association representatives suggested during the EBA roundtable in October 2024 that holding individuals accountable for AML/CFT failures is an important deterrent and, in their view, an essential part of effective enforcement.
57. Periodic penalty payments (PePPs) are a new enforcement measure in the EU AML/CFT context. Until now, their use has been limited to a few Member States. The aim of PePPs is to end an ongoing breach of AML/CFT duties. As a PePP is an enforcement measure and not a sanction, the

⁵ Commission Delegated Regulation (EU) 2024/595, OJ L, 2024/595, 16.2.2024.

⁶ ESAs 2022 23, 31 May 2022, Joint ESAs report.

criteria used by supervisors before deciding the amount of the PePP are not the same as criteria proposed for the imposition of pecuniary sanctions.

58. The EBA's proposed approach to PePPs takes inspiration from delegated acts issued by the European Commission and the practice of Member States in which they are already applied. In line with these examples, the draft RTS covers procedural aspects for the imposition of periodic penalty payments, e.g. the right to be heard, a limitation period for the collection of PePPs, and the minimum content of the decision by which a PePP is imposed. It reiterates that unless stipulated differently, the process of imposition of PePPs shall be governed by national law in force in the Member State where the periodic penalty payments are imposed and collected.
59. The general principles of administrative law such as rule of law, legality, protection of legitimate expectations, proportionality, fairness, and right to non-self-incrimination apply to all Union acts and to any enforcement proceeding.
60. Finally, the draft RTS does not set out how AML/CFT supervisors should cooperate with prudential supervisors when intending to impose a pecuniary sanction or administrative measure as this is not part of the mandate of Article 53(10) of AMLD6. Nevertheless, the AMLD6 provides for cooperation between AML/CFT supervisors and prudential supervisors⁷ and envisages the development of specific technical standards on the topic of cooperation between supervisors.

⁷ See Article 53(9) and Article 55(5) of the AMLD6 and provisions contained in Articles 44 to 51 of the AMLD6.

4. Draft regulatory technical standards

4.1 Draft RTS on the assessment of the inherent and residual risk profile of obliged entities under Article 40(2) of the AMLD

COMMISSION DELEGATED REGULATION (EU) No .../..

of XXX [...]

supplementing Directive (EU) No 2024/1640 of the European Parliament and of the Council with regard to regulatory technical standards setting out the benchmarks and methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as well as the frequency of its revision

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024, on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and in particular Article 40, paragraph 2, thereof,

Whereas:

- (1) Directive (EU) 2024/1640 sets out the obligation for Member States to ensure that competent authorities apply a risk-based approach to supervision. As part of this, competent authorities should identify and assess all relevant information on the specific domestic and international risks associated with customers, products and services of the obliged entities.
- (2) Pursuant to Article 40(2), of Directive (EU) 2024/1640, AMLA should develop benchmarks and a methodology to ensure that the inherent and residual risk profiles of individual obliged entities can be assessed and classified in a consistent manner by all competent authorities.
- (3) To ensure that the risk profile of obliged entities is assessed and classified in a consistent manner, the assessment and classification of the inherent and residual risk profile of obliged entities should be conducted on the basis of detailed harmonised information. This Regulation is not to specify how the data is to be obtained or to cover

powers and tasks of supervisors in relation to any data collection exercise. Supervisors may have collected the data either from the obliged entities or external auditors, as part of their existing supervisory powers, or as part of cooperation and exchanges with other AML/CFT authorities, prudential supervisors, FIUs or other bodies. Supervisors should also assess obliged entities based on a set of harmonised indicators which are scored using the same methodology and combined using the same weighting system to determine the inherent and residual risk profile of obliged entities.

- (4) Article 40, paragraph 2, of Directive (EU) 2024/1640 requires both the inherent and residual risk profile of obliged entities to be assessed and classified. Consequently, supervisors should adopt a three-step approach. Firstly, supervisors should assess and classify the inherent risk profile of obliged entities based on a set of indicators aimed at reflecting the level of ML/TF risks to which they are exposed. Secondly, supervisors should assess the quality of the AML/CFT controls put in place by obliged entities to mitigate the inherent ML/TF risks to which they are exposed. Lastly, supervisors should assess and classify the residual risk profile of obliged entities which should reflect the residual level of ML/TF risk to which obliged entities remain exposed.
- (5) ML/TF inherent risks can stem from different types of risk factors, namely factors relating to the nature of customers, factors relating to the nature of the services, products or types of transactions offered, factors relating to the specific distribution channels used to interact with customers, and factors relating to the geographical areas in which obliged entities are operating. Similarly, different types of AML/CFT controls can be identified. It is possible, for instance, to distinguish between the obliged entities' AML/CFT governance and internal control framework, their ML/TF risk assessment framework, their AML/CFT policies, procedures and processes, and the AML/CFT compliance framework of the group to which they belong, where relevant. To structure the assessment, the inherent risk indicators and controls risk indicators should therefore each be divided into four categories reflecting the different types of risk factors and controls mentioned above. Moreover, within each category, some indicators relate to the same topic and should therefore be grouped into sub-categories. This structure should be reflected in the methodology by introducing combined scores per sub-category and per category.
- (6) The indicators comprising a sub-category will generally not have the same level of risk significance. Consequently, indicators should be given different weights in the determination of the combined score attributed to this sub-category. Equally, the sub-categories comprising a category may have different levels of risk significance and should also be given different weights in the determination of the combined score per category.
- (7) Some sectors have specificities that affect the level of ML/TF risks to which the obliged entities operating in these sectors are exposed. These specificities should be reflected in the methodology by adjusting the list of applicable indicators and the weights given to these indicators, depending on the sector(s) to which the assessed obliged entities belong. The assessment of the risks of money laundering and terrorist financing and of non-implementation and evasion of targeted financial sanctions affecting the internal market and relating to cross-border activities conducted by the Commission pursuant

to Article 7 of Directive (EU) 2024/1640 should be used as a source of information to determine the extent to which adjustments are needed for the different sectors.

- (8) Similarly, supervisors may possess relevant information suggesting that the obliged entity's inherent risk score does not reflect the level of inherent ML/TF risks to which it is exposed, for instance due to national specificities of their Member States. This information should be reflected in the methodology by introducing a mechanism whereby supervisors can adjust the inherent risk score of the relevant obliged entities, based on duly justified considerations.
- (9) ML/TF risks affecting the internal market are constantly evolving. It is therefore key that the methodology can be adjusted on an ongoing basis to capture these evolutions. To ensure that this is possible, the precise values and thresholds to be applied to score each indicator and the precise weights to be given to each indicator, sub-category and category in the determination of the inherent and residual risk profile of obliged entities should not be specified in this Regulation. It will be the role of AMLA, in cooperation with competent authorities, to develop and keep up to date the necessary guidance to ensure that each competent authority applies the same thresholds and weights.
- (10) To ensure that supervisors' understanding of the ML/TF risks to which obliged entities are exposed, the inherent and residual risk profile of obliged entities should be reviewed at least once per year. In the case, however, where the size of the business of an obliged entity is very small or in the case where the nature of the business does not justify reviewing the inherent and residual risk profile of the obliged entity every year, supervisors should be able to review such profile only once every three years, provided that no major event or development in the management and operations of the relevant obliged entity has occurred during the three years preceding the assessment.
- (11) Where major events or developments in the management and operations of obliged entities occur, it is key that supervisors assess the impact of these events or developments on the inherent and residual risk profile
- (12) Major events or developments in the management and operations of obliged entities occur can significantly affect the ML/TF risks to which the relevant obliged entities are exposed, in a way that justifies a rapid supervisory reaction. Where such events or developments occur, it is key that supervisors conduct an ad hoc assessment of their impact on the inherent and residual risk profile of the relevant obliged entities in a timely fashion.
- (13) This Regulation is based on the draft regulatory technical standards submitted by AMLA to the Commission.

HAS ADOPTED THIS REGULATION:

Article 1 – Definitions

- 1. For the purpose of this Regulation, the following definitions shall apply:
 - (1) 'Inherent risk' means the risk that an entity may be used for money laundering and terrorist financing, given the extent to which the products, services and type of transactions it offers, the customers it services, the jurisdictions in which it operates

and the distribution channels it uses to service its customers, affect the traceability of the funds, the identity of the ultimate beneficial owner, and the ease with which the legitimacy of the customers' activity can be ascertained.

- (2) 'Residual risk' means the risk that an entity may be used for money laundering and terrorist financing, given the inherent risks to which it is exposed and the quality of the AML/CFT procedures, systems and controls put in place by the obliged entity to mitigate these risks.
- (3) 'Weight' means, in relation to a set of indicators, sub-categories of indicators or categories of indicators based on which a combined score is determined, the extent to which each of these items will influence the determination of the combined score. Indicators, sub-categories and categories with a lower weight will have less influence on the combined score than indicators, sub-categories and categories with a higher weight.

Article 2 – Assessment and classification of the inherent risk profile of obliged entities

Supervisors shall apply the following methodology to assess and classify the inherent risk profile of each obliged entity under their supervision, provided that such obliged entity has commenced its activities at the latest during the year prior to that where the assessment and classification takes place:

1. Supervisors shall attribute a numerical score with decimal places ranging from 1 (lowest level of risk) to 4 (highest level of risk) based on pre-determined thresholds to all the inherent risk indicators which are applicable to the relevant obliged entity. These inherent risk indicators shall be based on the data points mentioned in Annex I, section A.
2. Based on the scores attributed to the inherent risk indicators, in accordance with paragraph 1 above, supervisors shall determine combined scores for all categories of indicators listed in Annex I, section A, each of which shall be a numerical value with decimal places ranging from 1 (lowest level of risk) to 4 (highest level of risk).

When determining a combined score per category, supervisors shall apply pre-determined weights to the different inherent risk indicators comprising the relevant category. The weights given to these different inherent risk indicators shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).

3. Based on the combined scores per category determined in accordance with paragraph 2 above, supervisors shall determine the inherent risk score of the relevant obliged entity, which shall be a numerical value with decimal places ranging from 1 (lowest level of risk) to 4 (highest level of risk).

When determining the inherent risk score, the weights given to the different categories shall be proportional to the risk score attributed to these categories. Categories with a higher risk score shall have a greater weight than categories that have received a lower risk score.

4. Where the inherent risk score does not adequately reflect the level of ML/TF risks to which the obliged entity is exposed, due to national specificities or other circumstances identified by supervisors within the course of their supervisory activities, supervisors may adjust the inherent risk score accordingly. The adjustment shall be duly justified.

The adjusted score shall not lead to an increase or decrease by more than one category, in accordance with paragraph 5 below. Where the risk is increased by one category, the adjusted score shall be set at the minimum value of the corresponding category. Where the risk is decreased by one category, the adjusted score shall be set at the maximum value of the corresponding category.

5. Based on the inherent risk score attributed to the relevant obliged entity in accordance with paragraphs 3 and 4 above, supervisors shall classify the inherent risk profile of this obliged entity, in accordance with the following conversion rules:

Score < 1.75: Low risk (1)

$1.75 \leq \text{Score} < 2.5$: Medium risk (2)

$2.5 \leq \text{Score} < 3.25$: Substantial risk (3)

Score ≥ 3.25 : High risk (4)

Article 3 – Assessment and classification of the quality of AML/CFT controls put in place by obliged entities

Supervisors shall apply the following methodology to assess and classify the quality of the AML/CFT controls put in place by each obliged entity under their supervision, provided that such obliged entity has commenced its activities at the latest during the year prior to that where the assessment and classification takes place:

1. Supervisors shall attribute a numerical score with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality) based on pre-determined thresholds to all the controls' quality indicators which are applicable to the relevant obliged entity. These controls' quality indicators shall be based on the data points mentioned in Annex I, section B.
2. Based on the scores attributed to the applicable controls' quality indicators, in accordance with paragraph 1 above, supervisors shall determine combined scores for all sub-categories of indicators listed in Annex I, section B, each of which shall be a numerical value with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality).

When determining combined scores per sub-category, supervisors shall apply pre-determined weights to the different controls' quality indicators comprising the relevant sub-category. The weights given to these different controls' quality indicators shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).

3. Where supervisors have a supervisory assessment or an external auditors' assessment available that warrants an adjustment of any of the combined scores per sub-category

attributed in accordance with paragraph 2 above, supervisors shall adjust the score accordingly.

For the purpose of this paragraph:

- a) a supervisory assessment shall mean any assessment of the effectiveness, or compliance with AML/CFT legal requirements, of all or part of an obliged entity's AML/CFT governance, procedures, systems and controls carried out by a supervisor within the course of its supervisory activities. This includes but is not limited to full scope or targeted on-site inspections, thematic off-site reviews, other off-site analyses, as well as any action taken by supervisors to assess the adequacy of the corrective measures put in place by an obliged entity to address findings and/or shortcomings in its AML/CFT procedures, systems and controls previously identified by the relevant supervisor;
 - b) an external auditors' assessment shall mean any assessment of the effectiveness, or compliance with AML/CFT requirements, of all or part of an obliged entity's AML/CFT governance, procedures, systems and controls carried out by external auditors or, as the case may be, any expert instructed by a supervisor, and the outcome of which has been communicated to the supervisor responsible for the supervision of the relevant obliged entity.
4. Based on the combined scores per sub-category attributed in accordance with paragraphs 2 and 3 above, supervisors shall determine combined scores for all categories of indicators listed in Annex I, section B, each of which shall be a numerical value with decimal places comprised between 1 (highest level of quality) and 4 (lowest level of quality).

When determining a combined score per category, supervisors shall apply specific weights to the sub-categories comprising this category. The weights given to these different sub-categories shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).

5. Based on the combined scores attributed to the categories of controls' quality indicators, in accordance with paragraph 4 above, supervisors shall determine the controls' quality score of the obliged entity, which shall be a numerical value with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality).

When determining the controls' quality score, the weights given to the different categories shall be proportional to the quality score attributed to these categories. Categories that received a lower quality score shall have a greater weight than categories that received a higher quality score.

6. Based on the controls' quality score attributed to obliged entities in accordance with paragraph 5 above, supervisors shall classify the relevant obliged entity, in accordance with the following conversion rules:

Score < 1.75: Very good quality of controls (A)

1.75 ≤ Score < 2.5: Good quality of controls (B)

2.5 ≤ Score < 3.25: Moderate quality of controls (C)

Score ≥ 3.25 : Poor quality of controls (D)

Article 4 – Assessment and classification of the residual risk profile of obliged entities

Supervisors shall apply the following methodology to assess and classify the residual risk profile of each obliged entity under their supervision, provided that such obliged entity has commenced its activities at the latest during the year prior to that where the assessment and classification takes place:

1. Supervisors shall determine the residual risk score of the relevant obliged entity, based on the inherent risk numerical score and the controls' quality numerical score attributed to the relevant obliged entity, in accordance, respectively, to Article 2 and Article 3 of this Regulation.
2. Supervisors shall apply the following rules to combine the inherent risk numerical score and the controls' quality numerical score in accordance with paragraph 1 above:
 - a) Where the numerical controls' quality score is greater than the numerical inherent risk score, then the residual risk score shall be equal to the inherent risk score.
 - b) Where the numerical controls' quality score is lower or equal to the numerical inherent risk score, then the residual risk score shall be equal to the average of the inherent risk score and the controls' quality score.
3. Based on the residual risk score determined in accordance with paragraphs 1 and 2 above, supervisors shall classify the residual risk profile of the relevant obliged entity, in accordance with the following conversion rules:

Score < 1.75 : Low risk (1)

$1.75 \leq \text{Score} < 2.5$: Medium risk (2)

$2.5 \leq \text{Score} < 3.25$: Substantial risk (3)

Score ≥ 3.25 : High risk (4)

Article 5 – Timelines and updates of the assessment and classification of the inherent and residual risk profile of obliged entities

1. Supervisors shall carry out the first assessment and classification of the inherent and residual risk profile of obliged entities pursuant to Articles 2, 3 and 4 of this Regulation at the latest nine (9) months after the date of entry into force of this Regulation.
2. After the first assessment and classification mentioned in paragraph 1 above, supervisors shall assess and classify the inherent and residual risk profile of obliged entities, pursuant to Article 2, 3 and 4 of this Regulation, at least once per year, before 30 September.
3. By way of derogation from paragraph 2 above, supervisors shall assess and classify the inherent and residual risk profile of obliged entities, pursuant to Article 2, 3 and 4 of this Regulation, at least once every three years, where the obliged entity meets any of the below criteria:

- a) The total number of full-time equivalent employees employed by the obliged entity in the relevant Member State is less than or equal to five (5);
 - b) The obliged entity does not carry out activities falling within the scope of Regulation (EU) 2024/1624, other than the following activities:
 - i. The activity of insurance intermediary as referred to in Article 2, paragraph 1, point 6(c), of Regulation (EU) 2024/1624;
 - ii. The activity of credit intermediary as referred to in Article 2, paragraph 1, point 6(h), of Regulation (EU) 2024/1624 and/or Article 3, paragraph 3, point (k);
 - iii. The activity of insurance undertaking as referred to in Article 2, paragraph 1, point 6(a), of Regulation (EU) 2024/1624, provided that the obliged entity does not distribute life insurance contracts or products other than: (i) contracts or products that cannot be redeemed; (ii) contracts or products that insure a lender against the death of a borrower; and (iii) contracts or products the annual premium of which is not above EUR 1,000 (or the equivalent in national currencies) or the unique premium of which is not above EUR 2,500 (or the equivalent in national currencies);
 - iv. The activity of investment firm as referred to in Article 2, paragraph 1, point 6(d), of Regulation (EU) 2024/1624, provided that the obliged entity does not provide (i) any of the investment services mentioned in Annex I, section A, points (1), (2), (4), (8) and (9) of Directive (EU) 2014/65, and (ii) any of the ancillary services mentioned in Annex I, section B, points (1) and (2), of Directive (EU) 2014/65;
 - v. The activity of creditor as referred to in Article 2, paragraph 1, point 6(g) of Regulation (EU) 2024/1624;
 - vi. The activities listed in points (2), (3) and (6), of Annex I to Directive (EU) 2013/36;
 - c) The obliged entity is a branch set up by collective investment undertakings within the meaning of Article 2, paragraph 1, point 6(e), of Regulation (EU) 2024/1624 authorised in a different Member State; or
 - d) The residual risk profile of the obliged entity has already been assessed and classified in accordance with Article 5 of this Regulation at least once and such residual risk profile was last classified in the low-risk category.
4. Where major events or developments in the management and operations of obliged entities occur, supervisors shall conduct an ad hoc assessment and classification of the inherent and residual risk profile of the relevant obliged entities, at the latest four (4) months after the supervisor becomes aware of the occurrence of such events or developments, pursuant to Article 2, 3 and 4 of this Regulation.
5. When conducting the assessment mentioned in paragraph 4 above, supervisors may refrain from reviewing the scores attributed to the indicators that are not affected by the occurrence of the relevant major event or development. Supervisors may also refrain

from assessing the need to adjust the scores of the controls sub-categories that are not affected by the occurrence of the relevant major event or development, based on available supervisory and/or external auditors' assessment.

6. For the purpose of paragraph 4 above, major events or developments in the management and operations shall mean any event or development in the management and operations of an obliged entity which may lead to a material change in the obliged entity's inherent and/or residual risk profile. This includes but is not limited to:
- a) significant changes in the business model of the obliged entity to the extent where these changes may lead to a material change in the obliged entity's inherent and/or residual risk profile;
 - b) the identification by the supervisor responsible for the supervision of the obliged entity of significant weaknesses in the entity's AML/CFT procedures, systems and/or controls to the extent that these weaknesses may lead to a material change in the obliged entity's inherent and/or residual risk profile;
 - c) the fact that the obliged entity becomes a significant supervised entity within the meaning of Article 2, point (16), of Regulation (EU) 468/2014 or becomes part of a significant supervised group within the meaning of Article 2, point (22), of Regulation (EU) 468/2014, to the extent that this event may lead to a material change in the obliged entity's inherent and/or residual risk profile.

Article 5 – Entry into force

This Regulation shall enter into force on the twentieth day following that day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President

[...]

On behalf of the President

[...]

[Position]

ANNEX I – Data points, sub-categories and categories

Section A – Inherent risk

[See Annex I, Section A, of the Consultation Paper]

Section B – Controls

[See Annex I, Section B, of the Consultation Paper]

4.2 Draft RTS on the risk assessment for the purpose of selection of credit institutions, financial institutions and groups of credit and financial institutions for direct supervision under Article 12(7) of the AMLAR

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

on supplementing Regulation (EU) No 2024/1620 of the European Parliament and of the Council of 31 May 2024 with regard to regulatory technical standards specifying the assessment methodology of credit institutions, financial institutions and groups of credit and financial institutions for the purpose of selection for the direct supervision of the Authority for Anti-money laundering and Countering the Financing of Terrorism

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2024/1620 of the European Parliament and of the Council of 31 May 2024, establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, and in particular Article 12(7) thereof,

Whereas:

- (1) In accordance with Regulation (EU) No 2024/1620, a number of obliged entities in the financial sector shall be directly supervised by the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (the Authority) to ensure the consistent and effective supervision of different parts of the same obliged entity. The selection of these obliged entities takes place in two stages. In the first stage, the Authority identifies all credit institutions, financial institutions or groups of credit and financial institutions that are operating in at least six Member States, including the home Member State, either via establishment or by conducting relevant operations under the freedom to provide services. In the second stage, the ML/TF risk profile of these entities is classified, to identify those that present a high residual risk.
- (2) The ability to explore new markets without having to create an establishment in another Member State is a key feature of the freedom to provide services. In some instances, entities notify their financial supervisors of their intention to exercise this freedom but do not start this activity in practice. In other instances, entities exercise this freedom but it does not represent a major part of their overall operations. Therefore, being considered eligible for selection might deter some entities from entering new markets.

Considering the above, materiality thresholds should be established to qualify as eligible for the selection only those entities with a relevant activity under the freedom to provide services from an operational perspective. However, where an obliged entity is already operating in a Member State under establishment, any additional activities exercised under the freedom to provide services will not need to be assessed against the materiality thresholds set out in this Regulation.

- (3) The assessment of the minimum activities to be carried out by a credit institution or a financial institution under the freedom to provide services, whether through infrastructure or remotely, serves to establish whether it should be considered as operating in a Member State other than that where it is established for the purpose of Article 12, paragraph 7, subparagraph (a) of Regulation (EU) No 2024/1620. This assessment ought to be made based on data that the Authority and financial supervisors can collect from credit institutions and financial institutions. The threshold and criteria developed in this Regulation should not be used to define the activity under the freedom to provide services principle for any other purposes.
- (4) All entities operating in at least six Member States through establishments or by conducting relevant operations under the freedom to provide services and whose residual risk profile is “high” should qualify for direct supervision in accordance with article 13(1) of Regulation (EU) No 2024/1620.
- (5) To reduce the operational burden on obliged entities and financial supervisors and to ensure alignment between the methodology for the selection of directly supervised institutions and methodology for assessing the risk profiles of obliged entities in line with Article 40 (2) of Directive (EU) 2024/1640, the methodology for the selection should build on the methodology for assessing the risk profiles of obliged entities in line with Article 40 (2) of Directive (EU) 2024/1640. These risk profiles should be aggregated for the classification of the group risk profile, at the level of the highest parent company in the European Union which is a credit or a financial institution.
- (6) To avoid that, as an effect of the aggregation of the entity-level score, the ML/TF risk profile of a high ML/TF risk group is unduly reduced because some of its components have a low risk profile, the group-wide methodology for the purpose of selection should reflect the relative importance of each entity within the group, in terms of size and risk, and attribute a higher weight to the most important entities.
- (7) It is essential to ensure a full comparability of the outcomes of the selection process. Given the diversity, under the preceding AML/CFT regime which had been established by Directive (EU) 2015/849, of approaches adopted by financial supervisors to the evaluation of the residual risk profile of obliged entities, the methodology applied for the first round of selection should have different features from the one applied for the subsequent rounds, where a higher degree of harmonisation is envisaged. Therefore, some transitional rules should be set, with the objective to limit the possibility of adjusting the controls' quality score based on qualitative assessments of the effectiveness of the entities' controls. This would ensure a smoother transition to the application of the full methodology, when the Authority will have been able to foster, and then ensure, the consistency of supervisory practices.

- (8) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the Authority,

HAS ADOPTED THIS REGULATION:

Section I: Minimum activities to be carried out through the freedom to provide services

Article 1 - Materiality thresholds for operations under the freedom to provide services

1. The activities of a credit institution or a financial institution under the freedom to provide services in a Member State other than where it is established shall be considered material for the purposes of meeting the conditions of Article 12(1) of Regulation (EU) 2024/1620, where:
 - a) the number of its customers that are resident in that Member State is above 20,000; or
 - b) the total value in Euro of incoming and outgoing transactions generated by the customers referred to under letter (a) is above 50,000,000.
2. Whether the activity of the credit or financial institution meets any of the materiality thresholds referred to in paragraph 1 points a) and b) shall be determined based on the data points listed under Annex I, section C.

Section II: Risk assessment

Article 2 - Assessment and classification of the inherent risk at the entity level

The methodology for assessing and classifying the inherent and residual risk profile of credit and financial institutions as referred to in Article 12 (5) and (6) of Regulation (EU) 2024/1640 as low, medium, substantial or high, shall consist of the following steps:

1. Attribution of a numerical score with decimal places ranging from 1 (lowest level of risk) to 4 (highest level of risk) based on pre-determined thresholds to all the inherent risk indicators that apply to the relevant obliged entity. These inherent risk indicators shall be based on the data points mentioned in Annex I, section A.
2. Based on the scores attributed to the inherent risk indicators in accordance with paragraph 1 above, determination of combined scores for all categories of indicators listed in Annex I, section A, each of which shall be a numerical value with decimal places ranging from 1 (lowest level of risk) to 4 (highest level of risk). When determining a combined score per category, pre-determined weights shall be applied to the different inherent risk indicators comprising the relevant category. The weights given to these different inherent risk indicators shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).
3. Based on the combined scores per category determined in accordance with paragraph 2 above, determination of the inherent risk score of the credit or financial institution, which shall be a numerical value with decimal places ranging from 1 (lowest level of

risk) to 4 (highest level of risk). When determining the inherent risk score, the weights given to the different categories shall be proportional to the risk score attributed to these categories. Categories with a higher risk score shall have a greater weight than categories that have received a lower risk score.

4. Based on the inherent risk score attributed to the credit or financial institution in accordance with paragraph 3 above, classify the inherent risk profile of this credit or financial institution, in accordance with the following conversion rules:

Score < 1.75: Low risk (1)

$1.75 \leq \text{Score} < 2.5$: Medium risk (2)

$2.5 \leq \text{Score} < 3.25$: Substantial risk (3)

Score ≥ 3.25 : High risk (4)

Article 3 - Assessment and classification of the quality of AML/CFT controls

The quality of the AML/CFT controls put in place by each credit or financial institution to mitigate the inherent risks to which it is exposed shall be included in the assessment and classification referred to in Article 4 by applying the following sequential steps:

1. Attribution of a numerical score with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality) based on predetermined thresholds to all the controls' quality indicators that apply to the credit or financial institution. These controls' quality indicators shall be based on the data points mentioned in Annex I, section B;
2. Based on the scores attributed to the applicable controls' quality indicators, in accordance with paragraph 1 above, determination of combined scores for all sub-categories of indicators listed in Annex I, section B, each of which shall be a numerical value with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality). When determining combined scores per sub-category, pre-determined weights shall be applied to the different controls' quality indicators comprising the relevant sub-category. The weights given to these different controls' quality indicators shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).
3. Where a supervisory assessment or an external auditors' assessment is available that warrants an adjustment of any of the combined scores per sub-category attributed in accordance with paragraph 2 above, the score shall be adjusted accordingly. For the purpose of this paragraph:
 - a) "supervisory assessment" shall mean any assessment of the effectiveness, or compliance with AML/CFT legal requirements, of all or part of a credit or financial institution's AML/CFT governance, procedures, systems and controls carried out by a supervisor within the course of its supervisory activities. This includes but is not limited to full scope or targeted on-site inspections, thematic off-site reviews, other off-site analyses, as well as any action taken to assess the adequacy of the corrective measures put in place by an obliged entity to address

findings and/or shortcomings in its AML/CFT procedures, systems and controls previously identified;

- b) an external auditors' assessment shall mean any assessment of the effectiveness, or compliance with AML/CFT requirements, of all or part of a credit or financial institution's AML/CFT governance, procedures, systems and controls carried out by external auditors.
- 4. Based on the combined scores per sub-category attributed in accordance with paragraphs 2 and 3, determination of combined scores for all categories of indicators listed in Annex I, section B, each of which shall be a numerical value with decimal places comprised between 1 (highest level of quality) and 4 (lowest level of quality). When determining a combined score per category, specific weights shall be applied to the sub-categories comprising this category. The weights given to these different sub-categories shall reflect their respective risk significance. The weights shall be expressed as a numerical value without decimal places ranging from 1 (lowest risk significance) to 5 (highest risk significance).
 - 5. Based on the combined scores attributed to the categories of controls' quality indicators, in accordance with paragraph 4 above, determination of the controls' quality score of the credit or financial institution, which shall be a numerical value with decimal places ranging from 1 (highest level of quality) to 4 (lowest level of quality). When determining the controls' quality score, the weights given to the different categories shall be proportional to the quality score attributed to these categories. Categories that received a lower quality score shall have a greater weight than categories that received a higher quality score.
 - 6. Based on the controls' quality score attributed in accordance with paragraph 5 above, classification of the credit or financial institution in one of the following categories, in accordance with the following conversion rule:
 - Score < 1.75: Very good quality of controls (A)
 - $1.75 \leq \text{Score} < 2.5$: Good quality of controls (B)
 - $2.5 \leq \text{Score} < 3.25$: Moderate quality of controls (C)
 - Score ≥ 3.25 : Poor quality of controls (D)

Article 4 - Assessment and classification of the residual risk at the entity level

For the assessment and the classification of the residual risk profile of each credit or financial institution, the following methodology shall apply:

- 1. Based on the inherent risk numerical score and the controls' quality numerical score attributed to the credit or financial institution, respectively, in accordance with Article 2 and Article 3, determination of the residual risk score of the credit and financial institutions by applying the following rules:
 - a. where the numerical controls' quality score is greater than the numerical inherent risk score, then the residual risk score shall be equal to the inherent risk score

- b. where the numerical controls' quality score is lower or equal to the numerical inherent risk score, then the residual risk score shall be equal to the average of the inherent risk score and the controls' quality score
2. Depending on the residual risk score of the credit or financial institution, determined in accordance with paragraph 1, classification of the residual risk profile of the credit or financial institution as low, medium, substantial or high, in accordance with the following conversion rule:

Score < 1.75: Low risk (1)

$1.75 \leq \text{Score} < 2.5$: Medium risk (2)

$2.5 \leq \text{Score} < 3.25$: Substantial risk (3)

Score ≥ 3.25 : High risk (4)

Article 5 - Group-wide risk assessment

1. The Authority, in collaboration with financial supervisors, shall calculate the group-wide risk profile of a group of credit or financial institutions, by aggregating the entity-level residual risk scores of the group's components.
2. The aggregation referred to under paragraph 1 shall be based on a weighted averaging method, with weights proportional to the relevance of each entity within the group and enhancing the contribution of riskier entities in accordance with the following formula:

$$\left(\sum_{i=1}^N w[i] r[i]^{\alpha} \right)^{\frac{1}{\alpha}}$$

Where:

N: number of entities in the group

r[i]: residual risk score of entity i

w[i]: weight representing the relevance of entity i within the group

$\alpha \geq 1$: parameter to enhance the contribution of riskier entities

3. The relevance of each entity within the group shall be measured in accordance with the data points listed in Annex I, section A of this Regulation, based on:
 - (i) the total number of its customers; and
 - (ii) the total amount in Euro of incoming and outgoing transactions; and
 - (iii) the total amount in Euro of the assets held or managed by the entity.
 4. The result of the aggregation carried out in accordance with the formula under paragraph 2 shall be converted into a numerical group-wide residual risk score with decimal places, ranging between 1 (lowest risk) to 4 (highest risk).

5. Depending on the residual risk score of the group of credit and financial institutions, the Authority, in collaboration with financial supervisors, shall classify the residual risk profile of the obliged entity as low, medium, substantial or high, in accordance with the following conversion rule:

Score < 1.75: Low risk (1)

$1.75 \leq \text{Score} < 2.5$: Medium risk (2)

$2.5 \leq \text{Score} < 3.25$: Substantial risk (3)

Score ≥ 3.25 : High risk (4)

6. The residual risk profile resulting from the application of the methodology set out in the previous paragraphs shall be the group-wide risk profile of the assessed group for the purpose of the selection for the direct supervision.

Section III: Final provisions

Article 6 - Transitional provisions

1. Article 3 point 3 shall not be applied for the assessments of inherent and residual risk profiles done for the purposes of first round for determining the selected obliged entities.
2. By way of derogation from paragraph 1, the Authority, in collaboration with financial supervisors, may adjust the controls' quality score, by increasing or decreasing it by one category, based on on-site inspections outcomes that took place in the two calendar years before the launch of the assessments, whether this information is relevant for the classification of the entity's ML/TF risk profile. Where the risk is increased by one category, the adjusted score shall be set at the minimum value of the corresponding category. Where the risk is decreased by one category, the adjusted score shall be set at the maximum value of that corresponding category.
3. The adjustment applied in accordance with paragraph 2 of this Article shall always be duly justified.

Article 7 - Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[...]

On behalf of the President
[...]
[Position]

4.3 Draft RTS under Article 28(1) of the AMLR on Customer Due Diligence

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

on supplementing Regulation (EU) 2024/1624 of the European Parliament and of the Council with regard to regulatory technical standards specifying information and requirements necessary for the performance of customer due diligence for the purposes of Article 28(1)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and in particular Article 28(1), first subparagraph points (a), (b), (c), (d), and (e) hereof,

Whereas:

- (1) Regulation (EU) 2024/1624 aims for harmonisation of customer due diligence measures across Member States and obliged entities within the EU. To achieve this, common parameters are set for the application of risk-based customer due diligence measures. As part of this, obliged entities are required to apply enhanced due diligence measures in case of identified higher money laundering (ML) / terrorist financing (TF) risk situations and may decide to apply simplified due diligence measures in lower ML/TF risk situations.
- (2) Obligated entities are required to adjust the customer due diligence measures based on the ML/TF risk associated with their customers, business relationships or occasional transactions. This will ensure a proportionate and effective approach.
- (3) Obligated entities should collect data and information, for the purposes of identification and verification of the customer, of a natural person or a legal person, in the same way in relation to the transcription of the names, addresses, places and nationalities to ensure comparability across Member States.
- (4) When obliged entities collect information from customers for the purposes of complying with customer due diligence requirements, that information may not always involve the collection of documentation. This Regulation specifies the situations where documentation should be collected.

- (5) Obtaining data and documents collected as part of the due diligence measures from independent and reliable sources is key to ensuring that obliged entities can rely on these sources to know who their customers are. Reliable and independent sources of information for customers that are not natural persons include, but are not limited to: statutory documents of the legal entity or legal arrangement required by law including certificates of incorporations or audited financial statements; the most recent version of the constitutive documents establishing the legal entity or legal arrangement, including Memorandum of Association and Articles of Association, or a recent official copy of these documents issued by the applicable public registers and lists or an unofficial copy thereof certified by an independent professional or a public authority. In the case of a trust or similar legal arrangement, that may not be subject to registration, a copy of the trust deed, or an extract thereof, together with any other document that determine the exercise of any powers by the trustees or similar administrators, certified by an independent professional could qualify as reliable and independent sources of information.
- (6) Obligated entities should assess the level of reliability and independence of documents they obtained as part of their customer due diligence process based on certain criteria. For example, unless it has been issued by a state or public authority, a recent document may be more reliable than information that dates back several years.
- (7) There may be situations where identity documents issued to or held by the customer do not meet the attributes of an identity card or passport. This could be the case, for example, where the customer is an asylum seeker. To mitigate the risk of financial exclusion and unwarranted derisking, the criteria laid down in this Regulation concerning identification documents should be applied in a way that takes into account the reason why a legitimate customer may be unable to provide standard documentation.
- (8) Obtaining beneficial owner information for all customers that are not natural persons is essential for complying with anti-money laundering and countering the financing of terrorism (AML/CFT) requirements and with targeted financial sanctions obligations. For this reason, consultation of the central registers for information on the beneficial owners is necessary but not enough to fulfil the verification requirements.
- (9) There are legitimate situations whereby the obliged entity may be unable to identify a natural person as the beneficial owner of its customer. In these situations, Regulation (EU) 2024/1624 requires the identification of senior managing officials (SMO), instead. While SMOs are not beneficial owners, for the purposes of identification and verification measures, obliged entities should collect the same level of information for SMOs as they do for the beneficial owners.
- (10) The identification of SMOs is allowed by Regulation (EU) 2024/1624 only in cases where the obliged entity has been unable to identify beneficial owners having “exhausted all possible means of identification” or where “there are doubts that the persons identified are the beneficial owners”. Finding it difficult to identify the beneficial owner, for example in cases of complex structures, does not amount to such ‘doubts’ and therefore will not provide a sufficient basis for the obliged entity to identify the SMOs instead.

- (11) Understanding the purpose and intended nature of a business relationship or occasional transaction is a key component of the customer due diligence process. This Regulation specifies how obliged entities should comply with this requirement and sets out which information they should obtain before entering into business relationships or carrying out occasional transactions.
- (12) Regulation (EU) 2024/1624 requires specific measures to be applied to transactions or business relationships with politically exposed persons. The focus of this Regulation is on measures for the identification, by obliged entities, of politically exposed persons, their family member or person known to be a close associate. These measures are important because once a politically exposed person is identified, the obliged entity should apply specific measures in relation to such customer.
- (13) In situations where the ML/TF risk is assessed as lower, Regulation (EU) 2024/1624 allows the application of simplified due diligence measures. Simplified due diligence measures should ease the administrative burden on the obliged entities and on the customers without increasing the risk of money laundering or terrorist financing.
- (14) Minimum requirements for the identification of natural persons in low-risk situations should mirror the type of information which is usually included in a passport or identity document.
- (15) This Regulation identifies sectors that would, when associated with a low risk of money laundering or terrorism financing, benefit from specific simplified due diligence measures. These include situations where a credit institution opens a pooled account for its customer; and investment funds offering financial services through another financial institution acting on behalf of its customers, where such services pose a low ML/TF risk.
- (16) Obligated entities need to ensure that their customer information remains up to date. This includes completing customer identification updates for all customers on a risk-sensitive basis and within the parameters set out in Article 26(2) of Regulation (EU) 2024/1624. The minimum period of 5 years for updating that information should start for existing customers with the application date of this Regulation. For customers representing low ML/TF risks, the frequency of identification updates can be reduced according to Article 33(1)(b) of Regulation (EU) 2024/1624, without exceeding the maximum period provided in point (b) of Article 26(2) of that Regulation, and provided that obliged entities monitor the business relationship for certain trigger events and signs of change in relevant circumstances. New customers will already have provided up to date data when establishing the business relationship and their data is to be updated the latest in 5 years in accordance with Article 26(2) of Regulation (EU) 2024/1624.
- (17) In situations where the ML/TF risks are higher, Regulation (EU) 2024/1624 calls for the application of enhanced due diligence measures to mitigate these risks. Where obliged entities obtain additional information to meet this requirement, this information should be of sufficient quality to enable them to verify the authenticity and accuracy of the information provided. It should also meet the criteria of reliability and independence.

- (18) Additional information obliged entities obtain for understanding the source of funds and the source of wealth of the customer and of the beneficial owners in high-risk situations should enable them to satisfy themselves that the funds and assets used by the customer and beneficial owner are of legitimate origin.
- (19) Customer due diligence measures include a specific requirement for obliged entities to verify if the customer or the beneficial owner are subject to targeted financial sanctions. Requirements within this Regulation are limited to measures that obliged entities need to undertake to satisfy themselves that their customers or beneficial owners are not sanctioned individuals or sanctioned entities.
- (20) Article 19(7) of Regulation (EU) 2024/1624 provides for an exemption in relation to electronic money for obliged entities from fully or partially applying the customer due diligence measures indicated in Article 20(1), points (a), (b) and (c) of that Regulation. To enable supervisors to determine the extent of this exemption, this Regulation specifies risk factors associated with features of electronic money instruments contributing to lower risks which should be considered by them.
- (21) The use of attributes of electronic identification means and qualified trust services for customer due diligence purposes should be aligned with the risk of ML/TF posed by the customer or beneficial owner.

HAS ADOPTED THIS REGULATION:

Section 1: Information to be collected for identification and verification purposes

Article 1 – Information to be obtained in relation to names

- 1. In relation to the names and surnames of a natural person as referred to in Article 22(1)(a) point (i) of Regulation (EU) 2024/1624, obliged entities shall obtain all of the customer's full names and surnames. Obligated entities shall ask the customer to provide at least those names that feature on their identity document, passport or equivalent.
- 3. In relation to the name of a legal entity as referred to in Article 22(1)(b) point (i) of Regulation (EU) 2024/1624 obliged entities shall obtain the registered name, and the commercial name where it differs from the registered name.

Article 2 – Information to be obtained in relation to addresses

The information on the address as referred to in Article 22(1) (a) point (iv) and 22(1) (b) point (ii) of Regulation (EU) 2024/1624 shall consist of the following information: the full country name or the abbreviation in accordance with the International Standard for country codes (ISO 3166) (alpha-2 or alpha-3), postal code, city, street name, and where available, building number and the apartment number.

Article 3 – Specification on the provision of the place of birth

The information on the place of birth as referred to in Article 22(1) (a) point (ii) of Regulation (EU) 2024/1624 shall consist of both the city and the country name.

Article 4 – Specification on nationalities

For the purposes of Article 22 (1) (a) point (iii) of Regulation (EU) 2024/1624 obliged entities shall obtain necessary information to satisfy themselves that they know of any other nationalities their customers may hold.

Article 5 – Documents for the verification of the identity

1. For the purposes of verifying the identity of the person in accordance with Article 22(6) (a) and Article 22(7)(a) of Regulation (EU) 2024/1624 a document, in the case of natural persons, shall be considered to be equivalent to an identity document or passport where all of the following conditions are met:
 - a. it is issued by a state or public authority,
 - b. it contains at least all names and surnames, the holder's date and place of birth and their nationality,
 - c. it contains information on the period of validity and a document number,
 - d. it contains a facial image and the signature of the document holder,
 - e. it contains a machine-readable zone,
 - f. it contains security features and,
 - g. it contains, where available, biometric data.
2. In situations where the customer cannot provide a document that meets the requirements in paragraph 1 of this article for legitimate reason, a document shall be considered equivalent to an identity document or passport if it is issued by a state or public authority and it contains at least all the customer's names and surnames, place and date of birth, nationality and a facial image of the document holder.
3. Obligated entities shall take reasonable steps to ensure that all documents obtained for the verification of the identity of the person pursuant to Article 22(6)(a) and Article 22(7)(a) of Regulation (EU) 2024/1624, as referred to in paragraph 1 and 2 of this Article, are authentic and have not been forged or tampered with.
4. Obligated entities shall take reasonable steps to understand, when original documents are in a foreign language, their content, including through a certified translation, when deemed necessary.
5. For the purposes of verifying the identity of the person referred to in Article 22(6) of Regulation (EU) 2024/1624, these persons shall provide the obliged entity, with the original identity document, passport or equivalent, or a certified copy thereof, or in accordance with Article 6.

Article 6. Verification of the customer in a non face-to-face context

1. To comply with the requirements of Article 22(6) of Regulation (EU) 2024/1624 in a non-face to face context, obliged entities shall use electronic identification means, which meet the requirements of Regulation (EU) No 910/2014 with regard to the assurance levels 'substantial' or 'high', or relevant qualified trust services as set out in that Regulation.

2. In cases where the solution described in paragraph 1 is not available, or cannot reasonably be expected to be provided, obliged entities shall acquire the customer's identity document (or equivalent) using remote solutions that meet the conditions set out in paragraphs 3-6 of this Article. Such solutions shall be commensurate to the size, nature and complexity of the obliged entity's business and its exposure to ML/TF risks.

3. Before identifying a customer remotely in line with paragraph 2 of this article, the obliged entity must obtain from the person to be identified their explicit consent. This consent must be recorded.

4. Obligated entities shall ensure that the solution described in paragraph 2 uses reliable and independent information sources and includes the following safeguards regarding the quality and accuracy of the data and documents to be collected:

- a. controls ensuring that the person presenting the customer's identity document (or equivalent) is the same person as the person on the picture of the document;
- b. the integrity and confidentiality of the audiovisual communication with the person should be adequately ensured; for this reason, only end-to-end encrypted video chats are permitted;
- c. any images, video, sound and data are captured in a readable format and with sufficient quality so that the customer is unambiguously recognisable;
- c. the identification process does not continue if technical shortcomings or unexpected connection interruptions are detected;
- d. the information obtained through the remote solution is up to-date;
- e. the documents and information collected during the remote identification process, which are required to be retained, are time-stamped and stored securely by the obliged entity. The content of stored records, including images, videos, sound and data shall be available in a readable format and allow for ex-post verifications.

5. Where obliged entities accept reproductions of an original document, for customers that are not natural persons, and do not examine the original document, obliged entities shall take steps to ascertain that the reproduction is reliable. Where available, during the verification process, obliged entities shall verify the security features embedded in the official document, if any, such as holograms, as a proof of their authenticity.

6. Obligated entities using remote solutions shall be able to demonstrate to their competent authority that the remote verification solutions they use comply with this article.

Article 7– Reliable and independent sources of information

When assessing whether a source of information is reliable and independent, obliged entities shall take risk-sensitive measures to assess the credibility of the source, including the reputation, official status and independence of the information source, the extent to which the information is up-to-date, the accuracy of the source, based on whether the information or data provided had to undergo certain checks before being provided or is consistent with other sources or over time, and the ease with which the identity information or data provided can be forged.

Article 8 – Identification and verification of the identity of the natural or legal persons using a virtual IBAN

Where a credit or financial institution, other than the issuer of the virtual IBAN and other than the credit or financial institution servicing the account, provides a natural or legal person a virtual IBAN for their use, it shall provide to the issuer of the virtual IBAN the information for identifying and verifying the identity of that natural or legal person using the virtual IBAN within a time period that enables the credit institution and financial institution servicing the bank or payment account to fulfil its obligation under Article 22(3) second subparagraph of Regulation (EU) 2024/1624.

Article 9 – Reasonable measures for the verification of the beneficial owner

The reasonable measures referred to in Article 22(7)(b) of Regulation (EU) 2024/1624 include:

- a. consulting public registers, other than the central registers, and other reliable national systems that contain the information necessary to verify the identity of the person, such as the residence register, tax register, passport database and the land register; to the extent that these are accessible to obliged entities; or
- b. collecting information from other sources, which may include: third-party sources such as utility bills in name of the customer or the beneficial owner, up-to-date information from credit or financial institutions as defined in Article 3(1) and (2) of Regulation (EU) 2024/1624, which confirm that the beneficial owner has been identified and verified by the respective institution, documents from the legal entity or the legal arrangement where the beneficial owner is named, and where the identity of the named person is certified by an independent professional or sources using a combination of public and private records.

Article 10 – Understanding the ownership and control structure of the customer

1. For the purposes of understanding the ownership and control structure of the customer in accordance with Article 20(1) (b) of Regulation (EU) 2024/1624 and in situations where the customer's ownership and control structure contains more than one legal entity or legal arrangement, obliged entities shall obtain the following information:
 - a. a reference to all the legal entities and/or legal arrangements functioning as intermediary connections between the customer and their beneficial owners, if any;
 - b. with respect to each legal entity or legal arrangement within the referred intermediary connections, the legal form of each legal entity or legal arrangement, and reference to the existence of any nominee shareholders; the jurisdiction of incorporation or registration of the legal person or legal arrangement, or, in the case of a trust, the jurisdiction of its governing law and; where applicable, the shares of interest held by each legal entity or legal arrangement, its sub-division, by class or type of shares and/or voting rights expressed as a percentage of the respective total, where beneficial ownership is

determined on the basis of control, understanding how this is expressed and exercised.

- c. information on the regulated market on which the securities are listed, in case a legal entity in an intermediate level of the ownership and control structure has its securities listed on a regulated market, and the extent of the listing if not all the legal entity's securities are listed on a regulated market.
2. Obligated entities shall assess whether the information included in the description, as referred to in Article 62(1)d of Regulation (EU) 2024/1624, is plausible, there is economic rationale behind the structure, and it explains how the overall structure affects the ML/TF risk associated with the customer.

Article 11 – Understanding the ownership and control structure of the customer in case of complex structures

1. To understand the ownership and control structure of the customer in accordance with Article 20(1)(b) of Regulation (EU) 2024/1624, obliged entities shall treat an ownership and control structure as complex where there are two or more layers between the customer and the beneficial owner and in addition, one of the following conditions is met:
 - a. there is a legal arrangement in any of the layers;
 - b. the customer and any legal entities present at any of these layers are registered in different jurisdictions;
 - c. there are nominee shareholders and/or directors involved in the structure; or
 - d. there are indications of non-transparent ownership with no legitimate economic rationale or justification.
2. If, based on the criteria in paragraph 1, the ownership and control structure is complex, the obliged entity shall obtain from the customer an organigram in addition to the information referred to in Article 10(1) of this Regulation.
3. Obligated entities shall take risk-sensitive measures to satisfy themselves that the organigram provided is accurate and provides obliged entities with a comprehensive understanding of the ownership and control structure of the customer.

Article 12 – Information on senior managing officials

In relation to senior managing officials as referred to in Article 22(2) second paragraph of Regulation (EU) 2024/1624, obliged entities shall:

- a. collect the same information as for beneficial owners; and
- b. verify the identity of senior managing officials in the same way as for beneficial owners.

Article 13 – Identification and verification of beneficiaries of trusts and similar legal entities or arrangements

1. For the purposes of Article 22(4) of Regulation (EU) 2024/1624, the information obliged entities shall obtain from the trustee, the legal entity or the legal arrangement include:
 - a. a description of the class of beneficiaries and its characteristics, which shall contain sufficient information to allow the obliged entity to determine whether individual beneficiaries are ascertainable and shall be treated as beneficial owners; and
 - b. relevant documents to enable the obliged entity to establish that the description is correct and up-to-date.
2. Obligated entities shall take risk-sensitive measures to ensure that the trustee, the legal entity or the legal arrangement provide timely updates, including on specific events that may lead to beneficiaries previously identified by class or characteristics becoming ascertainable and thus beneficial owners.

Article 14 – Identification and verification of beneficiaries of discretionary trusts

1. For the purposes of Article 22(5) of Regulation (EU) 2024/1624 information obliged entities shall obtain from the trustee of the discretionary trust include:
 - a. details on the objects of power and default takers to know if it is a class of natural or legal persons or if the natural or legal persons are already identified;
 - b. relevant documents to enable the obliged entity to establish that these details are correct and up-to-date.
2. To comply with paragraph 1, obliged entities shall:
 - a. obtain sufficient information about how and in which ways the power of discretion can be exercised by the trustee(s);
 - b. take measures to establish whether trustees have exercised their power of discretion and appointed one or more beneficiaries from amongst the objects of power or whether the default takers have become the beneficiaries due to the trustees' failure to exercise their power of discretion.

Section 2: Purpose and intended nature of the business relationship or the occasional transactions

Article 15 – Identification of the purpose and intended nature of the business relationship or the occasional transactions

For the purposes of Article 20(1)(c) of Regulation (EU) 2024/1624, obliged entities shall take risk-sensitive measures to determine:

- a. why the customer has chosen the obliged entities' products and services;

- b. how the customer plans to use the products or services provided, including the volume of funds flowing through the account and their source;
- c. whether the customer has additional business relationships with the obliged entity or its wider group, and the extent to which that influences the obliged entity's understanding of the customer and the source of funds; and
- d. where the ML/TF risk is higher, to determine the source of wealth.

Article 16 – Understanding the purpose and intended nature of the business relationship or the occasional transactions

When obtaining information in accordance with Article 25 of Regulation (EU) 2024/1624, obliged entities shall take risk-sensitive measures to obtain the following information:

- a. in relation to the purpose and economic rationale of the occasional transaction or business relationship, obtain information on why the customer has chosen the obliged entities' products or services, the value and benefits expected from the occasional transactions or business relationship or why the transaction will be conducted.
- b. in relation to the estimated amount of the envisaged activities, obtain information on the estimated amount of funds to be deposited and understand the anticipated number, size, volume and frequency of incoming and outgoing transactions that are likely to be executed during the business relationship or occasional transactions as well as the category of funds that such transactions relate to.
- c. in relation to the source of funds, information on the activity that generated the funds and the means through which the customer's funds were transferred, which includes employment income, including salary, wages, bonuses and other compensation from employment, pension or retirement funds and government benefits including social benefits and grants, business revenue, savings, loans and investments income, inheritance and gifts, sales of assets and legal settlements.
- d. in relation to the destination of funds, information on the expected types of recipient(s), including information about the jurisdiction where the transactions are to be received, and intermediaries used.
- e. in relation to the business activity or the occupation of the customer, information on the customer's sector, including the industry, operations, products and services, including whether they are a regulated or an obliged entity or whether they are actively engaged in business, their key stakeholders, geographical presence, revenue streams and, where applicable, information on their employment status whether employed, unemployed, self-employed or retired.

Section 3: Politically Exposed Persons

Article 17– Identification of Politically Exposed Persons

- 1. To identify Politically Exposed Persons, a family member or person known to be a close associate to Politically Exposed Persons in accordance with Article 20(1)(g) of Regulation (EU) 2024/1624, obliged entities shall:

- a. identify, before the establishment of the business relationship or the carrying out of the occasional transaction, if the customer, the beneficial owner of the customer and, where relevant, the person on whose behalf or for the benefit of whom a transaction or activity is being carried out, is a politically exposed person, a family member or person known to be a close associate; and
 - b. determine whether existing customers, the beneficial owner of the customer and where relevant, the person on whose behalf or for the benefit of whom a transaction or activity is being carried out have become politically exposed persons, with a frequency determined on a risk-based approach and at least if significant changes in the customer due diligence data occur, such as the nature of the customers' business, employment or occupation; when the obliged entity has any indications that the customer beneficial owner of the customer and where relevant, the person on whose behalf or for the benefit of whom a transaction or activity is being carried out has become a politically exposed person, a family member or person known to be a close associate; or if changes in the list of prominent public functions published by the EU Commission pursuant to Article 43 (5) of the Regulation (EU) 2024/1624 occur.
2. To comply with paragraph 1 of this article, obliged entities shall put in place automated screening tools and measures, or a combination of automated screening tools and manual checks; unless the size, business model, complexity or nature of the business of the obliged entity allows for manual checks only.

Section 4: Simplified Due Diligence measures

Article 18 – Minimum requirement for the customer identification in situations of lower risk

1. In situations of lower risk, obliged entities shall obtain at least the following information to identify the customer and the person purporting to act on behalf of the customer:
 - a. for a natural person, all names and surnames; place and full date of birth and nationalities or, where applicable, statelessness and refugee or subsidiary protection status;
 - b. for a legal entity and other organisations that have legal capacity under national law, the legal form and registered name of the legal entity including its commercial name, in case it differs from its registered name; the address of the registered or official office and the registration number, the tax identification number or the legal entity identifier where applicable.
2. Paragraph 1 shall apply also to persons on whose behalf or for the benefit of whom a transaction or activity is being conducted.

Article 19– Minimum requirements for the identification and verification of the beneficial owner or senior managing officials in low-risk situations

In situations of lower risk, the obliged entity may consult one of the following sources for the identification of, and use another sources from the same list under b. or c. for the purposes of verification of the beneficial owner or the senior managing officials:

- a. the information registered in the central register or in the company register;
- b. the statement or explanation provided by the customer, including their confirmation that the data is adequate, accurate and up-to-date, for the purpose of the verification of the identity of the beneficial owner or the senior managing officials;
- c. any publicly available, reliable sources of information including internet research.

Article 20 – Sectoral simplified measures: Pooled accounts

Where a credit institution's customer opens a 'pooled account' in order for that customer to hold or administer funds that belong to the customer's own clients, credit institutions fulfil the requirement under Article 20(1)(h) of Regulation (EU) 2024/1624 if they are satisfied that the customer will provide CDD information and documents on its own clients for whom it maintains the pooled account immediately upon their request, and, provided that:

- a. the customer is an obliged entity that is subject to AML/CFT obligations in an EU Member State or a third country with an AML/CFT requirements that are not less robust than those required by Regulation (EU) 2024/1624;
- b. the customer is effectively supervised for compliance with these requirements;
- c. the ML/TF risk associated with the business relationship is low;
- d. the credit institution is satisfied that its customer applies robust and risk-sensitive customer due diligence measures to its own clients and its clients' beneficial owners.

Article 21 – Sectoral simplified measures: Collective investment undertakings

When a collective investment undertaking is acting in his own name, but for the benefit of its underlying investors through another intermediary credit or financial institution, it may fulfil the requirement under Article 20(1)(h) of Regulation (EU) 2024/1624 by being satisfied that the intermediary will provide CDD information and documents on the underlying investors immediately upon their request, and provided that:

- a. the intermediary is subject to AML/CFT obligations in an EU Member State or in a third country that has AML/CFT requirements that are not less robust than those required by Regulation (EU) 2024/1624;
- b. the intermediary is effectively supervised for compliance with these requirements;
- c. the risk associated with the business relationship is low;
- d. the fund or fund manager is satisfied that the intermediary applies robust and risk-sensitive CDD measures to its own customers and its customers' beneficial owners.

Article 22 - Customer identification data updates in low-risk situations

- 1. Where, in cases of low ML/TF risk, obliged entities reduce the frequency of customer identification updates as referred to in Article 33(1) point (b) of Regulation (EU) 2014/162, obliged entities shall monitor the relationship to be satisfied that:
 - a. there is no change in the relevant circumstances of the customer;

- b. no trigger event took place which would require an information update; and
 - c. there are no unexpected transactions, or activities that could be inconsistent with a low-risk relationship.
- 2. Obligated entities shall take the measures necessary to ensure that they hold up-to-date customer identification data at all times, and that they update the information they hold on customers onboarded before this Regulation applied within 5 years after the application date of this Regulation.

Article 23 – Minimum information to identify the purpose and intended nature of the business relationship or occasional transaction in low-risk situations

To identify the purpose and intended nature of the business relationship or occasional transaction in line with Article 33(1) point (c) of Regulation (EU) 2024/1624, obliged entities shall, at minimum, take risk-sensitive measures to understand why the customer has chosen the obliged entities' products and services, the source of the funds used in the business relationship or occasional transaction, and how the customer plans to use the products or services provided, including where applicable the estimated amounts flowing through the account.

Section 5: Enhanced Due Diligence measures

Article 24 - Additional information on the customer and the beneficial owners

The additional information obliged entities obtain on the customer and the beneficial owners to comply with the enhanced due diligence requirement in Article 34(4) point (a) of Regulation (EU) 2024/1624, shall, at least:

- a. enable the obliged entity to verify the authenticity and accuracy of the information on the customer and the beneficial owner or the ownership and control structure of the customer other than a natural person;
- b. enable the obliged entity to assess the reputation of the customer and the beneficial owner;
- c. enable the obliged entity to assess the ML/TF risk associated with the customer's or beneficial owner's past and present business activities; and/or
- d. in case the obliged entity has reasonable grounds to suspect criminal activity, enable the obliged entity to obtain a more holistic view on ML/TF risks by obtaining information on family members, persons known to be a close associate or any other close business partners or associates of the customer or the beneficial owner.

Article 25 – Additional information on the intended nature of the business relationship

- 1. The additional information obliged entities obtain on the intended nature of the business relationship, in accordance with Article 34(4) point (b) of Regulation (EU) 2024/1624, shall, at least:
 - a. enable the obliged entity to verify the legitimacy of the destination of funds, which may include information from authorities and other obliged entities;

- b. enable the obliged entity to verify the legitimacy of the expected number, size, volume and frequency of transactions that are likely to pass through the account, as well as their recipient(s); and/or,
- c. enable the obliged entity to understand the nature of the customer's or, where necessary, beneficial owner's business, which may consist of more information on the customer's key customers, contracts and business partners or associates in order to enhance the obliged entities' understanding of the ML/TF risk exposure of these relationships.

Article 26 – Additional information on the source of funds, and source of wealth of the customer and of the beneficial owners -

1. The additional information obliged entities obtain on the source of funds, and source of wealth of the customer and of the beneficial owners, in accordance with Article 34(4) point (c) of Regulation (EU) 2024/1624 shall enable obliged entities to verify that the source of funds or source of wealth is derived from lawful activities. This information shall consist of one or more of the following evidence:
 - a. in relation to proof of income: tax returns or original or certified copies of recent pay slips or employment documentation, specifying at least the salary, signed by the employer or other official income statements,
 - b. certified copies of audited accounts, investment documentation or loan agreements,
 - c. in case immovable property, public deeds or abstract from the land or resident registry,
 - d. in case of assets stemming from inheritance, the public official documentation, for gifts or legal settlements documentation provided by a certified independent professionals or public authority,
 - e. original or certified copy of a grant of probate,
 - f. an original or certified copy of contract of sale or written confirmation of sale,
 - g. any other authenticatable documentation from independent and reliable sources providing a high degree of reassurance that the customer's and beneficial owners' source of funds, and source of wealth are not the proceeds of criminal activity and consistent with the obliged entities' knowledge of the customer and the nature of the business relationship.

Article 27 – Additional information on the reasons for the intended or performed transactions and their consistency with the business relationship

The additional information obliged entities obtain on the reasons for the intended or performed transactions and their consistency with the business relationship, in accordance with Article 34(4) point (d) of Regulation (EU) 2024/1624 shall at least enable the obliged entity to:

- a. verify the accuracy of the information for why the transaction was intended or conducted including the legitimacy of its intended outcome;

- b. assess the consistency of the overall transactions made during the business relationship with the activities carried out and the customer's turnover, especially in the case of economic activities characterised by the use of assets representing higher risks;
- c. assess the legitimacy of the parties involved in the transaction, including any intermediaries, and their relationship with the customer; and/or
- d. obtain a deeper understanding of the customer or the beneficial owner in case the obliged entity has reasonable grounds to suspect criminal activity including information on family members, persons known to be a close associate or any other close business partners or associates.

Section 6: Targeted Financial Sanctions

Article 28 – Screening of customers

To comply with Article 20(1)(d) of Regulation (EU) 2024/1624, obliged entities shall apply screening measures to their customers and to all the entities or persons which own or control such customers.

Article 29 – Screening requirements

For the purposes of Article 28, obliged entities shall:

- a. screen, through automated screening tools or solutions, or a combination of automated screening tools and manual checks, unless the size, business model, complexity or nature of the business of the obliged entity allows for manual checks only, at least the following customer information:
 - i. in the case of a natural person: all the first names and surnames, in the original and/or transliteration of such data; and date of birth;
 - ii. in the case of a legal person: the name of the legal person, in the original and/or transliteration of such data;
 - iii. in the case of a natural person, legal person, body or entity: any other names, aliases, trade names, wallet addresses, where available in the lists of targeted financial sanctions;
 - iv. in the case of a legal person: beneficial ownership information.
- b. in case of a match, check the information under point a) against all available due diligence information on the customer or on the beneficial owner to determine if a person is the intended target of the targeted financial sanctions. In case of doubt, the obliged entity shall refer to all other sources available to them, including public sources of information, such as registers of owned and controlled entities and the central registers.
- c. screen their customers and beneficial owners regularly, at least in the following situations:

- i. during customer onboarding or before entering into a business relationship or performing an occasional transaction;
 - ii. when there is a change in any of the existing designations, or a new designation is made in line with Article 26(4) of Regulation (EU) 2024/1624;
 - iii. if significant changes occur in the customer due diligence data of an existing customer, or beneficial owner, such as but not limited to change of name, residence, or nationality or change of business operations.
- d. ensure the screening as well as the verification is performed using updated targeted financial sanctions lists without undue delay.

Section 7: Risk factors associated with features of electronic money instruments

Article 30- Risk reducing factors

Supervisors shall consider the following risk reducing factors when determining the extent of the exemption under Article 19(7) Regulation (EU) 2024/1624:

- a. The payment instrument has low thresholds to limit transaction values;
- b. The payment instrument is funded in a way that the issuer can verify that the funds originate from an account held and controlled solely or jointly by the customer at an EEA-regulated credit or financial institution;
- c. The payment instrument is issued at a nominal or no charge;
- d. The payment instrument can be only used to acquire a very limited range of goods or services;
- e. The payment instrument is valid only in a single Member State provided at the request of an undertaking or a public sector entity and regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers having a commercial agreement with the issuer;
- f. The low value transactions are executed by an obliged entity that apply customer due diligence measures and record-keeping requirements laid down in Regulation (EU) 2024/1624;
- g. The payment instrument has a specific and limited duration in which the payment instrument can be used;
- h. The payment instrument is available only through direct channels which may include the issuer or a network of service providers and, in case of online or non-face-to-face distributions, possess adequate safeguards, including electronic signatures, and anti-impersonation fraud measures;
- i. Distribution is limited to intermediaries that are themselves obliged entities apply customer due diligence measures and record-keeping requirements laid down in Regulation (EU) 2024/1624;
- j. The payment instrument is only distributed across or available in the Union;

- k. The issuer applies adequate tools, including geo-fencing and IP tracking, to restrict access from, transfers to or receiving funds from non-EU countries.

Section 8: Electronic identification means and relevant qualified trust services

Article 31- Electronic identification means and relevant qualified trust services

1. The corresponding list of attributes that electronic identification means and qualified trust services are required to feature in accordance with Article 22(6) point (b) of Regulation (EU) 2024/1624 in order to fulfil the requirements of Article 20(1) points (a) and (b) and Article 22(1) of that Regulation, in the case of standard and enhanced due diligence, is laid down in Annex I. Where simplified due diligence is to be applied, the electronic identification means and relevant qualified trust services should have the corresponding attributes laid down in Annex I that allow compliance with Section 4.
2. Obligated entities may consider additional attributes to assist in the unambiguous identification and verification of the customer or beneficial owner if justified by the ML/TF risk associated with the customer or beneficial owner.
3. Where an electronic identification means or qualified trust service does not possess all attributes that allow the identification and verification of the customer or beneficial owner, as required in Article 22(1) of Regulation (EU) 2024/1624 or Section 4 of this Regulation, the obliged entity shall take steps to obtain and verify the missing attributes through other means in line with Article 22(6).
4. Obligated entities may consider putting in place enhanced measures to complement the mitigation of ML/TF risks, including the use of higher assurance levels or complementing electronic identification means with qualified trust services.

Article 32 – Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 23(1) shall apply to already existing customers and new customers to be onboarded after the entry into force of this Regulation. For already existing customers the information referred to in Article 23(1) shall be updated in a risk-based manner but no later than 5 years after entry into force of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

*[For the Commission
On behalf of the President
[Position]*

ANNEX I

	Article 22(1)	Minimum corresponding attributes ⁸
(a) for a natural person	(i) all names and surnames	<ul style="list-style-type: none"> • family_name • given_name
	(ii) place and full date of birth	<ul style="list-style-type: none"> • birth_date • birth_place
	(iii) nationalities, or statelessness and refugee or subsidiary protection status where applicable, and the national identification number, where applicable	<ul style="list-style-type: none"> • nationality • Other existing attributes covering statelessness and refugee or subsidiary protection status (where applicable) • personal_administrative_number (where applicable)
	(iv) the usual place of residence or, if there is no fixed residential address with legitimate residence in the Union, the postal address at which the natural person can be reached and, where available the tax identification number	<ul style="list-style-type: none"> • resident_country • resident_state • resident_city • resident_postal_code • resident_street • resident_house_number • resident_address • Other existing attributes covering the tax identification code (where available)
(b) for a legal entity	(i) legal form and name of the legal entity	<ul style="list-style-type: none"> • current legal name • Other existing attributes covering legal form • a unique identifier constructed by the sending Member State in accordance with the technical specifications for the purposes of cross-border identification and which is as persistent as possible in time
	(ii) address of the registered or official office and, if different, the principal place of business, and the country of creation	<ul style="list-style-type: none"> • current address • Other existing attributes covering additional addresses • Other existing attributes covering the country of creation
	(iii) the names of the legal representatives of the legal entity as well as, where available, the registration number, the tax identification number and the Legal Entity Identifier	<ul style="list-style-type: none"> • Other existing attributes covering the names of the legal representatives of the legal entity • Legal Entity Identifier (LEI) (where available) • VAT registration number or tax reference number (where available)

⁸ Based on COMMISSION IMPLEMENTING REGULATION (EU) 2024/2977 of 28 November 2024 laying down rules for the application of Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards person identification data and electronic attestations of attributes issued to European Digital Identity Wallets

	<ul style="list-style-type: none"> • Other existing attributes covering the registration number (where available)
(iv) the names of persons holding shares or a directorship position in nominee form, including reference to their status as nominee shareholders or directors	<ul style="list-style-type: none"> • Other existing attributes covering the names of persons holding shares or a directorship position in nominee form, including reference to their status as nominee shareholders or directors

4.4 Draft RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

on supplementing Directive (EU) 2024/1640 of the European Parliament and of the Council with regard to regulatory technical standards specifying indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures and the methodology for the imposition of periodic penalty payments for the purposes of Article 53(10)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 , and in particular Article 53 (10), first subparagraph points (a), (b) and (c) hereof,

Whereas:

- (1) Supervisors need to have a common understanding of the gravity of breaches to ensure harmonisation across Member States regarding the breaches for which pecuniary sanctions and administrative measures are imposed. For that purpose, this Regulation sets out a list of indicators that supervisors should take into account when assessing the level of gravity of breaches as well as a classification of the level of gravity of breaches into four categories of increased severity.
- (2) When determining the level of gravity of breaches, and classifying them into the four categories, supervisors should take into account all applicable indicators and make an overall assessment of those indicators, using their supervisory judgement, to analyse whether and to what extent they are met. Similarly, when setting the level of pecuniary sanctions and applying administrative measures, supervisors should take into account all applicable criteria and make an overall assessment of those criteria using their supervisory judgement. This is to ensure convergence and consistency across Member States while at the same time enabling supervisors to take into account the specific context in which the breach has occurred. Supervisors should ensure that their supervisory judgment is coherent and consistent, with comparable outcomes.

- (3) To ensure a consistent approach to assessing the severity of a breach across Member States, this Regulation also sets out specific situations in which, when some indicators are met or have a certain impact on the obliged entity, the breach should be classified in a certain category. The specific situations set out in this Regulation do not prevent supervisors from classifying other breaches in those categories.
- (4) An important indicator to assess the level of gravity of breaches is the conduct of the natural or legal person, including its senior management and management body in its supervisory function. Supervisors should consider whether a breach was committed intentionally or negligently. Supervisors should pay particular attention to those situations where the natural or legal person appears to have had knowledge of the breach and took no action, or whether they have taken a course of actions directed at generating the breach.
- (5) Some administrative measures are more severe than others. To ensure a harmonised approach across Member States, it appears necessary to set out common criteria for supervisors to take into account when considering the need to apply the more severe administrative measures which are the ones listed under points (e), (f), and (g) of Article 56(2) of Directive (EU) 2024/1640, including the withdrawal or suspension of the authorisation.
- (6) Supervisors should take into account all relevant factors when determining the appropriate and proportionate amount of periodic penalty payments on obliged entities and natural persons to compel them to comply with the imposed administrative measures.
- (7) The decision on the imposition of periodic penalty payments should be taken on the basis of findings which allow the supervisor to conclude that an obliged entity or natural person has failed within a specified period to comply with an imposed administrative measure.
- (8) Decisions to impose periodic penalty payments should be based exclusively on grounds on which the obliged entity or natural person has been able to exercise its right to be heard.
- (9) The periodic penalty payments imposed should be effective and proportionate, having regard to the circumstances of the specific case. Supervisors should be in the position to impose a periodic penalty payment as of the date of the application of the administrative measure.
- (10) For the purposes of ensuring legal certainty, if not stipulated otherwise by this Regulation, provisions of law applicable in the Member State where the periodic penalty payment is imposed and collected, should apply.
- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the Authority for Anti-Money Laundering and Countering the Financing of Terrorism,

HAS ADOPTED THIS REGULATION:

Section 1 Indicators for the classification of the gravity of breaches

Article 1 - Indicators to classify the level of gravity of breaches

In order to classify the level of gravity of a breach, supervisors shall take into account all of the following indicators, where applicable:

- (a) the duration of the breach;
- (b) the repetition of the breach;
- (c) the conduct of the natural or legal person that led or permitted the breach;
- (d) the impact of the breach on the obliged entity, by assessing:
 - i. whether the breach concerns the entity on its own, whether it has an impact at the group level or any cross-border impact;
 - ii. the extent to which the products and services and approximate number of customers are affected by the breach;
 - iii. the extent to which the effectiveness of the AML/CFT systems, controls and policies are affected by the breach;
- (e) the impact of the breach on the exposure of the obliged entity, or of the group to which it belongs, to money laundering and terrorist financing risks;
- (f) the nature of the breach by assessing the AML/CFT requirements to which the breach is related such as whether the breach is related to internal policies, procedures and controls of the obliged entity, customer due diligence, reporting obligations or record retention;
- (g) whether the breach could have facilitated or otherwise led to criminal activities as defined in Article 2(1) point 3 of Regulation (EU) 2024/1624;
- (h) whether there is a structural failure within the obliged entity with regard to AML/CFT systems and controls and policies or a failure of the entity to put in place adequate AML/CFT systems and controls;
- (i) the actual or potential impact of the breach on the financial viability of the obliged entity or of the group to which the obliged entity belongs;
- (j) the actual or potential impact of the breach:
 - i. on the integrity, transparency and security of the financial system of a Member State or of the Union as a whole, or on the financial stability of a Member State or of the Union as a whole;
 - ii. on the orderly functioning of the financial markets;
- (k) the systematic nature of the breach;
- (l) any other indicator identified by the supervisors.

Article 2 - Classification of the level of gravity of breaches

1. When classifying the level of gravity of a breach, supervisors shall use four categories as follows, by increased order of severity: category one, category two, category three, category four.

2. In order to classify the breaches in one of the four categories listed in paragraph 1, supervisors shall assess whether and to what extent all the applicable indicators of Article 1 of this Regulation are met. Supervisors may classify under those categories other breaches than the ones dealt with in paragraphs 3 to 6.
3. Where for indicators d) and e) of Article 1 there is no direct impact on the obliged entity or the impact is minor and at the same time the breach has lasted for a short period of time and has been committed on a non-repetitive basis, and none of the indicators g) to k) of Article 1 are met, supervisors shall classify the breach as category one.
4. Where for indicators d) and e) of Article 1 the impact is moderate and none of the indicators g) to k) of Article 1 are met, supervisors shall classify the breach as category two.
5. Where for indicator d) and e) of Article 1 the impact is significant and at the same time the breach has persisted over a significant period of time or it has occurred repeatedly or is of a systematic nature, supervisors shall classify the breach at least as category three.
6. Supervisors shall classify the breach as category four where for indicator d) and e) of Article 1 the impact is very significant or where indicator h) is met. They shall also classify the breach as a category four where for indicator g), the breach has facilitated or otherwise led to significant criminal activities as defined in Article 2(1) point 3 of Regulation (EU) 2024/1624 and/or for indicator i) or j) the breach has a significant impact.
7. Breaches which are not considered as category three or category four when assessed in isolation could, when considered in combination, amount to a breach of category three or four.

Article 3 - Legal effect of the classification of level of gravity of breaches

A breach with a level of gravity classified as category three or four in accordance with Article 2 shall be deemed serious, repeated or systematic in the meaning of Article 55(1) of Directive (EU) 2024/1640.

Section 2 Criteria to be taken into account when setting the level of pecuniary sanctions and applying the administrative measures listed under this Regulation

Article 4 Criteria to be taken into account when setting the level of pecuniary sanctions

1. In addition to the indicators considered as part of the level of gravity of the breach as set out in Article 1 and 2, supervisors shall, when taking into account the circumstances referred in Article 53(6) of Directive (EU) 2024/1640, to set the level of pecuniary sanctions take into account the criteria as specified in paragraphs 2 to 6
2. The level of pecuniary sanctions shall decrease taking into account all the following criteria where applicable:

- (a) the level of cooperation of the natural or the legal person held responsible with the supervisor and whether the natural or the legal person has quickly and effectively brought the complete breach to the supervisor's attention or whether it has actively and effectively contributed to the investigation of the breach conducted by the supervisor.
 - (b) the conduct of the natural or the legal person held responsible since the breach has been identified either by the natural or legal person itself or by the supervisor, and whether the natural or legal person held responsible has taken effective and timely remedial actions to end the breach or has taken voluntary adequate measures to effectively prevent similar breaches in the future.
 - (c) any other criteria identified by the supervisor.
- 3. The level of pecuniary sanctions shall increase taking into account all the following criteria where applicable:
 - (a) the level of cooperation of the natural or the legal person held responsible with the supervisor and whether it has not cooperated with the supervisor, did not disclose to the supervisor anything the supervisor would have reasonably expected, took actions aiming at concealing partially or fully the breach to the supervisor or at misleading the supervisors.
 - (b) the conduct of the natural or the legal person held responsible since the breach has been identified either by the entity itself or by the supervisor and the absence of remedial actions or measures taken to prevent breaches in the future;
 - (c) the degree of responsibility of the natural or legal persons held responsible and whether the breach was committed intentionally;
 - (d) the benefit derived from the breach insofar as it can be determined and whether the natural or legal person held responsible has benefited or could benefit either financially or competitively from the breach or avoid any loss;
 - (e) the losses to third parties caused by the breach, insofar as they can be determined, the loss or risk of loss caused to customers or other market users;
 - (f) the previous breaches by the natural or the legal person held responsible and whether the supervisor has imposed any previous sanction including concerning a similar breach or has previously requested to take remedial action concerning an AML/CFT breach, and whether such action has not been taken in the time requested;
 - (g) any other criteria identified by the supervisor.
- 4. In addition to the criteria sets out in paragraphs 1 and 2, when setting the level of pecuniary sanctions for natural persons which are not themselves obliged entities, supervisors shall take into account where applicable, their role in the obliged entity and the scope of their functions.
- 5. When setting the level of pecuniary sanctions, supervisors shall take into account the financial strength of the legal person held responsible, including where applicable in the light of its total annual turnover, information from the financial statements and

information from prudential authorities on the level of regulatory capital and liquidity requirements.

6. When setting the level of pecuniary sanctions, supervisors shall take into account the financial strength of the natural persons held responsible, including where applicable its annual income (fixed and variable remuneration).

Article 5 - Criteria to be taken into account when applying the administrative measures listed under this Regulation

1. In addition to the indicators considered as part of the level of gravity of the breach as set out in Article 1 and 2, supervisors shall, when taking into account the circumstances referred in Article 53(6) of Directive (EU) 2024/1640 in order to decide which type of administrative measure to impose, take into account the criteria as specified in paragraphs 2 to 4.
2. When considering whether to restrict or limit the business, operations or network of institutions comprising the obliged entity, or requiring the divestment of activities as referred to in Article 56(2) (e) of Directive (EU) 2024/1640, supervisors shall take into account all the following criteria where applicable:
 - (a) the gravity is classified in category three or four;
 - (b) whether such measure would mitigate or prevent the actual impact or potential impact referring to indicators e), g), i) or j) of Article 1 of this Regulation;
 - (c) the extent to which the business, operations or network of institutions comprising the obliged entity are affected by the breach or the potential breach;
 - (d) the extent to which the measure could have a negative impact on customers or stakeholders;
 - (e) any other criteria identified by the supervisor.
3. When considering whether to withdraw or suspend an authorisation as referred to in Article 56(2) (f) of Directive (EU) 2024/1640, supervisors shall take into account all the following criteria where applicable:
 - (a) the gravity is classified in category three or four;
 - (b) whether such measure would mitigate or prevent the actual impact or potential impact referring to indicators e), g), i) or j) of Article 1 of this Regulation;
 - (c) the conduct of the natural or legal person held responsible;
 - (d) whether there is a structural failure within the obliged entity, with regard to AML/CFT systems and controls and policies or a failure of the entity to put in place adequate AML/CFT systems and controls;
 - (e) any other criteria identified by the supervisor.
4. When considering the need for a change in the governance structure as referred to in Article 56(2) (g) of Directive (EU) 2024/1640, supervisors shall take into account all the following criteria where applicable:

- (a) the gravity is classified in category 3 or 4 ;
- (b) the conduct of the natural or legal person held responsible;
- (c) the natural or legal person held responsible has not cooperated with the supervisor or took actions aiming at concealing partially or fully the breach to the supervisor or at misleading the supervisor, or the absence of remedial actions since the breach has been identified either by the natural or legal person held responsible or by the supervisor;
- (d) the internal policies, procedures and controls put in place by the obliged entity are ineffective;
- (e) any other additional information, where appropriate, including information from financial intelligence unit, from a prudential supervisor or any other authority or from a judiciary authority.

Section 3 Methodology for the imposition of periodic penalty payments pursuant to Article 57 of the AMLD

Article 6 - General provision

1. Unless otherwise stipulated by this Regulation and Directive (EU) 2024/1640, the administrative process of imposition and collection of periodic penalty payments as set out in Article 57 of the Directive (EU) 2024/1640 shall be governed by provisions stipulated by national law in force in the Member State where the periodic penalty payments are imposed and collected.
2. References made to Directive (EU) 2024/1640 shall be construed as references to laws, regulations and administrative provisions into which Member States shall transpose this Directive pursuant to Article 78 thereof.

Article 7 - Statement of findings and right to be heard

1. Before making a decision to impose a periodic penalty payment pursuant to Article 57 of the Directive (EU) 2024/1640 supervisors shall submit a statement of findings to the natural or legal person held responsible setting out the reasons justifying the imposition of the proposed periodic penalty payment and the amount to be used for its calculation.
2. The statement of findings shall set a time limit of up to four weeks within which the natural or legal person held responsible may make written submissions.
3. Supervisor shall not be obliged to take into account written submissions received after the expiry of that time limit for deciding on the periodic penalty payment.
4. The right to be heard of the natural or legal persons held responsible shall be fully respected in the proceedings.

Article 8 - Decision on periodic penalty payments

1. The decision on the imposition of periodic penalty payments shall be based only on facts on which the natural or legal person held responsible has had an opportunity to exercise its right to be heard.
2. A decision on the imposition of a periodic penalty payment pursuant to Article 57 of the Directive (EU) 2024/1640 shall at least indicate the legal basis, the reasons for the decision and the amount that will be used for the calculation of the final accrued amount of the periodic penalty payment.
3. When deciding about the amount that will be used for the calculation of the final accrued amount of the periodic penalty payment the supervisor shall take into account all the following factors:
 - a) the type and the object of the applicable administrative measure that has not been complied with;
 - b) reasons for the non-compliance with the applicable administrative measure;
 - c) the losses to third parties caused by the non-compliance with the applicable administrative measure, as long as they were determined when the applicable administrative measure has been imposed;
 - d) the benefit derived from the non-compliance with the applicable administrative measure, as long as they were determined when the applicable administrative measure has been imposed;
 - e) the financial strength of the natural or legal person held responsible, as long as this was determined when the applicable administrative measure has been imposed.

Article 9 - Calculation of periodic penalty payments

1. The amount of the periodic penalty payment can be set on a daily, weekly or monthly basis.
2. A periodic penalty payment shall be enforced and collected only for the period of non-compliance with the relevant administrative measure referred to in Article 56(2), points (b), (d), (e) and (g) of Directive (EU) 2024/1640. The period of non-compliance with the relevant administrative measure referred to in Article 56(2), points (b), (d), (e) and (g) of Directive (EU) 2024/1640 has to be determined by the supervisor.

Article 10 - Limitation period for the collection of periodic penalty payments

1. The collection of the periodic penalty payment shall be subject to a limitation period of five years. The five years period referred to in paragraph 1 shall start to run on the day following that on which the decision setting the final accrued amount of periodic penalty payment to be paid, is notified to the natural or legal person held responsible.
2. The limitation period for the collection of periodic penalty payments can be interrupted or suspended in compliance with provisions stipulated by national law in force in the Member State where the periodic penalty payments are collected.

Article 11 - Entry into Force and application date

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 10 July 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[...]

On behalf of the President
[...]
[Position]

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment – RTS under Article 40(2) of the AMLD on the assessment of obliged entities' risk profile

A. Problem identification

Between 2018 and 2024, EBA staff reviewed the approach to AML/CFT supervision of all supervisors responsible for supervising the banking sector. The EBA also published three consecutive opinions on the ML/TF risks to which the European financial sector is exposed. The latest opinion was published in July 2023. Between 2023 and 2024, EBA staff also carried out a stock take to identify the similarities and differences between the approaches to the assessment of ML/TF risks developed by supervisors. It found that there was a very low degree of convergence between the approaches put in place by supervisors.

This means that supervisors' entity-level ML/TF risk assessments are not comparable, which impedes AML/CFT supervisory convergence at the EU level and creates significant costs for institutions that operate on a cross-border basis. The EBA highlighted this in its 2020 response to the European Commission's Call for Advice on the future AML/CFT framework.

B. Policy objectives

The EU co-legislators acted on the EBA's advice and included specific provisions in the new AML/CFT legal framework that harmonise supervisors' approaches to assessing entity-level ML/TF risk and make comparable outcomes possible. They also mandated AMLA to further specify in a draft RTS the steps supervisors must take in this regard.

In March 2024, the European Commission asked the EBA to advise it on the content of the RTS to be developed by AMLA pursuant to Article 40(2) of Directive (EU) 2024/1640.

In accordance with Article 40(2), the draft RTS must set out:

- The benchmarks and methodology to assess and classify the inherent and residual risk profile of obliged entities;
- The frequency at which these risk profiles must be reviewed.

Article 40(2) of Directive (EU) 2024/1640 also specifies that the frequency at which the risk profiles must be reviewed shall take into account any major events or developments in the management and operations of the obliged entity, as well as the nature and size of the business.

C. Baseline scenario

Under the current legislative framework, the rules pertaining to such assessment are not harmonised at the EU level although common principles exist. These principles are set out in the EBA's risk-based supervision guidelines.

D. Options considered

Quantity of data to be collected

To be able to assess and classify the inherent and residual risk profile under their supervision, supervisors need to collect data from obliged entities and other stakeholders such as prudential supervisors and FIUs.

Regarding the level of granularity and the quantity of data to be collected from these entities and other stakeholders when relevant, and taking into account current supervisory practices in EU Member States, the EBA considered two options:

Option 1a: Collecting an extensive set of data from obliged entities and stakeholders that goes beyond the data points that are strictly necessary for ML/TF risk assessment purposes.

Option 1b: Limiting data requests from obliged entities and stakeholders to those that are strictly necessary for ML/TF risk assessment purposes.

Some EU AML/CFT supervisors collect extensive amounts of data to inform their entity-level risk assessments. For example, in several cases, annual AML/CFT questionnaires contain more than 500 data points.

Collecting an extensive set of data from obliged entities and stakeholders would have the benefit of providing supervisors with comprehensive information about all aspects of each institution's operations and controls environment. On the other hand, evidence from the EBA's implementation reviews shows that in most cases, supervisors that obtain extensive data sets do not use all data they obtain for the assessment and classification of risks. Feedback from the private sector further suggests that requesting extensive sets of data can create significant costs. As the number of data points supervisors need, and in practice use, for entity-level ML/TF risk assessment purposes is limited, the amount of data collected and required under the draft RTS could thus be limited to that strictly necessary for ML/TF risk assessment purposes. Importantly, limiting data points for ML/TF risk assessment purposes in this way does not limit supervisors' right to obtain data for onsite and offsite AML/CFT supervision purposes.

In the short term, because of the material differences between the systems put in place by supervisors, the implementation of a harmonised set of data will inevitably lead to changes in the way supervisors request that data, for example AML/CFT periodic questionnaires. These changes may be significant and mean that entities and stakeholders may need to adapt their IT infrastructure to collect and report data that they have not previously collected or reported. However, all participants in the EBA's roundtable suggested that the implementation of a harmonised set of data collected could lead to a decrease of entities and stakeholders' costs and to more efficiency. For instance, in the medium to long term, they expected that costs would decrease for entities operating in different Member

States because the same data would be collected in all Member States. Additionally, they pointed out that greater harmonisation would be highly beneficial because it was currently difficult to deal with different interpretations of specific AML/CFT concepts across Member States. Finally, the amount of data collected for future ML/TF risk assessment purpose will generally be lower than what is currently collected by the national supervisors. As such, private sector participants strongly supported a move to a harmonised risk assessment methodology.

Based on the above, **the Option 1b has been chosen as the preferred option** and the EBA will propose that supervisors limit the data they collect from obliged entities and stakeholders to that which is strictly necessary for entity-level ML/TF risk assessment purposes.

Use of automated scores to assess risks relating to the effectiveness of controls

All supervisors use objective indicators and automated scores to assess and classify the inherent risks to which obliged entities are exposed. As regards the assessment of the quality of the AML/CFT controls that obliged entities put in place to effectively mitigate these inherent risks, supervisors have implemented different approaches. Some rely entirely on their staff's professional judgement, while others rely on information provided by institutions that feeds an automated controls score. Some supervisors use a combination of automated scores and supervisory judgement.

In line with supervisors' current practice, and considering both, the large number of obliged entities in the EU that need to be assessed and the limited resources supervisors have available to carry out this assessment, the EBA considers that an automated assessment of inherent risks is necessary. With regards to the assessment of the quality of controls, the EBA considered three options:

Option 2a: Assessing the quality of controls based entirely on professional judgement.

Option 2b: Assessing the quality of controls based on a two-step process, whereby the control risks would be first assessed in an automated manner based on objective criteria and then manually adjusted based on professional judgment where necessary.

Option 2c: Assessing the quality of controls based entirely on an automated score.

Assessing the quality of controls based entirely on professional judgement based on inspection or offsite supervision findings could make the assessment very pertinent to individual institutions. Nevertheless, applying professional judgement to all obliged entities would create significant costs and may require some supervisors to hire additional staff, in particular in situations where they are responsible for the AML/CFT supervision of a large number of obliged entities (several thousands in some cases). In addition, the benefits of assessing the quality of AML/CFT controls based on professional judgement alone may differ from one obliged entity to another as the extent to which this judgement is reliable would depend on the extent to which the underlying information is complete and up-to-date; for example benefits could typically be high in cases where an obliged entity has recently been subject to intrusive supervision (such as on-site inspections) but they will be reduced where obliged entities have not been subject to such actions. As a result, to be effective and sufficiently reliable, the steps supervisors would have to take and the resources that they would need to deploy to keep professional judgements relevant and up-to-date would not be commensurate with the level of ML/TF risk associated with different entities under their supervision. Finally, until the

common supervision methodology envisaged by Art 8 of the AMLAR is in place and applied, the bases on which supervisors arrive at their professional judgement are likely to diverge and make comparisons between obliged entities from different Member States more difficult.

Assessing the quality of controls automatically addresses those concerns but carries a risk that mistakes in obliged entities' submissions or deliberate attempts to frustrate the risk assessment process may lead to inadequate outcomes. For this reason, supervisors should be able to override automated controls risk scores using professional judgement. To nevertheless ensure a consistent approach and comparability of risk scores across EU Member States, such adjustments should be possible only in specific circumstances and subject to the application of common criteria.

Based on the above, **the Option 2b has been chosen as the preferred option** and the draft RTS on risk assessment and classification of the risk profile of obliged entities will request supervisors to follow a two-step process to assess the quality of the AML/CFT controls, whereby the control risks would be first assessed in an automated manner based on objective criteria and then manually adjusted based on professional judgment where necessary.

Level of granularity of the methodology and benchmarks described in the draft RTS

Article 40(2) of Directive (EU) 2024/1640 provides that the draft RTS must set out the benchmarks and methodology to be used to assess and classify the inherent and residual risk profile of obliged entities but does not prescribe the extent to which these benchmarks and methodology need to be described. In this regard, the EBA considered two options.

Option 3a: Providing in the RTS a complete description of the algorithm and benchmarks to be used to assess and classify the inherent and residual risk profile of obliged entities.

Option 3b: Providing in the RTS a general description of the methodology and completing it with guidance from AMLA to all supervisors, to ensure a consistent application of the methodology.

A complete description of the algorithm in the RTS would achieve a high level of convergence as the detail of the methodology would be set out in directly applicable Union law. However, any changes to the methodology would have to take the form of an amendment to the legal text, which is complex and takes a long time. Since ML/TF risks are constantly evolving, this would create a risk that supervisors may be unable to reflect emerging risks in their risk assessment, which could hamper their ability to discharge their functions effectively. For this reason, it would be highly beneficial to ensure that the methodology is sufficiently flexible to be adjusted on a continuous basis, as necessary, in such a way that it can be adapted to existing ML/TF risks. This could be achieved if the methodology was described in the RTS in more general terms and completed by guidance issued by AMLA, to ensure that it is applied consistently by all supervisors. Such an approach would allow flexibility to adjust the model. Finally, the reporting cost for the private sector is likely to be insignificant, as the full list of data points would be included in the RTS and would be unlikely to change frequently.

Based on the above, **the Option 3b has been chosen as the preferred option** and the draft RTS on risk assessment and classification of the risk profile of obliged entities will provide a list of indicators and a general description of the methodology that will need to be completed with further guidance from AMLA to all supervisors, to ensure a consistent application of the methodology.

Frequency of the assessment

Article 40(2) of Directive (EU) 2024/1640 provides that the RTS must set out the frequency at which risk profiles must be reviewed and adds that such frequency must take into account any major events or developments in the management and operations of the obliged entity, as well as the nature and size of the business. Regarding this point, the EBA considered three options.

Option 4a: set out the following frequencies of review:

- Once every year as the normal frequency;
- Once every two years as the frequency applying to obliged entities that are particularly small or only carry out certain activities justifying a reduced frequency;
- Ad hoc review, in a timely fashion, in case of a major event or development in the management and operations of an obliged entity.

Option 4b: set out the following frequencies of review:

- At least once every year as the normal frequency;
- At least once every three years as the frequency applying to certain obliged entities that are particularly small or carry out only certain activities justifying a reduced frequency;
- Ad hoc review, in a timely fashion, in the case of a major event or development in the management and operations of an obliged entity.

Option 4c: set out the following frequencies of review:

- Once every year as the normal frequency;
- Once every two years as the frequency applying to certain obliged entities that are relatively small or carry out only certain moderately risky activities;
- Once every three years as the frequency applying to certain obliged entities that are particularly small or carry out only certain even lower risk activities;
- Ad hoc review, in a timely fashion, in the case of a major event or development in the management and operations of an obliged entity.

The frequency of review should be proportionate to the nature and size of the obliged entities. Based on the experience of supervisors to-date, to ensure that supervisors have an up to date understanding of the ML/TF risks to which the obliged entities under their supervision are exposed, the normal frequency at which risk profiles are reviewed should be once every year. In the case of certain entities, however, an annual data collection could be costly with limited added value for supervisors, as the ML/TF risk score may not change significantly over time. This could be the case in particular for very small obliged entities. This could also be the case for obliged entities that only carry out certain activities that justify a less frequent review. Reviewing the profile of these obliged entities once every three years rather than once every two years would therefore lead to a significant reduction of the cost borne by these obliged entities and by supervisors, without impacting the reliability of the entity's ML/TF risk score.

The EBA also considered whether collecting data and reviewing entities' risk profiles once every two years rather than once every three years for lower risk obliged entities would be desirable. Feedback from supervisors suggests that the benefit to be gained from this approach is limited and that it would not significantly alter the understanding supervisors have of the level of ML/TF risk to which obliged entities are exposed, as obliged entities that are likely to benefit from this frequency are likely to be classified in the lower risk categories and would in any case be supervised with a limited intensity and at a limited frequency, in line with a risk-based approach. Furthermore, splitting the group of lower risk entities into two groups, one of which would have its risk profile reviewed once every two years and the other of which would have its risk profile reviewed once every three years appears to be of little interest in comparison to the additional costs and layer of complexity it would introduce to the model. In any case, where major events or significant developments in the management and operations of an obliged entity are identified, supervisors should review its risk profile ad hoc, as quick supervisory action may be warranted. The cost of these reviews for supervisors is unlikely to be significant as the occurrence of these types of events will likely be rare.

Based on the above, **the Option 4b has been chosen as the preferred option** and the draft RTS on risk assessment and classification of the risk profile of obliged entities will set out the three following frequencies of review: (i) Once every year as the normal frequency; (ii) At least once every three years as the frequency applying to certain obliged entities that are particularly small or carry out only certain lower risk activities; (iii) Ad hoc review, in a timely fashion, in the case of a major event or development in the management and operations of an obliged entity.

E. Conclusion

The draft RTS on risk assessment and classification of the risk profile of obliged entities will define the benchmarks and methodology to assess and classify the inherent and residual risk profile of obliged entities and set the frequency at which these risk profiles must be reviewed. For obliged entities and other stakeholders, the draft RTS requirements are not expected to trigger significant costs in the medium to long term and the main impact in terms of costs will be on supervisors.

The EBA notes that such costs will arise in any case as a result of the move to a common risk assessment methodology based on provisions in the AMLD6, which clearly request that the draft RTS *"shall set out the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as the frequency at which such risk profile shall be reviewed"*. The EBA's proposed approach nevertheless limits these costs as it reflects the proportionality principle and it is likely, in the short term, to bring benefits associated with the harmonisation of certain supervisory practices and in the medium- to long term, to bring benefits in terms of efficiency savings and reduced costs for reporting entities. Overall, the impact assessment on the draft RTS suggests that the expected benefits for supervisors, obliged entities and other stakeholders are higher than the incurred expected costs.

5.2 Draft cost-benefit analysis / impact assessment – RTS under article 12(7) of the AMLA Regulation, on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA

A. Problem identification

A.1 Eligibility assessment

The AMLA shall treat as eligible those financial sector entities that are operating in six or more Member States, either through an establishment or through the freedom to provide services. Operations under the freedom to provide services shall be measured, to assess their relevance.

Considering all operations under the freedom to provide services irrespective of their materiality could have unintended consequences. For example, it could discourage the exercise of this freedom because being eligible incurs a fee, in accordance with article 77 of the AMLAR. However, assessing the materiality of this kind of operations is challenging, as feedback from competent authorities and the private sector suggests that data to quantify such operations is rarely recorded or available.

A.2 Risk assessment

AMLA shall put together a methodology to assess the ML/TF risk profiles of entities operating in six or more Member States. This methodology shall ensure a level playing field between all eligible obliged entities. Furthermore, it shall allow AMLA to assign a group-wide ML/TF risk score in cases where the obliged entity is a group.

A level playing field is not currently ensured as supervisory approaches have not yet been harmonised, and competent authorities' ML/TF risk assessments are likely to differ as a result.

B. Policy objectives

The main objective of the draft RTS is to:

- (i) identify the minimum activities that a credit institution or a financial institution has to carry out to be considered as operating under the freedom to provide services in a Member State that is different from the one where it is established. In this regard, to ensure an effective and proportionate selection process that keeps regulatory burden and cost to a necessary minimum, the draft RTS defines a materiality threshold beneath which operations under the free provision of services do not count towards an entity's presence in another Member State.
- (ii) develop a risk assessment methodology that allows AMLA to assess and classify the inherent and residual risk profile of eligible credit institutions, financial institutions or group of credit and financial institutions. To ensure an efficient approach and avoid duplication, this methodology should build on competent authorities' entity-level risk assessments under article 40(2) AMLD6. For the first selection round, to obtain comparable entity-level risk

assessment outcomes in a context where full harmonization of AML/CFT supervisory practices is not yet assured, different rules will apply.

C Baseline scenario

Regarding the assessment of the extent to which operations under the freedom to provide services are material, there is currently no structured reporting of data by obliged entities to their supervisors. Regarding the risk assessment to inform the selection of directly supervised entities, AML/CFT supervisory practices are not currently harmonised sufficiently to ensure comparable outcomes. In addition to that, the elaboration of a group-wide methodology is challenging, considering the need to reflect in a proper way the overall ML/TF risk of the group, avoiding potential distortions of the final outcome.

D. Options considered

Measurement of the operations under the freedom to provide services

Article 12(7)a of the AMLAR requires AMLA to develop criteria to identify the “minimum activities” to be exercised under the freedom to provide services. Relying on notifications is unlikely to be a reliable indicator because it is common for credit or financial institutions to notify their intention to provide services under the free provision of services to their financial supervisors without commencing this activity in practice. Furthermore, this activity may not represent a major part of an entity's overall operation. Therefore, the EBA considers that a materiality threshold has to be identified. In this regard, the EBA has considered three different options.

Option 1a: Establishing a single threshold, to measure the number of customers

Option 1b: Establishing thresholds on customers and volumes of transactions, to be met together

Option 1c: Establishing thresholds on customers and volumes of transactions, to be met alternatively

Putting in place a threshold related to the number of customers under the freedom to provide services as the sole measure of materiality could eliminate from the selection entities and sectors with a small number of customers that perform a large number of activities in terms of their frequency and their value. Basing the materiality assessment on numbers of customers alone is therefore unlikely to be sufficient in all cases. For the same reason, putting in place a threshold for material volumes of transactions alone, or cumulative indicators of customer and volume thresholds, could eliminate from the selection potentially relevant cases. This suggests that setting out metrics on customers and volumes of transactions and considering them as alternative measures would allow AMLA to capture all possible ways in which an entity can provide services across borders without an establishment in a material way.

As regards to the values of the thresholds, the proposed approach is to set it on the number of customers to 20,000, and volumes of transactions to 50,000,000 Euro per Member State, respectively.

The advantage of the proposed approach is that is proportionate to the size of an institution and its financial capacity. This is because being eligible for selection carries a fee, which may disproportionately affect smaller institutions, especially if they do not present high ML/TF risks.

Based on the above, **the Option 1c has been chosen as the preferred option** and the draft RTS under article 12(7) of the AMLA Regulation, on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA will, for the purpose of measuring the operations under the freedom to provide services, establish thresholds on customers and volumes of transactions, to be met alternatively.

Calculation of the residual risk at the entity level

Considering the synergies between the methodology for the selection under Article 12 (7) of the AMLAR and the methodology for risk assessment under article 40 (2) of the AMLD6, the former should build on the latter. However, the methodology under Article 40 of the AMLD6 envisages that competent authorities may apply manual adjustments to the control risk score based on qualitative assessments of an obliged entity's internal control system, to the extent that this information is available to supervisors. Considering the need to ensure the highest degree of comparability of the results of this risk assessment across Member States, and the current state of convergence of supervisory practices in the EU, three different options have been considered by the EBA.

Option 2a: Using the same methodology for the RTS under article 12(7) and the RTS under article 40(2) of AMLD6 since the first selection round.

Option 2b: Elaborating two different methodologies, one for RTS under article 12(7) AMLAR and one for the RTS under article 40(2) of AMLD6.

Option 2c: Using the same methodology for the RTS under article 12(7) AMLAR and for the RTS under article 40(2) of AMLD6, with limited differences to ensure maximum harmonization and, for the first round of selection, adopting a divergent approach on the exercise of supervisory judgement for the determination of the controls quality score.

Having a single methodology in place for article 40(2) of AMLD 6 and article 12(7)(b) of AMLAR would reduce the reporting burden on obliged entities. On the contrary, choosing an option where two different methodologies have to be applied, one for the purpose of risk assessment under article 40(2) AMLD6 and one for the purpose of selection would require eligible obliged entities to provide data twice, using potentially different datapoints and timelines. This suggests that using the same methodology for the assessment of ML/TF risk under both, Article 40 of the AMLD6 and Article 12 of the AMLAR would be preferable from an efficiency and effectiveness perspective. However, considering the need to ensure a full harmonization and comparable outcomes, some differences are envisaged with regard the calculation of the inherent risk for the selection methodology.

Since the level of divergence of current AML/CFT supervisory practices across the EU is likely to lead to different assessments, by supervisors, of the quality of an entity's AML/CFT controls, the adoption of a divergent approach for the first round of selection that minimises the impact of supervisory judgement on the calculation of that score could lead to more harmonised and comparable outcomes since the first round.

Based on the above, **the Option 2c has been chosen as the preferred option** and the draft RTS under article 12(7) of the AMLA Regulation, on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA will, for the calculation of the residual risk at the entity level, use the same methodology for the RTS under article 12(7) AMLAR and for the RTS under article 40(2) of AMLD6, with limited differences to ensure maximum harmonization and, for the first round of selection, adopt a divergent approach on the exercise of supervisory judgement for the determination of the controls quality score.

Risk assessment of groups

Article 12 of the AMLAR requires AMLA to assign a group-wide residual ML/TF risk score in case of groups of credit and financial institutions. Regarding the computation of this group score, The EBA considered two options.

Option 3a: Calculating the group score as a weighted average of all group entities' individual ML/TF risk scores

Option 3b: Assessing the whole group score as high ML/TF risk in case a certain number of the group's entities are high ML/TF risk

Calculating the group ML/TF risk score based on the weighted average of all entities' individual risk scores would consider the individual relevance of each of the group's entities compared to the whole group. On the other hand, setting a specific numerical threshold for treating the whole group as high risk in case a specific number of its entities have been assessed as high risk could exclude from the selection groups where the number of high-risk entities is inferior to the threshold set by the methodology, but where the high-risk entities significantly impact the group's operation. In terms of costs, aligning the selection with the level of operations (which can be correlated with larger financial strength) should also lead to selecting groups for which high risk is coming from entities with larger financial strength.

Based on the above, **the Option 3a has been chosen as the preferred option** and the draft RTS under article 12(7) of the AMLA Regulation, on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA will define the calculation of the group risk score as a weighted average of all group entities' ML/TF risk scores.

E. Conclusion

The draft RTS under article 12(7) of the AMLA Regulation on the methodology for selecting credit institutions, financial institutions and groups of credit and financial institutions to be directly supervised by the AMLA will identify the minimum activities to be carried out by a credit institution or a financial institution for it to be considered as operating under the freedom to provide services in a Member State that is different from the one in which it is established. It will also include a risk assessment methodology that allows to assess and classify the inherent and residual risk profile of credit institutions, financial institutions and groups of credit and financial institutions based on the methodology national supervisors will apply to assess entity-level ML/TF risk. For obliged entities, the draft RTS is not expected to create significant costs. The main costs will be borne by competent authorities and stem to a large extent from underlying requirements in the AMLAR, which state that the draft RTS has to specify *“(a) the minimum activities to be carried out by a credit institution or a financial institution under the freedom to provide services, whether through infrastructure or remotely, for it to be considered as operating in a Member State other than that where it is established; (b) the methodology based on the benchmarks referred to in paragraphs 5 and 6 for classifying the inherent and residual risk profiles of credit institutions or financial institutions, or groups of credit institutions or financial institutions, as low, medium, substantial or high”*. In the EBA's view, the draft RTS requirements are proportionate and limit costs where possible. They also bring benefits in relation to a consistent and harmonised approach to assessing entity-level ML/TF risk across the EU. Overall, therefore, the impact assessment on the draft RTS suggests that the expected benefits are higher than the incurred expected costs.

5.3 Draft cost-benefit analysis / impact assessment – RTS under Article 28(1) AMLR on Customer Due Diligence

A. Problem identification

Obliged entities in the EU have been required to apply customer due diligence (CDD) since the first AML directive. Nevertheless, the transposition of those requirements into the national legal order of Member States was inconsistent and this created gaps in the EU's AML/CFT defences and additional costs for obliged entities that operated on a cross-border basis. Regulation (EU) 2024/1624 harmonises how CDD measures are conducted across EU Member States and across obliged entities within the EU.

B. Policy objectives

The general purpose of this mandate is to further harmonise the way due diligence measures are applied across the EU by specifying what information obliged entities shall collect to comply with their CDD, SDD and EDD requirements.

Compliance by obliged entities with the new CDD requirements introduced by the AMLR will generate significant costs for obliged entities according to private sector representatives that attended the EBA's roundtable in October 2024. Against this background, the EBA considered several policy options.

The EBA's overall objective is to propose a RTS that is risk-based and proportionate where possible, and conducive to effective outcomes while keeping associated compliance costs to a necessary minimum.

C. Baseline scenario

In the baseline scenario, obliged entities would comply with the requirements under the new EU AML framework pursuant to Chapter III of Regulation 2024/1624 without any further regulatory standards, or guidance, on how exactly they should fulfil such compliance.

D. Options considered

Degree of specification of Level 1 requirements

The aim of the mandate in Article 28(1) of the AMLR is to further harmonise the way customer due diligence measures are applied across the EU by setting out what information is necessary for the performance of customer due diligence. The EBA considered two options.

Option 1a: Not specifying further level 1 requirements that are already sufficiently detailed and only providing further clarification where needed to achieve a harmonised, risk-based approach.

Option 1b: Fostering maximum harmonisation by being as detailed and comprehensive as possible.

Specifying all level 1 requirements further by way of this draft RTS would mean that the draft RTS would set out specific requirements for every situation. This option would bring some benefits, for example it would maximise harmonisation, set clear regulatory expectations and make AML/CFT supervision – and possibly enforcement – easier by limiting the scope supervisors have to assess whether or not an obliged entity's approach is adequate. Nevertheless, by limiting the flexibility obliged entities have to adjust their controls, such an approach it is likely to make AML/CFT compliance less risk-based. It also means that obliged entities may be unable to respond effectively to situations that are not covered by the draft RTS.

Contrariwise, setting out a core set of rules and requirements that apply to all sectors and activities where necessary, as part of a maximum harmonisation framework within which obliged entities can identify the most suitable due diligence measures in light of the risks they have identified will leave obliged entities room to adjust their CDD measures where this is warranted. Given the variety of obliged entities – in terms of size, business model and ML/TF risk exposure – to which this RTS will apply, this flexibility is crucial and likely to lead to more effective outcomes. This approach will also cater for situations unforeseen at this stage.

There are, nevertheless, a number of provisions in Regulation 2024/1624 that the draft RTS – taking into account the mandate in Article 28(1) of that Regulation – cannot change. These include, for example, the measures that obliged entities need to take to identify the beneficial owners, now that these requirements are comprehensively laid out in Chapter IV of Regulation 2024/1624 on beneficial

owner transparency. A similar point relates to Article 34(4) (e) and 34(4)(g) of Regulation 2024/1624 where the Level 1 text is sufficiently detailed that would not require further clarification in the RTS.

Based on the above, the **Option 1a has been chosen as the preferred option** and the draft RTS under Article 28(1) of the AMLR will further specify the level 1 requirements only to the extent that this is necessary to achieve the AMLR's policy objectives.

E. Conclusion

The draft RTS under Article 28(1) of the AMLR will further harmonise the way due diligence measures are applied across the EU by harmonising the information to be collected by obliged entities to comply with their CDD, SDD and EDD requirements. For obliged entities and stakeholders (such as supervisors), the draft RTS requirements are – by themselves – not expected to trigger significant medium to long term costs as these requirements are linked to the AMLR requirements and thus the costs incurred will be due to a great extent to the underlying related requirements set out in the AMLR. Overall, the impact assessment on the draft RTS suggests that the expected benefits are higher than the expected costs incurred.

5.4 Draft cost-benefit analysis / impact assessment – RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments

A. Problem identification

In 2020, the EBA published a Report on the future AML/CFT framework in the EU to respond to the European commission's call for advice⁹. It underlined that national competent authorities' approaches to determining and imposing sanctions and other the sanctions or measures that competent authorities imposed for breaches of financial institutions' AML/CFT obligations were not proportionate, effective, or dissuasive. It also stressed that harmonisation of the legal framework by means of directly applicable provisions in Union law was necessary to ensure an effective and robust approach.

Since then, the findings of 4th round of the implementation reviews performed by the EBA in 2023/2024¹⁰ highlighted that while national supervisors assessed during that round had taken steps to strengthen their approach to enforcement, enforcement processes were not fully effective or deterrent and not all of the supervisors assessed were using their enforcement powers effectively.

⁹ Report on the future AML/CFT framework in the EU to respond to the European commission's call for advice on defining the scope of application and the enacting terms of a regulation to be adopted in the field of preventing money laundering and terrorist financing

¹⁰ REPORT ON NCAS' APPROACHES TO THE SUPERVISION OF BANKS WITH RESPECT TO ANTI-MONEY LAUN-DERING AND COUNTERING THE FINANCING OF TERRORISM (ROUND 4 – 2023/24)

In parallel, the data reported by national supervisors to EuReCA, the EBA's AML/CFT database, suggest that supervisory approaches to enforcement are still not aligned. This means that the same breach by the same institution would be treated differently depending on where in the EU it occurs.

The mandate under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments, aims to foster greater convergence of supervisors' approaches to enforcement and the imposition of administrative measures in the European Union. Moreover, it introduces Periodic Penalty Payments (PePPs) as a new EU tool that aims to end an ongoing AML/CFT breach that is already object to a specific administrative measure imposed by an AML/CFT supervisor. PePPs are currently used by only a few Members States in the EU.

B. Policy objectives

The general policy objective is to harmonise approaches by AML/CFT supervisors in the EU when imposing sanctions, administrative measures and when introducing periodic penalty payments. The mandate under Article 53(10) of the AMLD6 therefore request AMLA to set out in the form of regulatory technical standards (the draft RTS) (i) indicators to classify the level of gravity of breaches, (ii) criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, (iii) a methodology for the imposition of periodic penalty payments.

C. Baseline scenario

In the baseline scenario, supervisors would need to apply the provisions of the AMLD6 in relation to pecuniary sanctions, administrative measures and periodic penalty payments embedded respectively in Articles 55, 56 and 57 of AMLD6 without (i) common indicators defined to classify the level of gravity of breaches, (ii) criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, (iii) a methodology for the imposition of periodic penalty payments. In line with the general provisions of Article 53 of the AMLD6, supervisors would need to ensure that any pecuniary sanction imposed or administrative measure applied, is effective, proportionate and dissuasive. Pursuant to Article 57 of the AMLD6, a periodic penalty payment shall be effective and proportionate and can be imposed until the obliged entity or person concerned complies with the relevant administrative measure, but not for longer than 12 months. This scenario is likely to lead to supervisors keeping divergent approaches to enforcement, which would make the EU's new approach less effective and would not meet the objectives of AMLD6.

D. Options considered

Level of supervisory judgement

As mentioned above, the draft RTS will set out indicators to classify the level of gravity of breaches, and criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures. The indicators and criteria will be harmonized and inspired by existing EBA work on material weakness in the RTS on the central AML/CFT database¹¹ and the Joint ESAs Report

¹¹ Commission Delegated Regulation (EU) 2024/595, OJ L, 2024/595, 16.2.2024.

on the withdrawal of authorization for serious AML/CFT breaches¹². In the process of developing specific indicators and criteria, the EBA evaluated to which degree supervisory judgement should be exercised by national competent authorities. For this purpose, two options were considered.

Option 1a: Setting the indicators and criteria in the draft RTS with inspiration taken from existing EBA work on material weakness in the RTS on the central AML/CFT database¹³ and the Joint ESAs Report on the withdrawal of authorization for serious AML/CFT breaches¹⁴ without any room for supervisory judgment.

Option 1b: Setting the indicators and criteria in the draft RTS with inspiration taken from existing EBA work on material weakness in the RTS on the central AML/CFT database¹⁵ and the Joint ESAs Report on the withdrawal of authorization for serious AML/CFT breaches¹⁶ with room for supervisory judgment.

Leaving no room for supervisory judgement would provide for maximum convergence and meet the policy objective. However, it would not allow supervisors to take into account the specific context of the breach. Option 1b also ensures a high level of convergence, but provides for greater flexibility by enabling supervisors to consider the context of the breach. Taking the specific context of a breach enable to have a more in-depth analysis of the breach and subsequently for supervisors to tailor the measure to the specific situation identified. By doing so, it enables a more effective response and ultimately a more efficient enforcement approach. The main stakeholders impacted by the choice of either option would be the competent authorities. The costs of either option would not be significantly different.

Based on the considerations above, **the Option 1b has been chosen as the preferred option** and the draft RTS under Article 53(10), of the AMLD6 will set the indicators and criteria in the draft RTS with inspiration taken from existing EBA work on material weakness in the RTS on the central AML/CFT database and the Joint ESAs Report on the withdrawal of authorization for serious AML/CFT breaches but with room for supervisory judgment.

Periodic penalty payments

Pursuant to Article 53(10), point (c) of the AMLD6, the draft RTS will set out a methodology for the imposition of PePPs. The methodology proposed by the EBA was inspired by delegated and implementing acts adopted by the European Commission. When developing the methodology for the imposition of PePPs, the EBA assessed the extent to which provisions of administrative law in the draft RTS should be harmonised and considered two options.

¹² ESAs 2022 23, 31 May 2022, Joint ESAs report.

¹³ Commission Delegated Regulation (EU) 2024/595, OJ L, 2024/595, 16.2.2024.

¹⁴ ESAs 2022 23, 31 May 2022, Joint ESAs report.

¹⁵ Commission Delegated Regulation (EU) 2024/595, OJ L, 2024/595, 16.2.2024.

¹⁶ ESAs 2022 23, 31 May 2022, Joint ESAs report.

Option 1a: Setting out a granular set of provisions of administrative law by minimising room for the application of national provisions of administrative law.

Option 1b: Competent authorities to apply their national provisions of administrative law when imposing PePPs.

Leaving no, or little room for the application of national provisions of administrative law would provide for maximum convergence and in that sense would help to meet the policy objective. It would however not allow supervisors to take into account longstanding specific jurisprudence in the area of administrative law and require them to apply different provisions of administrative law when enforcing PePPs compared to other enforcement measures. This could have unintended consequences and mean that supervisors might avoid using PePPs, as their imposition is a choice and not a duty of the supervisor. On the other hand, leaving room for the application of national provisions of administrative law when imposing PePPs would, while also ensuring convergence, provide for more flexibility when imposing PePPs.

The main stakeholder impacted by the choice of either option would be competent authorities. The costs would not change significantly with either option; potentially, costs could be lower by focusing only on some aspects of the methodology for the imposition of PePP to be included into the draft RTS, as this would not require the complete review and amendment of national provisions of administrative law in 27 Member States for the purpose of imposition of PePPs.

Based on the above, **the Option 1b has been chosen as the preferred option** and the draft RTS under Article 53(10) of AMLD 6 will set a methodology for periodic penalty payments in the draft RTS by allowing supervisors to apply procedures stipulated by national administrative law.

E. Conclusion

The draft RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments will set out indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures and a methodology for the imposition of periodic penalty payments. This will provide for more convergent approaches by AML/CFT supervisors in the EU when imposing sanctions, administrative measures and when introducing periodic penalty payments. The main stakeholder impacted in terms of costs by the draft RTS would be the competent authorities but some of these costs are associated with underlying legal requirement in the AMLD6. Overall, taking into account the EBA's preference for a proportionate approach where possible, the impact assessment on the draft RTS suggests that the expected benefits are higher than the incurred expected costs.

5.5 Overview of questions for consultation

RTS under Article 40(2) of the AMLD

Question 1

Do you have any comments on the approach proposed by the EBA to assess and classify the risk profile of obliged entities?

Question 2

Do you agree with the proposed relationship between inherent risk and residual risk, whereby residual risk can be lower, but never be higher, than inherent risk? Would you favour another approach instead, whereby the obliged entity's residual risk score can be worse than its inherent risk score? If so, please set out your rationale and provide evidence of the impact the EBA's proposal would have.

Question 3

Do you have any comments on the proposed list of data points in Annex I to this Consultation Paper? Specifically,

- What will be the impact, in terms of cost, for credit and financial institutions to provide this new set of data in the short, medium and long term?
- Among the data points listed in the Annex I to this consultation paper, what are those that are not currently available to most credit and financial institutions?
- To what extent could the data points listed in Annex I to this Consultation Paper be provided by the non-financial sector?

Please provide evidence where possible.

Question 4

Do you have any comments on the proposed frequency at which risk profiles would be reviewed (once per year for the normal frequency and once every three years for the reduced frequency)? What would be the difference in the cost of compliance between the normal and reduced frequency? Please provide evidence.

Question 5

Do you agree with the proposed criteria for the application of the reduced frequency? What alternative criteria would you propose? Please provide evidence.

Question 6

When assessing the geographical risks to which obliged entities are exposed, should cross-border transactions linked with EEA jurisdictions be assessed differently than transactions linked with third countries? Please set out your rationale and provide evidence.

RTS under article 12(7) AMLAR

Question 1

Do you agree with the thresholds and provided in Article 1 of the draft RTS and their value?

If you do not agree, which thresholds to assess the materiality of the activities exercised under the freedom to provide services should the EBA propose instead? Please explain your rationale and provide evidence of the impact the EBA's proposal and your proposal would have.

Question 2

What is your view on the possibility to lower the value of the thresholds that are set in article 1 of the draft RTS? What would be the possible impact of doing so? Please provide evidence.

Question 3

Do you agree on having a single threshold on the number of customers, irrespective of whether they are retail or institutional customers? Alternatively, do you think a distinction should be made between these two categories? Please explain the rationale and provide evidence to support your view.

Question 4

Do you agree that the methodology for selection provided in this RTS builds on the methodology laid down in the RTS under article 40(2)? If you do not agree, please provide your rationale and evidence of the impact the EBA's proposal and your proposal would have.

Question 5

Do you agree that the selection methodology should not allow the adjustment of the inherent risk score provided in article 2 of draft under article 40(2) AMLD6? If you do not agree, please provide the rationale and evidence of the impact the EBA's proposal would have.

Question 6

Do you agree with the methodology for the calculation of the group-wide score that is laid down in article 5 of the RTS? If you do not agree, please provide the rationale for it and provide evidence of the impact the EBA's proposal and your proposal would have.

Question 7

Do you have any concern with the identification of the group-wide perimeter? Please provide the rationale and the evidence to support your view on this.

Question 8

Do you agree to give the same consideration to the parent company and the other entities of the group for the determination of the group-wide risk profile? Do you agree this would reliably assess

the group-wide controls effectiveness even if the parent company has a low-relevant activity compared to the other entities?

Question 9

Do you agree with the transitional rules set out in Article 6 of this RTS? In case you don't, please provide the rationale for it and provide evidence of the impact the EBA's proposal and your proposal would have.

RTS under Article 28(1) AMLR

Question 1

Do you agree with the proposals as set out in Section 1 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 2

Do you have any comments regarding Article 6 on the verification of the customer in a non face-to-face context? Do you think that the remote solutions, as described under Article 6 paragraphs 2-6 would provide the same level of protection against identity fraud as the electronic identification means described under Article 6 paragraph 1 (i.e. e-IDAS compliant solutions)? Do you think that the use of such remote solutions should be considered only temporary, until such time when e-IDAS-compliant solutions are made available? Please explain your reasoning.

Question 3

Do you have any comments regarding Article 8 on virtual IBANS? If so, please explain your reasoning.

Question 4

Do you agree with the proposals as set out in Section 2 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 5

Do you agree with the proposals as set out in Section 3 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 6

Do you agree with the proposals as set out in Section 4 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 7

What are the specific sectors or financial products or services which, because they are associated with lower ML/TF risks, should benefit from specific sectoral simplified due diligence measures to be explicitly spelled out under Section 4 of the draft RTS? Please explain your rationale and provide evidence.

Question 8

Do you agree with the proposals as set out in Section 5 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 9

Do you agree with the proposals as set out in Section 6 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 10

Do you agree with the proposals as set out in Section 7 of the draft RTS? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Question 11

Do you agree with the proposals as set out in Section 8 of the draft RTS (and in Annex I linked to it)? If you do not agree, please explain your rationale and provide evidence of the impact this section would have, including the cost of compliance, if adopted as such?

Draft RTS under Article 53(10) of the AMLD6 on pecuniary sanctions, administrative measures and periodic penalty payments

Question 1

Do you have any comments or suggestions regarding the proposed list of indicators to classify the level of gravity of breaches sets out in Article 1 of the draft RTS? If so, please explain your reasoning.

Question 2

Do you have any comments or suggestions on the proposed classification of the level of gravity of breaches sets out in Article 2 of the draft RTS? If so, please explain your reasoning.

Question 3

Do you have any comments or suggestions regarding the proposed list of criteria to be taken into account when setting up the level of pecuniary sanctions of Article 4 of the draft RTS? If so, please explain your reasoning.

Question 4

Do you have any comments or suggestions of addition regarding what needs to be taken into account as regards the financial strength of the legal or natural person held responsible (Article 4(5) and Article 4(6) of the draft RTS)? If so, please explain.

Question 5

Do you have any comments or suggestions on the proposed criteria to be taken into account by a supervisor when applying the administrative measures listed under this draft RTS and in particular when the supervisor intends to:

- restrict or limit the business, operations or network of institutions comprising the obliged entity, or to require the divestment of activities as referred to in Article 56 (2) (e) of Directive (EU) 2024/1640?
- withdrawal or suspension of an authorisation as referred to in Article 56 (2) (f) of Directive (EU) 2024/1640?
- require changes in governance structure as referred to in Article 56 (2) (g) of Directive (EU) 2024/1640?

Question 6

Which of these indicators and criteria could apply also to the non-financial sector? Which ones should not apply? Please explain your reasoning.

Question 7

Do you think that the indicators and criteria set out in the draft RTS should be more detailed as regards the natural persons that are not themselves obliged entities and in particular as regards the senior management as defined in AMLR? If so, please provide your suggestions.

Question 8

Do you think that the draft RTS should be more granular and develop more specific rules on factors and on the calculation of the amount of the periodic penalty payments and if yes, which factors should be included into the EU legislation and why?

Question 9

Do you think that the draft RTS should create a more harmonised set of administrative rules for the imposition of periodic penalty payments, and if yes, which provisions of administrative rules would you prefer to be included into EU legislation compared to national legislation and why?

6. Annexes

Annex 1 - Data Points to be collected for the purpose of the RTS under under Article 40(2) of the AMLD and Article 12(7) of the AMLA Regulation.

Section A – Inherent risk

- (1) The data points in this annex are not the same as the indicators supervisors will use to calculate the ML/TF risk of each financial institution.
- (2) The final RTS will include an 'interpretive note' that will specify what each data point entails in relation to each sector as well as clarifications in relation to the dates associated with each data point.
- (3) Some data points do not apply to all sectors, given the specific nature of their activities. Likewise, the data points under 'Products and Services' will only be considered if the obliged entity offers the product or service.

Category	Sub-Category	Data points
Customers		Number of customers Number of PEPs related business relationships (including family members and close associates) Number of PEPs related business relationships (including family members and close associates) by country Number of customers with at least one transaction in the previous year Number of new customers in the previous year Number of NPOs with cross border transactions to/from non-EEA countries Number of NPOs Number of legal entities Number of natural persons Number of legal entities with complex structure Number of customers with high risk activities Number of legal entities with at least 1 UBOs located in non-EEA countries (residence) Number of customers with foreign residency by country (natural persons) Number of customers registered abroad by country (legal entities) Number of customers with cross border transactions involving non-EEA countries Number of walk-in customers Number of occasional transactions carried by walk in customers Number of customers with requests from FIU whose matter or nature of the request is linked with AML/CFT
Products Services and Transactions	Payment Accounts	Number of payment accounts Total Value (EUR) of incoming transactions in the previous year Number of incoming transactions in the previous year Total Value (EUR) of outgoing transactions in the previous year Number of outgoing transactions in the previous year
	Virtual IBANs	Total Number of master accounts with linked vIBANS Number of transactions on Virtual IBANs (incoming) in the previous year Total Value (EUR) of transactions on Virtual IBANs (incoming) in the previous year

		<p>Number of transactions on Virtual IBANs (outgoing) in the previous year</p> <p>Total Value (EUR) of transactions on Virtual IBANs (outgoing) in the previous year</p> <p>Total Number of re-issued IBANs</p> <p>Total Number of re-issued IBANs where the end-user is not a customer of the obliged entity</p>
	Prepaid Cards	<p>Total Number of Prepaid Cards issued during the previous year</p> <p>Total Value (EUR) of the issued prepaid cards during the previous year</p> <p>Total Value (EUR) outstanding on prepaid cards issued during the previous year</p> <p>Total number of customers using prepaid cards</p> <p>Total number of customers using prepaid cards with more than 3 prepaid cards</p>
	Lending	<p>Total Number and Value (EUR) of outstanding loans</p> <p>Total Number and Value (EUR) of loans granted during the previous year</p> <p>Total Number and Value (EUR) of outstanding asset backed loans with cash collateral</p> <p>Total Number and Value (EUR) of loan repayments during the previous year</p> <p>Total Number and Value (EUR) of prematurely repaid loans during the previous year</p> <p>Total Number and Value (EUR) of loan repayments from non-EEA countries during the previous year</p> <p>Total Number and Value (EUR) of consumer loans granted during the previous year that are not associated to the acquisition of any product/service</p>
	Factoring	<p>Total Number of factoring contracts granted in the previous year</p> <p>Total Value (EUR) of factoring contracts granted during the previous year</p> <p>Total Value (EUR) of factoring contracts granted to obligors established in non-EEA countries during the previous year</p>
	Life insurance contracts	<p>Total amount of gross written premiums in the previous year (incoming)</p> <p>Total of amount (EUR) of surrender value of the insurance contracts at the end of the previous year</p> <p>% of all gross written premium (amount) paid directly to the life insurance broker in the previous year</p> <p>% of contracts (amount) that are not used for low risk contracts</p>
	Currency Exchange (involving cash)	<p>Number of currency exchange transactions carried out during the previous year (sell)</p> <p>Number of currency exchange transactions carried out during the previous year (buy)</p> <p>Number of currency exchange transactions carried out during the previous year, where the transaction is above 1000 euros (sell)</p> <p>Number of currency exchange transactions carried out during the previous year, where the transaction is above 1000 euros (buy)</p> <p>Total Value (EUR) of currency exchange transactions carried out during the previous year (sell)</p> <p>Total Value (EUR) of currency exchange transactions carried out during the previous year (buy)</p> <p>Value (EUR) of currency exchange transactions cash-to-cash carried out during the previous year</p>
	Custody of crypto assets	<p>Number of customers owning crypto-assets</p> <p>Total amount (EUR) hosted on the custodian wallets</p>
	Invest. Services and Activities - reception and transmission of orders	<p>Number of retail clients</p> <p>Number of professional clients</p> <p>% of amounts of orders transmitted involving unlisted financial instruments, other than financial instruments issued by the obliged entity or its group</p> <p>Number of AML/CFT regulated customers outside the EEA</p>
	Invest. Services and Activities - custody	<p>Number of retail clients</p> <p>Number of professional clients</p> <p>% of assets under custody for which the obliged entity does not have a direct business</p>

	account keeping	relationship with the final investor Number of AML/CFT regulated customers outside the EEA
	Invest. Services and Activities - Portfolio management	Number of retail clients Number of professional clients Total assets under management Number of customers for which customer holding total assets with a value of at least EUR 5 000 000
	Money Remittance	Total Number of money remittance payments in the previous year (incoming) Total Number of money remittance payments in the previous year (outgoing) Total Value (EUR) of remittance payments in the previous year (incoming) Total Value (EUR) of remittance payments in the previous year (outgoing) Total Number of money remittance transactions above 1000 euro in the previous year (incoming) Total Number of money remittance transactions above 1000 euro in the previous year (outgoing)
	Wealth Management	Total Number of customers (NP) with total assets under management over a value of at least EUR 5,000,000 Total Number of customers (NP) that fall under the definition of private banking (RFGLs) Total Number of customers (NP) with total assets over a value of at least EUR 50,000,000
	Correspondent services	Total Value (EUR) of transactions executed on behalf of the respondent client in the previous year (incoming) Total Value (EUR) of transactions executed on behalf of the respondent client in the previous year (outgoing) Total Value (EUR) of transactions going through payable through accounts in the previous year (incoming) Total Value (EUR) of transactions going through payable through accounts in the previous year (outgoing) Total Value (EUR) of transactions going through nested accounts in the previous year (incoming) Total Value (EUR) of transactions going through nested accounts in the previous year (outgoing)
	Trade finance	Total Number of trade finance customers Total Number of trade finance transactions in the previous year (incoming) Total Number of trade finance transactions in the previous year (outgoing) Total Value (EUR) of trade finance transactions in the previous year (incoming) Total Value (EUR) of trade finance transactions in the previous year (outgoing)
	E-Money	Number of e-money transactions in the previous year (incoming) Number of e-money transactions in the previous year (outgoing) Total Value (EUR) of e-money transactions in the previous year (incoming) Total Value (EUR) of e-money transactions in the previous year (outgoing) Total Number of e-money transactions by non-identified customers in the previous year Value (EUR) of e-money transactions by non-identified customers in the previous year
	TCSP services	Total Number of legal entity customers using TCSP services in the previous year
	Exchange crypto-fiat	Total amount (EUR) crypto-fiat in the previous year Total number of transactions crypto-fiat in the previous year Number of customers using this type of service in the previous year Total number of transactions crypto-fiat to unhosted wallets in the previous year Total number of transactions crypto-fiat from unhosted wallets in the previous year
	Exchange fiat-crypto	Total amount (EUR) fiat-crypto in the previous year Total number of transactions fiat-crypto in the previous year Number of customers using this type of service in the previous year Total number of transactions fiat-crypto to unhosted wallets in the previous year Total number of transactions fiat-crypto from unhosted wallets in the previous year

	Exchange crypto-crypto	Total amount (EUR) crypto-crypto in the previous year Number of customers using this type of service in the previous year Total number of transactions crypto-crypto to unhosted wallets in the previous year Total number of transactions crypto-crypto from unhosted wallets in the previous year
	Transfer crypto-assets	Total amount (EUR) that customers transferred in the previous year Number of customers using this type of service in the previous year Total number of transactions to unhosted wallets in the previous year Total number of transactions from unhosted wallets in the previous year
	Management of UCITS	Number of retail investor customers Number of professional investor customers Total assets under management Total assets under management in unlisted financial instruments
	Management of AIFs	Number of open-ended funds Number of closed-ended funds Total assets under management Total assets under management in unlisted financial instruments Assets other than financial instruments as defined in section C of annex 1 of MIFID
	Safe Custody Services	Total Number of customers using safe deposit boxes
	Crowdfunding	Total Value (EUR) of funding projects in the previous year Total Number of projects being funded in the previous year Total Number of donors from high-risk countries Total Number of projects where the owner is from a high-risk country Total Number of projects funded for philanthropic purposes in the previous year
	Cash Transactions	Number of cash transactions in the previous year (withdrawals) Number of cash transactions in the previous year (deposits) Total Value (EUR) of cash transactions in the previous year (withdrawals) Total Value (EUR) of cash transactions in the previous year (deposits) Total Number of natural persons totalling cash transactions over 20 000 EUR during the previous year
Geographies		Number of incoming transactions in the previous year by country Total value (EUR) of incoming transactions in the previous year by country Number of outgoing transactions in the previous year by country Total value (EUR) of outgoing transactions in the previous year by country Total value (EUR) of entity's investment undertakings (CIUs) by country Number of investors by country (for AMCs) Total value of investments (EUR) by country (for AMCs) Total value (EUR) of all assets by country (for IFs and AMCs) Number of institutions established in foreign countries to whom you provide correspondent services (by country) Total value of incoming funds moved on behalf of the respondent's clients by country of respondent's establishment Total value of outgoing funds moved on behalf of the respondent's clients by country of respondent's establishment Number of branches by country Number of subsidiaries by country Country where the entities owner is located (parent company)
Distribution channels		Number of new customers onboarded remotely in the previous year Number of new customers onboarded in the previous year by third parties Number of new customers onboarded in the previous year by third parties not directly subject to AML/CFT supervision

		<p>Number of agents by country</p> <p>Number of distributors by country</p> <p>Total value of gross written premiums through insurance contracts issued through brokers, broken down by country the brokers are established</p> <p>Number of white labelling partners by country of establishment</p>
--	--	---

Section B – AML/CFT Controls

Category	Sub-Category	Data Points
AML/CFT governance structures	1A: Role and responsibilities of the management body	<p>Date(s) when the last version of the following policies and procedures approved by the management:</p> <p>a) Initial Customer Due Diligence</p> <p>b) Ongoing Customer Due Diligence</p> <p>c) Transaction monitoring</p> <p>d) Suspicious transactions reporting</p> <p>e) Ongoing monitoring of business relationships</p> <p>f) Financial Sanctions screening</p>
	1B: Internal controls and reporting systems	<p>Date when the reports on the following AML/CFT aspects have been submitted to the senior management in the last calendar year:</p> <p>a) the areas where the operation of AML/CFT controls should be implemented or improved and suggested improvements;</p> <p>b) compliance monitoring actions and a plan of activities of AML/CFT compliance officer;</p> <p>c) a progress report of any significant remedial programmes;</p> <p>d) adequacy of the human and technical resources in the AML/CFT compliance function;</p> <p>e) the main findings of the business-wide ML/TF risk assessment;</p> <p>f) changes in the methodology for assessing customer risk profiles;</p> <p>g) the classification of customers by risk category;</p> <p>h) statistical data on unusual and suspicious transactions;</p> <p>i) AML/CFT related findings of internal and external audits;</p> <p>j) AML/CFT training activities and plan.</p>
		<p>Number of deficiencies pending at the end of the calendar year? Of which:</p> <p>a) number of deficiencies with high criticality</p> <p>b) number of deficiencies for which remediation is exceeding the initial timeline by more than 6 months</p> <p>c) number of critical deficiencies for which remediation is exceeding the initial timeline by more than 6 months</p>
	1C: Outsourcing and reliance on third parties	<p>Tasks outsourced by the obliged entity (in total or in part) to service providers:</p> <p>CDD</p> <p>Training</p> <p>Transaction Monitoring</p> <p>Suspicious Transaction Reports</p> <p>Sanctions Screening</p> <p>PEP detection</p> <p>Compliance Monitoring Checks</p>
		% of outsourced AML/CFT tasks that are covered by a written agreement governing the outsourced relationship
		Existence of AML/CFT tasks outsourced to an external service provider located in high risk third country (excluding outsourcing to other entities of the group located in high risk third countries)
		% of outsourced AML/CFT tasks for which a written agreement is in place among the tasks outsourced to an external service provider located in high risk third country.
		Existence of AML/CFT tasks outsourced to an external service provider located in high risk third country that is part of the group (Y/N)
	1D: AML/CFT Compliance Function and Resources	A written agreement is in place for all outsourced tasks to an external service provider located in high risk third country that is part of the group (Y/N)
		<p>Number of dedicated AML/CFT compliance staff (in FTE)</p> <p>Number of Compliance Officers appointed over the last 5 years or since the entity's authorisation, if the authorisation was granted less than 5 years ago</p>

	1E. AML/CFT training (employees, officers, agents and distributors)	% of staff who have received AML training during the last calendar year: a) AML Specialist b) non-AML/CFT specialist staff (customer facing staff, executive directors) c) agents and distributors
		Average number of hours of AML training in the last calendar year attended by (per person): a) AML specialist staff b) non-AML specialist staff (including management, 1st line of defence) c) Board members / non-executive directors
		% of staff or trainees for whom at least one training was validated by a test
	1F: AML/CFT risk culture	N/A (No automated score)
	1G: Internal audit function / external expert	Dates when the AML/CFT obligations/ controls were last assessed by an internal audit or external expert: a. Business-wide risk assessment b. determination of ML/TF risk profile of customers in a business relationship c. AML/CFT-related awareness-raising and staff training measures d. Identification and identity verification procedures e. Policies and procedures for monitoring and analysing business relationships, including transaction monitoring f. Policies and procedures for suspicious transaction reporting g. Record keeping policies and procedures h. Resources dedicated to AML/CFT i. Organisation of the AML/CFT system, governance and reporting to management bodies.
Risk assessment	2A. Business Wide Risk Assessment	Exemption applies from having in place the BWRA in accordance with Article 10(3) AMLR
		Date when the obliged entity assessed the need to update the BWRA for the last time
		Senior management approved the last version of the BWRA (Y/N)
		Frequency at which the obliged entity assesses the need to review the BWRA
	2B. Customer ML/TF risk assessment and classification (CRA)	Date when the obliged entity assessed the need to update the CRA for the last time
AML/CFT Policies and procedures	3A: Customer Due Diligence	Number of customers that are legal entities /trusts whose beneficial owners have not been identified
		Number of high-risk customers that are legal entities
		Number of high-risk customers that are legal entities /trusts whose beneficial ownership has been identified, but the identity of whom has not been verified
		Number of customers without identification and verification documentation/ information
		Number of customers with incomplete identification and verification documentation/ information
		Number of high-risk customers with missing or incomplete CDD data or information
		Number of customers without ML/TF risk profile (excluding customers with whom the obliged entity does not have a business relationship)
		Number of customers for whom no information on the purpose and intended nature of the business relationship has been obtained (excluding customers with whom the obliged entity does not have a business relationship)
		Number of customers for whom no information has been obtained on the nature of the customers' business, or of their employment or occupation (excluding customers with whom the obliged entity does not have a business relationship)
		Number of customers (excluding natural persons) for whom beneficial ownership identification details are entered in the institution's database
		Number of customers, who are natural persons, for whom all identification details (name/ dob, nationality, tax number) are entered in the institution's database
	3B: Ongoing monitoring of business relationships	Number of customers for whom updates of customer information were due in the last calendar year, in accordance with the obliged entity's policies and procedures
		Number of customers for whom customer information was reviewed and updated in the last calendar year

	3C: Transaction Monitoring	The obliged entity has a transaction monitoring system in place (Y/N)
		The transaction monitoring system is: a) Not automated; or b) At least partly automated
		If manual system: the annual number of transactions exceeds the number of transactions that the obliged entity can manually process (Y/N)
		If manual system: Average time in days to analyse the transaction since the moment it occurred
		If automated system: The system can generate alerts in case of inconsistencies between CDD information relating to the customer and the following elements: a) Number of transactions b) Value of aggregated transactions c) value of single transactions d) counterparties e) countries
		If automated system: Number of alerts not analysed at the end of the calendar year
		If automated system: Average time to analyse an alert in the last calendar year (number of days between issuance of the alert and closing of the alert)
		If automated system: Ratio between number of alerts and number of STRs
	3D: Suspicious Activity Reporting	Average number of days between the date of identification of potential suspicious transactions (prior to the analysis of the transaction) and the date when the transaction is reported to the FIU (after the analysis of the transaction) during the last calendar year
		Number of STRs submitted to the FIU before the completion of the transaction during the last calendar year
		Total number of STRs submitted to the FIU during the last calendar year
	3E: Targeted Financial Sanctions	Average number of hours between the publication of the TFS by the authorities and the implementation of these changes in the institution's screening tools
		Maximum number of hours between the publication of the TFS by the authorities and the implementation of these changes in the institution's screening tools
	3F: Compliance with Fund Transfers Regulation	Number of outbound transfers for which requests were received from a counterparty in the transfer chain for information that is missing, incomplete or provided using inadmissible characters in the last calendar year
		Total number of outbound transfers in the last calendar year
		% of outbound transfers rejected or returned by the counterparty in the transfer chain due to information that is missing, incomplete or provided using inadmissible characters in the last calendar year
		Number of repeatedly failing counterparties flagged to the supervisor in the last calendar year
	3G: Record keeping	Total number of counterparties of outbound and inbound transfers in the last calendar year
		N/A (No automated score)
Group oversight	4A: AML/CFT governance structures e.g. oversight by the parent of group activities, reporting by the group to the parent entity, group's internal AML/CFT control system	N/A (No automated score)
	4B: Group-wide ML/TF risk assessment	N/A (No automated score)

	4C: Group policies and procedures, including sharing of information within the group (Art 73(3) AMLR)	N/A (No automated score)
	4D: Group-wide AML/CFT function	% of group entities that provided reports to the Group AML compliance on the following areas in the last calendar year: a) CDD b) ongoing monitoring c) STRs d) identity and transaction level information on high risk customers e) deficiencies
		% of jurisdictions in which the group is established covered by reviews (including access to customer and transaction level data) performed by the group AML/CFT compliance function in the last three calendar years. (applies only to groups that have been existing for more than 3 years)
		Number of group entities for which deficiencies were identified by competent AML/CFT supervisors in the last calendar year - EU/EEA entities - Non-EU/EEA

Section C – Datapoints for the calculation of the materiality thresholds for operations under the freedom to provide services

1. List of the European Union countries where the credit or financial institution is operating in practice under freedom to provide services
2. Total number of customers who are resident in the Member State where the credit or financial institution is operating on a freedom to provide service basis, at the end of the last calendar year.

2.A. *Volumes of transactions generated by the customers under point 2 over the last calendar year*