



Public Hearing

The EBA's proposed response to the EC's Call for Advice on four AMLA mandates

10 April 2025
EBA AML/CFT Unit



Guidance for Participants



Please mute your microphone when you are not speaking.



Please do not start your camera if you are not a speaker.



Please raise your hand if you wish to speak. Please introduce yourself (your name / institution / Member State) when you take the floor.



Please keep your intervention short (2 minutes, and 2 topics).



In the event of a technical issue with Teams, please log out and log in again.

Agenda

- 1 Introduction by Carolin Gardner, Head of the EBA's AML/CFT Unit
- 2 Mandates related to ML/TF risk assessments
- 3 Mandate on Customer Due Diligence
- 4 Mandate related to pecuniary sanctions, administrative measures and periodic penalty payment

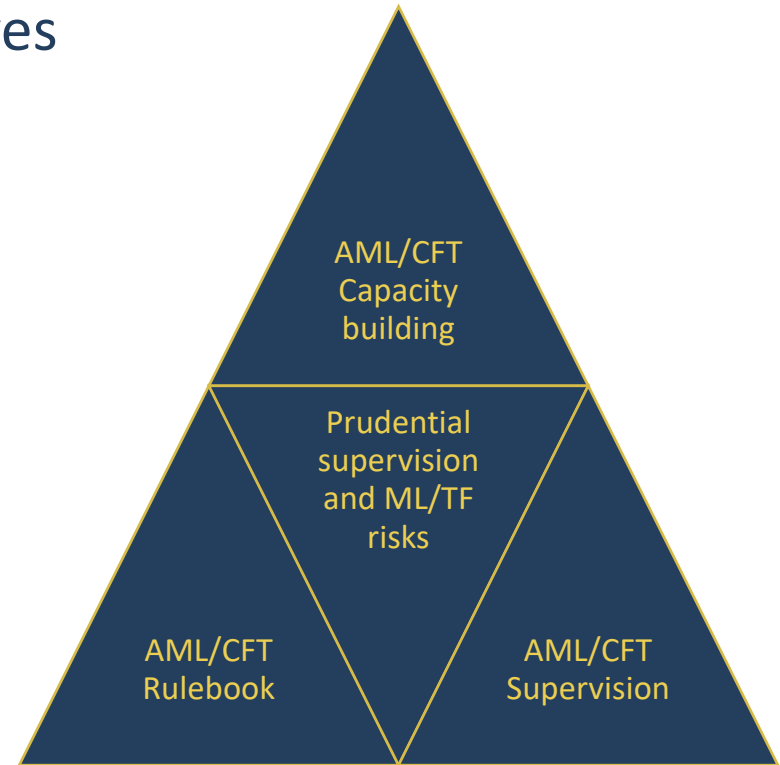
The EBA's AML/CFT role and objectives

Article 1(5)(fb) of the EBA Regulation:

The Authority shall, in accordance with the Regulation, promote integrity, transparency and security in the financial system by means of adopting measures to prevent and counter ML/TF in that system.

Article 9a(1) of the EBA Regulation:

The Authority shall [...] take a **coordinating** and **monitoring** role in promoting integrity, transparency and security in the financial system by means of adopting measures to prevent and counter ML/TF in that system.



The EBA is preparing for the transition to the new AML/CFT framework



The EBA ensures that the lessons learned are handed over to AMLA so that AMLA can start its work on a sound evidence basis



The EBA ensures the continuity of the EU's AML/CFT efforts. Throughout the transition period, the EBA continues to address emerging risks and foster an effective approach to managing common anti-financial crime challenges



The EBA is helping national competent authorities get ready for AMLA



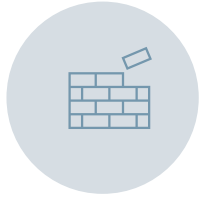
The EBA advises the EC on important aspects of the new AML/CFT regime



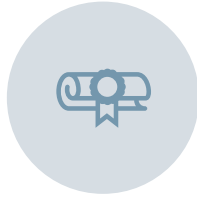
The EC issued a Call for Advice to the EBA

- On 12 March 2024, the EBA received a **Call for Advice (CfA)** from the European Commission (EC) on certain **draft 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)**.
- The CfA includes a mandate under Article 12(7) of the AMLAR on the **risk assessment** for the purpose of selection for direct supervision and a mandate under Article 40(2) of the AMLD6 on the methodology for assessing the inherent and residual risk profile of obliged entities.
- The CfA also includes a mandate under Article 28(1) of the AMLR on **Customer Due Diligence (CDD)** and a mandate under Article 53(10) of the AMLD6 on **pecuniary sanctions, administrative measures and periodic penalty payments**.
- 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**.

The EBA's work on the CfA is guided by five principles



**MAXIMUM
HARMONISATION
ACROSS AUTHORITIES,
MEMBER STATES AND
SECTORS**



**A FOCUS ON EFFECTIVE
OUTCOMES**



**BUILDING ON EXISTING
EBA STANDARDS WHERE
POSSIBLE, WHILST
ALIGNING WITH GLOBAL
AML/CFT BENCHMARKS**



**A PROPORTIONATE, RISK-
BASED APPROACH**



**TECHNOLOGICAL
NEUTRALITY**

Stakeholder engagement is a core element of the EBA's approach

- The EBA works closely with NCAs, the EC, ESMA, EIOPA, AMLA Taskforce, the ECB and AMLA
- Additional stakeholders that are being consulted include:
 - The EBA's Banking Stakeholder Group;
 - Private sector representatives;
 - The EU FIU Platform; and,
 - The European Data Protection Supervisor (EDPS) and the European Data Protection Board (EDPB).
- The EBA organised an industry roundtable on 24 October 2024 to get preliminary views from the different financial sectors

The EBA's response to the CfA will be a report with RTS proposals

A report with four draft RTSs.

- The EBA will provide in this report the options considered and proposed, and its analysis of the consultation responses received.

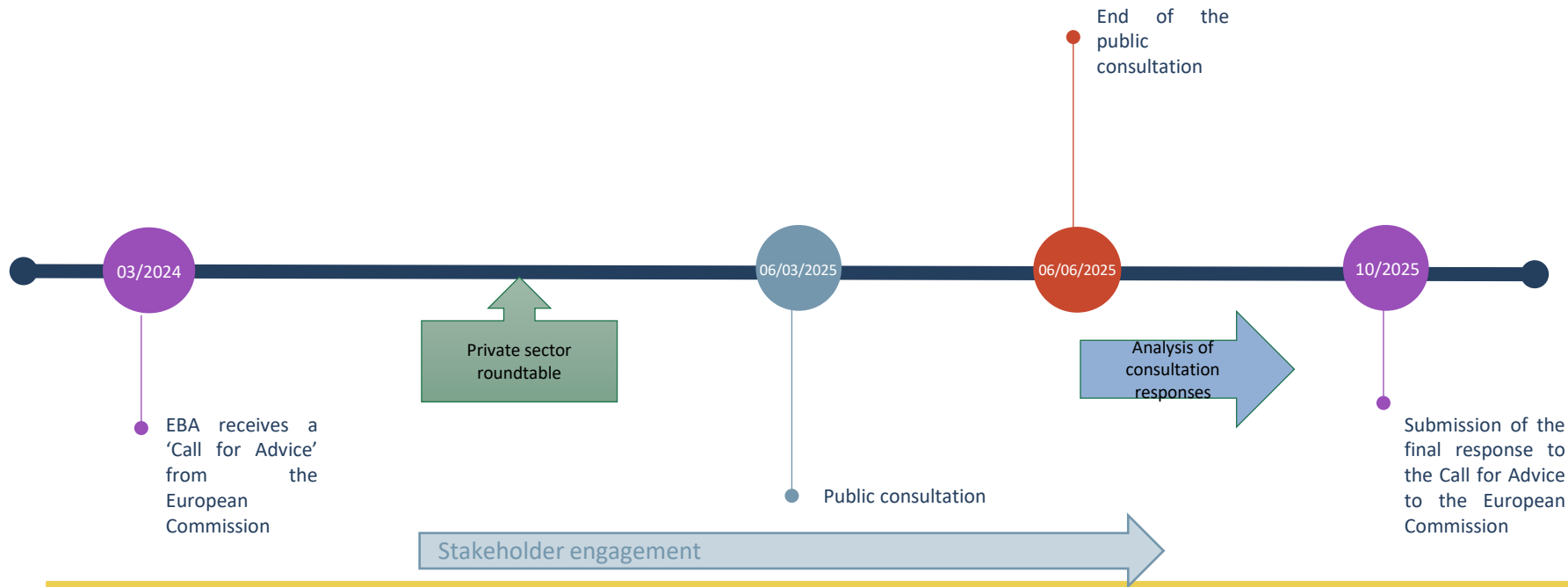
Focus on the financial sector

- In addition, in line with the EC request, the EBA's response will highlight which aspects of the draft RTSs could also be relevant for the **non-financial sector** (DNFBPs)

Optional mandates Article 53(11) of the AMLD6 and Article 16(4) of the AMLR

- Response based on information that already exist or is easy to obtain
- Will not take the form of draft GLS or RTSs, no public consultation.

Milestones





Mandates related to ML/TF risk assessments

Mandates related to ML/TF risk assessments (Article 40(2) of AMLD and Article 12(7) of AMLAR)

Article 40(2) of AMLD

Shall set out: a) the benchmarks and a **methodology for assessing and classifying the inherent and residual risk profile of obliged entities**; and b) the **frequency at which such risk profile shall be reviewed**. Such frequency 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.

Article 12(7) of AMLAR

Shall set out: a) **the minimum activities** to be carried out by a credit or financial institution **under the freedom to provide services**, whether through an infrastructure or remotely, for it to be considered as operating in a Member State other than that where it is established; and (b) **the methodology based on the benchmarks** referred to in paragraph 4 and 4a **for classifying the inherent and the residual risk profile of credit or financial institution or groups** thereof as low, medium, substantial or high.

Mandates related to ML/TF risk assessments (Article 40(2) of AMLD6 and Article 12(7) of AMLAR)



RTS under **Article 40(2)** of the AMLD on the methodology for assessing the inherent and residual risk profile of obliged entities by competent authorities.

- **Inherent risk** will be an **automated score** based on a common algorithm and the following risk categories: (i) customer, (ii) products, services and transactions, (iii) delivery channels and (iv) geographical risk. Sectoral specificities are factored into the model. Obligated entities provide most of the data.
- **Controls** will be assessed through a **combination of an automated score and qualitative information** from supervisors, FIUs and auditors as well as other relevant sources. Consistent judgement is ensured through common criteria and ultimately, AMLA's common supervisory methodology.

Mandates related to ML/TF risk assessments (Article 40(2) of AMLD6 and Article 12(7) of AMLAR)



Both RTSs describe the assessment methodology and the data points that will be needed for the determination of the residual risk of each entity



The response to the CfA will include an interpretive note that lists each data point and how it should be understood for each sector



The thresholds and weights to be used to score and combine the indicators will be determined by AMLA, in cooperation with NCAs. These thresholds and weights may be adjusted after each risk assessment round

Article 40(2) of AMLD6 – additional aspects



Residual risk is based on a combination of inherent risk and controls. Controls should be understood as mitigators.



In principle, the risk profile of obliged entities will be reviewed at least once per year. To ensure proportionality, small, low risk institutions will be reviewed once every three years only.



Where major events or developments in the management and operations of the obliged entities occur, supervisors will be required to assess the impact of such events on the risk profile of the relevant obliged entities ad hoc.

Article 12(7) of AMLAR – additional aspects



Two-step approach for the selection of directly supervised obliged entities:

- Identification of the entities / groups with sufficient geographical presence
- Determination of the residual risk of each entity / group



The methodology under Article 12(7) of AMLAR builds on the methodology under Article 40(2) of AMLD.



The RTS also includes a methodology to aggregate the risk ratings of the different entities comprising the same group. The entities that are exposed to a higher level of ML/TF risks will weigh more in the determination of the group's risk profile



The RTS determines the specific thresholds for the entities operating under free provision of services to be considered under the selection criteria



Mandate on Customer Due Diligence

Mandates related to CDD: Article 28(1) of the AMLR

“By 10 July 2026, AMLA shall develop draft regulatory technical standards and submit them to the EU Commission for adoption. Those draft regulatory technical standards shall specify:

- a) the **requirements** that apply to obliged entities pursuant to Article 20 and the **information to be collected** for the purpose of performing standard, simplified and enhanced customer due diligence pursuant to Articles 22 and 25 and Articles 33(1) and 34(4), including minimum requirements in situations of lower risk;*
- b) the **type of simplified due diligence measures** which obliged entities may apply in situations of lower risk pursuant to Article 33(1), including measures applicable to specific categories of obliged entities and products or services, having regard to the results of the supra-national risk assessment drawn up by the EC pursuant to Article 7 of Directive (EU) 2024/1640;*
- c) 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 under Article 19(7);*
- d) the **reliable and independent sources of information** that may be used to verify the identification data of natural or legal persons for the purposes of Article 22(6) and (7);*
- e) the **list of attributes which electronic identification means and relevant qualified trust services** referred to in Article 22(6), point (b), must feature in order to fulfil the requirements of Article 20(1), points (a) and (b) in the case of standard, simplified and enhanced customer diligence.”*

Mandate related to customer due diligence: the EBA approach (1)

- The RTS aims for maximum convergence and proportionality.
- In line with the five guiding principles, we build, to the extent possible, on existing EBA standards such as the EBA's Risk Factor Guidelines, the EBA Guidelines on remote customer onboarding and the EBA's Guidelines on restrictive measures.
- The RTS follows the structure of the mandate, as defined in Article 28(1) of AMLR and in the text of the AMLR, to the extent possible.
- The RTS takes into consideration the need to preserve 'social and financial inclusion'.
- The RTS adopts a criteria-based approach, where possible, in relation to the type and source of information to be collected.

Mandate related to customer due diligence: the EBA approach (2)

- The RTS is limited to the scope of the mandate in Article 28 of the AMLR. This means that:
 - the RTS will not cover other parts of the AMLR that are not specifically referred to in Article 28 AMLR. For example, the risk assessment (Article 20(2) of the AMLR) will not be covered as part as the mandate. Instead, the assumption is that the risk assessment has already been performed considering that the risk assessment will be covered by the mandate on Guidelines on risk variables and risks factors under Article 20(3) of the AMLR.
 - for enhanced due diligence measures, the RTS will only cover the information obliged entities need to collect pursuant to Article 34(4) of the AMLR.

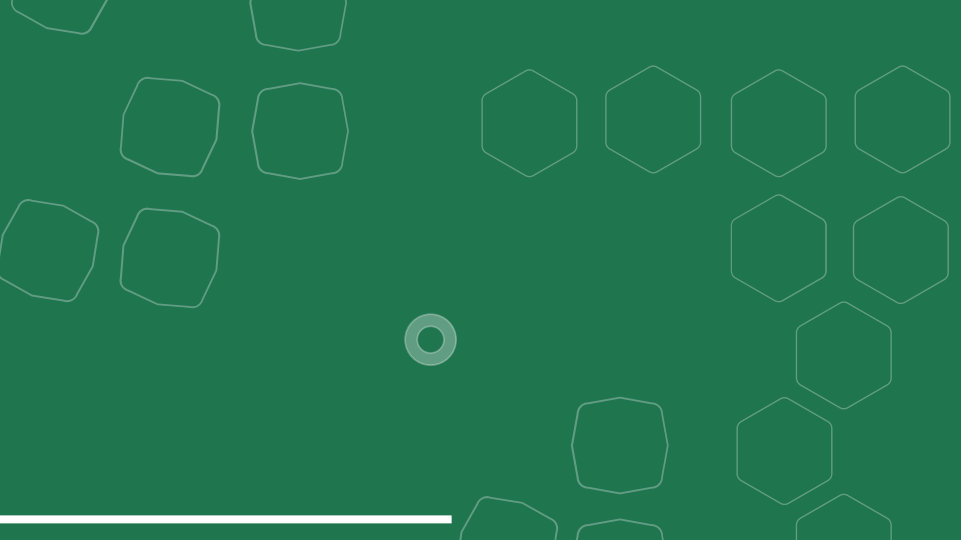
Key questions for the private sector as part of the public consultation

The EBA would particularly welcome evidence-based input from the private sector on certain key elements of the draft RTS:


- **Impact of e-IDAS Regulation** on CDD measures (Article 6 of the draft RTS on CDD)
- CDD measures in the context of **virtual IBANs** (Article 8 of the draft RTS on CDD)
- Definition of the **complex structures** for the purpose of UBO identification (Article 11 of the draft RTS on CDD)

In addition, the EBA encourages the private sector to indicate, as part of the public consultation response:

- if, in your views, specific draft provisions of the RTS on CDD are too detailed or too prescriptive and thus would hinder the application of proportionate risk-based CDD measures (please indicate which Articles, the impact of this provision if it was maintained, and your proposal on how to frame the provision instead).
- if, in your views, any specific sector; financial product and service should benefit from specific SDD measures because they represent lower ML/TF risk and therefore should be added to the draft RTS (similarly to Articles 20 and 21 of the current draft RTS)



**Mandate related
to pecuniary sanctions,
administrative measures and
periodic penalty payments**



Mandate related to pecuniary sanctions, administrative measures and periodic penalty payments : Article 53(10) of the AMLD6

By 10 July 2026, AMLA shall develop draft regulatory technical standards and submit them to the EC for adoption. Those draft regulatory technical standards shall set out:

- (a) the **indicators** to classify the level of gravity of breaches;*
- (b) the **criteria** to be taken into account when setting the level of pecuniary sanctions or applying administrative measures pursuant to this Section;*
- (c) a **methodology** for the imposition of periodic penalty payments pursuant to Article 57, including their frequency.*

Mandate related to pecuniary sanctions, administrative measures and periodic penalty payments

- It draws up a list of indicators and as a second step, it classifies the level of gravity of breaches into 4 categories. The grid concerns all levels of gravity.
- As regards the criteria to be taken into account '*when setting the level of pecuniary sanctions or applying administrative measures*', the term 'level' is understood as amount.
- It provide criteria for the most serious administrative measures listed in Article 56(2) of the AMLD6
- Specific attention given to the natural persons who are not themselves obliged entities (senior management)
- The draft RTS aims to be consistent with the provisions that apply to AMLA where possible.

The aim is to ensure maximum convergence and have a common understanding of what leads to pecuniary sanctions.

Mandate related to pecuniary sanctions, administrative measures and periodic penalty payments




Under AMLD6, supervisors should be able to impose PePPs in cases where obliged entities did not comply with administrative measures stipulated by the AMLD6 (Article 56(2) points b),d),e) and g)).



The draft RTS covers some procedural aspects for imposition of periodic penalty payments, e.g. right of access to file, right of defence, limitation period for the collection of PePPs.



The work on PePP has been inspired by delegated acts already issued by the European Commission.



Questions and Comments

How to respond to the Consultation ?

[Regulatory Technical Standards package on compliance of institutions and supervisors with their AML/CFT obligations | European Banking Authority](#)

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

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- are supported by a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- provide alternative regulatory options for consideration by the EBA.

Responses

Responses to the consultations can be sent to the EBA.

All contributions received will be published after the consultation closes, unless requested otherwise.

Deadline for submitting responses: **06/06/2025 at 23:59**

[Submit response](#)

Thank you!



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