Council of the European Union

Brussels, 29 November 2021
(OR. en)

14331/21

LIMITE

EF 362
ECOFIN 1157
ENFOPOL 468
CT 160
FISC 211
COTER 159
CODEC 1540

Interinstitutional Files:
2021/0239 (COD)
2021/0240 (COD)
2021/0241 (COD)
2021/0250 (COD)

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Presidency progress report on the AML package under the Slovenian Presidency

On 20 July 2021, the Commission adopted the AML Package, which comprises legislative proposals to strengthen the EU's anti-money laundering and countering the financing of terrorism (AML/CFT) rules:

- AML/CFT Regulation (AMLR)[1];
- AML/CFT Directive (AMLD6)[2];
- Regulation establishing a new EU AML/CFT Authority (AMLA)[3];
- Transfer of Funds Regulation revision to trace transfer of crypto-assets (TFR)[4].

[1] Document ST 10286/21.
[2] Document ST 10289/21.
[3] Document ST 10287/21.
[4] Document ST 10290/21.

The Slovenian Presidency launched Council negotiations on the package on 22 July 2021. At the first Council Working Party meeting, the European Commission delivered a comprehensive presentation of the AML package.

On 26 July 2021, ECOFIN ministers held an initial exchange of views on the AML package on the basis of a Commission presentation.

1. An overview of AML Council Working Party meetings

The negotiations on the proposed AML package were structured in seven working party meetings, five of which took place over a day and a half.[5] The single rulebook (AMLR and AMLD6) was typically discussed separately from the AMLA and TFR recast provisions. The Presidency organised the negotiated substance in such a way as to complete the first reading of all the substantive themes from both AMLR and AMLD6 proposals. In parallel, considerable progress was made with respect to the AMLA proposal too. In order to steer the process towards a higher level of overall comprehension by Member States of the complex package and towards some clarity on their positions with regard to the relevant provisions, numerous themes from the proposals were discussed more than once.

The latter is especially true for the Transfer of Funds Regulation recast proposal. Its respective provisions on crypto-asset transfers were discussed three times, with the last two discussions being centered around the Presidency compromise proposals. The two proposals built progressively on the developing Member States' opinions on the issues related to crypto-asset transfers in the context of AML/CFT Regulation.

As the biggest steps in the negotiations on AML/CFT package under the Slovenian Presidency were made with respect to the TFR recast proposal, below the report provides a short account of the work done in that context, after which sections on AMLR, AMLD6 and AMLA follow.

[5] There is an additional, eighth, WP meeting planned for 10 December.

2. Transfer of Funds Regulation revision to trace transfer of crypto-assets (TFR recast)

Concerning the TFR recast proposal, the Slovenian Presidency continues to work on the proposal with the goal of securing a negotiating mandate.

29 September. A majority of Member States expressed support for faster application of the TFR, in accordance with the application timeline of the MiCA Regulation, as opposed to the application of the AML Regulation and Directive. Several Member States also expressed support for the removal of the EUR 1000 threshold linked to the scope of the proposal, whereas some others argued that the threshold should be maintained, both options being allowed under FATF recommendations.

28 October. Member States discussed two different approaches to decouple the TFR recast proposal from the rest of the AML/CFT package. One option seeks to make the TFR self-standing, i.e. by offering a legal basis for Member States to apply certain AML/CFT requirements to crypto-asset service providers (CASPs); a second option seeks to subject crypto-asset service providers – as defined in the MiCA Regulation – to the AML/CFT regime by amending the Directive currently in force. Several Member States supported the latter option, i.e., to subject CASPs to the current AMLD with a view to speeding up the application of the TFR recast proposal and to synchronise it with the MiCA Regulation, whereas others expressed support for the first option. The need for sufficient time to implement the retained option was stressed.

Concerning the EUR 1000 threshold regarding the necessary information that must accompany crypto-asset transfers and the verification obligations by CASPs, the majority of Member States supported lifting this threshold.

Following the discussion on the inclusion of crypto-assets transfers between CASPs and unhosted wallets in the scope of the TFR recast proposal, Member States reflected on whether, for such transfers, CASPs should collect the same information on the originator and beneficiary as for regular CASP-to-CASP transfers. A significant majority of Member States considered that, in line with FATF's latest guidance, CASPs that either receive or send crypto-assets from/to unhosted wallets should collect, as for regular transfers, as much information on the originator and beneficiary as for regular transfers.

25 November. Member States discussed a compromise proposal tabled by the Presidency. Most Member States that intervened expressed appreciation for the compromise text, whereas some considered that some provisions, including the lifting of thresholds, was not justified on the basis of a risk assessment.

3 AML/CFT Regulation (AMLR)

3.1 Single rulebook (AMLR + AMLD6) cross-cutting theme of harmonisation

7 September. Member States expressed general support for harmonizing AML provisions, with proposals for a more granular and proportional legislative approach and for providing the possibility for Member States to maintain a more stringent AML regime for certain high-risk sectors. Some comments reflected concerns regarding the scope of detail that should be included in the Regulation, which is intrinsically linked to the scope of detail left for AMLA to define in Regulatory Technical Standards.

12 October. The discussion focused mainly on the balance struck in the proposed single rulebook between harmonization of rules on the one hand and the (reduced) possibility for Member States to complement EU rules with national measures on the other. Several Member States welcomed the approach proposed by the Commission, while other Member States stressed that existing national measures should remain in place where they provide for stricter requirements than in the Single Rulebook proposal, especially for some high-risk sectors. The EU Council's Conclusions of November 2020, by which a regulation is "[…] *necessary to reduce national divergences in transposition that undermine an effective implementation of the AML/CFT framework, while it should be ensured that the high standard achieved by Member States in their national transpositions is maintained overall"* was referenced in this regard. Some Member States asked for a clearer articulation of home/host supervisors' competences when it comes to agents and distributors offering services in a Member State other than the home or host Member State. A request for clear criteria on when an activity in a host Member State has to be considered as being realised under the right of establishment or under the freedom to provide services has been made as well.

In their further input, Member States broadly welcomed the progress in uniform provisions to be followed by obliged entities EU wide. However, many consider that some elements of the Rulebook should be further harmonised, especially provisions regarding CDD measures, but also outsourcing, beneficial ownership information, internal controls and data sharing were suggested. Some Member States pointed out that the adequacy of harmonisation would be assessable only after the framework at level 2 and level 3 will be completed.

Customer due diligence measures should be harmonised to the largest extent on EU level, yet most Member States are of the view that they should have the possibility to adopt additional measures for enhanced due diligence. In relation to a potential national extension of the list of categories of politically exposed persons (PEPs) Member States seem more divided: some are in favour of such an additional measure to mitigate national risks, whereas some consider an exhaustive PEPs list on EU level to be more appropriate in ensuring a higher level of legal certainty both for PEPs themselves and for the obliged entities who need to perform adequate measures.

Similarly, the list of obliged entities should remain exhaustive in the AMLR in the view of some Member States, and in the view of others it should be subject to a possible extension in order to mitigate national risks. The proposed mechanism for the identification of exposed sectors at national level is viewed by many Member States as too cumbersome and lengthy. Some Member States see it as broadly acceptable with necessary adjustments to ensure timeliness and efficiency in situations when new risks demand an active national response. The Commission's role in the procedure could be determined for only receiving respective national notifications without imposing any "freezing effect" on national initiatives. Further reviews of this provision should provide for clear alignment with relevant FATF recommendations.

Most Member States are of the view that additional sectors of obliged entities, that are added by Member States, could be subject (to parts) of the requirement under AMLR. Some underlined the need for ensuring that the chosen mitigating measures be in accordance with the assessed risk level and still pursue the highest possible convergence. The EU wide harmonised list of obliged entities, as proposed in the AMLR, could, in the view of some Member States, be extended already by certain categories that are subject to their current national AML/CFT framework, however some Member States are not inclined to such an extension. On the matter of including a grandfathering clause covering all sectors subject to current national AML/CFT framework without notifying the Commission, many Member States expressed their support for such a solution.

3.2 Subject matter and definitions (Articles 1, 2)

7 September. Overall, many Member States stressed the importance of maintaining a risk-based-approach. Member States commented on various definitions in the AML Regulation proposal, starting with the definitions of "*money laundering*" and "*terrorist financing*" and "*competent authorities*", where a legal concern has been raised on the reference to "knowledge, intent or purpose" as criminal-law-elements. Several Member States called for additional clarification on the meaning of the phrases "*principal activity to acquire holdings, including a financial holding company and a mixed financial holding company*" and "*investment-related services*". In relation to the definition of a "collective investment undertaking", the issue of the responsibility of the fund itself or its manager was discussed. Some Member States remarked in particular on the omission of the phrase "*other than a company listed on a regulated market that is subject to disclosure requirements in accordance with Union law or subject to equivalent international standards*", which figures in the current Directive from the definition of "*trust and company service provider*".

Concerning new definitions of "crypto assets" and "crypto asset service providers" their relevance in relation to e-money tokens and non-fungible-tokens was questioned, and also for "crowdfunding service providers" some clarifications were sought. A better common understanding of the definitions of "business relationship" and "linked transaction" was also sought.

Concerns on the definition of "correspondent relationships" in relation to the relevant FATF recommendation were also raised, with a need to further examine this issue. Another proposal to clarify the wording by referring to relevant EU directives was tabled. The definitions of "beneficial owners, legal arrangements and formal nominee arrangements" were commented on by Member States, pointing out the necessity of alignment with the relevant FATF standards. Regarding the definition of "politically exposed persons" (PEPs), several Member States raised the questions of whether the list of PEPs is exhaustive or not and whether Member States are allowed to add categories of PEP in their national legislation.

Some Member States expressed a need for more clarity on the definition of cross border services and establishments, having in mind also their influence on cooperation between supervisors. In their comments, Member States further highlighted the difference in supervisory competences when obliged entities operate under the freedom of establishment and freedom to provide services, and a need for more clear provisions on supervisory competences and delineation of tasks between the supervisors of the Home Member State and supervisors of the Host Member State.

Some Member States expressed concern about the definition of "competent authorities" (which, according to the Commission, is to be referred to in the entire AML Package) and on the lack of clarity on the distinction between the competences of the authorities referred to in Article 2.31(c) and (d), including in relation to subsequent forms of cooperation between authorities located in different Member States.

3.3 Scope (list of obliged entities, Articles 3-6)

7 September. The comments from Member States focused mainly on the cash payments threshold and the related categories of obliged entities, specifically high-value goods dealers, and possible additions to the list of obliged entities at the national level. Some clarifications were proposed by some Member States with regard to credit and financial institutions (e.g. tied intermediaries, Account Information Service Providers (AISP), Payment Initiation Service Providers (PISP), money transmitter agents), tax advisors, lawyers, and traders in precious metals and stones. The addition of traders in other high-value goods was also suggested. As regards the definitions of “mortgage creditors, mortgage credit intermediaries, consumer creditors and consumer credit intermediaries”, some Member States proposed that for creditors and credit intermediaries, AML/CFT requirements should apply only if no credit or financial institution was included in the process of granting the loan. In addition, some Member States questioned the rationale for including tied intermediaries in the scope of obliged entities and favoured their exclusion.

Regarding *crypto-asset service providers*, some Member States suggested the inclusion of issuers of asset referenced tokens in the definition in order to avoid a loophole when reading the legislative framework together with MiCA. Several Member States commented on crowdfunding platforms, which points to further discussion on a comprehensive approach (in relation to Regulation 2020/1503). Concerning the exemptions for certain providers of gambling services and for certain financial activities, some Member States sought additional clarification, e.g., on different types of gambling services and on the meaning of partial exemptions.

12 October. Several Member States favoured inclusion of crowdfunding service providers' (CFSP's) in the AMLR list of obliged entities irrespective of whether they fall under the EU CFSPs Regulation, while other Member States suggested postponing the inclusion of providers operating under the EU CFSPs Regulation to 2023. A few Member States supported the Commission's proposal to include credit and mortgage intermediaries that are not credit institutions or financial institutions but that are, as a result of their activities, exposed to money laundering and terrorist financing risks, under the AMLR and some Member States were against this.

Supplementary reflections showed diverging opinions among the Member States on adding additional traders in high-value goods. Some of those proposing inclusion of additional goods would favour broader definitions or having the latter in the level 2 legislation, while others proposed adding several types of vehicles and processed jewellery. Member States expressed very little support for distinguishing explicitly between high- and low-level goods. A significant majority of Member States addressing the question on traders in works of art supported the currently proposed threshold of 10 000 EUR.

The additional input from the Member States confirms that most of them favour the comprehensive inclusion of all CFSPs in AMLR over any other option and would even elect not to wait for the November 2023 assessment by the Commission.

Regarding credit and mortgage intermediaries, most Member States favoured excluding them from the scope of obliged entities under the AMLR proposal.

3.4 Internal policies, controls and procedures of OEs (Articles 7-14)

7 September. Many Member States emphasized the importance of proportionality especially for smaller obliged entities, and some the possibility of establishing higher national standards. Several Member States commented on issues related to the risk of evasion of proliferation-financing-related targeted financial sanctions. Many Member States also commented on the obligation to have an independent audit function. With regard to the different compliance functions in Article 9, some Member States pointed out the need for consideration of the size of the obliged entities and the relations between the different levels of responsibility. Some Member States asked for a reference to sectoral risk assessments and FIU products (e.g. typologies and current methods of money laundering and terrorist financing), when implementing the provision on awareness of requirements. With regard to the integrity of employees, some Member States were of the opinion that the part concerning whistle-blowing should be upgraded into a separate article, and that further additional clarification would be needed on the term *sole trader*, which is not defined. As regards the targeted financial sanctions regime, one Member State made a comment that the legal basis and mechanisms of that regime are different from the AML/CFT regimes and any reference to TFS-mitigating obligations should only reflect the requirements on obliged entities posed by the FATF Framework.

11 November. Most Member States agreed on considering the principle of proportionality when applying the requirement of having internal policies, controls and procedures recorded in writing, but not in the sense of exempting any obliged entities from it. It is widely acknowledged that written internal policies, controls and procedures are of high importance to supervisors. Additionally, the application of an independent audit function and the two compliance functions could be subject to a more proportionate approach for certain obliged entities, based on risk criteria rather than solely size criteria, also considering the nature of the obliged entity's business activity, complexity, and its AML/CFT exposure. The content of internal policies, controls and procedures should be harmonised at EU level, but some leeway could be left to Member States for additional content, providing for a higher standard at national level. The elements which need to be considered in relation to the extent of internal policies, controls and procedures should, in some Member States' view, be included in Level one legislation, whereas other Member States see merit in having them further developed only in Regulatory Technical Standards or even Guidelines. As regards functions within various national corporate governance structures, which differ between Member States, some Member States expressed the need for further clarification. They considered this being important in order for obliged entities to have a clear understanding of how the compliance functions in their individual corporate governance structure relate and intertwine, regardless of the national corporate law provisions. Other Member States opposed this given the very different nature of company law in Member States. Many Member States expressed a positive view on strengthening the position of the compliance officer within an obliged entity, which would have a positive impact on the overall level of compliance. Especially, granting the compliance officer power of access to any relevant information for AML/CFT purposes that is held by the obliged entity, and also preventing binding instructions to the compliance officer in relation to fulfilling reporting obligations to the FIU, were deemed appropriate. Some Member States also expressed concerns on the appointment of a compliance manager who is supposed to be an executive member of the board of directors or equivalent governing body.

3.5 Customer due diligence (CDD)

3.5.1 "Classic" CDD (Articles 15-22)

7 September. Member States generally welcomed the fact that these aspects were harmonized. Some Member States, however, questioned whether, under the Commission proposal, Member States would be able to introduce more stringent CDD rules at national level for specific sectors/entities. Several Member States commented on the threshold for the application of CDD to occasional transactions. Some of these Member States considered that the proposed threshold for the application of CDD to occasional transactions, i.e. EUR 1000, should be omitted for crypto-assets, in accordance with the proposal supported by several Member States to lifting this threshold for crypto-asset transfers under the TFR recast proposal and the opportunity for criminals to carry out anonymous transactions below this limit, eventually yielding a far higher cumulative amount. Others suggested that Member States should have the possibility to apply lower thresholds at national level.

Some Member States raised questions on the proposed rules on the application of CDD in the case of failing or likely-to-fail credit institutions, namely whether CDD has to be applied by the failing bank or another entity, and whether the application of CDD is always necessary, given that payout may not always be carried out. Some Member States suggested that payouts being made to obliged entities subject to the AML/CFT regime could be a more effective option.

With regard to the identification and verification of the customer's identity, the related timing, the identification of the purpose of the business relationship and its ongoing monitoring, Member States were generally supportive of the Commission's proposal. Some Member States, however, questioned the requirement for obliged entities to obtain information about occupation and the tax identification number when identifying the customer. With regard to the identification of legal entities, some Member States considered that the information about activities doesn't seem appropriate.

Some Member States called for additional clarification regarding the use of information from independent and reliable sources for the verification of customers' identities. As for the use of eIDAS-compliant digital identities schemes, some Member States suggested restoring the wording of the current Directive, which allows for the use of equivalent solutions, which are not necessarily notified under the eIDAS Regulation. Other Member States suggested to precise the assurance level of those eIDAS-compliant digital identity schemes in the regulation.

28 October. Regarding the thresholds for the application of customer due diligence in the case of occasional transactions, when crypto-assets are used instead of funds, Member States focused on: (i) whether all crypto-asset services should be subject to the same threshold applicable to occasional *transfers* of crypto-assets (i.e. EUR 1000) and (ii) whether the CDD threshold applicable to occasional transactions involving crypto-assets should be EUR 1000, as prescribed by FATF, or something else.

A significant majority of Member States considered that the EUR 10 000 CDD threshold in Article 15(1) should not apply to crypto services listed in MiCA, wherever a business relationship is not established. Regarding the level of the threshold applicable to occasional transactions involving crypto-assets, some Member States expressed the need for further clarification on the nature of such occasional transactions. Some Member States considered it appropriate to omit this threshold, while others considered it as appropriate to preserve the EUR 1 000 threshold, as allowed by FATFs' recommendation, while not necessarily opposing lowering it.

3.5.2 Third-country policy (Articles 23-26)

11 October. Member States generally welcomed the distinction between third countries with strategic deficiencies (black list) and third countries with compliance weaknesses (grey list), as this was found to better reflect FATF's approach. However, a significant number of Member States expressed criticism of the Commission's proposal to not only embed the FATF lists in EU law but to also keep an autonomous listing power via delegated acts and pushed for an automatic replication of FATF lists (grey and black). Member States also stressed the need to be closely involved in the listing process.

Regarding the existence of two lists and CDD, this allows for better alignment with the two FAFT lists, since it enables lighter and/or more targeted enhanced CDD measures in the case of third countries with compliance weaknesses. However, the option of not applying enhanced CDD should be added as well, since many Member States do not see why the EU should be more stringent than FATF with respect to countries with compliance weaknesses. Concerning the content and process of the listings, many Member States have proposed explicitly referring to FATF as the relevant international standard-setter and pointed out that FATF's decisions to list or delist a country should be implemented automatically or within a specified short timeframe and questioned in this regard the need for an autonomous EU listing of countries, but suggested rather to focus this autonomous power on typologies. In addition, some Member States pointed out that provisions on the ways in which third countries concerned could be removed from the EU's lists should be included. For those countries in favour of an EU's autonomous assessment identifying high-risk third countries, it seemed important to fulfil certain minimum criteria. Many Member States stressed that the autonomous listing process should only apply in exceptional circumstances and on the basis of strict criteria and safeguards, and should be based on an open and objective methodology, transaction and risk typologies. The process should be transparent, inclusive of the affected third countries, and in consultation with, and a sufficient role of Member States.

Regarding countermeasures, many Member States favour a coordinated approach to countermeasures, while some noted that they wanted to keep the possibility to decide freely on countermeasures associated to a listing, in order to keep the risk-based approach. However, in any case, Member States should be involved in the decision-making process on the selection of countermeasures. Some Member States also suggested that if there are specific risks on a national level that are not efficiently covered by the measures in the delegated act, there should be a possibility for Member States to adopt additional enhanced customer due diligence measures.

3.5.3 Simplified customer due diligence (SDD, Article 27)

7 September. Some Member States, considered it important to define what is meant by simplified due diligence, and wished for more clarity on the interplay between SDD and the National Risk Assessments. Questions on some of the proposed simplified customer due diligence measures were raised.

3.5.4 Enhanced customer due diligence (EDD, Article 28-31)

11 October. Member States generally welcomed the Commission's proposal. In the discussions, (i) some Member States argued in favour of applying EDD to all types of establishments (not only to branches and subsidiaries but also to agents or distributors), and (ii) some Member States raised concerns with regard to the possibility for Member States to introduce additional EDD measures, as this could hamper the full harmonization of AML/CFT. Several Member States also proposed clearer wording regarding the provisions on the scope of application of EDD measures. Some Member States expressed the need for more clarity on certain provisions (e.g. "unusually large transactions", "conducted in an unusual pattern", "the transactions do not have an apparent economic or lawful purpose", "and their consistency with the business relationship"). Some Member States pointed out that compliance with group-wide policies and procedures is, in itself, not a sufficient benchmark to be able to assess whether the application of EDD measures is necessary or not. Concerning countermeasures proposed in Article 29, additional clarifications would be welcomed (e.g., on the concept of "persons and legal entities involving high-risk third countries"). More clarifications would also be welcomed with regard to the specific EDD measures for cross-border correspondent relationships, e.g. whether Article 30 covers only correspondence involving the execution of payments or also other acts.

3.5.5 Politically exposed persons (Articles 32-36)

11 October. Some Member States expressed their desire for flexibility to include, on a national level, additional roles to the list of prominent public functions provided in the AMLR proposal or to clarify that the list is non-exhaustive. The question has been raised how to further define the term "state-owned company" in order to ensure that only prominent functions in sufficiently important companies are covered. Regarding requirements applicable to persons who no longer hold prominent public functions, Member States express a need to receive additional clarity about how a former PEP "is deemed to pose no further risk". Concerning the envisaged AMLA guidelines, it would be beneficial and in line with the risk-based approach to identify the level of risk associated with particular categories of PEPs.

3.5.6 Performance by third parties (Articles 38-41)

7 September. Some Member States considered that the prohibition on outsourcing certain activities may be disproportionate, especially for smaller obliged entities, and may negatively impact innovation and effectiveness.

11 November. Given that the scope of the tasks that are not to be outsourced under any circumstances is very wide and some prohibited tasks are new relative to the present directive (AMLR Articles 40(2)), again, a number of Member States questioned the provision in light of the principle of proportionality, especially in the case of small obliged entities, and raised concerns that the provision could hamper the use of digital innovations and effectiveness, and suggested that certain tasks should be deleted from the respective list. A few Member States also raised concerns on the unintended impact that this prohibition might have, notably on investment funds. A few Member States, however, were of the view that the provision is proportionate. According to Article 40(1) of the AMLR proposal, obliged entities may outsource tasks deriving from requirements under this proposal for the purpose of performing CDD to an agent or external service provider. In this regard, many Member States expressed the need to provide additional clarity on the difference between "agent" and "external service provider".

3.6 Beneficial ownership transparency (Articles 42-49)

11 November. Several Member States asked for clarification regarding the condition of more than 25% of shares or voting rights that needs to be met to be considered a beneficial owner, especially in correlation with indirect ownership. A few proposed lowering this threshold. The recalculation of the indirect ownership percentage needed additional explanation. An initial discussion of the new proposed definition and the question of "controls via other means" was discussed. Many Member States shared concerns about various aspects of the current definition of beneficial owners, e.g. the need to adjust the definition of beneficial owner so that it takes into account benefiting from a legal entity or a trust as a relevant factor. Many Member States also shared concerns about the scope of some of the criteria used to determine "control via other means", e.g. they agreed that links with family members in their current form should not be included in this definition. There was general support for the exemption of bodies governed by public law from the obligation of identifying their beneficial ownership. Some Member States opposed the exclusion of companies listed on a regulated market, while some others supported this exemption. Several Member States wanted an explanation on the distinction of legal entities and legal arrangements similar to express trusts and suggested that this should not be identified in an implementing act. Several Member States called for the exemption pertaining to pension funds to be extended to other schemes that have an extremely large number of beneficiaries. Member States' views on the timeframe needed to fulfil the obligation of obtaining the beneficial ownership information diverged. A few Member States expressed the need to lay down an extra obligation of including verification alongside the obligation to maintain data on beneficial ownership. The question of the validity of the provision that allows for the existence of doubt about corporate or legal entities' own beneficial owner was commented on by several Member States. Member States posed several questions regarding senior management and nominee directors. Some Member States raised concerns on the registration of foreign entities which would be very burdensome, difficult to enforce, and would bring limited benefit. Some Member States also expressed concerns regarding the impact the changes from AMLD would have on legal entities and the existing registers and stressed the need that any changes are sufficiently justified from an AML/CFT perspective.

3.7 Reporting obligations (Articles 50-54)

12 November. Many Member States asked for the inclusion of suspicious activities when talking about the obligation to report suspicious transactions. A number of Member States had issues with the deadlines in this section and proposed either not to have precise deadlines or to allow for flexibility to either extend or shorten them. Concerns were also expressed regarding the harmonization of the format of the suspicious transaction and activity reports, which should allow for flexibility in view of different national approaches. There were concerns about transmitting information through self-regulatory bodies because it might lead to a loss of information or cause a delay in reporting. The question of professional confidentiality obligations of certain categories of obliged entities was raised. It was suggested the provisions on legal privilege should allow national legislation to define certain high-risk situations that trigger reporting requirements. There were discussions regarding the issue of prohibition of disclosure. Member States felt that there should be an option for FIUs to allow disclosure in certain cases and at the request of the obliged entities, and that disclosure between obliged entities should not be allowed if the information could endanger investigation of a suspicious transaction or ongoing criminal proceeding. Furthermore, the comments from many Member States addressed the question of exemptions. The need to mirror the exemption for intra-group information sharing to groups with the head office outside the Union was raised. Several Member States noted that the proposal prohibits the exchange of information between obliged entities beyond a situation where the parties share the client and are involved in the same transactions, which some Member States felt needed adjustment also in the light of the Commission's goal not to regulate public-private partnerships.

3.8 Data protection and record retention (Articles 55-57, and AMLD6 Article 53)

12 November. The data protection issues were introduced by the Presidency where Member States were asked about processing of special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and data retention. In their comments Member States expressed very different views. Few were strictly opposed to processing such data, while many Member States thought the opposite and noted that such data is in fact processed, and that in the context of transaction monitoring, it is not possible to avoid it. It was pointed out that specific measures to safeguard the fundamental rights and the interests of the data subjects should already be included in the AMLR proposal. In this regard, some Member States proposed a solution that processing of sensitive data should depend on the purpose of and need for the processing. One option mentioned was to exclude certain categories of personal data, which would not need to be processed in the context of CDD. Regarding data retention, many Member States expressed the need to prolong the retention period from five years to ten. Some of those Member States suggested that the need to prolong the retention period should be determined on a case-by-case basis. Many Member States expressed general support for the possibility of allowing retention of the information in the case of an unsuccessful attempt to establish a business relationship or to make an occasional transaction. A few, however, opposed the idea.

3.9 Anonymous instruments (Articles 58-59)

25 November. Some Member States are of the opinion that the provisions regarding bearer instruments need additional clarifications. Moreover, Member States expressed different views on the proposed limit to large cash payments above EUR 10 000: some Member States advocated for no cash limit at all or leaving the decision on the limits to cash payments to individual Member States, whereas several Member States asked for a lower limit of EUR 5 000. Other Member States indicated that they could accept the proposal of a cash limit of EUR 10 000. After discussion, the working party requested the Legal Service to provide it with a legal opinion on the limits of cash payments. It was also proposed that reports of payments or deposits above the limit sent to the FIU not fall under the scope of a suspicious transaction report. In addition, the necessity of such reporting was questioned by some Member States, while others noted that such threshold-based reporting can provide useful input to the FIU's financial analysis.

4 AML/CFT Directive (AMLD6)

4.1 General provisions (Articles 1-9)

7 September. A suggestion to include an additional article allowing for stricter provisions in national law was made. Some Member States reflected on the implications of the findings of the national risk assessment in terms of differences in the application of rules. Concerning contact points, many Member States saw the need for further improvement of the provision relating notably to CASPs. The need for additional details concerning the corresponding Regulatory Technical Standards and the potential obligations of contact points towards FIUs was mentioned as well.

Some Member States commented on the fit and proper provisions for senior management officials and beneficial owners of certain obliged entities as regards the terminology used, the interaction with prudential authorities, and the powers of supervisors to remove convicted persons.

4.2 Registers (Articles 10-16)

11 November. Regarding beneficial ownership registers, views diverge as to what data should be included in the beneficial ownership register. Several Member States proposed that the current system of minimal data requirements should stay in place and the decision on including additional data in national beneficial ownership registers should be left to Member States. While some Member States propose that the statement of having no beneficial owners should include documentation and a reason, some do not feel the statement is needed at all or question the burden this would place upon legal entities. Many Member States do not support a uniform format for the submission of beneficial ownership information to the central register, while at the same time some Member States asked for clarifications in relation to the format of such statement. Some propose that some elements of required information on senior management should be excluded due to privacy issues. Several Member States propose that the reporting of discrepancies should not be automatic, where some propose clarification on the information to be included. It should be permissible for the obliged entity to inform its customer about the discrepancy in all and not only in low risk cases and for the customer to correct the beneficial ownership information in the beneficial ownership register before reporting discrepancies. Registrars having powers to carry out on-site inspections in order to determine beneficial owners was questioned by several Member States as well as the empowerment of imposing sanctions by the entity in charge of the register because investigation and sanctions are competences of supervisory, law enforcement or other competent authorities. Also, many Member States already have existing administrative systems that are not compatible with this provision. Some Member States desire more freedom regarding fees for access to the beneficial ownership registers by obliged entities. The suggestion was made of adding a provision that obliged entities should not rely exclusively on the beneficial ownership register to fulfil their customer due diligence requirements. Several Member States want to keep the possibility allowed by the Directive currently in the force to have wider public access to the information on trusts and similar legal arrangements held in the register in accordance with their national law.

Concerning bank account registers and electronic data retrieval systems, several Member States made proposals for specific legal entities or information to be added to or excluded from the bank account register. Because of the very different structures of existing bank account registers, the discussion of several issues regarding interconnection and centralised automated mechanism via the bank account registers such as the timeline, cost, development of single access point and responsibilities was warranted. There is a general agreement on the provision granting national FIUs direct access to the register, but some Member States suggested that information should only be available on request and that searches of bank account information should be performed only on a case-by-case basis. Clarifications were requested in relation to provisions on access to information on real estate, including via land or cadastral registers.

4.3 FIUs (Articles 17-28)

12 November. Many Member States commented on the provisions on Financial Intelligence Units (FIUs) and provided suggestions or drafting proposals. In relation to the powers and obligations of FIUs, it was pointed out that the core of FIUs' operational analyses does not necessarily deal only with suspicious transactions, but rather with suspicious activities in general. In addition, the principle of operational independence and autonomy is a precondition for FIUs to follow a risk-based approach in implementing their tasks. This principle must be fully respected in relation to the tasks AMLA performs in its FIU composition.

Many Member States raised concerns with regard to the appropriateness of the scope of information the FIUs have access to. While some are of the opinion that the information should be kept as broad as possible, including all possible relevant data, others see the need for a precise and exhaustive provision.

In relation to the broadened obligation for FIUs to respond to requests for information, the issue of interaction between this provision and Directive (EU) 2019/1153 was pointed out. Some Member States see the need to further improve the provision on the explicit obligation to respond to a request in a timely manner, given the diversity of situations and the information which an FIU may already possess or not, with the aim to guarantee the effective use of FIU resources and to ensure that the provision does not hinder operational activities or independence. Some Member States suggested that the timeframe should be defined by the FIU on a case-by-case basis.

Most Member States expressed major concerns regarding the current proposal on the power of suspension or withholding of consent to a transaction and suspension of an account, especially for instant payments. Furthermore, freezing powers may need to be broadened in order to explicitly include the power of FIUs to freeze assets stored in crypto wallets and any other assets. The prevailing view is that the flexibility on time limits for suspension orders is insufficient, both in terms of the limit of 48 hours after receiving a suspicious transaction report and in terms of the maximum suspension period. Many Member States were also of the view that a suspicious transaction report should not be a precondition to exercising this power of suspension. Instant payments, which are occupying an increasingly large place in the payment systems, add another dimension to the time limits. Many Member States were of the view that such a development in the legal framework would lower the achieved standard. In addition to that, the obligatory inclusion of judicial authorities in relation to FIU tasks, with the requirement for there to be an effective possibility to challenge suspension orders on bank accounts, before a court, does not seem fit and appropriate, given internationally established standards on the work of FIUs.

4.4 Anti-money laundering supervision (Articles 29-44)

12 October. The discussion on cooperation between supervisors focused on (i) the scope of supervision, (ii) the delineation of competences, and (iii) the definition of the term "group". Most Member States were of the opinion that if there is free provision of services without any kind of establishment in the Host Member State, the supervisor of the Home Member State should have all the supervisory powers, while the supervisor in the Host Member State should have no powers or powers limited only to cooperation. In this regard, the possibility for participation of supervisors from the Host Member State in supervisory colleges received support from the majority of Member States, but limited to this being an option, not an obligation or subject to the approval of the lead supervisor. The need of having clear and harmonised criteria on when an activity in a host Member State has to be considered as being realised under the right of establishment or under the freedom to provide services was also emphasised, especially when agents and distributors are involved.

Many Member States also considered that the definition of the group should only entail undertakings that are obliged entities themselves. Some Member States also suggested that the level of participation of the undertaking falling under the definition of the group should be limited to controlling influence.

In order to strengthen the cooperation between supervisors in a Home Member State and Host Member State when cross border services are provided throughout the group, Member States expressed diverging views on whether legal grounds for additional measures such as prior notifications, information sharing, opinions, and joint decisions, should be set up and whether these should be set out in level 1 or level 2 legislation. Some Member States also expressed the need to lay down more specific rules on cooperation between supervisors when the group includes credit and financial institutions, while others thought that no such division of provisions is needed.

25 November. Some Member States proposed that targeted financial sanctions be narrowed to targeted financial sanctions related to proliferation financing. Suggestions to align the investigation and supervisory powers and tasks of AMLA and national competent authorities were expressed. Some Member States expressed the need to insert a specific provision on the obligation of obliged entities to comply with any additional requirements based on AMLR and AMLD that are set out in national legislation. Some Member States asked for additional potential power to be granted to supervisor, for them to be able to require for the assessment of their status of obliged entities of natural or legal persons . Member States desired clearer provisions regarding the obligation of supervisors to make information on money laundering and terrorist financing available to obliged entities (e.g. whose duty this is, what the frequency of providing the information is, what means are appropriate), so there would be no duplication of notifications required by the prudential frameworks. Some Member States opposed removing the territoriality principle embedded in the current AMLD and proposed referencing this principle explicitly.

Some Member States expressed strong concerns about subjecting self-regulatory bodies, especially of lawyers and notaries, to oversight by a public authority. Other Member States suggested that this oversight should be limited to legal oversight, therefore excluding oversight of the adequacy and single case instructions to self-regulating bodies, so it does not interfere with the discretion exercised by the self-regulatory bodies and their independent status.

Some Member States expressed concerns about the lack of discretion of national competent authorities in imposing administrative sanctions where breaches of the relevant provisions are serious. Other Member States, however, support greater harmonisation of sanctions regime. It was suggested that a consistent enforcement mechanism could be achieved by providing all authorities with the same sanctioning powers and with the possibility to use the same sanctions so that the sanctioning regime provided for under AMLD and AMLA would be mutually consistent. It was also proposed to make it clear that administrative measures could be imposed together with administrative sanctions and that criminal sanctions would have priority over administrative sanctions. Some Member States were of the opinion that the measure of withdrawal or suspension of an authorization seems disproportionate when no serious breaches were made. Some Member States also requested clarity on what breaches and circumstances can trigger the application of this measure.

Regarding whistle-blowing protection, it was suggested to make its scope broader.

4.5 Cooperation (Articles 45-52)

26 November. Member States' comments show the need for further clarifications and clearer wording, especially with regard to cooperation in relation to credit institutions. It was pointed out that cooperation should cover not only credit institutions but also the authorities competent for the prudential supervision of financial institutions (e.g. payment institutions and electronic money institutions). Some Member States stressed that cooperation and information exchange must not impinge on either an ongoing inquiry, investigation or proceedings in accordance with the criminal or administrative law of the Member States or the financial intelligence analyses the inclusion of which some Member States also considered being necessary.

If financial supervisors find that a credit institution has refused to enter into a business relationship but the documented CDD does not justify such refusal, they must inform the authority responsible for ensuring compliance by that institution with Directive (EU) 2014/92 or Directive (EU) 2015/2366. Several comments and suggestions for further clarifications, especially with regard to the purpose of the notification in the context of the mentioned directives, were made. It was suggested that, in order to facilitate and promote effective cooperation, and in particular, the exchange of information, Member States must communicate to the Commission and AMLA certain data, including the details of the contact person. There were suggestions that a "contact point" rather than "contact person" should be required, which would also reduce the updating requirements.

With regard to the envisaged guidelines on AML/CFT cooperation, it was proposed that besides the ECB, the European Supervisory Authorities, Europol, Eurojust, and the European Public Prosecutor's Office, the National Competent Authorities too should be heard and have the possibility to comment on draft guidelines draft before they are issued. Some concerns were also expressed about the obligation imposed on financial supervisors and FIU's to report on a yearly basis to AMLA on their cooperation with other authorities. It was stressed that such an obligation could create additional administrative burden.

5 Regulation establishing a new EU AML/CFT Authority (AMLA)

5.1 Establishment, legal status and definitions (Articles 1-3)

28 September. Member States made several comments aiming at consistency and coherence of terminology and definitions across the different legislative proposals in this AML package and the EU legislative framework. It is deemed necessary to ensure a clear and uniform understanding of wording and definitions (e.g., “selected obliged entities”, “non-AML/CFT authority”, “at highest level of consolidation in the Union”), and to adequately clarify the scope of AMLA, specifically regarding targeted financial sanctions which are outside the scope of AMLA. Some Member States pointed out the fact that AMLA would have two distinct areas of competence, i.e., the supervisory and the FIU-related, represented by a single legal entity. The adaptation of this design to the specific tasks in both areas might therefore be further discussed in the context of the discussion on governance structure.

5.2 Tasks and powers, and AML/CFT supervisory system (Articles 5-11)

28 September. Concerning AMLA's tasks, many Member States pointed out a need for clarification and/or rephrasing of the wording (e.g., in relation to cross-border activities). AMLA's tasks in relation to the monitoring and implementation of asset freezing need additional context and clarification. Some Member States are of the view that the division of responsibilities between AMLA and national supervisors is not sufficiently clear when it comes to concrete situations in the area of direct supervision. There are different views on whether the tasks in the Regulation threaten to overburden AMLA, or whether additional tasks and references to Regulatory Technical Standards should be added, also in relation to the task of establishing a central database. As regards the scope of obliged entities, some Member States prefer AMLA's main focus to be on the financial sector, whereas others see the need for more explicit inclusion of obliged entities from the non-financial sector within AMLA's activities. Many Member States made suggestions on the provisions on AMLA's powers. Providing for a clear limitation on the information that AMLA may obtain was proposed by some Member States. Some Member States were concerned by AMLA's power to issue binding instructions to national supervisors on measures towards non-selected obliged entities while others considered the proposed powers as appropriate to ensuring the convergence of practices. Concerns were expressed on AMLA's power of accessing and processing information provided by FIUs as well as its power to request information from them, specifically on whether this would also include operational information and the production of additional analyses, or only already available strategic analyses (in line with AMLA's tasks). Within the supervisory system, Member States see AMLA as an important stakeholder that needs clear competences, unlimited exchange of information with national supervisors, and full legal certainty and due process in conducting its procedures. Some Member States pointed out the need for AMLA to address similar risks in the same way. A few Member States expressed strong concerns about AMLA's tasks of overseeing the non-financial sector, with one Member State specifically referring to the independence of legal professionals and the separation of powers.

28 October. A number of Member States generally agreed on the need for joint or coordinated thematic review exercises, while others did not regard them as necessary. Some Member States believe that planning and coordinating thematic reviews are not among AMLA's core tasks. At the same time, many Member States would prefer a more flexible timing on providing input which is needed for effective planning of joint or coordinated exercises by national supervisory authorities (e.g., timing towards the end of the calendar year), and question the need of transmitting annual supervisory programmes to that purpose. These Member States suggest streamlining the exercise of planning joint or coordinated thematic reviews by enabling AMLA to provide a structured format for the delivery of needed input (relating exclusively to relevant supervisory exercises and not entire supervisory planning), to be as efficient as possible both on AMLA's side and on the national supervisory authorities' side.

Regarding the Central AML/CFT database, many Member States see merit in it, but wish to obtain more clarity on the type of data to be collected, to avoid duplication and avoid undue burden on reporting authorities. A few Member States also questioned whether the transmission of information in the non-financial sector should not be limited, since the envisaged role for AMLA is smaller in this sector. Many Member States also pointed out that the implementation of the provision should be conducted in a cost-effective manner, focusing on most relevant supervisory outcomes and possibly making use of appropriate technology and/or structured questionnaires, while remaining proportionate to the need of collecting most relevant information. Most Member States expressed their view that in the set-up of this database, AMLA should build on EBA's experience, having all general provisions adopted in level one legislation, while leaving room for additional clarifications in level two legislation. Some Member States supported a possible invitation of EBA to participate in the discussions on issues presently under EBA's responsibility.

With respect to possible breaches of the non-bis-in-idem principle, most Member States raised no concerns.

5.3 Direct supervision of selected OEs

5.3.1 Selection and criteria (Articles 12-13)

28 September. A significant number of Member States expressed concerns about the proposed selection criteria, highlighting the need to ensure that risky entities are assessed for AMLA's direct supervision regardless of either their size or the level of their cross-border activities. Nevertheless, the views on the latter differed to some degree. While some Member States do not consider the level of cross-border activities being a risk factor *per se*, some other Member States are of the opinion that the level of cross-border activities would be an important criterion for direct supervision, but question the current implementation. Many Member States considered it appropriate to broaden the scope of entities eligible for AMLA's direct supervision, and in this connection mentioned in particular crypto-asset service providers. Several Member States also proposed modifying the criteria with a view to ensuring that AMLA directly supervises at least one obliged entity established in every Member State. Nevertheless, arguments that the selection criteria should be risk-driven and not based on geographical factors were also expressed by other Member States.

Member States also considered it undesirable to rely on the history of past public investigations for the purpose of assessing whether an obliged entity should fall under AMLA's direct supervision. Some Member States suggested that the selection criteria should also take into account residual risk profile, rather than solely inherent risk, as proposed by the Commission. There were calls from a number of Member States for further clarification on the need for distinction between the establishment and the free provision of services, and between credit institutions and other financial entities, which were the basis for differentiated criteria for both assessment and selection of obliged entities for direct supervision.

28 October. Based on the additional input provided, with the exemption of the supported inclusion of CASPs, a large majority of Member States supports the direction of the currently proposed scope of obliged entities to be assessed for direct supervision, while calling for a preliminary calculation of the number of groups that meet these criteria. A few Member States would favour gradual expansion into the non-financial sector. A significant number of Member States supports the envisioned selection criteria based on complexity and high degree of risk across multiple EU jurisdictions but there are some calls to concentrate less on the geographic factors such as establishment in a Member State, and more on other risk drivers, as well as to gradually revise the applied methodology when there is a greater degree of harmonisation achieved in ML/TF supervisory risk assessment. The opinions on using past investigations as a criterion for selection of credit institutions diverge, but many Member States criticised it as being too backward looking and nonconclusive, as that may mainly reflect differences in the efficiency of different national supervisors. A significant number of Member States agree that risk bracketing should be performed using a common methodology per type of entity and per jurisdiction. A few Member States also suggested for the entity-level analysis to be supplemented by a group-wide risk assessment. If the methodology is harmonised, the identity of the authority that does the risk bracketing is not of the highest importance if AMLA can verify/challenge it. Based on the further input by the Member States, the one-obliged-entity-per-member-state criterion proposed by some Member States was opposed by several other Member States.

Currently, there is only limited agreement on the appropriateness of the obliged entities to be directly supervised. Several Member States reiterated the desire to conduct a case study providing an estimate of the number of directly supervised entities under the proposed criteria to enable a more informed discussion. Member States' opinions on the proposed high-risk threshold numbers are inconclusive. Most Member States favour inclusion of "free provision of service", i.e., the inclusion of credit/financial institutions that provide cross-border services without physical establishment among the criteria. To complement the latter, there are some suggestions to use some additional criteria, e.g. the level of assets and the number of non-resident customers.

Regarding the inherent-versus-residual-risk debate, many Member States would prefer to use the residual risk as the selection criterion but understand the constraints in deriving it, hence there are proposals to make the transition to the latter gradually – as supervisory methodologies achieve necessary degree of convergence and AMLA gains experience in supervision. Even the Member States that do not propose any particular amendment of the criteria would, in general, support revising the selection criteria and process in subsequent selection rounds.

5.3.2 Cooperation, joint supervisory teams, and supervisory powers (Articles 14-20)

29 October. In relation to Joint supervisory teams (JST), most Member States expressed the need for clarification on the relevant concepts, especially when deciding on the team's composition in cases of groups, or with respect to the implications of the delegation of the JST coordinator to the National Competent Authority. Many Member States would welcome practical and conceptual guidance regarding the work of JSTs. Some views differ on the question of staffing, namely whether the main input of the JST's staff should be from AMLA or the national supervisory authority.

In relation to AMLA's power to request information, several Member States asked for additional clarification on the concept of "persons belonging to obliged entities", with some expressing the concern about whether this notion from the SSMR context is broad enough for AMLA to function effectively. On AMLA's general investigation powers and on-site inspections, many Member States see room to improve the clarity of the wording, possibly align it with the EBA AML regulatory wording and potentially tailor it better to the nature of AML/CFT supervision or also providing for dedicated supervisory teams for on-site inspections.

AMLA's supervisory powers triggered questions and requests for clarification from several Member States, e.g. the power to instruct national supervisory authorities to make use of the powers granted by national law but not available to the Authority.

5.3.3 Sanctions and language regime (Articles 21-27)

29 October. Some Member States considered the Commission's proposal too restrictive and circumscribing the discretion of the Authority too much, and/or argued that AMLA should factor in further criteria when imposing either administrative measures or sanctions and that AMLA should have more leeway in determining the level of the sanction, both at the minimum and maximum end. Member States also called for alignment of the methodology for assessing the breaches and issuing pecuniary sanctions by AMLA towards directly supervised entities and by national authorities towards other obliged entities. Some Member States also expressed concerns about AMLA's language regime, asking whether it implies that either national authorities or obliged entities would be barred from using their national languages if they so desire.

5.4 Indirect supervision of non-selected obliged entities (Articles 28-30)

26 November. In relation to indirect supervision of non-selected obliged entities, the importance of the principles of proportionality and subsidiarity, especially regarding AMLA's step-in powers, which several Member States support, has been pointed out. Furthermore, it was stated that the interplay between AMLA and national supervisory authorities when working in a field of shared competencies, including in relation to reviews, needed additional clarification. An important role is given to AMLA with the step-in power. Although mainly perceived as an institute not likely to be used often, the roles of all stakeholders need to be adequately clarified and streamlined to avoid a too cumbersome procedure. Some Member States proposed including CASPs in this process and that AMLA could step-in also upon request of the financial supervisor, as foreseen for the ECB in the SSM regulation.

5.5 Oversight of non-financial sector (Articles 31, 32)

28 September. Member States expressed diverging views on the scope of AMLA's powers regarding coordination of supervision in the non-financial sector, with some Member States suggesting these were too broad, as opposed to others that considered that the Commission's proposal is too limited in this regard.

28 October. The scope of AMLA's tasks in relation to the financial sector vis-à-vis the non-financial sector has been subject to divergent views by Member States. While some Member States, from a subsidiarity principle point of view, favour a coordination and supervisory convergence-focused role for AMLA for the non-financial sector, a few other Member States see the need for a more committed approach and more comprehensive inclusion of the non-financial sector. Some Member States have raised the fact that powers vis-à-vis the supervisory authorities of self-regulatory bodies, as well as the supervision mechanism provided for in Article 38 of the AMLD, could affect the independence of legal professionals (e.g. lawyers, tax advisors, auditors). Other considered that this could increase the efficiency of self-regulation. Several Member States supported a possible staged approach, whereby AMLA would initially focus on the financial sector, and gradually include more and more of the non-financial sector in its tasks. As already stated before, a significant number of Member States pointed out that CASPs should be included for direct supervision by AMLA, considering crypto assets to be comparable in risk to the financial sector and well suited for direct supervision due to the fact that they are well established in EU law.

Some Member States added that peer reviews in the non-financial sector may not be necessary, given AMLA's primary focus on the financial sector.

5.6 FIUs support and coordination mechanism (Articles 33-37)

26 November. The FIUs support and coordination mechanism is important in enhancing cooperation between FIUs and the effectiveness of their work, while ensuring the principle of operational independence and autonomy. To this end, some Member States underlined that cases eligible for joint analyses need to be adequately identified, planned, and prioritized. It was suggested that the roles within joint analysis teams and AMLA's roles in those teams should be further clarified in order to streamline the process, as well as the proposed deadlines as a one-size-fits-all approach is not appropriate, particularly when it comes to urgent situations. The obligations related to accessing and sharing of information need to ensure appropriate alignment with the principle of ensuring confidentiality and data protection. The provisions on the position of national FIU delegates within the mechanism should be clarified to provide for a clear understanding of the hierarchy in relation to AMLA staff. Some Member States underlined that the General Board in FIU composition should be able to determine the rights and obligations of the FIU delegates in relation to AMLA rather than the executive board. Delegations also inquired as to who will draft and prepare the methods and procedures for the conducting of joint analyses.