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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 - Letter to the Chair of the European Parliament Committee on Economic and Monetary Affairs

Following the Permanent Representatives' Committee meeting of 14 February 2024 which endorsed the final compromise texts with a view to agreement, delegations are informed that the Presidency has sent the attached letter, together with its Annexes, to the Chair of the European Parliament Committee on Economic and Monetary Affairs.

Council of the European Union
General Secretariat

SGS 24 / 000874

Ms Irene TINAGLI
Chair of the Committee on Economic and Monetary Affairs
European Parliament
Rue Wiertz 60
B-1047 Brussels

Brussels, 14. 02. 2024

Subject: Proposal for a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

Proposal for a Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010

Proposal for a Directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849

Dear Ms TINAGLI,

Following the informal negotiations on these proposals between the representatives of the three institutions, today the Permanent Representatives Committee agreed with the final compromise text (with the exception of the location of the seat in Article 4 on the AMLA Regulation).

I am therefore now in a position to inform you that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the exact form of the texts set out in the Annex to this letter (with the addition of the location of the seat in Article 4 on the AMLA Regulation for which an agreement must still be reached and subject to revision by the lawyer-linguists of the two institutions), the Council, in accordance with Article 294(4) TFEU, will approve the European Parliament's position and the acts shall be adopted in the wording which corresponds to the position of the European Parliament.

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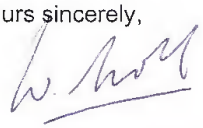
On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this file at first reading.

Yours sincerely,



Willem van de VOORDE
Chair of the
Permanent Representatives Committee

Copy: Ms Mairéad McGUINNESS, Commissioner
Ms Eva Maria POPTCHEVA, European Parliament Rapporteur
Mr Emil RADEV, European Parliament Rapporteur

2021/0239 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Directive (EU) 2015/849 of the European Parliament and of the Council[3] constitutes the main legal instrument for the prevention of the use of the Union financial system for the purposes of money laundering and terrorist financing. That Directive sets out a comprehensive legal framework, which Directive (EU) 2018/843 of the European Parliament and the Council[4] further strengthened by addressing emerging risks and increasing transparency of beneficial ownership. Notwithstanding its achievements, experience has shown that further improvements should be introduced to adequately mitigate risks and to effectively detect criminal attempts to misuse the Union financial system for criminal purposes.

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1 OJ C [...], [...], p. [...].

2 OJ C , , p. .

3 Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

4 Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

(2) The main challenge identified in respect to the application of the provisions of Directive (EU) 2015/849 laying down obligations for private sector actors, the so-called obliged entities, is the lack of direct applicability of those rules and a fragmentation of the approach along national lines. Whereas those rules have existed and evolved over three decades, they are still implemented in a manner not fully consistent with the requirements of an integrated internal market. Therefore, it is necessary that rules on matters currently covered in Directive (EU) 2015/849 which may be directly applicable by the obliged entities concerned are addressed in ▌ ***this*** Regulation in order to achieve the desired uniformity of application.

(3) This new instrument is part of a comprehensive package aiming at strengthening the Union's AML/CFT framework. Together, this instrument, Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] and Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final] will form the legal framework governing the AML/CFT requirements to be met by obliged entities and underpinning the Union's AML/CFT institutional framework, including the establishment of an Authority for anti-money laundering and countering the financing of terrorism ('AMLA').

(4) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted at Union level, without taking into account international coordination and cooperation, would have very limited effect. The measures adopted by the Union in that field should therefore be compatible with, and at least as stringent as actions undertaken at international level. Union action should continue to take particular account of the Financial Action Task Force (FATF) Recommendations and instruments of other international bodies active in the fight against money laundering and terrorist financing. With a view to reinforcing the efficacy of the fight against money laundering and terrorist financing, the relevant Union legal acts should, where appropriate, be aligned with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the FATF in February 2012 (the 'revised FATF Recommendations') and the subsequent amendments to such standards.

(5) Since the adoption of Directive (EU) 2015/849, recent developments in the Union's criminal law framework have contributed to strengthening the prevention and fight against money laundering, its predicate offences and terrorist financing. Directive (EU) 2018/1673 of the European Parliament and of the Council[5] has led to a common understanding of the money laundering crime and its predicate offences. Directive (EU) 2017/1371 of the European Parliament and of the Council[6] defined financial crimes affecting the Union's financial interest, which should also be considered predicate offences to money laundering. Directive (EU) 2017/541 of the European Parliament and of the Council[7] has achieved a common understanding of the crime of terrorist financing. As those concepts are now clarified in Union criminal law, it is no longer needed for the Union's AML/CFT rules to define money laundering, its predicate offences or terrorist financing. Instead, the Union's AML/CFT framework should be fully coherent with the Union's criminal law framework.

(5a) The harmonisation in the area of criminal law enables a strong and coherent approach at Union level to the prevention of and fight against money laundering and its predicate offences, including corruption. At the same time, such an approach ensures that Member States that have adopted a broader approach to the definition of criminal activities which constitute predicate offences for money laundering can continue doing so. For this reason, in line with Directive (EU) 2018/1673, any kind of punishable involvement in the commission of a predicate offence as criminalised in accordance with national law should also be considered as a criminal activity for the purposes of that Directive and of this Regulation.

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5 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

6 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

7 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

(6) Technology keeps evolving, offering opportunities to the private sector to develop new products and systems to exchange funds or value. While this is a positive phenomenon, it may generate new money laundering and terrorist financing risks, as criminals continuously manage to find ways to exploit vulnerabilities in order to hide and move illicit funds around the world. Crypto-assets service providers and crowdfunding platforms are exposed to the misuse of new channels for the movement of illicit money and are well placed to detect such movements and mitigate risks. The scope of Union legislation should therefore be expanded to cover these entities, in line with the recent developments in FATF standards in relation to crypto-assets. ***At the same time, advances in innovation, such as the development of the metaverse, provide new avenues for the perpetration of crimes and for the laundering of their proceeds. It is therefore important to exercise vigilance as regards the risks associated with the provision of innovative products or services, whether at Union or national level, or at the level of obliged entities.***

(7) The institutions and persons covered by this Regulation play a crucial role as gatekeepers of the Union's financial system and should therefore take all necessary measures necessary to implement the requirements of this Regulation with a view to preventing criminals from laundering the proceeds of their illegal activities or from financing terrorist activities. Measures should also be put in the place to mitigate any risk of non-implementation or evasion of targeted financial sanctions.

(7a) The definition of an insurance intermediary under Directive (EU) 2016/97 covers a broad range of natural or legal persons that take up or pursue the activity of insurance distribution. Some insurance intermediaries may take up insurance distribution activities under the full responsibility of insurance undertakings or intermediaries and carry out activities subject to their policies and procedures. Where these intermediaries do not collect premia or amounts intended for the customer, the policy holder or the beneficiary of the insurance policy, they are not in a position to conduct meaningful due diligence or to detect and report suspicious transactions. In view of this limited role and of the fact that full application of AML/CFT requirements is ensured by the insurance undertakings or intermediaries under whose responsibility they provide services, intermediaries that do not handle funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 should not be considered obliged entities for the purposes of this Regulation.

(7b) Holding companies that carry out mixed activities and the subsidiaries of which include at least one obliged entity should themselves be included as obliged entities in the scope of this Regulation. To ensure consistent supervision by financial supervisors, in the case that the subsidiaries of a mixed activity holding company include at least one credit institution or financial institution, the holding company itself should also qualify as financial institution.

(8) Financial transactions can also take place within the same group as way of managing group finances. However, such transactions are not undertaken vis-à-vis customers and do not require the application of AML/CFT measures. In order to ensure legal certainty, it is necessary to recognise that this Regulation does not apply to financial activities or other financial services which are provided by members of a group to other members of that group.

(9) Independent legal professionals should be subject to this Regulation when participating in financial or corporate transactions, including when providing tax advice, where there is the risk of the services provided by those legal professionals being misused for the purpose of laundering the proceeds of criminal activity or for the purpose of terrorist financing. There should, however, be exemptions from any obligation to report information obtained before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client, which should be covered by the legal privilege. Therefore, legal advice should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in money laundering or terrorist financing, the legal advice is provided for the purposes of money laundering or terrorist financing, or where the legal professional knows that the client is seeking legal advice for the purposes of money laundering or terrorist financing. ***Knowledge and purpose can be inferred from objective, factual circumstances. As legal advice may already be sought at the stage of perpetrating the proceeds-generating criminal offence, it is important that cases excluded from the legal privilege extend to situations where the advice is provided in the context of the predicate offences. Legal advice sought in relation to ongoing judicial proceedings should not be deemed to constitute legal advice for the purposes of money laundering or terrorist financing.***

(10) In order to ensure respect for the rights guaranteed by the Charter of Fundamental Rights of the European Union (the 'Charter'), in the case of auditors, external accountants and tax advisors, who, in some Member States, are entitled to defend or represent a client in the context of judicial proceedings or to ascertain a client's legal position, the information they obtain in the performance of those tasks should not be subject to reporting obligations. ***However, the same exceptions that apply to lawyers and notaries should also apply to those professionals where acting in the exercise of the right of defence or ascertaining the legal position of a client.***

(11) Directive (EU) 2018/843 was the first legal instrument to address the risks of money laundering and terrorist financing posed by crypto-assets in the Union. It extended the scope of the AML/CFT framework to two types of ▌ ***crypto-asset service*** providers: providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers. Due to rapid technological developments and the advancement in FATF standards, it is necessary to review this approach. A first step to complete and update the Union legal framework has been achieved with Regulation ***[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]***, which set requirements for crypto-asset service providers wishing to apply for an authorisation to provide their services in the single market. It also introduced a definition of crypto-assets and crypto-assets services providers encompassing a broader range of activities. Crypto-asset service providers covered by Regulation [please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final] should also be covered by this Regulation, to mitigate any risk of misuse of crypto-assets for money laundering or terrorist financing purposes.

(11a) The creation of markets in unique and non-fungible crypto-assets is still recent and has not resulted in legislation regulating their functioning. The evolution of these markets is being monitored and it is important that it does not result in new money laundering and terrorist financing risks that would not be properly mitigated. By 30 December 2024 the Commission will present a report to the European Parliament and the Council on the latest developments with respect to crypto-assets, including an assessment of the development of markets in unique and non-fungible crypto-assets, the appropriate regulatory treatment of such crypto-assets, including an assessment of and the necessity and feasibility of regulating providers of services related to unique and non-fungible crypto-assets. If appropriate, the Commission will accompany this report with a legislative proposal.

(12) Crowdfunding platforms' vulnerabilities to money laundering and terrorist financing risks are horizontal and affect the internal market as a whole. To date, diverging approaches have emerged across Member States as to the management of those risks. ***While*** Regulation (EU) 2020/1503 of the European Parliament and of the Council[8] harmonises the regulatory approach for business investment and lending-based crowdfunding platforms across the Union and ▌ ***introduces several safeguards to*** deal with potential money laundering and terrorist financing risks ▌***, such as due diligence of crowdfunding platforms in respect of project owners and within*** authorisation ▌***procedures, the lack of a harmonised legal framework with robust AML/CFT obligations for crowdfunding platforms creates gaps and weakens the Union AML/CFT*** safeguards ▌. It is therefore ▌ ***necessary to ensure that all*** crowdfunding platforms***, including those already*** licensed under Regulation (EU) 2020/1503***, are subject*** to Union AML/CFT legislation.

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[8] Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

(13) Crowdfunding ▌ ***intermediaries, which operate a digital platform in order to match or facilitate the matching of funders with projects owners such as associations or individuals that seek funding, are exposed to money laundering and terrorist financing risks. Undertakings*** that are not licensed under Regulation (EU) 2020/1503 are currently left either unregulated or to diverging regulatory approaches, including in relation to rules and procedures to tackle anti-money laundering and terrorist financing risks. ▌ ***Those intermediaries should therefore be subject to the obligations of this Regulation, in particular to avoid the diversion of funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 or crypto-assets raised for illicit purposes by criminals. In order to meet the challenges, these obligations apply to a wide range of projects, including, inter alia, educational or cultural projects and the collection of those funds or crypto-assets to support more general causes, for example in the humanitarian field, or to organize or celebrate a family or social event***.

▌

(14) Directive (EU) 2015/849 set out to mitigate the money laundering and terrorist financing risks posed by large cash payments by including persons trading in goods among obliged entities when they make or receive payments in cash above EUR 10 000, whilst allowing Member States to introduce stricter measures. Such approach has shown to be ineffective in light of the poor understanding and application of AML/CFT requirements, lack of supervision and limited number of suspicious transactions reported to the FIU. In order to adequately mitigate risks deriving from the misuse of large cash sums, a Union-wide limit to large cash transactions above EUR 10 000 should be laid down. As a consequence, persons trading in goods ▌ no longer ***need to*** be subject to AML/CFT obligations***, with the exception of persons trading in precious metals, precious stones, other high value goods and cultural goods***.

(15) Some categories of traders in goods are particularly exposed to money laundering and terrorist financing risks due to the high value that the ***often*** small, transportable goods they deal with contain. For this reason, persons dealing in precious metals and precious stones ***and other high value goods*** should be subject to AML/CFT requirements, ***where such trading is either a regular or a principal professional activity.***

(15a) Motor vehicles, watercrafts and aircrafts in the higher market segments are vulnerable to risks of misuse for money laundering and terrorist financing given their high value and transportability. Therefore, traders of such goods should be subject to AML/CFT requirements. The transportable nature of those goods is particularly attractive for the purposes of money laundering and terrorist financing given the ease with which such goods may be moved across or outside Union borders, and the fact that access to information on such goods where registered in third countries may not be easily accessible to competent authorities. To mitigate risks that Union high-value products be misused for criminal purposes and ensure visibility on the ownership of such goods, it is necessary to require traders in high-value goods to report transactions concerning the sale of motor vehicles, watercrafts and aircrafts. Credit and financial institutions provide services that are essential for the conclusion of the sale or transfer of ownership of such goods, and should also be required to report those transactions to the FIU. While goods intended solely for the pursuit of commercial activities should not be subject to such disclosures, sales for private, non-commercial use should not be limited to instances where the customer is a natural person, but can also relate to sales to legal entities and arrangements, in particular when they are set up to administer the wealth of their beneficial owner.

(16) Investment migration operators are private companies, bodies or persons acting or interacting directly with the competent authorities of the Member States on behalf of third-country nationals or providing intermediary services to third-country nationals seeking to obtain residence rights in a Member State in exchange of any kind of investments, including capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget. Investor residence schemes present risks and vulnerabilities in relation to money laundering, corruption and tax evasion. Such risks are exacerbated by the cross-border rights associated with residence in a Member State. Therefore, it is necessary that investment migration operators are subject to AML/CFT obligations. This Regulation should not apply to investor citizenship schemes, which result in the acquisition of nationality in exchange for such investments, as such schemes must be considered as undermining the fundamental status of Union citizenship and sincere cooperation among Member States.

(17) ***While creditors for mortgage and*** consumer ▌ ***credits are typically credit institutions or financial institutions, there are consumer and mortgage credit*** intermediaries that ***do not qualify as*** credit institutions or financial institutions ***and*** have not been subject to AML/CFT requirements at Union level, but have been subject to such obligations in certain Member States due to their exposure to money laundering and terrorist financing risks. Depending on their business model, such consumer and mortgage ▌ ***credit*** intermediaries may be exposed to significant money laundering and terrorist financing risks. It is important to ensure that entities carrying out similar activities that are exposed to such risks are covered by AML/CFT requirements, regardless of whether they qualify as credit institutions or financial institutions. Therefore, it is appropriate to include consumer and mortgage ▌ ***credit*** 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. ***In many cases, however, the credit intermediary is acting on behalf of the credit or financial institution that grants and processes the loan. In those cases, AML/CFT requirements should not apply to consumer and mortgage credit intermediaries,. but only to the credit or financial institutions.***

(18) To ensure a consistent approach, it is necessary to clarify which entities in the investment sector are subject to AML/CFT requirements. Although collective investment undertakings already fell within the scope of Directive (EU) 2015/849, it is necessary to align the relevant terminology with the current Union investment fund legislation, namely Directive 2009/65/EC of the European Parliament and of the Council[9] and Directive 2011/61/EU of the European Parliament and of the Council[10]. Because funds might be constituted without legal personality, the inclusion of their managers in the scope of this Regulation is also necessary. AML/CFT requirements should apply regardless of the form in which units or shares in a fund are made available for purchase in the Union, including where units or shares are directly or indirectly offered to investors established in the Union or placed with such investors at the initiative of the manager or on behalf of the manager. ***With view to the fact that both funds and fund managers are within the scope of AML requirements, it is appropriate to clarify that a duplication of efforts should be avoided. To that end, the AML measures taken at the level of the fund and at the level of its manager should not be the same, but should reflect the allocation of tasks between the fund and the manager.***

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9 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

10 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

(18a) The activities of professional football clubs and football agents are exposed to risks of money laundering and its predicate offences due to several factors inherent to the football sector, such as the global popularity of football, the considerable sums, cash flows and large financial interests involved, cross-border transactions, and sometimes opaque ownership structures. All these factors expose football to possible abuse by criminals to legitimise illicit funds and thus make the sport vulnerable to money laundering and its predicate offences. Key areas of risk include, for example, transactions with investors, sponsors, including advertisers and the transfer of players.. Professional football clubs and football agents should therefore put in place robust anti-money laundering measures, including carrying out customer due diligence on investors, sponsors, including advertisers, and other partners and counterparties with whom they transact. In order to avoid any disproportionate burden on smaller clubs that are less exposed to risks of criminal misuse, Member States may, on the basis of a proven lower risk of money laundering, its predicate crimes and terrorist financing, exempt certain professional football clubs from the requirements of this Regulation, whether in full or in part.

(18b) The activities of professional football clubs competing in the first divisions of their national football leagues make them more exposed to higher risks of money laundering and its predicate offences compared to football clubs participating in lower divisions. For example, top-tier football clubs engage in more substantial financial transactions, such as high-value transfers of players and sponsorship deals, they may have more complex corporate structures with multiple layers of ownership and are more likely to engage in cross-border transactions. These factors make such top-tier clubs more attractive for criminals and provides more opportunities to conceal illicit funds. Therefore, Member States may only exempt professional football clubs participating in the first division in cases of proven low risk and provided that they have a turnover for each of the previous two years of less than 5 million EUR. Nonetheless, the risk of money laundering is not determined solely by the division in which a football club competes. Lower-division clubs may also be exposed to significant risks of money laundering and its predicate offences. Member States should therefore only be able to exempt from the requirements of this Regulation football clubs in lower divisions that are associated with proven low risk of money laundering, its predicate offences or terrorist financing.

(18c) This Regulation harmonises the measures to be put in place to prevent money laundering, its predicate offences and terrorist financing at Union level. At the same time, in line with the risk-based approach, Member States should be able to impose additional requirements in limited cases where they are confronted with specific risks. To ensure that these risks are adequately mitigated, obliged entities that have their head office established in another Member State should apply those additional requirements, whether they operate in that other Member State through freedom of establishment or under the freedom to provide services, provided they have an infrastructure in that other Member State. Furthermore, in order to clarify the relationship between those internal market freedoms, it is important to clarify what activities amount to an establishment.

(18d) Consistent with case law of the Court of Justice, unless specifically set out in sectorial legislation, an establishment does not need to take the form of a subsidiary, branch or agency, but may consist of an office managed by an obliged entity's own staff or by a person who is independent but authorised to act on a permanent basis for the obliged entity. According to this definition, which requires the actual pursuit of an economic activity at the place of establishment of the provider, a mere letter box does not constitute an establishment. Equally, offices or other infrastructure used for supporting activities, such as mere back-office operations, IT-hubs or data centres operated by obliged entities, do not constitute an establishment. Conversely, activities such as the provision of crypto-asset services through ATMs constitute an establishment having regard to the limited physical equipment needed for operators that mainly service their customers through the internet as is the case for crypto-asset service providers.

(19) It is important that AML/CFT requirements apply in a proportionate manner and that the imposition of any requirement is proportionate to the role that obliged entities can play in the prevention of money laundering and terrorist financing. To this end, it should be possible for Member States in line with the ▌***risk-based*** approach of this Regulation to exempt certain operators from AML/CFT requirements, where the activities they perform present low money laundering and terrorist financing risks and where the activities are limited in nature. To ensure transparent and consistent application of such exemptions across the Union, a mechanism should be put in place allowing the Commission to verify the necessity of the exemptions to be granted. The Commission should also publish such exemptions on a yearly basis in the ***Official Journal of the European Union***.

(20) A consistent set of rules on internal systems and controls that applies to all obliged entities operating in the internal market will strengthen AML/CFT compliance and make supervision more effective. In order to ensure adequate mitigation of money laundering and terrorist financing risks, ***as well as of risks of non-implementation or evasion of targeted financial sanctions,*** obliged entities should have in place an internal control framework consisting of risk–based policies, ▌***procedures and controls*** and clear division of responsibilities throughout the organisation. In line with the risk-based approach of this Regulation, those policies, ▌***procedures and controls*** should be proportionate to the nature ***of the business, including its risks and complexity, and the*** ▌ size of the obliged entity and respond to the risks of money laundering and terrorist financing that the entity faces***,*** ***including, for crypto-asset service providers, transactions with self-hosted wallets***.

(21) An appropriate risk-based approach requires obliged entities to identify the inherent risks of money laundering and terrorist financing ***as well as risks of non-implementation or evasion of targeted financial sanctions*** that they face by virtue of their business in order to mitigate them effectively and to ensure that their policies, procedures and internal controls are appropriate to address those inherent risks. In doing so, obliged entities should take into account the characteristics of their customers, the products, services or transactions offered, ***including, for crypto-asset service providers, transactions with self-hosted addresses, as well as*** the countries or geographical areas concerned and the distribution channels used. In light of the evolving nature of risks, such risk assessment should be regularly updated.

(21a) With a view to supporting a consistent and effective approach to the identification of risks affecting their businesses by obliged entities, AMLA should issue guidelines on minimum requirements for the content of the business-wide risk assessment and additional sources of information to be taken into account. Those sources may range from information from international standard setters in the field of AML/CFT, such as FATF mutual evaluation reports, and other credible and reliable sources providing information on typologies, emerging risks and criminal activity, including corruption, such as reports from civil society organisations, media and academia.

(22) It is appropriate to take account of the characteristics and needs of smaller obliged entities, and to ensure treatment which is appropriate to their specific needs, and the nature of the business. This may include exempting certain obliged entities from performing a risk assessment where the risks involved in the sector in which the entity operates are well understood.

(23) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the targeted financial sanctions related to proliferation financing, and to take action to mitigate those risks. Those new standards introduced by the FATF ▌ do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP[11] and (CFSP) 2016/849[12] as well as by Council Regulations (EU) No 267/2012[13] and (EU) 2017/1509[14], remain strict rule-based obligations binding on all natural and legal persons within the Union. ***Given the specific risks of non-implementation and evasion of targeted financial sanctions to which the Union is exposed, it is appropriate to expand the assessment of risks to encompass all targeted financial sanctions adopted at Union level. In this case, too, the risk-sensitive measures implemented under the AML/CFT framework do not remove the absolute obligation to freeze and not make funds or other assets available, directly or indirectly, to designated persons or entities incumbent upon all natural or legal persons in the Union.***

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11 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

12 Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

13 Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

14 Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

(23a) In order to ensure that risks of non-implementation or evasion of targeted financial sanctions are appropriately mitigated, it is important to set out measures that obliged entities are required to implement, including measures to check their customer base against the lists of persons or entities designated under targeted financial sanctions. The requirements incumbent upon obliged entities under this regulation do not remove the absolute obligation to freeze and not make funds or other assets available, directly or indirectly, to individuals or entities subject to targeted financial sanctions that apply to all natural or legal persons in the Union. In addition, the requirements of this Regulation are not intended to replace obligations regarding the screening of customers for the implementation of targeted financial sanctions under other Union acts or under national law.

(24) In order to reflect the latest developments at international level, a requirement has been introduced by this Regulation to identify, understand, manage and mitigate risks of potential non-implementation or evasion of ▌ targeted financial sanctions at obliged entity level.

(24a) Listing or designations of individuals or entities by the United Nations' Security Council or the Sanctions Committee are integrated into Union law by means of decisions and regulations adopted under Article 29 of the Treaty on European Union and Article 215 of the Treaty on the Functioning of the European Union respectively that impose targeted financial sanctions on those individuals and entities. The process for adoption of those acts at Union level requires verification of compliance of any designation or listing with fundamental rights granted under the Charter. Between the moment of publication by the United Nations and the moment of entry into application of the Union acts transposing the UN listings or designations, in order to enable the effective application of targeted financial sanctions, obliged entities should keep records of the funds or other assets they hold for customers listed or designated under United Nations' financial sanctions, or customers owned or controlled by listed or designated individuals or entities, , of any attempted transaction and of transactions carried out for the customer, such as for the fulfilment of basic needs of the customer.

(24b) In assessing whether a customer who is a legal entity is owned or controlled by individuals designated under targeted financial sanctions, obliged entities should take into account the Council Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU common foreign and security policy and the EU Best Practices for the effective implementation of restrictive measures.

(25) It is important that obliged entities take all measures at the level of their management to implement internal policies, ▌ ***procedures and controls*** and to implement AML/CFT requirements. While a ▌ ***member of the*** management ▌ ***body*** should be identified as being responsible for implementing the obliged entity's policies, controls and procedures, the responsibility for the compliance with AML/CFT requirements should rest ultimately with the ▌ ***management*** body of the entity. ***This attribution of responsibility should be without prejudice to national provisions on joint civil or criminal liability of management bodies.*** Tasks pertaining to the day-to-day implementation of the obliged entity's AML/CFT policies, ▌ ***procedures and controls*** should be entrusted to ▌ ***the*** compliance officer.

(25a) Each Member State may lay down in its national law that an obliged entity subject to prudential rules requiring the appointment of a compliance officer or of a head of the internal audit function may entrust those persons with the functions and responsibilities of AML/CFT compliance officer and internal audit function for AML/CFT purposes. In cases of higher risks or where the size of the obliged entity justifies it, the responsibilities of compliance controls and of the day-to-day operation of the obliged entity's AML/CFT policies and procedures may be carried by two different persons.

(26) For effective implementation of AML/CFT measures, it is also vital that the employees of obliged entities, as well as their agents and distributors, who have a role in their implementation understand the requirements and the internal policies, ▌ ***procedures and controls*** in place in the entity. Obliged entities should put in place measures, including training programmes, to this effect. ***Where necessary, obliged entities should provide basic training on AML/CFT measures to all those who have a role in implementing it. This includes not only their employees but also their agents and distributors***

(27) Individuals entrusted with tasks related to an obliged entity's compliance with AML/CFT requirements should undergo assessment of their skills, knowledge, expertise, integrity and conduct. Performance by employees of tasks related to the obliged entity's compliance with the AML/CFT framework in relation to customers with whom they have a close private or professional relationship can lead to conflicts of interests and undermine the integrity of the system. ***Such relations may exist at the time of the establishment of the business relationship but may also arise thereafter.*** Therefore, ▌ ***obliged entities should have in place processes to manage and address conflicts of interests. These processes*** should ▌ ***ensure that employees are*** prevented from performing any tasks related to the obliged entity's compliance with the AML/CFT framework in relation to such customers.

(27a) There may be situations where individuals who would qualify as obliged entities provide their services in-house to businesses whose activities do not fall within the scope of this Regulation. As these businesses do not act as gatekeepers of the Union's financial system, it is important to clarify that such employees, such as in-house lawyers, are not covered by the requirements of this Regulation. Similarly, individuals carrying out activities that fall within the scope of this Regulation should not be considered obliged entities in their own right when those activities are carried out in the context of their employment with an obliged entity, for example in the case of lawyers or accountants employed with a legal or accounting firm.

(28) The consistent implementation of group-wide AML/CFT policies and procedures is key to the robust and effective management of money laundering and terrorist financing risks within the group. To this end, group-wide policies, ▌***procedures and controls*** should be adopted and implemented by the parent undertaking. ▌ Entities within the group should be required to exchange information when such sharing is relevant for preventing money laundering and terrorist financing. Information sharing should be subject to sufficient guarantees in terms of confidentiality, data protection and use of information. AMLA should have the task of drawing up draft regulatory standards specifying the minimum requirements of group-wide procedures and policies, including minimum standards for information sharing within the group and the ▌***criteria for identifying the*** parent ▌ ***undertaking for groups whose head office is outside of the Union***.

(28a) In order to ensure effective application of AML/CFT requirements to several obliged entities which are directly or indirectly linked with each other and constitute, or are a part of, a group of entities, it is necessary to consider the broadest possible definition of a group. For that purpose, obliged entities should follow applicable accounting rules, which allow to consider structures with various types of economic links as groups. While a traditional group includes a parent undertaking and its subsidiaries, other types of group structures are equally relevant, for example group structures of several parent entities owning a single subsidiary, sometimes referred to such as entities permanently affiliated to a central body referred to in [Article 10 of] Regulation (EU) No 575/2013 of the European Parliament and of the Council1, or financial institutions which are members of the same institutional protection scheme as referred to in [Article 113(7) of] Regulation (EU) No 575/2013 of the European Parliament and of the Council[15]. All these structures are groups in accordance with accounting rules and should therefore be considered as groups for the purposes of the present Regulation.

(29) In addition to groups, other structures exist, such as networks or partnerships, in which obliged entities might share common ownership, management and compliance controls. To ensure a level playing field across the sectors whilst avoiding overburdening it, AMLA should identify those situations where similar group-wide policies should apply to those structures***, taking into account the principle of proportionality***.

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15 ***REGULATION (EU) No 575/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L L 176, 27.6.2013), p. 1***

(30) There are circumstances where branches and subsidiaries of obliged entities are located in third countries where the minimum AML/CFT requirements, including data protection obligations, are less strict than the Union AML/CFT framework. In such situations, and in order to fully prevent the use of the Union financial system for the purposes of money laundering and terrorist financing and to ensure the highest standard of protection for personal data of Union citizens, those branches and subsidiaries should comply with AML/CFT requirements laid down at Union level. Where the law of a third country does not permit compliance with those requirements, for example because of limitations to the group's ability to access, process or exchange information due to an insufficient level of data protection or banking secrecy law in the third country, obliged entities should take additional measures to ensure the branches and subsidiaries located in that country effectively handle the risks. AMLA should be tasked with developing draft technical standards specifying the type of such additional measures***, taking into account the principle of proportionality***.

(30a) Obliged entities may outsource tasks relating to the performance of certain AML/CFT requirements to a service provider. In the case of outsourcing relationships on a contractual basis between obliged entities and service providers not covered by AML/CFT requirements, any AML/CFT obligations upon those service providers could arise only from the contract between the parties and not from this Regulation. Therefore, the responsibility for complying with AML/CFT requirements should remain entirely with the obliged entity itself. The obliged entity should in particular ensure that, where a service provider is involved for the purposes of remote customer identification, the risk-based approach is respected. Processes or arrangements that contribute to the performance of a requirement under this Regulation, but where the performance of the requirement itself is not carried out by a service provider, such as the use or acquisition of third-party software or the access to databases or screening services by the obliged entity, are not considered to be outsourcing.

(30b) The possibility to outsource tasks to a service provider allows obliged entities to decide on how to allocate their resources to comply with this Regulation, but does not relieve them of their obligation to understand how the measures they undertake, including those outsourced to service providers, are appropriate to mitigate the money laundering and terrorist financing risks identified. In order to ensure that such understanding is in place, the final decisions on measures that have a bearing on the implementation of policies, procedures and controls should always rest with the obliged entity.

(30c) The notification of outsourcing arrangements to the supervisor does not imply an acceptance of the outsourcing arrangement. This information, and in particular where critical functions are outsourced or where the obliged entity systematically outsources its functions, can however be taken into consideration by supervisors when assessing the obliged entity's systems and controls, and when determining the residual risk profile or in preparation for inspections.

(30d) In order for outsourcing relationships to function efficiently, further clarity is needed around the conditions according to which outsourcing takes place. AMLA should have the task of developing guidelines on the conditions under which outsourcing can take place, as well as the roles and responsibilities of the respective parties. To ensure that consistent oversight of outsourcing practices is ensured throughout the Union, the guidelines should also provide clarity on how supervisors should take into account such practices and verify compliance with AML/CFT requirements when obliged entities resort to those practices.

(31) Customer due diligence requirements are essential to ensure that obliged entities identify, verify and monitor their business relationships with their clients, in relation to the money laundering and terrorist financing risks that they pose. Accurate identification and verification of data of prospective and existing customers are essential for understanding the risks of money laundering and terrorist financing associated with clients, whether they are natural or legal persons. ***Obliged entities should also understand on whose behalf or for the benefit of whom a transaction is carried out, for example in situations where credit or financial institutions provide accounts to legal professionals for the purposes of receiving or holding their client's funds as defined in Article 4, point (25) of Directive (EU) 2015/2366. In the context of customer due diligence, the person for the benefit of whom a transaction or activity is carried out does not refer to the recipient or beneficiary of a transaction carried out by the obliged entity for their customer.***

(32) It is necessary to achieve a uniform and high standard of customer due diligence in the Union, relying on harmonised requirements for the identification of customers and verification of their identity, and reducing national divergences to allow for a level playing field across the internal market and for a consistent application of provisions throughout the Union. At the same time, it is essential that obliged entities apply customer due diligence requirements in a risk-based manner. The risk-based approach is not an unduly permissive option for obliged entities. It involves the use of evidence-based decision-making in order to target more effectively the risks of money laundering and terrorist financing facing the Union and those operating within it.

(32a) Civil society organisations that conduct charitable or humanitarian work in third countries contribute to the Union's goals of achieving peace, stability democracy and prosperity. Credit and financial institutions play an important role in ensuring that such organisations can continue to conduct their work, by providing access to the financial system and important financial services that allow development and humanitarian funding to be channelled to developing or conflict areas. While obliged entities should be aware that activities conducted in certain jurisdictions expose them to a higher risk of money laundering or terrorist financing, operations of civil society organisations in these jurisdictions should not, alone, result in the refusal to provide financial services or termination of such services, as the risk-based approach requires a holistic assessment of risks posed by individual business relationships, and the application of adequate measures to mitigate the specific risks. While credit and financial institutions remain free to decide with whom they engage in contractual relationships, they should also be mindful of their central role in the functioning of the international financial system and in enabling the movement of funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 or crypto-assets for the important development and humanitarian goals that civil society organisations pursue. They should therefore make use of the flexibility allowed by the risk-based approach to mitigate the risks associated with business relationships in a proportionate manner. Under no circumstances AML/CFT reasons should be invoked to justify commercial decisions as regards prospective or existing clients.

(32c) Obliged entities should identify and take reasonable measures to verify the identity of the beneficial owner using reliable documents and sources information. The consultation of beneficial ownership registers allows obliged entities to ensure consistency with information obtained through the verification process and should not be the obliged entity's primary source for verification. When obliged entities identify discrepancies between information held in the beneficial ownership registers and the information they obtain from the customer or other reliable sources in the course of customer due diligence, they should report those discrepancies to the entities in charge of the register so that measures may be taken to resolve inconsistencies. This process contributes to the quality and reliability of information held in beneficial ownership registers, as part of a multi-pronged approach towards ensuring that information contained in beneficial ownership registers is accurate, adequate and up-to-date. In low-risk situations and where the beneficial owners are known to the obliged entity, obliged entities may allow the customer to report discrepancies in case where minor differences are identified that consist of errors of a typographical or similar technical nature.

(32e) The risks posed by foreign legal entities and legal arrangements need to be adequately mitigated. Where legal entities incorporated outside the Union or express trust or similar legal arrangements administered outside the Union or whose trustee or person in an equivalent position is established or resides outside the Union are about to enter into business relationships with obliged entities associated with medium-high or high risks of money laundering, its predicate offences or terrorist financing due to the risks associated with the category of legal entity or the sector in which it operates, or the risks associated with the sector in which the obliged entity operates, the registration of the beneficial ownership information in the central register of Member State should be conditional for entering into the business relationship. Registration of the beneficial owner should be a condition for the continuation of the business relationship also in a situation where the business relationship becomes associated with medium-high or high risks after its establishment.

(32i) The process of establishing of a business relationship or carrying out the steps necessary to conduct an occasional transaction is triggered when the customer expresses an interest in acquiring a product or receiving a service from an obliged entity. The services offered by real estate agents include assisting the customer to find a property to purchase, sell, rent or lease, depending on the case. Such services start to bear relevance for AML/CFT purposes when there is a clear indication that the parties are willing to proceed with the transaction or with the taking of the steps necessary in preparation thereof. This could be, for instance, the moment when an offer for the purchase or rent of the property is made and accepted by the parties. Prior to this, it would not be necessary to conduct due diligence on any prospective customer. Similarly, it would not be proportionate to conduct customer due diligence on persons that have not yet expressed an interest in going forward with the purchase or rental of a specific property, or may never express such an interest.

(32j) Real estate transactions are exposed to money laundering and terrorist financing risks. In order to mitigate those risks, real estate operators intermediating the buying, selling and letting of immovable property should be subject to the requirements of this Regulation, regardless of their designation or principal business or profession, including property developers when and to the extent that they intermediate in the buying, selling and letting of immovable property.

(32k) The anonymity associated with certain electronic money products exposes them to money laundering and terrorist financing risks. There are however significant differences across the sector, and not all electronic money products bear the same level of risk. For example, certain low value electronic money products, such as prepaid gift cards or prepaid vouchers, may present low risks of money laundering or terrorist financing. In order to ensure that the requirements imposed on the sector are commensurate with its risk and do not effectively hamper its operation, it should be possible, in certain proven low-risk circumstances and under strict risk-mitigating conditions, to exempt those products from certain customer due diligence measures, such as the identification and verification of the customer and of the beneficial owner, but not from the monitoring of transactions or of business relationships. Such an exemption may only be granted by supervisors upon verification of the proven low risk having regard to relevant risk factors to be defined by AMLA and in a way that effectively mitigates any risk of money laundering or terrorist financing and that precludes circumvention of AML/CFT rules. In any case, any exemption should be conditional to strict limits regarding the maximum value of the product, its exclusive use to purchase goods or services, and provided that the amount stored cannot be exchanged for other value.

(33) Obliged entities should not be required to apply due diligence measures on customers carrying out occasional or linked transactions below a certain value, unless there is suspicion of money laundering or terrorist financing. Whereas the EUR 10 000 threshold applies to most occasional transactions, obliged entities which operate in sectors or carry out transactions that present a higher risk of money laundering and terrorist financing should be required to apply customer due diligence for transactions with lower thresholds. To identify the sectors or transactions as well as the adequate thresholds for those sectors or transactions, AMLA should develop dedicated draft regulatory technical standards.

(33a) There are specific situations where for the purposes of customer due diligence, the customer is not limited to the person transacting with the obliged entity. This is the case, for example, where only one notary is involved in a real estate transaction. In such cases, in order to ensure that adequate checks are carried out on the transaction to detect possible cases of money laundering, its predicate offences or terrorist financing, obliged entities must consider both the buyer and the seller as customers and conduct customer due diligence measures on both parties. This Regulation provides a list of such situations where the customer is not, or is not limited to, the direct customer of the obliged entity. Such a list complements the understanding of who the customer is in typical situations and should not be understood as encompassing an exhaustive interpretation of the term. Similarly, a business relationship should not always require a contractual relationship or other formal engagement as long as the services are provided repeatedly or over a period of time so as to entail an element of duration. The fact that national law precludes obliged entities that are public officials from entering into contractual relationships with customers, such obliged entities should not be construed as prohibiting them from treating a series of transactions as a business relationship for the purposes of AML/CFT.

(33b) The introduction of a Union-wide limit to large cash payment mitigates the risks associated with the use of large cash payments. However, obliged entities that carry out transactions in cash below this amount remain vulnerable to risks of money laundering and terrorist financing as they provide a point of entry into the Union's financial system. Therefore, it is necessary to require the application of customer due diligence measures to mitigate the risks of misuse of cash. To ensure that the measures are proportionate with the risks posed by transactions of a value lower than EUR 10 000, such measures should be limited to the identification and verification of the customer and the beneficial owner when carrying out occasional transactions in cash of at least EUR 3 000. This provision does not relieve the obliged entity from conducting all customer due diligence measures whenever there is a suspicion of money laundering or terrorist financing, or from reporting suspicious transactions to the FIU.

(34) Some business models are based on the obliged entity having a business relationship with a merchant for offering payment initiation services through which the merchant gets paid for the provision of goods or services, and not with the merchant's customer, who authorises the payment initiation service to initiate a single or one-off transaction to the merchant. In such a business model, the obliged entity's customer for the purpose of AML/CFT rules is the merchant, and not the merchant's customer. Therefore, ***with respect to payment initiation services,*** customer due diligence obligations should be applied by the obliged entity vis-a-vis the merchant. ***In relation to other financial services that fall within the scope of this Regulation, including where provided by the same operators, the determination of the customer should be done having regard to the services provided.***

(34a) Gambling activities vary in nature, geographical scope and associated risks. In order to ensure a proportionate and risk-based application of this Regulation, it should be possible for Member States to identify gambling services associated with low money laundering and terrorist financing risks, such as State or private lotteries, or State-administered gambling activities, and to decide not to apply all or some of the requirements of this Regulation to them. Given the potential cross-border effects of national exceptions, it is necessary to ensure a consistent application of a strict risk-based approach across the EU. To that end, the Commission should be enabled to approve Member States' decisions, or to reject them when the exception is not justified by a proven low risk. In any case, no exception should be granted in relation to activities associated with higher risks. This is the case for activities such as casinos, online gambling and sport betting, but not where online gambling activities are administered by the State, whether through direct provision of those services or through regulation of the way in which those gambling services are to be organised, operated and administered. In light of the risks for public health or of criminal activities that may be associated with gambling, national measures regulating its organisation, operation and administration may, where genuinely pursuing goals of public policy, public security or public health, can contribute to reducing the risks to which that activity is exposed.

(34b) The EUR 2 000 threshold applicable to gambling service providers is met regardless of whether the customer carries out a single transaction of at least that amount or several smaller transactions which add up to that amount. To that effect, gambling service providers should be able to attribute transactions to a given customer even if they have not yet verified their identity, to be in a position to determine whether and when the threshold has been met. Thus, operators should have systems in place that allow attribution and monitoring of transactions prior to the application of the requirement to conduct customer due diligence. In the case of casinos or other physical gambling premises, it may be impractical to check the customer's identity upon each transaction. In such cases, it should be possible to identify the customer and verify their identity upon entry into the gambling premises, provided that systems are in place to attribute transactions carried out at the gambling premises, including the purchase or exchange of gambling chips, to that customer.

(35) Directive (EU) 2015/849, despite having harmonised the rules of Member States in the area of customer identification obligations to a certain degree, did not lay down detailed rules in relation to the procedures to be followed by obliged entities. In view of the crucial importance of this aspect in the prevention of money laundering and terrorist financing, it is appropriate, in accordance with the risk-based approach, to introduce more specific and detailed provisions on the identification of the customer and on the verification of the customer's identity, whether in relation to natural or legal persons, legal arrangements such as trusts or entities having legal capacity under national law.

(36) Technological developments and progress in digitalisation enable a secure remote or electronic identification and verification of prospective and existing customers and can facilitate the remote performance of customer due diligence. The identification solutions as set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council and the proposal for an amendment to it in relation to a framework for a European Digital Identity[16] enable secure and trusted means of customer identification and verification for both prospective and existing customers and can facilitate the remote performance of customer due diligence. The electronic identification as set out in that Regulation should be taken into account and accepted by obliged entities for the customer identification process. These means of identification may present, where appropriate risk mitigation measures are in place, a standard or even low level of risk. ***Where such electronic identification is not available to a customer, for example due to the nature of their residence status in a given Member State or their residence in a third country, verification should take place through relevant qualified trust services.***

[16] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73) and the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity, COM/2021/281 final.

(37) To ensure that the AML/CFT framework prevents illicit funds from entering the financial system, obliged entities should carry out customer due diligence before entering into business relationships with prospective clients, in line with the risk-based approach. Nevertheless, in order not to unnecessarily delay the normal conduct of business, obliged entities may collect the information from the prospective customer during the establishment of a business relationship. Credit and financial institutions may obtain the necessary information from the prospective customers once the relationship is established, provided that transactions are not initiated until the customer due diligence process is successfully completed.

▌

(39) The customer due diligence process is not limited to the identification and verification of the customer's identity. Before entering into business relationships or carrying out occasional transactions, obliged entities should also assess the purpose and nature of a business relationship ***or occasional transaction***. Pre-contractual or other information about the proposed product or service that is communicated to the prospective customer may contribute to the understanding of that purpose. Obliged entities should always be able to assess the purpose and nature of a prospective business relationship ***or occasional transaction*** in an unambiguous manner. Where the offered service or product enables customers to carry out various types of transactions or activities, obliged entities should obtain sufficient information on the intention of the customer regarding the use to be made of that relationship ▌

(40) To ensure the effectiveness of the AML/CFT framework, obliged entities should regularly review the information obtained from their customers, in accordance with the risk-based approach. ▌ ***Business relationships are likely to evolve as the customer's circumstances and the activities they conduct through the business relationship change over time***. ***In order to maintain a comprehensive understanding*** ▌ of the ***customer risk profile and conduct meaningful scrutiny of transactions***, obliged entities ▌ ***should regularly review the information obtained from their customers, in accordance with a risk-based approach. Such reviews should be done on a periodic basis but should also be triggered by changes in relevant circumstances of the customer, when facts and information point towards a potential change in the risk profile or identification details of the customer. To that end, the obliged entity should consider the need to review the customer file in response to material changes such as for example a change in the jurisdictions transacted with, in the value or volume of transactions, upon requests for new products or services that are significantly different in terms of risk or following changes in beneficial ownership***.

(40a) In the context of repeated clients for whom customer due diligence measures have recently been conducted, customer due diligence measures may be fulfilled by obtaining a confirmation from the customer that the information and documents held in the records have not changed. Such a method facilitates the application of AML/CFT obligations in situations where the obliged entity is confident that the information pertaining to the customer has not changed, as it is incumbent on obliged entities to ensure that they take adequate customer due diligence measures. In all cases, the confirmation received from the customer, and any changes to the information held on the customer, should be recorded.

(40b) Obliged entities may provide more than one product or service in the context of a business relationship. In those circumstances, the requirement to update information, data and documents at regular intervals is not intended to target the individual product or service, but the business relationship in its entirety. It is for the obliged entities to assess, across the range of products or services provided, when the relevant circumstances of the customer change, or when other conditions triggering the updating of the customer due diligence are met, and to proceed to review the customer file in relation to the entirety of the business relationship.

(40c) Obliged entities should also set up a monitoring system to detect transactions that might raise money laundering or terrorist financing suspicions. To ensure the effectiveness of the transaction monitoring, obliged entities' monitoring activity should in principle cover all services and products offered to customers and all transactions which are carried out on behalf of the costumer or offered to the customer by the obliged entity. However, not all transactions need to be scrutinised individually. The intensity of the monitoring should respect the risk-based approach and be designed around precise and relevant criteria, taking account, in particular, of the characteristics of the customers and the risk level associated with them, the products and services offered, and the countries or geographical areas concerned. AMLA should develop guidelines to ensure that the intensity of the monitoring of business relationships and of transactions is adequate and proportionate to the level of risk.

(40d) Terminating the business relationship when customer due diligence measures cannot be complied with reduces the obliged entity's exposure to risks posed by possible changes in the customer's profile. However, there may be situations where the termination should not be pursued due to public interest goals. This is the case, for example, of life insurance contracts, where obliged entities should, where necessary, as an alternative to termination, take measures to freeze the business relationship including by prohibiting any further services to that customer and withholding the payout to beneficiaries, until customer due diligence requirements can be complied with. Additionally, certain products and services require the obliged entity to continue holding or receiving the customer's funds as defined in Article 4, point (25) of Directive (EU) 2015/2366, for example in the context of lending, payment accounts or the taking of deposits. These should however not be treated as an impediment to the requirement to terminate the business relationship, which can be achieved by ensuring that no transactions or activities are carried out for the customer.

(41) In order to ensure consistent application of this Regulation, AMLA should have the task of drawing up draft regulatory technical standards on customer due diligence. Those regulatory technical standards should set out the minimum set of information to be obtained by obliged entities in order to enter into new business relationships with customers or assess ongoing ones, according to the level of risk associated with each customer. Furthermore, the draft regulatory technical standards should provide sufficient clarity to allow market players to develop secure, accessible and innovative means of verifying customers' identity and performing customer due diligence, also remotely, while respecting the principle of technology neutrality. The Commission should be empowered to adopt those draft regulatory technical standards. Those specific tasks are in line with the role and responsibilities of AMLA as provided in Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***.

(42) The harmonisation of customer due diligence measures should ▌ seek to achieve consistent, and consistently effective, understanding of the risks associated with an existing or prospective customer regardless of where the business relationship is opened in the Union, and their harmonisation will help to achieve this aim. It should also ensure that the information obtained in the performance of customer due diligence is not used by obliged entities to pursue de-risking practices which may result in circumventing other legal obligations, in particular those laid down in Directive ***2014/92/EU*** of the European Parliament and of the Council[17] or Directive ***(EU)*** 2015/2366 of the European Parliament and of the Council[18], without achieving the Union's objectives in the prevention of money laundering and terrorist financing. To enable the proper supervision of compliance with the customer due diligence obligations, it is important that obliged entities keep record of the actions undertaken and the information obtained during the customer due diligence process, irrespective of whether a new business relationship is established with them and of whether they have submitted a suspicious transaction report upon refusing to establish a business relationship. Where the obliged entity takes a decision to not enter into a business relationship with a prospective customer, the customer due diligence records should include the grounds for such a decision. This will enable supervisory authorities to assess whether obliged entities have appropriately calibrated their customer due diligence practices and how the entity's risk exposure evolves, as well as help building statistical evidence on the application of customer due diligence rules by obliged entities throughout the Union.

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17 Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

18 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

(43) The approach for the review of existing customers in the current AML/CFT framework is already risk-based. However, given the higher risk of money laundering, its predicate offences and terrorist financing associated with certain intermediary structures, that approach might not allow for the timely detection and assessment of risks. It is therefore important to ensure that clearly specified categories of existing customers are also monitored on a regular basis.

(44) Risk itself is variable in nature, and the variables, on their own or in combination, may increase or decrease the potential risk posed, thus having an impact on the appropriate level of preventive measures, such as customer due diligence measures.

(45) In low risk situations, obliged entities should be able to apply simplified customer due diligence measures. This does not equate to an exemption or absence of customer due diligence measures. It rather consists in a simplified or reduced set of scrutiny measures, which should however address all components of the standard customer due diligence procedure. In line with the risk-based approach, obliged entities should nevertheless be able to reduce the frequency or intensity of their customer or transaction scrutiny, or rely on adequate assumptions with regard to the purpose of the business relationship or use of simple products. The regulatory technical standards on customer due diligence should set out the specific simplified measures that obliged entities may implement in case of lower risk situations identified in the Supranational Risk Assessment of the Commission. When developing draft regulatory technical standards, AMLA should have due regard to preserving social and financial inclusion.

(46) It should be recognised that certain situations present a greater risk of money laundering or terrorist financing. Although the identity and business profile of all customers should be established with the regular application of customer due diligence requirements, there are cases in which particularly rigorous customer identification and verification procedures are required. Therefore, it is necessary to lay down detailed rules on such enhanced due diligence measures, including specific enhanced due diligence measures for cross-border correspondent relationships.

(47) Cross-border correspondent relationships with a third-country's respondent institution are characterised by their on-going, repetitive nature. Moreover, not all cross-border correspondent banking services present the same level of money laundering and terrorist financing risks. Therefore, the intensity of the enhanced due diligence measures should be determined by application of the principles of the risk based approach. However, the risk based approach should not be applied when interacting with third-country's respondent institutions that have no physical presence where they are incorporated ***or with unregistered and unlicensed entities providing crypto-asset services***. Given the high risk of money laundering and terrorist financing inherent in shell ▌***institutions***, credit institutions and financial institutions should refrain from entertaining any correspondent relationship with such shell ▌***institutions, as well as with counterparts in third countries that allow their accounts to be used by shell institutions. To avoid misuse of the Union's financial system to provide unregulated services, crypto-assets service providers should also ensure that their accounts are not used by nested exchanges and should have in place policies and procedures to detect any such attempt***.

(47a) In the context of the performance of their oversight function, supervisors may identify situations where breaches of AML/CFT requirements by third country respondent institutions, or weaknesses in their implementation of the AML/CFT requirements cause risks to the Union's financial system. In order to mitigate those risks, it should be possible for AMLA to address recommendations to credit and financial institutions in the Union in order to inform them of its views regarding the deficiencies of those third country respondent institutions. Those recommendations should be issued where AMLA and financial supervisors in the Union agree that the breaches and weaknesses in place in the third country respondent institutions are likely to affect the risk exposure of correspondent relationships by credit and financial institutions in the Union, and provided that the third country respondent institution and its supervisor have had the opportunity to provide their views. In order to preserve the well-functioning of the Union's financial system, credit and financial institutions should take adequate measures in response to recommendations by AMLA, including by abstaining from entering into or continuing a correspondent relationship unless they can put in place sufficient mitigating measures to address the risks posed by the correspondent relationship.

(48) In the context of enhanced due diligence measures, obtaining approval from senior management for establishing business relationships does not need to imply, in all cases, obtaining approval from the board of directors. It should be possible for such approval to be granted by someone with sufficient knowledge of the entity's money laundering and terrorist financing risk exposure and of sufficient seniority to take decisions affecting its risk exposure.

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(49) In order to protect the proper functioning of the Union financial system from money laundering and terrorist financing, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission to identify third countries, whose shortcomings in their national AML/CFT regimes represent a threat to the integrity of the Union's internal market. The changing nature of money laundering and terrorist financing threats from outside the Union, facilitated by a constant evolution of technology and of the means at the disposal of criminals, requires that quick and continuous adaptations of the legal framework as regards third countries be made in order to address efficiently existing risks and prevent new ones from arising. The Commission should take into account***, as a baseline for its assessment,*** information from international organisations and standard setters in the field of AML/CFT, such as FATF public statements, mutual evaluation or detailed assessment reports or published follow-up reports, and adapt its assessments to the changes therein, where appropriate. ***The Commission should act within 20 days of ascertaining shortcomings in a third country's AML/CFT regime that pose a threat to the integrity of the Union's internal market.***

(50) Third countries "subject to a call for action" by the relevant international standard-setter (the FATF) present significant strategic deficiencies of a persistent nature in their legal and institutional AML/CFT frameworks and their implementation which are likely to pose a high risk to the Union's financial system. The persistent nature of the significant strategic deficiencies, reflective of the lack of commitment or continued failure by the third country to tackle them, signal a heightened level of threat emanating from those third countries, which requires an effective, consistent and harmonised mitigating response at Union level. Therefore, obliged entities should be required to apply the whole set of available enhanced due diligence measures to occasional transactions and business relationships involving those high-risk third countries to manage and mitigate the underlying risks. Furthermore, the high level of risk justifies the application of additional specific countermeasures, whether at the level of obliged entities or by the Member States. Such approach would avoid divergence in the determination of the relevant countermeasures, which would expose the entirety of Union's financial system to risks. ***Where Member States identify specific risks that are not mitigated, they may apply additional countermeasures, in which case they should notify the Commission thereof. Where the Commission considers that those risks are of relevance for the internal market, it may update the delegated act to include the necessary additional countermeasures to mitigate those risks. Where the Commission considers that those counter-measures are not necessary and undermine the proper functioning of the Union's internal market, it should be empowered to decide that the Member State put an end to the specific counter-measure. Prior to triggering the procedure for that decision, the Commission should provide an opportunity to the Member State concerned to submit its views on the consideration of the Commission.*** Given its technical expertise, AMLA can provide useful input to the Commission in identifying the appropriate countermeasures.

(51) Compliance weaknesses in both the legal and institutional AML/CFT framework and its implementation of third countries which are subject to "increased monitoring" by the FATF are susceptible to be exploited by criminals. This is likely to represent a risk for the Union's financial system, which needs to be managed and mitigated. The commitment of these third countries to address identified weaknesses, while not eliminating the risk, justifies a mitigating response, which is less severe than the one applicable to high-risk third countries. In these cases, Union's obliged entities should apply enhanced due diligence measures to occasional transactions and business relationships when dealing with natural persons or legal entities established in those third countries that are tailored to the specific weaknesses identified in each third country. Such granular identification of the enhanced due diligence measures to be applied would, in line with the risk-based approach, also ensure that the measures are proportionate to the level of risk. To ensure such consistent and proportionate approach, the Commission should be able to identify which specific enhanced due diligence measures are required in order to mitigate country-specific risks. Given AMLA's technical expertise, it can provide useful input to the Commission to identify the appropriate enhanced due diligence measures.

(52) Countries that are not publicly identified as subject to calls for actions or increased monitoring by international standard setters might still pose a ***specific and serious*** threat to the integrity of the Union's financial system***, which may be due to either compliance weaknesses or significant strategic deficiencies of a persistent nature in their AML/CFT regime. To mitigate those specific risks, that cannot be mitigated under Articles 23 and 24, it should be possible for the Commission to take action in exceptional circumstances by identifying such third countries, based on a clear set of criteria and with the support of AMLA***. According to the level of risk posed to the Union's financial system, the Commission should require the application of either all enhanced due diligence measures and country-specific countermeasures, as it is the case for high-risk third countries, or country-specific enhanced customer due diligence, such as in the case of third countries with compliance weaknesses.

(52a) In order to ensure a consistent identification of such third countries, the power to adopt acts in accordance with Article 291 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. Such implementing act shall set out the methodology for the identification in exceptional circumstances of third countries posing a specific and serious threat to the Union's financial system, while not being publicly identified as subject to calls for actions or increased monitoring by international standard setters. This methodology should include in particular how the criteria will be assessed and the process for the interaction with those third countries and for the involvement of Member States and AMLA in the preparatory stages of such identification.

(53) Considering that there may be changes in the AML/CFT frameworks of those third countries or in their implementation, for example as result of the country's commitment to address the identified weaknesses or of the adoption of relevant AML/CFT measures to tackle them, which could change the nature and level of the risks emanating from them, the Commission should regularly review the identification of those specific enhanced due diligence measures in order to ensure that they remain proportionate and adequate.

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(54) Potential external threats to the Union's financial system do not only emanate from third countries, but can also emerge in relation to specific customer risk factors or products, services, transactions or delivery channels which are observed in relation to a specific geographical area outside the Union. There is therefore a need to identify money laundering and terrorist financing trends, risks and methods to which Union's obliged entities may be exposed. AMLA is best placed to detect any emerging ML/TF typologies from outside the Union, to monitor their evolution with a view to providing guidance to the Union's obliged entities on the need to apply enhanced due diligence measures aimed at mitigating such risks.

(55) Relationships with individuals who hold or who have held important public functions, within the Union or internationally, and particularly individuals from countries where corruption is widespread, may expose the financial sector to significant reputational and legal risks. The international effort to combat corruption also justifies the need to pay particular attention to such persons and to apply appropriate enhanced customer due diligence measures with respect to persons who are or who have been entrusted with prominent public functions and with respect to senior figures in international organisations. Therefore, it is necessary to specify measures which obliged entities should apply with respect to transactions or business relationships with politically exposed persons. To facilitate the risk-based approach, AMLA should be tasked with issuing guidelines on assessing the level of risks associated with a particular category of politically exposed persons, their family members or persons known to be close associates.

(55a) Risks associated with holders of prominent public functions are not limited to the national level but can also exist at regional and/or municipal levels. This is particularly true at the local level for densely populated areas, such as cities, which alongside the regional level often manage significant public funds and access to critical services or permits, with a resulting risk of corruption and associated money laundering. Therefore, it is necessary to include in the category of prominent public functions the heads of regional and local authorities, including groupings of municipalities and metropolitan regions, with at least 50 000 inhabitants. At the same time, it should be acknowledged that the geography and administrative organisation of Member States vary significantly, and in certain Member States it may be appropriate to set a lower threshold to cover the relevant local authorities on the basis of risk. When Member States decide to set lower thresholds, they should communicate those lower thresholds to the Commission.

(55b) The members of the administrative, management or supervisory bodies of enterprises controlled by the state, regional or local authorities can also be exposed to risks of corruption and associated money laundering. Given the size of their budget and the funds under management, such risks are particularly acute in relation to senior executive members in enterprises controlled by the state. Risks may also arise in relation to enterprises of a significant size controlled by regional and local authorities. As a result, the senior executives in enterprises controlled by regional or local authorities should be considered as politically exposed persons where those enterprises qualify as medium sized or large undertakings or groups as defined in Article 3 of Directive 2013/34/EU. However, recognising the geographical and administrative organisational differences, and the powers and responsibilities associated with these enterprises and their senior executives, Member States should be able to choose to set a lower annual turnover threshold on the basis of risk. In such a case, Member States should notify the Commission of its decision.

(56) In order to identify politically exposed persons in the Union, lists should be issued by Member States indicating the specific functions which, in accordance with national laws, regulations and administrative provisions, qualify as prominent public functions. Member States should request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation. The Commission should be tasked with compiling and issuing a list, which should be valid across the Union, as regards persons entrusted with prominent public functions in Union institutions or bodies. ***. In order to ensure a harmonised approach to the identification and notification of prominent public functions, the Commission should be empowered to adopt implementing acts setting out the format to be used for Member States' notifications, and delegated acts supplementing the categories of prominent public functions identified by this Regulation, where they are common across Member States.***

(57) When customers are no longer entrusted with a prominent public function, they can still pose a higher risk, for example because of the informal influence they could still exercise, or because their previous and current functions are linked. It is essential that obliged entities take into consideration those continuing risks and apply one or more enhanced due diligence measures until such time that the individuals are deemed to pose no further risk, and in any case for not less than 12 months following the time when they are no longer entrusted with a prominent public function.

(58) Insurance companies often do not have client relationships with beneficiaries of the insurance policies. However, they should be able to identify higher risk situations, such as when the proceeds of the policy benefit a politically exposed person. To determine whether this is the case, the insurance policy should include reasonable measures to identify the beneficiary, as if this person were a new client. Such measures can be taken at the time of the payout or at the time of the assignment of the policy, but not later.

(59) Close private and professional relationships can be abused for money laundering and terrorist financing purposes. For that reason, measures concerning politically exposed persons should also apply to their family members and persons known to be close associates. Properly identifying family members and persons known to be close associates may depend on the socio-economic and cultural structure of the country of the politically exposed person. Against this background, AMLA should have the task of issuing guidelines on the criteria to use to identify persons who should be considered as close associate.

(59a) The circle of family members who may be abused by politically exposed persons does not only cover parents and descendants but may also include siblings. This is particularly the case for categories of politically exposed persons who hold senior central government posts. In recognition, however, of differing socio-economic and cultural structures in existence at national level, which may influence the potential for abuse of sibling relationships, Member States should be able to apply a broader scope for the designation of siblings as family members of politically exposed persons to adequately mitigate the risks of abuse of those relationships. When Member States decide to apply a broader scope, they should communicate the details of that broader scope to the Commission.

(60) The requirements relating to politically exposed persons, their family members and close associates, are of a preventive and not criminal nature, and should not be interpreted as stigmatising politically exposed persons***, their family members or close associates*** as being involved in criminal activity. Refusing a business relationship with a person simply on the basis of a determination that they are ***a politically exposed person or a family member or a close associate of*** a politically exposed person is contrary to the letter and spirit of this Regulation.

(60a) Given the vulnerability of residency-by-investment schemes to money laundering, tax crimes, corruption, evasion of sanctions and the potential associated significant security threats for the Union as a whole, it is appropriate that obliged entities carry out, as a minimum, specific enhanced customer due diligence with respect to customers who are third-country nationals who are in the process of applying for residence rights in a Member State within the framework of those schemes..

(60b) The provision of bespoke asset management services to individuals with a high level of wealth may expose credit and financial institutions and trust and company service providers to specific risks including those arising from the complex and often personalized nature of such services. It is therefore necessary to specify a set of enhanced due diligence measures that should be applied, as a minimum, when such business relationships are deemed to pose a high risk of money laundering, its predicate offences or terrorist financing. The determination that a customer holds EUR 50 000 000 total minimum wealth takes into account financial and investable wealth including cash and cash equivalents, whether held as deposits or in savings products, as well as investments such as stocks, bonds and mutual funds, even when they are held under long-term agreements with that obliged entity. Furthermore, the value of the customer's real estate, excluding his or her private residence, should be taken into account. For the purposes of making that determination, credit and financial institutions and trust and company service providers need not carry out or request a precise calculation of the customer's total wealth. Rather, such entities should take measures to establish whether a customer holds wealth of EU 50 000 000 or more in financial, investable or real estate wealth.

(61) In order to avoid repeated customer identification procedures, it is appropriate, subject to suitable safeguards, to allow obliged entities to rely on the customer information collected by other obliged entities. Where an obliged entity relies on another obliged entity, the ultimate responsibility for customer due diligence should remain with the obliged entity which chooses to rely on the customer due diligence performed by another obliged entity. The obliged entity relied upon should also retain its own responsibility for compliance with AML/CFT requirements, including the requirement to report suspicious transactions and retain records.

(61a) The introduction of harmonised AML/CFT requirements across the Union, including with regard to group-wide policies and procedures, information exchange and reliance allows obliged entities operating within a group to leverage to the maximum the systems in place within that group in situations concerning the same customers. These rules allow not only achieving consistent and efficient implementation of AML/CFT rules across the group but also benefit from economies of scale at group level, for example by making it possible for obliged entities within the group to rely on the outcomes of processes adopted by other obliged entities within the group to comply with their customer identification and verification requirements.

(62) Obliged entities may outsource tasks relating to the performance of ▌ ***certain AML/CFT requirements to a*** service provider, unless they are established in third countries that are designated as high-risk, as having compliance weaknesses or as posing a threat to the Union's financial system. In the case of ▌ outsourcing relationships on a contractual basis between obliged entities and service providers not covered by AML/CFT requirements, any AML/CFT obligations upon those ▌ service providers could arise only from the contract between the parties and not from this Regulation. Therefore, the responsibility for complying with AML/CFT requirements should remain entirely with the obliged entity itself. The obliged entity should in particular ensure that, where ▌ ***a*** service provider is involved for the purposes of remote customer identification, the risk-based approach is respected. ***Processes or arrangements that contribute to the performance of a requirement under this Regulation, but where the performance of the requirement itself is not carried out by a service provider, such as the use or acquisition of third-party software or the access to databases or screening services by the obliged entity, are not considered to be outsourcing.***

(62a) The possibility to outsource tasks to a service provider allows obliged entities to decide on how to allocate their resources to comply with this Regulation, but does not relieve them of their obligation to understand how the measures they undertake, including those outsourced to service providers, are appropriate to mitigate the money laundering and terrorist financing risks identified. In order to ensure that such understanding is in place, the final decisions on measures that have a bearing on the implementation of policies, procedures and controls should always rest with the obliged entity.

(62b) The notification of outsourcing arrangements to the supervisor does not imply an acceptance of the outsourcing arrangement. This information, and in particular where critical functions are outsourced or where the obliged entity systematically outsources its functions, can however be taken into consideration by supervisors when assessing the obliged entity's systems and controls, and when determining the residual risk profile or in preparation for inspections.

(63) In order for third party reliance ▌ to function efficiently, further clarity is needed around the conditions according to which reliance takes place. AMLA should have the task of developing guidelines on the conditions under which third-party reliance ▌ can take place, as well as the roles and responsibilities of the respective parties. To ensure that consistent oversight of reliance ▌ is ensured throughout the Union, the guidelines should also provide clarity on how supervisors should take into account such practices and verify compliance with AML/CFT requirements when obliged entities resort to those practices.

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(64) The concept of beneficial ownership was introduced by Directive (EU) 2015/849 to increase transparency of complex corporate structures. The need to access accurate, up-to-date and adequate information on the beneficial owner is a key factor in tracing criminals who might otherwise be able to hide their identity behind such opaque structures. Member States are currently required to ensure that both corporate and other legal entities as well as express trusts and other similar legal arrangements obtain and hold adequate, accurate and current information on their beneficial ownership. However, the degree of transparency imposed by Member States varies. The rules are subject to divergent interpretations, and this results in different methods to identify beneficial owners of a given ***legal*** entity or ***legal*** arrangement. This is due, inter alia, to inconsistent ways of calculating indirect ownership of ***a legal*** entity or ***legal*** arrangement***, and differences between the legal systems of the Member States***. This hampers the transparency that was intended to be achieved. It is therefore necessary to clarify the rules to achieve a consistent definition of beneficial owner and its application across the internal market.

(65) ***The application of the rules for identifying*** ▌ the beneficial ***ownership*** ▌ of corporate and other legal entities***, as well as of legal arrangements, may give rise to implementation questions when relevant stakeholders are confronted with concrete cases, especially in instances of complex corporate structures, where the criteria of ownership interest and control coexist, or for the purposes of determining indirect*** ▌ ownership or control. ▌ ***In order to support the application of these rules by corporate and other legal entities and obliged entities, and consistent with the harmonisation goal of this Regulation, the Commission may adopt guidelines setting out how rules to identify the beneficial owner(s) in different scenarios should be applied, including through the use of case examples***.

(66) A meaningful identification of the beneficial owners requires a determination of whether control is exercised via other means. The determination of control through an ownership interest is necessary but not sufficient and it does not exhaust the necessary checks to determine the beneficial owners. The test on whether any natural person exercises control via other means is not a subsequent test to be performed only when it is not possible to determine an ownership interest. The two tests, namely that of control through an ownership interest and that of control via other means, should be performed in parallel. ▌

(66a) An ownership of 25% or more of the shares or voting rights or other ownership interest in general establishes the beneficial ownership of the legal entity. Ownership interest should encompass both control rights and rights that are significant in terms of receiving a benefit, as is a right to a share of profits or other internal resources or liquidation balance. There may, however, be situations where the risk that certain categories of legal entities be misused for money laundering or terrorist financing purposes are higher, for example due to the specific higher risk sectors in which these legal entities operate. In such situations, enhanced transparency measures are necessary to dissuade criminals from setting up or infiltrating these entities, either through direct or indirect ownership or control. In order to ensure that the Union is able to adequately mitigate such varying levels of risk, it is necessary to empower the Commission to identify those categories of legal entities that should be subject to lower beneficial transparency thresholds. To this end, Member States should inform the Commission when they identify categories of legal entities that are exposed to higher money laundering and terrorist financing risks. In those notifications, Member States may also indicate a lower ownership threshold that they consider may mitigate those risks. Such identification should be ongoing and should rely on the results of the national and supranational risk assessments as well as on relevant analyses and reports produced by AMLA, Europol or other Union bodies that have a role in the prevention, investigation and prosecution of money laundering and terrorist financing. That lower threshold should be of a sufficiently low level to mitigate the higher risks that corporate entities be misused for criminal purposes. To that end, that lower threshold should in general not be set at more than 15% of the shares or voting rights or other ownership interest. However, there may be cases in which, on the basis of a risk-sensitive assessment, a higher threshold would be more proportionate to address the identified risks. In those cases, it should be possible for the Commission to set the threshold between 15% and 25% of the ownership interest.

(66b) By their complex nature, multi-layered ownership and control structures make the identification of the beneficial owners more difficult. The concept of 'ownership or control structure' is intended to describe the way in which a legal entity is indirectly owned or controlled, or in which a legal arrangement is indirectly controlled, as a result of the relationships that exist between legal entities or arrangements across multiple layers. In order to ensure a consistent approach throughout the internal market, it is necessary to clarify the rules that apply to those situations. For this purpose, it is necessary to assess simultaneously whether any natural person has a direct or indirect shareholding with 25% or more of the shares or voting rights or other ownership interest, and whether any natural person controls the direct shareholder with 25% or more of the shares or voting rights or other ownership interest in the corporate entity. In case of indirect shareholding, the beneficial owners should be identified by multiplying the shares in the ownership chain. To this end, all shares directly or indirectly owned by the same natural person should be added together. This requires that shareholding on every level of ownership be taken into account. Where 25% of the shares or voting rights or other ownership interest in the corporate entity are owned by a shareholder that is a legal entity other than a corporate entity, the beneficial ownership should be determined having regard to the specific structure of the shareholder, including whether any natural person exercises control through other means over a shareholder.

(66c) The determination of the beneficial owner of a legal entity in situations where the shares of the legal entity are held in a legal arrangement, or where they are held by a foundation or similar legal entity, might be more difficult in view of the different nature and identification criteria of beneficial ownership between legal entities and legal arrangements. It is therefore necessary to set out clear rules to deal with these situations of multi-layered structure. In such cases, all beneficial owners of the legal arrangement or structurally and functionally similar legal entity such as a foundation, should be the beneficial owners of the legal entity whose shares are held in the legal arrangement or held by the foundation.

(66d) A common understanding of the concept of control and a more precise definition of the means of control are necessary to ensure consistent application of the rules across the internal market. Control should be understood as the effective ability to impose one's will on the corporate entity's decision-making on substantive issues. The usual mean of control is a majority share of voting rights ('control through ownership interest of the corporate entity'). The position of beneficial owner can also be established by control via other means without having significant, or any, ownership interest. For this reason, in order to ascertain all individuals that are the beneficial owners of a legal entity, control should be identified independently of ownership interest. Control can generally be exercised by any means, including legal and non-legal means. These means may be taken into account for assessing whether control via other means is exercised, depending on the specific situation of each legal entity.

(66e) Indirect ownership or control may be mediated by multiple links in a chain or by multiple individual or interlinked chains. A link in a chain may be any person or organisation or a legal arrangement without legal personality. The relations between the links may consist of ownership interest or voting rights or other means of control. In such cases, where ownership interest and control coexist in the ownership structure, specific and detailed rule on the identification of the beneficial ownership are needed to support a harmonised approach to the identification of beneficial owners.

(67) In order to ensure effective transparency, the widest possible range of legal entities and arrangements incorporated or created in the territory of Member States should be covered by beneficial ownership rules. This includes legal entities other than corporate ones and ***legal*** arrangements similar to ***express*** trusts. Due to differences in the legal systems of Member States, those broad categories encompass a variety of different organisational structures. Member States should notify to the Commission a list of the types of corporate and other legal entities where the beneficial owners is identified in line with the rules for the identification of beneficial owners for corporate entities. ▌

(68) ▌ ***The specific nature of certain*** legal entities, such as ▌ ***associations, trade unions, political parties or churches, does not lend them a meaningful identification of*** beneficial owners ▌ ***based of ownership interests or membership. In those cases, however, it may be the case that the senior managing officials exercise control over the*** legal ▌ ***entity through other means. In those cases, they should be reported as the beneficial owners***.

(68a) To ensure the consistent identification of beneficial owners of express trusts and similar legal entities, such as foundations, or arrangements, it is necessary to lay down harmonised beneficial ownership rules. Member States are required to notify to the Commission a list of the types of legal entities and legal arrangements similar to express trusts where the beneficial owners is identified according to the identification of beneficial owners for express trusts and similar legal entities or arrangements. The Commission should be empowered to adopt, by means of an implementing act, a list of legal arrangements and legal entities governed by national law of Member States, which have a structure or function similar to express trusts.

(68b) Discretionary trusts allow their trustee(s) discretion on the allocation of the trust assets or benefits derived from them. As such, no beneficiaries or class of beneficiaries is determined from the outset, but rather a pool of persons from among which the trustees can choose the beneficiaries, or persons who will become beneficiaries should the trustees not exercise their discretion. As recognised by the recent revision of FATF standards regarding legal arrangements, such discretion may be misused and allow for the obfuscation of beneficial owners should a minimum level of transparency not be imposed for discretionary trusts too, as transparency on beneficiaries would only be achieved upon the exercise of the trustees' discretion. Therefore, in order to ensure an adequate and consistent transparency for all types of legal arrangements, it is important that in the case of discretionary trusts information is also collected on the objects of a trustee's power, and on the default takers who would receive the assets or benefits should the trustees fail to exercise their discretion. There are situations where objects of a power or default takers may be a class. In those cases, information on the class should be collected, as well as information on the individual persons who are selected from the class.

(68b) To ensure the consistent identification of beneficial owners of undertakings for collective investment and alternative investment funds, it is necessary to lay down harmonised beneficial ownership rules. Regardless of whether the undertakings for collective investment and alternative investment funds exist in the Member State in the form of a legal entity with legal personality, as a legal arrangement without legal personality, or in any other form, the approach to the identification of the beneficial owner should be consistent with their purpose and function.

(68d) The characteristics of express trusts and similar legal arrangements in Member States may vary. In order to ensure a harmonised approach, it is appropriate to set out common principles for the identification of such arrangements. Express trusts are trusts created at the initiative of the settlor. Trusts set up by law or that do not result from the explicit intent of the settlor to create them should be excluded from the scope of this Regulation. Express trust are usually created in the form of a document e.g. a written deed or written instrument of trust and usually fulfil a business or personal need. Legal arrangements similar to express trusts are arrangements without legal personality which are similar in structure or functions. The determining factor is not the designation of the type of legal arrangement, but the fulfilment of the basic features of the definition of an express trust, i.e. the settlor's intention to place the assets under the administration and control of a certain person for specified purpose, usually of a business or personal nature, such as the benefit of the beneficiaries. To ensure the consistent identification of beneficial owners of legal arrangements similar to express trusts, Member States should notify to the Commission a list of the types of legal arrangements similar to express trusts. Such notification should be accompanied by an assessment justifying the identification of certain legal arrangements as similar to express trusts as well as why other legal arrangements have been considered as dissimilar in structure or function from express trusts. In performing such assessment, Member States should take into consideration all legal arrangements that are governed under their law.

(68e) In some cases of legal entities such as foundations, express trusts and similar legal arrangements, it is not possible to identify individual beneficiaries because they have yet to be determined, in such cases, beneficial ownership information should include instead a description of the class of beneficiaries and its characteristics. As soon as beneficiaries within the class are designated, they shall be beneficial owners. Furthermore, there are specific types of legal persons and legal arrangements where beneficiaries exist, but their identification is not proportionate in respect of the money laundering and terrorist financing risks associated with those legal persons or legal arrangements. This can be the case for example of regulated products such as pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council, employee financial ownership or participation schemes, or of legal entities or legal arrangements with a non-profit or charitable purpose, provided the risks associated with such legal persons and legal arrangements are low. In these cases, an identification of the class of beneficiaries should be sufficient.

(68e) Pension schemes regulated by Directive (EU) 2016/2341 of the European Parliament and of the Council are regulated products which are subject to stringent supervisory standards and present low risks of money laundering and terrorist financing. When such pension schemes are set up in the form of a legal arrangement, its beneficiaries are employees and workers which rely on those products, linked to their employment contracts, for the management of their retirement benefits. Due the specific nature of the retirement benefit, which carries low risk of money laundering and terrorist financing, it would not be proportionate to require the identification of each of those beneficiaries, and the identification of the class and its characteristic is sufficient to fulfil transparency obligations.

(69) A consistent approach to the beneficial ownership transparency regime also requires ensuring that the same information is collected on beneficial owners across the internal market. It is appropriate to introduce precise requirements concerning the information that should be collected in each case. That information includes a minimum set of personal data of the beneficial owner, the nature and extent of the beneficial interest held in the legal entity or legal arrangement and information on the legal entity or legal arrangement***, which are necessary to ensure the appropriate identification of the natural person who is the beneficial owner and the reasons why that natural person has been identified as the beneficial owner***.

(69a) An effective framework of beneficial ownership transparency requires information to be collected through various channels. Such multi-pronged approach includes the information held by the legal entity or trustee of an express trust or persons holding an equivalent position in a similar legal arrangement themselves, the information obtained by obliged entities in the context of customer due diligence, as well as the information held in beneficial ownership registers. Cross-checking of information among these pillars contributes to ensuring that each pillar holds adequate, accurate and up-to-date information. To this end, and in order to avoid that discrepancies are identified because of different approaches, it is important to identify those categories of data that should always be collected in order to ensure the beneficial ownership information is adequate. This includes basic information on the legal entity and legal arrangement, which is the precondition allowing the entity or arrangement itself to understand its control structure, whether through ownership or other means.

(69b) When legal entities and legal arrangements are part of a complex structure, clarity on their ownership or control structure is critical in order to ascertain who their beneficial owners are. To this end, it is important that legal entities and legal arrangements clearly understand the relationships by which they are indirectly owned or controlled, including all those intermediary steps between the beneficial owners and the legal entity or legal arrangement itself, whether these are in the form of other legal entities and legal arrangements or of nominee relationships. Identification of the ownership and control structure allows to identify the ways by which ownership is established or control can be exercised over a legal entity and is therefore essential for a comprehensive understanding of the position of the beneficial owner. The beneficial owner information should therefore always include a description of the relationship structure.

(70) Underpinning an effective framework on beneficial ownership transparency is the knowledge by corporate and other legal entities of the natural persons who are their beneficial owners. Thus, all corporate and other legal entities in the Union should obtain and hold adequate, accurate and current beneficial ownership information. That information should be retained for five years and the identity of the person responsible for retaining the information should be reported to the registers. That retention period is equivalent to the period for retention of the information obtained within the application of AML/CFT requirements, such as customer due diligence measures. In order to ensure the possibility to cross-check and verify information, for instance through the mechanism of discrepancy reporting, it is justified to ensure that the relevant data retention periods are aligned.

(70a) To ensure that beneficial ownership information is up-to-date, the legal entity should both update such information immediately after any change and periodically verify it. The time limit for updating the information should be reasonable in view of possible complex situations. Confirmation of the timeliness of the data should take place on a regular basis and various mechanisms can be used to do so. Legal entities should be able to verify accuracy of the information in the register also by using the different channels and instruments e.g. together with the submission of the financial statements, of other repetitive interaction with public authorities. Using the interconnection of registers and databases of a Member State may allow legal entity to validate information effectively.

(71) Corporate and other legal entities should take all necessary measures to identify their beneficial owners. There may however be cases where no natural person is identifiable who ultimately owns or exerts control over an entity. In such exceptional cases, provided that all means of identification are exhausted, the senior managing officials can be reported ***instead of the beneficial owners*** when providing beneficial ownership information to obliged entities in the course of the customer due diligence process or when submitting the information to the central register***. Although they are identified in these situations, the senior managing officials are not the beneficial owners***. Corporate and legal entities should keep records of the actions taken in order to identify their beneficial owners, especially when they rely on this last resort measure, which should be duly justified and documented.

(71a) Difficulties in obtaining the information should not be a valid reason to avoid the identification effort and resort to reporting the senior management instead. Therefore, legal entities should always be able to substantiate their doubts as to the veracity of the information collected. Such justification should be proportionate to the risk of the legal entity and the complexity of its ownership structure. In particular, the record of the actions taken should be promptly provided to competent authorities when required and, on a risk-sensitive basis, may include resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, informal arrangements determining powers equivalent to powers of attorney or other contractual agreements and documentation. In cases where the absence of beneficial owners is evident with respect to the specific form and structure of legal entity, the justification should be understood as a reference to this fact, i.e. that the legal entity does not have a beneficial owner due to its specific form and structure, where, for example, there are no ownership interests in it, nor can it be ultimately controlled by other means. For the purpose of the statement of the absence of the beneficial owner, it should be possible to use universal formulations or uniform forms.

(71b) In view of the purpose of determining beneficial ownership, which is to ensure effective transparency of legal persons, it is proportionate to exempt certain entities from the obligation to identify their beneficial owner. Such a regime can only be applied to entities for which the identification and registration of their beneficial owners is not useful and where the similar level of transparency is achieved by means other than beneficial ownership. In this respect, bodies governed by public law of the Member State should not be obliged to determine their beneficial owner. Directive 2004/109/EC of the European Parliament and of the Council[19] introduced strict transparency requirements for companies whose securities are admitted to trading on a regulated market. In certain circumstances, those transparency requirements can achieve an equivalent transparency regime to the beneficial ownership transparency rules set out in this Regulation. This is the case when the control over the company is exercised through voting rights, and the ownership or control structure of the company only includes natural persons. In those circumstances, there is no need to apply beneficial ownership requirements to those listed companies. The exemption for legal entities from the obligation to determine their own beneficial owner and to register it should not affect the obligation of obliged entities to identify the beneficial owner of a customer in customer due diligence when performing customer due diligence.

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[19] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

(72) There is a need to ensure a level playing field among the different types of legal forms and to avoid the misuse of ***express*** trusts and legal arrangements, which are often layered in complex structures to further obscure beneficial ownership. Trustees of any express trust administered ***or established or residing*** in a Member State should thus be responsible for obtaining and holding adequate, accurate and current beneficial ownership information regarding the ***express*** trust, and for disclosing their status and providing this information to obliged entities carrying out costumer due diligence. Any other beneficial owner of the ***express*** trust should assist the trustee in obtaining such information.

(72a) The nature of legal arrangements and the lack of publicity about their structures and purpose places a particular onus on the trustees or persons in equivalent positions in similar legal arrangements to obtain and hold all relevant information on the legal arrangement. Such information should enable an identification of the legal arrangement, the assets placed therein or administered through it, and any agent or service provider to the trust. In order to facilitate the activities of competent authorities in the prevention, detection and investigation of money laundering, its predicate offences and terrorist financing, it is important that trustees keep this information up-to-date and that they hold it for a sufficient amount of time after they cease their role as trustees or equivalent. The provision of a basic amount of information on the legal arrangement to obliged entities is also necessary to enable them to fully ascertain the purpose of the business relationship or occasional transaction involving the legal arrangement, adequately assess the associated risks, and implement commensurate measures to mitigate those risks.

(73) In view of the specific structure of certain legal ▌ ***arrangements***, and the need to ensure sufficient transparency about their beneficial ownership, such ▌ legal arrangements similar to ***express*** trusts should be subject to equivalent beneficial ownership requirements as those that apply to express trusts.

(74) Nominee arrangements may allow the concealment of the identity of the beneficial owners, because a nominee might act as the director or shareholder of a legal entity while the nominator is not always disclosed. Those arrangements might obscure the beneficial ownership and control structure, when beneficial owners do not wish to disclose their identity or role within them. There is thus a need to introduce transparency requirements in order to avoid that these arrangements are misused and to prevent criminals from hiding behind persons acting on their behalf. ***The relationship between nominee and nominator is not determined by whether it has an effect on the public or third parties. Although nominee shareholders whose name appears in public or official records would formally have independent control over the company, it should be required to disclose whether they are acting on the instructions of someone else on the basis of a private concert.*** Nominee shareholders and nominee directors of corporate or other legal entities should maintain sufficient information on the identity of their nominator as well as of any beneficial owner of the nominator and disclose them as well as their status to the corporate or other legal entities. The same information should also be reported by corporate and other legal entities to obliged entities, when customer due diligence measures are performed.

(75) The risks posed by foreign corporate entities and legal arrangements, which are misused to channel proceeds of funds into the Union's financial system, need to be mitigated. Since beneficial ownership standards in place in third countries might not be sufficient to allow for the same level of transparency and timely availability of beneficial ownership information as in the Union, there is a need to ensure adequate means to identify the beneficial owners of foreign corporate entities or legal arrangements in specific circumstances. Therefore, legal entities incorporated outside the Union and express trusts or similar legal arrangements administered outside the Union should be required to disclose their beneficial owners ***when*** they operate in the Union by entering into a business relationship with a Union's obliged entity or by acquiring real estate in the Union ***or certain high value goods from obliged entities located in the Union, as well as when they are awarded a public procurement for goods, services or concessions. There may be variations in the risk exposure across Member States, including depending on the category or type of activities carried out by obliged entities and on the attractiveness for criminals of real estate properties in their territory. Therefore, where Member States identify situations of higher risk, they should be able to take additional mitigating measures to address those risks***.

(75a) The registration requirements for foreign legal entities and legal arrangements should be proportionate to the risks associated with their operations in the Union. Given the open nature of the Union internal market, and the use made by foreign legal entities of the services offered by obliged entities established in the Union, many of which are associated with lower risks of money laundering, its predicate offences or terrorist financing, it is appropriate to limit the registration requirement to legal entities that belong to high-risk sectors or that operate in higher risk categories or that obtain services from obliged entities operating in sectors associated with higher risks. The private nature of legal arrangements, and the obstacles in accessing beneficial ownership information in case of foreign legal arrangements, justify the application of a registration requirement irrespective of the level of risk associated with the obliged entity providing services to the legal arrangement, or, where relevant, with the sector in which the legal arrangement operates. Reference to the supranational risk assessment under Article 7 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] should be understood to refer to the supranational risk assessment issued by the Commission pursuant to Article 6 of Directive (EU) 2015/849 until the first issuance of the report under Article 7.

(76) In order to encourage compliance and ensure an effective beneficial ownership transparency, beneficial ownership requirements need to be enforced. To this end, Member States should apply sanctions for breaches of those requirements. Those sanctions should be effective, proportionate and dissuasive, and should not go beyond what is required to encourage compliance. Sanctions introduced by Member States should have an equivalent deterrent effect across the Union on the breaches of beneficial ownership requirements. ***Sanctions may for example include fines for legal entities and trustees or persons holding an equivalent position in a similar legal arrangement for outdated, inaccurate or incorrect beneficial ownership data, the strike-off of legal entities that fail to comply with the obligation to hold beneficial ownership information or to submit beneficial ownership information within a given time limit, fines for beneficial owners and other persons who fail to cooperate with legal entity or trustee of an express trust or similar legal arrangement, fines for nominee shareholders and nominee directors who fail to comply with the obligation of disclosure or private law consequences for undisclosed beneficial owners as prohibition of the payment of profits or prohibition of the exercise of voting rights.***

(76a) With a view to ensuring a consistent approach to the sanctioning of breaches of beneficial ownership requirements across the internal market, the Commission is empowered to adopt delegated acts to define the categories of breaches subject to sanctions and the persons liable for such breaches, as well as indicators on the level of gravity and criteria to determine the level of sanctions. Furthermore, in order to support the determination of the level of sanctions, and consistent with the harmonisation goal of this Regulation, the Commission may adopt guidelines setting out the base amounts that should apply to each category of breach.

(77) Suspicious transactions, including attempted transactions, and other information relevant to money laundering, its predicate offences and terrorist financing, should be reported to the FIU, which should serve as a single central national unit for receiving and, analysing reported suspicions and for disseminating to the competent authorities the results of its analyses. All suspicious transactions, including attempted transactions, should be reported, regardless of the amount of the transaction***, and the reference to suspicious transactions should be interpreted as including suspicious activities, behaviour and patterns of transactions***. Reported information may also include threshold-based information. ***In order to support obliged entities' detection of suspicions, AMLA should issue guidance on indicators of suspicious activity or behaviour. Given the evolving risk environment, that guidance should be reviewed regularly, and should not prejudge the issuance by FIUs of guidance or indicators on ML/TF risks and methods identified at national level.*** The disclosure of information to the FIU in good faith by an obliged entity or by an employee or director of such an entity should not constitute a breach of any restriction on disclosure of information and should not involve the obliged entity or its directors or employees in liability of any kind.

(77a)) Obliged entities should establish comprehensive reporting regimes encompassing all suspicions, regardless of the value or perceived severity of the associated criminal activity. At the same time, they should be aware of the expectations of FIUs and should, as far as possible, tailor their detection systems and analytical processes in line with the risks affecting the Member State in which they are established and, where necessary, prioritise their analysis towards addressing those key risks.

(77b) Transactions should be assessed on the basis of information known or which should be known to the obliged entity. This includes relevant information from agents, distributors and service providers. Where the underlying predicate offence is not known or apparent to the obliged entity, the role of identifying and reporting suspicious transactions is fulfilled more efficiently by focusing on detecting suspicions and submitting reports promptly. In those cases, the predicate offence need not be specified by the obliged entity when reporting a suspicious transaction to the FIU, if it is not known to them. Where this information is available, it should be included in the report. As gatekeepers of the Union's financial system, obliged entities should also be able to submit a report where they know or suspect that funds have been or will be used to carry out criminal activities, such as the purchase of illicit goods, even if the information available to them does not indicate that the funds used originate from illicit sources.

(78) Differences in suspicious transaction reporting obligations between Member States may exacerbate the difficulties in AML/CFT compliance experienced by obliged entities that have a cross-border presence or operations. Moreover, the structure and content of the suspicious transaction reports have an impact on the FIU's capacity to carry out analysis and on the nature of that analysis, and also affects FIUs' abilities to cooperate and to exchange information. In order to facilitate obliged entities' compliance with their reporting obligations and allow for a more effective functioning of FIUs' analytical activities and cooperation, AMLA should develop draft ▌ ***implementing*** standards specifying a common template for the reporting of suspicious transactions to be used as a uniform basis throughout the Union.

(79) FIUs should be able to obtain swiftly from any obliged entity all the necessary information relating to their functions. Their unfettered and swift access to information is essential to ensure that flows of money can be properly traced and illicit networks and flows detected at an early stage. The need for FIUs to obtain additional information from obliged entities based on a suspicion of money laundering or financing of terrorism might be triggered by a prior suspicious transaction report reported to the FIU, but might also be triggered through other means such as the FIU's own analysis, intelligence provided by competent authorities or information held by another FIU. FIUs should therefore be able, in the context of their functions, to obtain information from any obliged entity, even without a prior report being made. ▌ ***In particular, records of financial transactions and transfers carried out through a bank, payment or crypto-asset account are critical for FIUs' analytical work. However, due to the lack of harmonisation, at present credit and financial institutions provide FIUs with transaction records in different formats, which are not readily useable for analysis. Considering the cross-border nature of FIUs' analytical activities, the disparity of formats and difficulties of processing transaction records hamper the exchange of*** information ▌ ***among FIUs and the development of cross-border financial analyses. AMLA should therefore develop draft implementing standards specifying a common template for the provision of transaction records by credit and financial institutions to FIUs to be used as uniform basis throughout the Union.***

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(79a) Obliged entities should reply to a request for information by the FIU as soon as possible and, in any case, within five working days of receipt of the request or any other shorter or longer time frame imposed by the FIU. In justified and urgent cases, the obliged entity should be able to respond to the FIU's request within 24 hours. This does not include indiscriminate requests for information to the obliged entities in the context of the FIU's analysis, but only information requests based on sufficiently defined conditions. An FIU should also be able to obtain such information on a request made by another Union FIU and to exchange the information with the requesting FIU. Requests to obliged entities vary in nature. For example, complex requests may necessitate more time and warrant an extended time frame for response. To that end, FIUs should be able to grant extended timeframes to obliged entities, provided this does not have a negative impact on the FIU's analysis.

(80) For certain obliged entities, Member States should have the possibility to designate an appropriate self-regulatory body to be informed in the first instance instead of the FIU. In accordance with the case-law of the European Court of Human Rights, a system of first instance reporting to a self-regulatory body constitutes an important safeguard for upholding the protection of fundamental rights as concerns the reporting obligations applicable to lawyers. Member States should provide for the means and manner by which to achieve the protection of professional secrecy, confidentiality and privacy.

(81) ▌ ***Notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors should be allowed*** not to transmit to the FIU ▌ ***or to a self-regulatory body any*** information ▌ received from, or obtained on, one of their clients, in the course of ascertaining the legal position of their client, or in performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings. ***However, such an exception should not apply where the legal professional is taking part in money laundering or terrorist financing, the legal advice is provided for the purposes of money laundering or terrorist financing, or where the legal professional knows that the client is seeking legal advice for the purposes of money laundering or terrorist financing. Knowledge and purpose can be inferred from objective, factual circumstances. Legal advice sought in relation to ongoing judicial proceedings should not be deemed to constitute legal advice for the purposes of money laundering of terrorist financing. In line with the risk-based approach, Member States should be able to identify, additional situations where, having regard to the high risk of money laundering, its predicate offences or terrorist financing associated with certain types of transactions, the exemption from the reporting requirement does not apply. When identifying such additional situations, Member States have to ensure compliance in particular with Articles 7 and 47 of the Charter.***

(82) Obliged entities should exceptionally be able to carry out suspicious transactions before informing the ▌ ***FIU*** where refraining from doing so is impossible or likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation. However, this exception should not be invoked in relation to transactions concerned by the international obligations accepted by the Member States to freeze without delay funds or other assets of terrorists, terrorist organisations or those who finance terrorism, in accordance with the relevant United Nations Security Council resolutions.

(83) Confidentiality in relation to the reporting of suspicious transactions and to the provision of other relevant information to FIUs is essential in order to enable the competent authorities to freeze and seize assets potentially linked to money laundering, its predicate offences or terrorist financing. A suspicious transaction is not an indication of criminal activity. Disclosing that a suspicion has been reported may tarnish the reputation of the persons involved in the transaction and jeopardise the performance of analyses and investigations. Therefore, obliged entities and their directors and employees***, or persons in a comparable position, including agents and distributors,*** should not inform the customer concerned or a third party that information is being, will be, or has been submitted to the FIU, whether directly or through the self-regulatory body, or that a money laundering or terrorist financing analysis is being, or may be, carried out. The prohibition of disclosure should not apply in specific circumstances concerning, for example, disclosures to competent authorities and self-regulatory bodies when performing supervisory functions, or disclosures for law enforcement purposes or when the disclosures take place between obliged entities that belong to the same group.

(84) Criminals move illicit proceeds through numerous intermediaries to avoid detection. Therefore it is important to allow obliged entities to exchange information not only between group members, but also in certain cases between credit and financial institutions and other entities that operate within networks, with due regard to data protection rules. ***Outside of a partnership for information sharing, the disclosure permitted among certain categories of obliged entities in cases involving the same transaction should only take place with regard to the specific transaction that is carried out between or facilitated by those obliged entities, and not with regard to connected previous or subsequent transactions.***

(84a) The exchange of information among obliged entities and, where applicable, competent authorities, may increase the possibilities for detecting illicit financial flows concerning money laundering, terrorism financing and proceeds of crime. For this reason, obliged entities and competent authorities should be able to exchange information in the framework of an information sharing partnership when they deem such sharing to be necessary for compliance with their AML/CFT obligations and tasks. Information sharing should be subject to robust safeguards relating to confidentiality, data protection, use of information and criminal procedure. Obliged entities should not rely solely on the information received through the exchange of information to draw conclusions on the ML/TF risk of the customer or transaction or to take decisions regarding the establishment or termination of a business relationship or the carrying out of a transaction. As recognised in Directive (EU) 2014/92 of the European Parliament and of the Council, the smooth functioning of the internal market and the development of a modern, socially inclusive economy increasingly depends on the universal provision of payment services. Therefore, access to basic financial services should not be denied on the basis of information exchanged among obliged entities or between obliged entities and competent authorities or AMLA.

(84b) Compliance with the requirements of this Regulation is subject to checks by supervisors. Where obliged entities exchange information in the framework of a partnership for information sharing, those checks should also include compliance with the conditions set out under this Regulation for those exchanges of information. While supervisory checks should be risk-based, they should be performed in any event prior to the commencement of the activities of the partnership for information sharing. Partnerships for information sharing that involve the processing of personal data may result in a high risk to the rights and freedoms of natural persons. Therefore, a data protection impact assessment pursuant to Regulation (EU) 2016/679 should be carried out prior to the start of the activities of the partnership. In the context of supervisory checks, supervisors should consult, where relevant, data protection authorities, which alone are competent for assessing the data protection impact assessment. The data protection provisions and all requirements concerning the confidentiality of information on suspicious transactions contained in this Regulation apply to information shared in the framework of a partnership. Consistent with Regulation EU 2016/679, Member States may maintain or introduce more specific provisions to adapt the application of that Regulation to provide more specific requirements in relation to the processing of personal data exchanged in the framework of a partnership for information sharing.

(84c) While partnership for information sharing enable the exchange of operational information and personal data under strict safeguards, those exchanges should not replace the requirements under this regulation to report any suspicion to the competent FIU. Therefore, when obliged entities identify suspicious activities on the basis of information obtained in the context of a partnership for information sharing, they should report that suspicion to the FIU in the Member State where they are established. Information that indicates suspicious activity is subject to stricter rules that prohibit its disclosure and should only be shared where necessary for the purposes of preventing and combating money laundering, its predicate offences and terrorist financing and subject to safeguards protecting fundamental rights, the confidentiality of FIU work and the integrity of law enforcement investigations.

(85) Regulation (EU) 2016/679 of the European Parliament and of the Council[20] applies to the processing of personal data for the purposes of this Regulation. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. ***Obliged entities should pay particular attention to the principles requiring that the personal data processed in the course of compliance with their AML/CFT obligations be accurate, reliable and up to date. For the purposes of complying with this Regulation, obliged entities may adopt processes that enable automated individual decision-making, including profiling, as set out under Article 22 of Regulation (EU) 2016/679. When doing so, the requirements set out in this Regulation to safeguard the rights of persons subject to such processes should apply in addition to any other relevant requirements set out in Union law concerning the protection of personal data.***

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20 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(86) It is essential that the alignment of the AML/CFT framework with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law and the protection of fundamental rights as enshrined in the Charter. Certain aspects of the implementation of the AML/CFT framework involve the collection, analysis, storage and sharing of data. Such processing of personal data should be permitted, while fully respecting fundamental rights, only for the purposes laid down in this Regulation, and for carrying out customer due diligence, ongoing monitoring, analysis and reporting of ▌ suspicious transactions, identification of the beneficial owner of a legal person or legal arrangement, identification of a politically exposed person and sharing of information by credit institutions and financial institutions and other obliged entities. The collection and subsequent processing of personal data by obliged entities should be limited to what is necessary for the purpose of complying with AML/CFT requirements and personal data should not be further processed in a way that is incompatible with that purpose. In particular, further processing of personal data for commercial purposes should be strictly prohibited.

(86a) The processing of certain categories of sensitive data as defined under Article 9 of Regulation 2016/679 may give rise to risks to the fundamental rights and freedoms of the subjects of those data. To minimise the risks that the processing of such data by obliged entities results in discriminatory or biased outcomes that adversely impact the customer, such as the termination or refusal to enter into a business relationship, obliged entities should not take decisions solely on the basis of information in their possession concerning special categories of personal data within the meaning of Regulation 2016/679 where that information bears no relevance to the money laundering or terrorist financing risk posed by a transaction or relationship. Similarly, in order to ensure that the intensity of customer due diligence is based on a holistic understanding of the risks associated with the customer, obliged entities should not base the application of a higher or lower level of customer due diligence measures solely on the basis of sensitive data that they possess on the customer.

(87) The revised FATF Recommendations demonstrate that, in order to be able to cooperate fully and comply swiftly with information requests from competent authorities for the purposes of the prevention, detection or investigation of money laundering and terrorist financing, obliged entities should maintain, for at least five years, the necessary information obtained through customer due diligence measures and the records on transactions. In order to avoid different approaches and in order to fulfil the requirements relating to the protection of personal data and legal certainty, that retention period should be fixed at five years after the end of a business relationship or an occasional ***transaction. There may be situations where the functions of competent authorities cannot be effectively carried out if the relevant information held by obliged entities is deleted pursuant to the lapse of the retention period. In such cases, competent authorities should be able to request obliged entities to retain information on a case-by-case basis for a longer period, which should not exceed five years.***

(88) ***When the notion of competent authorities refers to investigating and prosecuting authorities, it should be interpreted as including the European Public Prosecutor's Office (EPPO) with regard to the Member States that participate in the enhanced cooperation on the establishment of the EPPO.*** ▌

(88a) Disseminations by FIUs play a crucial role in detecting possible criminal activities under the competence of the EPPO, OLAF, or in relation to which Europol and Eurojust can provide operational support in accordance with their respective mandates, at an early stage, and can support prompt and effective investigations and prosecutions. Information shared with the EPPO and OLAF by FIUs should include grounds for the suspicion that a crime under the EPPO's and OLAF's respective competencies might be or has been perpetrated, and be accompanied by all relevant information that the FIU holds and which can support action, including relevant financial and administrative information. When the EPPO and OLAF request information from FIUs, it is equally important that FIUs are able to share all the information they hold in relation to the case. In accordance with the applicable provisions in their founding legal instruments, the EPPO and OLAF should inform FIUs about the steps taken in relation to the information that was disseminated and any relevant outcomes.

(89) For the purpose of ensuring the appropriate and efficient administration of justice during the period between the entry into force and application of this Regulation, and in order to allow for its smooth interaction with national procedural law, information and documents pertinent to ongoing legal proceedings for the purpose of the prevention, detection or investigation of possible money laundering or terrorist financing, which have been pending in the Member States on the date of entry into force of this Regulation, should be retained for a period of five years after that date, and it should be possible to extend that period for a further five years.

(90) The rights of access to data by the data subject are applicable to the personal data processed for the purpose of this Regulation. However, access by the data subject to any information related to a suspicious transaction report would seriously undermine the effectiveness of the fight against money laundering and terrorist financing. Exceptions to and restrictions of that right in accordance with Article 23 of Regulation (EU) 2016/679 may therefore be justified. The data subject has the right to request that a supervisory authority referred to in Article 51 of Regulation (EU) 2016/679 checks the lawfulness of the processing and has the right to seek a judicial remedy referred to in Article 79 of that Regulation. The supervisory authority may also act on an ex-officio basis. Without prejudice to the restrictions to the right to access, the supervisory authority should be able to inform the data subject that all necessary verifications by the supervisory authority have taken place, and of the result as regards the lawfulness of the processing in question.

(91) Obliged entities might resort to the services of other private operators. However, the AML/CFT framework should apply to obliged entities only, and obliged entities should retain full responsibility for compliance with AML/CFT requirements. In order to ensure legal certainty and to avoid that some services are inadvertently brought into the scope of this regulation, it is necessary to clarify that persons that merely convert paper documents into electronic data and are acting under a contract with an obliged entity, and persons that provide credit institutions or financial institutions solely with messaging or other support systems for transmitting funds ***as defined in Article 4, point (25) of Directive (EU) 2015/2366*** or with clearing and settlement systems do not fall within the scope of this Regulation.

(92) Obliged entities should obtain and hold adequate and accurate information on the beneficial ownership and control of legal persons. As bearer shares accord the ownership to the person who possesses the bearer share certificate, they allow the beneficial owner to remain anonymous. To ensure that those shares are not misused for money laundering or terrorist financing purposes, companies - other than those with listed securities on a regulated market or whose shares are issued as intermediated securities - should convert all existing bearer shares into registered shares. In addition, only bearer share warrants in intermediated form should be allowed.

(93) The anonymity of crypto-assets exposes them to risks of misuse for criminal purposes. Anonymous crypto-asset ▌ ***accounts as well as other anonymising instruments,*** do not allow the traceability of crypto-asset transfers, whilst also making it difficult to identify linked transactions that may raise suspicion or to apply to adequate level of customer due diligence. In order to ensure effective application of AML/CFT requirements to crypto-assets, it is necessary to prohibit the provision and the custody of anonymous crypto-asset ▌ ***accounts or accounts allowing for the anonymisation or the increased obfuscation of transactions*** by crypto-asset service providers***, including through anonymity-enhancing coins***. ***The prohibition does not apply to providers of hardware and software or providers of self-hosted wallets insofar as they do not possess access to or control over those crypto-assets wallets .***

(94) The use of large cash payments is highly vulnerable to money laundering and terrorist financing; this has not been sufficiently mitigated by the requirement for traders in goods to be subject to anti-money laundering rules when making or receiving cash payments of EUR 10 000 or more. At the same time, differences in approaches among Member States have undermined the level playing field within the internal market to the detriment of businesses located in Member States with stricter controls. It is therefore necessary to introduce a Union-wide limit to large cash payments of EUR 10 000. Member States should be able to adopt lower thresholds and further stricter provisions ***to the extent that they pursue legitimate objectives in the public interest***. ***Given that the AML/CFT framework is based on the regulation of the business economy, the limit should not apply to payments between natural persons who are not acting in a professional function. In addition, in order to ensure that the Union-wide limit does not unintentionally create barriers for persons who are unbanked to make payments, or for business to deposit the income from their activities in their accounts, payments or deposits made at the premises of credit institutions, payment institutions or electronic money institutions should also be exempted from the application of the limit.***

(94b) Cash payments or deposits made at the premises of credit institutions, payment service providers and electronic money providers that exceed the threshold for large cash payments should not, by default, be considered an indicator or suspicion of money laundering, its predicate offences or terrorist financing. The reporting of such transactions enables the FIU to assess and identify patterns concerning the movement of cash and while such information contributes to the FIU's operational or strategic analyses, the nature of threshold-based disclosures makes them distinct from suspicious transaction reports. To that effect, threshold-based disclosures do not replace the requirement to report suspicious transactions or to apply enhanced due diligence measures in situations of higher risk. FIUs may require the reports to be made within a specific timeframe, which may include the periodic submission on an aggregated basis.

(94c) There may be cases where reasons of force majeure, such as those caused by natural catastrophes, result in a widespread loss of access to payment mechanisms other than cash. In those cases, Member States should be able to suspend the application of the limit on large cash payments. Such a suspension is an extraordinary measure and should only be applied where necessary as a response to exceptional, duly justified, situations. An impossibility to access financial services does not constitute a valid ground for the suspension of the limit where this is attributable to a Member State's failure to guarantee that consumers have access to financial infrastructure across the entirety of its territory.

(95) The Commission should assess the costs, benefits and impacts of ▌ ***adjusting*** the limit to large cash payments at Union level with a view to levelling further the playing field for businesses and reducing opportunities for criminals to use cash for money laundering. This assessment should consider in particular the most appropriate level for a harmonised limit to cash payments at Union level considering the current existing limits to cash payments in place in a large number of Member States, the enforceability of such a limit at Union level and the effects of such a limit on the legal tender status of the euro.

(96) The Commission should also assess the costs, benefits and impacts of lowering the ***25%*** threshold for the identification of beneficial owners when control is exercised through ownership ***interest***. This assessment should consider in particular the lessons learned from Member States or third countries having introduced lower thresholds.

(96a) Risks associated with high-value goods may also extend to other goods that are highly portable, such as garments and clothing accessories. The Commission should therefore assess the need to extend the scope of obliged entities to include traders in such high-value goods. In addition, given that this Regulation introduces for the first time at Union level mandatory threshold-based disclosures in relation to certain high-value goods, the Commission should assess, based on the experience gathered with implementation of this Regulation, the need of extending the scope of goods subject to threshold-based disclosures, and of harmonising the format for such disclosures in light of the use made by FIUs. Finally, given the risks associated with high-value goods in free trade zones, the Commission should assess the necessity of expanding the scope of information to be reported by operators trading and storing high-value goods in those free trade zones.

(97) In order to ensure consistent application of AML/CFT requirements, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Regulation by adopting delegated acts identifying high-risk third countries, third countries with compliance weaknesses and countries that pose a ***specific and serious*** threat to the Union's financial system and defining harmonised and proportionate enhanced due diligence measures as well as, where relevant, mitigating measures***, additional cases of higher risk and associated enhanced due diligence measures, common additional categories of prominent public functions, categories of corporate entities associated with higher risk and the associated lower thresholds for identifying beneficial ownership through ownership interest and the categories of breaches of beneficial ownership transparency requirements, the liable persons, the indicators to establish the gravity of those breaches and the criteria to be taken into account when setting the level of sanctions,*** as well as the regulatory technical standards setting out the minimum requirements of group-wide policies, controls and procedures and the conditions under which structures which share common ownership, management or compliance controls are required to apply group-wide policies, controls and procedures, the actions to be taken by groups when the laws of third countries do not permit the application of group-wide policies, controls and procedures and supervisory measures, the sectors and transactions subject to lower thresholds for the performance of customer due diligence**,** and the information necessary for the performance of customer due diligence. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[21]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[21] OJ L 123, 12.5.2016, p. 1.

(98) In order to ensure uniform conditions for the application of this Regulation, implementing powers should be conferred on the Commission in order to ***decide of the suspension of national countermeasures, set out the methodology for the identification of third countries posing a specific and serious threat to the Union's financial system, set out the format for the establishment and communication of the national lists of prominent public functions,*** identify legal ***entities and legal*** arrangements similar to express trusts governed by the national laws of Member States as well as to adopt implementing technical standards specifying the format to be used for the reporting of suspicious transactions ***and for the provision of transaction records, as well as the format to be used by FIUs for the dissemination of information to the EPPO***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[22].

(99) This Regulation respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).

(100) In accordance with Article 21 of the Charter, which prohibits discrimination based on any grounds, obliged entities should perform risk assessments in the context of customer due diligence without discrimination.

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[22] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(101) When drawing up a report evaluating the implementation of this Regulation, the Commission should give due consideration to the respect of the fundamental rights and principles recognised by the Charter.

(102) Since the objective of this Regulation, namely to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing, cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(103) The European Data Protection Supervisor has been consulted in accordance with Article 42 of Regulation (EU) 2018/1725 [and delivered an opinion on ...[23]],

HAVE ADOPTED THIS REGULATION:

[23] OJ C , , p. .

CHAPTER I
GENERAL PROVISIONS

SECTION 1
SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down rules concerning:

(a) the measures to be applied by obliged entities to prevent money laundering and terrorist financing;

▌

(b) beneficial ownership transparency requirements for legal entities***, express trusts and similar legal*** ▌ arrangements;

▌

(c) measures to limit the misuse of ▌ ***anonymous*** instruments.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘money laundering’ means the conduct as set out in Article 3, paragraphs 1 and 5 of Directive (EU) 2018/1673 including aiding and abetting, inciting and attempting to commit that conduct, whether the activities which generated the property to be laundered were carried out on the territory of a Member State or on that of a third country. Knowledge, intent or purpose required as an element of that conduct may be inferred from objective factual circumstances;

(2) ‘terrorist financing’ means the conduct set out in Article 11 of Directive (EU) 2017/541 including aiding and abetting, inciting and attempting to commit that conduct, whether carried out on the territory of a Member State or on that of a third country. Knowledge, intent or purpose required as an element of that conduct may be inferred from objective factual circumstances;

(3) ‘criminal activity’ means criminal activity as defined in Article 2(1) of Directive (EU) 2018/1673, as well as fraud affecting the Union’s financial interests as defined in Article 3(2) of Directive (EU) 2017/1371, passive and active corruption as defined in Article 4 (2) and misappropriation as defined in Article 4(3), second subparagraph of that Directive;

(4) ***'funds' or*** 'property' means property as defined in Article 2(2) of Directive (EU) 2018/1673;

(5) 'credit institution' means ▌***:***

(a) a credit institution as defined in Article 4(1), point (1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[24];

(b) a branch of a credit institution referred to in point (a), as defined in article 4(1) point 17 of Regulation (EU) No 575/2013 of the European Parliament and of the Council, when located in the Union, whether its head office is situated in a Member State or in a third country;

(6) 'financial institution' means:

(a) an undertaking other than a credit institution or an investment firm, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of Annex I to Directive 2013/36/EU of the European Parliament and of the Council[25], including the activities of currency exchange offices (bureaux de change), ***but excluding the activities referred to in point (8) of Annex I to Directive (EU) 2015/2366 of the European Parliament and of the Council, or an undertaking*** ▌ the principal activity of which is to acquire holdings, including a financial holding company***, a mixed financial holding company*** and a ***financial*** mixed ▌ ***activity*** holding company;

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24 ***Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).***

25 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(b) an insurance undertaking as defined in Article 13, point (1) of Directive 2009/138/EC of the European Parliament and of the Council[26], insofar as it carries out life or other investment-related assurance activities covered by that Directive, including insurance holding companies and mixed-activity insurance holding companies as defined, respectively, in Article 212(1), points (f) and (g) of Directive 2009/138/EC;

(c) an insurance intermediary as defined in Article 2(1), point (3) of Directive (EU) 2016/97 of the European Parliament and of the Council[27] where it acts with respect to life insurance and other investment-related ***insurance*** services***, with the exception of an insurance intermediary that does not collect premiums or amounts intended for the customer and which acts under the responsibility of one or more insurance undertakings or intermediaries for the products which concern them respectively***;

(d) an investment firm as defined in Article 4(1), point (1) of Directive 2014/65/EU of the European Parliament and of the Council[28];

[26] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

[27] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19).

[28] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014, p. 349).

(da) a collective investment undertaking, in particular:

(i) an undertaking for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC and its management company as defined in Article 2(1)(b) of that Directive or an investment company authorised in accordance with that Directive and which has not designated a management company, that makes available for purchase units of UCITS in the Union;

(ii) an alternative investment fund as defined in Article ***4(1), point (a)*** of Directive 2011/61/EU and its alternative investment fund manager as defined in Article ***4(1), point (b)*** of that Directive that fall within the scope set out in Article 2 of that Directive;

(ea) a central securities depository as defined in Article 2 point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council;

(eb) a creditor as defined in Article 4, point (2) of Directive 2014/17/EU of the European Parliament and of the Council[29] and in Article 3, point (b) of Directive 2008/48/EC of the European Parliament and of the Council[30]

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[29] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2017, p. 34).

[30] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

(ec) a credit intermediary as defined in Article 4, point (5) of Directive 2014/17/EU and in Article 3, point (f) of Directive 2008/48/EC; when holding the funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 in connection with the credit agreement, with the exception of the credit intermediary carrying out activities under the responsibility of one or more creditors or credit intermediaries

(ed) a crypto-asset service provider;

(f) branches of financial institutions as defined in points (a) to ***(ed)***, when located in the Union, whether their head office is situated in a Member State or in a third country;

▌

(6a) 'crypto-asset service provider' means a crypto-asset service provider as defined in Article 3(1), point (15), of Regulation (EU) 2023/... [please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final] where performing one or more crypto-asset services as defined in Article 3(1), point (16), of that Regulation, with the exception of providing advice on crypto-assets as referred to in Article 3(1), point (16) (h) of that Regulation;

(6b) 'financial mixed activity holding company' means an undertaking, other than a financial holding company or a mixed financial holding company, which is not the subsidiary of another undertaking, the subsidiaries of which include at least one credit institution or financial institution;

(7) 'trust or company service provider' means any person that, by way of its business, provides any of the following services to third parties:

(a) the formation of companies or other legal persons;

(b) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(c) providing a registered office, business address, correspondence or administrative address**,** and other related services for a company, a partnership or any other legal person or arrangement;

(d) acting as, or arranging for another person to act as, a trustee of an express trust or performing an equivalent function for a similar legal arrangement;

(e) acting as, or arranging for another person to act as, a nominee shareholder for another person;

(8) ‘gambling services’ means a service which involves wagering a stake with monetary value in games of chance, including those with an element of skill such as lotteries, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;

(8a) ‘non-financial mixed activity holding company’ means an undertaking, other than a financial holding company or a mixed financial holding company, which is not the subsidiary of another undertaking, the subsidiaries of which include at least one obliged entity other than a credit institution or a financial institution

▌

(13) ‘crypto-asset’ means a crypto-asset as defined in Article 3(1), point ▌ ***(5)*** of Regulation ***[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]*** except when falling under the categories listed in Article ***2(4)*** of that Regulation ▌ ;

▌

(14a) ‘Self-hosted address’ means a self-hosted address as defined in Article 3(1), point (20) of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final];

(14b) 'Crowdfunding service provider' means a crowdfunding service provider as defined in Article 2(1), point (e) of Regulation (EU) 2020/1503;

(14c) 'crowdfunding intermediary' means an undertaking other than those referred to under point (14b) the business of which is to match or facilitate the matching, through an internet-based information system open to the public or to a limited number of funders of:

(i) project owners, which are any natural or legal person seeking funding for projects, consisting of one or a set of predefined operations aiming at a particular objective, including fundraising for a particular cause or event irrespective of whether these projects are proposed to the public or to a limited number of funders; and

(ii) funders, which are any natural or legal person contributing to the funding of projects, through loans, with or without interest, or donations, including where such donations entitle the donor to a non-material benefit.

(15) 'electronic money' means electronic money as defined in Article 2, point (2) of Directive 2009/110/EC ***of the European Parliament and of the Council***[31], but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;

[31] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

(15a) 'establishment' means the actual pursuit by an obliged entity of an economic activity covered by Article 3 in a Member State or third country other than the country where its head office is established for an indefinite period and through a stable infrastructure, including:

(i) a branch or subsidiary, and

(ii) in the case of credit and financial institutions, an infrastructure qualifying as an establishment under prudential regulation.

(16) 'business relationship' means a business, professional or commercial relationship ▌ connected with the professional activities of an obliged entity***,*** which is ▌ ***set up between an obliged entity and a customer, including in the absence of a written contract and which is expected to have, at the time when the contact is established, or which subsequently acquires, an element of repetition or duration***;

▌

(17) 'linked transactions' means two or more transactions with either identical or similar origin▌ ***, destination and purpose, or other relevant characteristics***, over a specific period of time;

(18) 'third country' means any jurisdiction, independent state or autonomous territory that is not part of the European Union ▌ ***and*** that has its own AML/CFT legislation or enforcement regime;

(19) ‘correspondent relationship’ means:

(a) the provision of banking services by one credit institution as the correspondent to another credit institution as the respondent, including providing a current or other liability account and related services, such as cash management, international ***transfers of*** funds ▌ ***as defined in Article 4, point (25) of Directive (EU) 2015/2366***, cheque clearing, payable-through accounts and foreign exchange services;

(b) the relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or ***transfers of*** funds ***as defined in Article 4, point (25) of Directive (EU) 2015/2366, transactions of crypto-assets or*** transfers ***of crypto-assets***;

(20) ‘shell ▌***institution***’ means***:***

(a) for credit and financial institutions other than crypto-asset service providers: a credit institution or financial institution, or an institution that carries out activities equivalent to those carried out by credit institutions and financial institutions, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group;

(b) for crypto-asset service providers: entities whose name appears in the register established by the European Securities and Markets Authority pursuant to Article 110 of Regulation (EU) 2023/1114 or third country entities providing crypto-asset services without being licensed or registered nor subject to AML/CFT supervision there.

▌

(20a) 'crypto-asset account’ means a crypto-asset account as defined in Article 3, point (19) of Regulation (EU) No 2023/1113 of the European Parliament and of the Council.

(20b) 'anonymity-enhancing coins' means crypto-assets that have built-in features designed to make crypto-asset transfer information anonymous, either systematically or optionally.

(20c) 'Virtual IBAN' means an identifier causing payments to be redirected to a payment account identified by an IBAN different from that identifier;

(21) 'Legal Entity Identifier' means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity;

(22) 'beneficial owner' means any natural person who ultimately owns or controls a legal entity or ***an*** express trust or similar legal arrangement ▌

▌

(22a) 'Express trust' means a trust intentionally created by the settlor, inter vivos or on death, usually in a form of written document, to place assets under the control of a trustee for the benefit of a beneficiary or for a specified purpose.

(22b) 'objects of a power' means the natural or legal persons or class of natural or legal persons among whom trustees may select the beneficiaries in a discretionary trusts;

(22e) 'default taker' means the natural or legal persons or class of natural or legal persons who are the beneficiaries of a discretionary trusts should the trustees fail to exercise their discretion;

(23) ‘legal arrangement’ means an express trust or an arrangement which has a similar structure or function to an express trust, including fiducie and certain types of Treuhand and fideicomiso;

(23a) ‘basic information’ means:

(a) in relation to a legal entity:

(i) legal form and name of the legal entity;

(ii) instrument of constitution, and the statutes if they are contained in a separate instrument;

(iii) address of the registered or official office and, if different, the principal place of business, and the country of incorporation;

(iv) a list of legal representatives;

(v) where applicable, a list of shareholders or members, including information on the number of shares held by each shareholder and the categories of those shares and the nature of the associated voting rights;

(vi) where available, the registration number, the European Unique identifier, the tax identification number and the Legal Entity Identifier;

(vii) in the case of foundations, the assets held by the foundation to pursue its purposes;

(b) in relation to a legal arrangement:

(i) the name or unique identifier of the legal arrangement;

(ii) the trust deed or equivalent;

(iii) the purpose(s) of the legal arrangement, if any;

(iv) the assets held in the legal arrangement or managed through it;

(v) the place of residence of the trustee(s) of the express trusts or persons holding equivalent positions in the similar legal arrangement, and, if different, the place from where the express trust or similar legal arrangement is administered.

(24) 'formal nominee arrangement' means a contract or ▌ an equivalent ***arrangement***, between ▌ ***a nominator and a nominee***, where the nominator is a legal entity or natural person that issues instructions to a nominee to act on their behalf in a certain capacity, including as a director or shareholder ***or settlor***, and the nominee is a legal entity or natural person instructed by the nominator to act on their behalf;

(25) ‘politically exposed person’ means a natural person who is or has been entrusted with prominent public functions ***including***:

(a) in a Member State:

(i) heads of State, heads of government, ministers and deputy or assistant ministers;

(ii) members of parliament or of similar legislative bodies;

(iii) members of the governing bodies of political parties ***that hold seats in national executive or legislative bodies, or in regional or local executive or legislative bodies representing constituencies of at least 50.000 inhabitants. Where justified by their administrative organisation and risk, Member States may set a lower threshold for the designation of members of governing bodies of political parties represented at regional or local level as prominent public functions. Member States shall notify that lower threshold to the Commission***;

(iv) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;

(v) members of courts of auditors or of the boards of central banks;

(vi) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(vii) members of the administrative, management or supervisory bodies of ▌ ***enterprises controlled within the meaning of Article 22 of Directive 2013/34/EU of the European Parliament and of the Council by the state, as well as by regional or local authorities where those entreprises qualify as medium sized or large undertakings or groups as defined in Article 3(3), (4), (6) and (7) of that Directive. Where justified by their administrative organisation and risk, Member States may set a lower threshold for the identification of entreprises controlled by regional or local authorities. Member States shall notify that lower threshold to the Commission***;

(viia) heads of regional and local authorities, including groupings of municipalities and metropolitan regions, with at least 50 000 inhabitants. Where justified by their administrative organisation and risk, Member States may set a lower threshold for the designation of heads of regional and local authorities as prominent public functions. Member States shall notify that lower threshold to the Commission;

(viib) other prominent public functions provided for by Member States;

(b) in an international organisation:

(i) the highest ranking official, his/her deputies and members of the board or equivalent function of an international organisation;

(ii) representatives to a Member State or to the Union;

(c) at Union level:

(i) functions at the level of Union institutions and bodies that are equivalent to those listed in points (a)(i), (ii), (iv), (v) and (vi);

(d) in a third country:

(i) functions that are equivalent to those listed in point (a);

▌

No public function referred to in points (a) to (d) shall be understood as covering middle-ranking or more junior officials;

(26) ‘family members’ means:

(a) the spouse, or the person in a registered partnership or civil union or in a similar arrangement;

(b) the children and the spouses of, or persons in a registered partnership or civil union or in a similar arrangement with, those children;

(c) the parents;

(ca) for the functions referred to in point (25)(a)(i) and equivalent functions at Union level or in a third country, the siblings. Where justified by their social and cultural structures and by risk, Member States may apply a broader scope for the designation of siblings as family members of politically exposed persons.
Member States shall notify that broader scope to the Commission.

(27) ‘persons known to be close associates’ means:

(a) natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;

▌

(b) natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a politically exposed person;

(28) 'senior management' means, in addition to ***the*** ▌ members of the ▌ ***management body in its management function***, an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure;

(28a) 'management body' means an obliged entity's body or bodies, which are appointed in accordance with national law, which are empowered to set the obliged entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the obliged entity. Where no body exists, the management body is the person who effectively direct the business of the obliged entity;

(28b) 'management body in its management function' means the management body responsible for the day-to-day management of the obliged entity;

(28c) 'management body in its supervisory function' means the management body acting in its role of overseeing and monitoring management decision-making.

(29) ‘group’ means a group of undertakings which consists of a parent undertaking, its subsidiaries, ▌ as well as undertakings linked to each other by a relationship within the meaning of Article 22 of Directive 2013/34/EU of the European Parliament and of the Council[32];

(29a) ‘parent undertaking’ means:

(a) for groups whose head office is in the Union, an obliged entity that is a parent undertaking as defined in Article 2(9) of Directive (EU) 2013/34 that is not itself a subsidiary of another undertaking in the Union, provided that at least one or more subsidiary undertakings are obliged entities;

(b) for groups whose head office is outside of the Union, where two or more subsidiary undertakings are obliged entities established in the Union, an undertaking within that group established in the Union that:

▌

(i) is an obliged entity pursuant to article 3;

[32] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 1).

(ii) is an undertaking that is not a subsidiary of another undertaking that is an obliged entity established in the Union;

(iii) has a sufficient prominence within the group and a sufficient understanding of the operations of the group that are subject to the requirements of this Regulation, and

[redacted]

(iv) is given the responsibility of implementing group-wide requirements under Chapter II, Section 2 of this Regulation;

[redacted]

(30) 'cash' means currency, bearer-negotiable instruments, commodities used as highly-liquid stores of value and prepaid cards, as defined in Article 2(1), points (c) to (f) of Regulation (EU) 2018/1672 of the European Parliament and of the Council[33];

(31) 'competent authority' means:

(a) a Financial Intelligence Unit;

(b) a supervisory authority as defined under point (33);

[33] Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12.11.2018, p. 6).

(c) a public authority that has the function of investigating or prosecuting money laundering, its predicate offences or terrorist financing, or that has the function of tracing, seizing or freezing and confiscating criminal assets;

(d) a public authority with designated responsibilities for combating money laundering or terrorist financing;

(32) 'supervisor' means the body entrusted with responsibilities aimed at ensuring compliance by obliged entities with the requirements of this Regulation, including the Authority for anti-money laundering and countering the financing of terrorism (AMLA) when performing the tasks entrusted on it in Article 5(2) of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***;

(33) 'supervisory authority' means a supervisor who is a public body, or the public authority overseeing self-regulatory bodies in their performance of supervisory functions pursuant to Article 29 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], or AMLA when acting as a supervisor***;

(34) 'self-regulatory body' means a body that represents members of a profession and has a role in regulating them, in performing certain supervisory or monitoring functions and in ensuring the enforcement of the rules relating to them;

(35) ‘targeted financial sanctions’ means both asset freezing and prohibitions to make funds or other assets available, directly or indirectly, for the benefit of designated persons and entities pursuant to Council Decisions adopted on the basis of Article 29 of the Treaty on European Union and Council Regulations adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union;

(36) ▌ ***United Nations’*** financial sanctions’ means ▌ ***both asset freezing and prohibitions to make funds or other assets available, directly or indirectly, for the benefit of designated or listed persons and entities*** pursuant to***:***

(a) United Nations Security Council ▌ ***resolution 1267 (1999*****) and its successor resolutions;***

(b) Security Council ▌ ***resolution 1373 (2001*****), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;***

(c) United Nations’ financial sanctions relating to proliferation financing; ▌

(36a) 'United Nations' financial sanctions relating to proliferation financing' means both asset freezing and prohibitions to make funds or other assets available, directly or indirectly, for the benefit of designated or listed persons and entities pursuant to:

(a) Security Council resolution 1718 (2006) and any successor resolutions;

(b) Security Council resolution 2231 (2015) and any successor resolutions;

(c) any other Security Council resolutions imposing asset freezing and prohibitions to make funds or other assets available in relation to the financing of proliferation of weapons of mass destruction.

(36b) 'funds or other assets' means any assets, including, but not limited to, financial assets, economic resources, including oil and other natural resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services.

(36c) 'professional football club' means any legal person that owns or manages a football club that has been granted a licence and participates in the national football league(s) in a Member State of the Union and whose players and staff are contractually engaged and are remunerated in exchange for their services;

▌

(36e) 'football agent' means a natural or legal person who, for a fee, provides intermediary services and represents football players and/or professional football clubs in negotiations with a view to concluding a contract for a football player or represents professional football clubs in negotiations with a view to concluding an agreement for the transfer of a player;

(36f) 'precious metal and stone' means metals and stones referred to in Annex IVa;

(36g) 'cultural good' means a good listed in Annex I to Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods.

▌

(36k) 'partnership for information sharing' means a mechanism that enables the sharing and processing of information between obliged entities and, where applicable, competent authorities referred to in letters (a), (b) and (c) of point 31 of this Article, for the purposes of preventing and combating money laundering, its predicate offences and terrorist financing whether at national level or on a cross-border basis, and regardless of the form of that partnership.

SECTION 2

SCOPE

Article 3

Obliged entities

The following entities are to be considered obliged entities for the purposes of this Regulation:

(1) credit institutions;

(2) financial institutions;

(3) the following natural or legal persons acting in the exercise of their professional activities:

(a) auditors, external accountants and tax advisors, and any other natural or legal person ***including independent legal professionals such as lawyers,*** that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters as principal business or professional activity;

(b) notaries***, lawyers*** and other independent legal professionals, where they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or carrying out of transactions for their client concerning any of the following:

(i) buying and selling of real property or business entities;

(ii) managing of client money, securities or other assets***, including crypto-assets***;

(iii) opening or management of bank, savings***, securities or crypto-assets*** accounts;

(iv) organisation of contributions necessary for the creation, operation or management of companies;

(v) creation, operation or management of trusts, companies, foundations, or similar structures;

(c) trust or company service providers;

(d) estate agents ***and other real estate professionals to the extent they act*** as intermediaries in ***real estate transactions, including in relation to*** the letting of immovable property for transactions for which the monthly rent amounts to EUR 10 000 or more, or the equivalent in national currency***, irrespective of the means of payment***;

(e) persons trading ***as a regular or principal professional activity*** in precious metals and stones**,**

(ea) persons trading, as a regular or principal professional activity, in high-value goods other than metals and stones, as listed in Annex IIIa;

(f) providers of gambling services;

▌

(h) crowdfunding service providers ***and crowdfunding intermediaries***;

▌

(i) persons trading or acting as intermediaries in the trade of ***cultural goods***, including when this is carried out by art galleries and auction houses, where the value of the transaction or linked transactions amounts to at least EUR 10 000 or the equivalent in national currency;

▌

(j) persons storing, trading or acting as intermediaries in the trade of ▌ ***cultural goods and high value goods listed in Annex IIIa*** when this is carried out within free zones and customs warehouses, where the value of the transaction or linked transactions amounts to at least EUR 10 000 or the equivalent in national currency;

▌

(k) ▌ ***credit intermediaries*** for mortgage and consumer credits, other than credit institutions defined in Article 2(5) and financial institutions defined in Article 2(6), ▌ ***with the exception of the*** credit intermediaries ▌ ***carrying out activities under the responsibility of one or more creditors or credit intermediaries***;

(l) investment migration operators permitted to represent or offer intermediation services to third country nationals seeking to obtain residence rights in a Member State in exchange of any kind of investment, including capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity to the public good and contributions to the state budget.

(la) non-financial mixed activity holding companies.

(lb) football agents.

(lc) professional football clubs in respect of the following transactions:

- ***transactions with an investor;***
- ***transactions with a sponsor;***
- ***transactions with football agents or other intermediaries, whether natural or legal persons;***
- ***transactions for the purposes of a football player's transfer;***

Article 4

Exemptions for certain providers of gambling services

1. Member States may decide to exempt, in full or in part, providers of gambling services from the requirements set out in this Regulation on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services.

The exemption referred to in the first subparagraph shall not apply to:

(a) casinos;

(b) providers of gambling services the principal activity of which is to provide online gambling services or sport betting services, other than:

(i) online gambling services operated by the State, whether through a public authority or an enterprise or body controlled by the State;

(ii) online gambling services the organisation, operation and administration of which is regulated by the State.

2. For the purposes of paragraph 1, Member States shall carry out a risk assessment of gambling services assessing:

(a) money laundering and terrorist financing ***threats,*** vulnerabilities and mitigating factors of the gambling services;

(b) the risks linked to the size of the transactions and payment methods used;

(c) the geographical area in which the gambling service is administered***, including their cross border dimension and accessibility from other Member States or third countries***.

When carrying out such risk assessments, Member States shall take into account the findings of the risk assessment drawn up by the Commission pursuant to Article 7 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

3. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemptions granted pursuant to this Article are not abused.

Article 4a

Exemptions of certain professional football clubs

1. Member States may decide to exempt, in full or in part, professional football clubs that participate in the first division of the national football league and that have a total annual turnover of less than € 5 million for each of the previous two calendar years from the requirements set out in this Regulation on the basis of the proven low risk posed by the nature and the scale of operation of such professional football clubs.

Member States may decide to exempt, in full or in part, professional football clubs that participate in a division lower than the first division of the national football league from the requirements set out in this Regulation on the basis of proven low risk posed by the nature and the scale of operation of such professional football clubs.

2. For the purposes of paragraph 1, Member States shall carry out a risk assessment of the professional football clubs assessing:

(a) money laundering and terrorist financing threats, vulnerabilities and mitigating factors of the professional football clubs;

(b) the risks linked to the size and cross-border nature of the transactions;

When carrying out such risk assessments, Member States shall take into account the findings of the risk assessments drawn up by the Commission pursuant to Article 7 of Directive [insert reference to the 6th AMLD].

3. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemptions granted pursuant to this Article are not abused.

Article 5

Exemptions for certain financial activities

1. With the exception of persons engaged in the activity of money remittance as defined in Article 4, point (22) of Directive (EU) 2015/2366, Member States may decide to exempt ***legal or natural*** persons that engage in a financial activity as listed in Annex I, points (2) to (12), (14) and (15), to Directive 2013/36/EU on an occasional or very limited basis where there is little risk of money laundering or terrorist financing from the requirements set out in this Regulation, provided that all of the following criteria are met:

   (a) the financial activity is limited in absolute terms;

(b) the financial activity is limited on a transaction basis;

(c) the financial activity is not the main activity of such persons;

(d) the financial activity is ancillary and directly related to the main activity of such persons;

(e) the main activity of such persons is not an activity referred to in Article 3, point (3)(a) to (d) or (f);

(f) the financial activity is provided only to the customers of the main activity of such persons and is not generally offered to the public.

▌

2. For the purposes of paragraph 1, point (a), Member States shall require that the total turnover of the financial activity does not exceed a threshold which shall be sufficiently low. That threshold shall be established at national level, depending on the type of financial activity.

3. For the purposes of paragraph 1, point (b), Member States shall apply a maximum threshold per customer and per single transaction, whether the transaction is carried out in a single operation or ▌ ***through*** linked ***transactions***. That maximum threshold shall be established at national level, depending on the type of financial activity. It shall be sufficiently low in order to ensure that the types of transactions in question are an impractical and inefficient method for money laundering or terrorist financing, and shall not exceed EUR 1 000 or the equivalent in national currency***, irrespective of the means of payment***.

4. For the purposes of paragraph 1, point (c), Member States shall require that the turnover of the financial activity does not exceed 5 % of the total turnover of the natural or legal person concerned.

5. In assessing the risk of money laundering or terrorist financing for the purposes of this Article, Member States shall pay particular attention to any financial activity which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

6. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemptions granted pursuant to this Article are not abused.

Article 6

Prior notification of exemptions

1. Member States shall notify the Commission of any exemption that they intend to grant in accordance with Articles 4***, 4a*** and 5 without delay. The notification shall include a justification based on the relevant risk assessment ▌ ***carried out by the Member State to sustain*** the exemption.

2. The Commission shall within two months from the notification referred to in paragraph 2 take one of the following actions:

   (a) confirm that the exemption may be granted ***on the basis of the justification given by the Member State***;

   (b) by reasoned decision, declare that the exemption may not be granted.

   For the purposes of the first subparagraph, the Commission may request additional information from that Member State.

3. Upon reception of a decision by the Commission pursuant to paragraph 2(a), Member States may adopt the decision granting the exemption. Such decision shall state the reasons on which it is based. Member States shall review such decisions regularly, and in any case when they update their national risk assessment pursuant to Article 8 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

4. By [3 months from the date of application of this Regulation], Member States shall notify to the Commission the exemptions granted pursuant to Article 2(2) and (3) of Directive (EU) 2015/849 in place at the time of the date of application of this Regulation.

5. The Commission shall publish every year in the Official Journal of the European Union the list of exemptions granted pursuant to this Article ***and make the list of those decisions publicly available on its website***.

SECTION 3

OUTSOURCING

Article 6a

Notification of cross-border operations and application of national law

1. Obliged entities wishing to carry out activities within the territory of another Member State for the first time shall notify their supervisors of the activities which they intend to carry out in that other Member State. That notification shall be submitted as soon as the obliged entity takes steps to carry out those activities, and, in the case of establishments, in any event no later than three months prior to the activities of those establishments being commenced. Obliged entities shall immediately notify their supervisors upon commencement of those activities in that other Member State. The first subparagraph shall not apply to obliged entities subject to specific notification procedures for the exercise of the freedom of establishment and of the freedom to provide services under other Union acts or to cases where the obliged entity is subject to specific authorisation requirements in order to operate in the territory of that other Member State.

2. Any change to the information communicated under paragraph 1 shall be communicated by the obliged entities to the supervisor of the home Member State at least one month before making the change.

3. Where this Regulation allows Member States to adopt additional rules applicable to obliged entities, obliged entities shall comply with the national rules of the Member State in which they are established.

4. Where obliged entities operate establishments in several Member States, they shall ensure that those establishments apply the rules of the Member States where those establishments are located.

5. Where obliged entities referred to in Article 29a(1) of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] operate in other Member States than the one where they are established through agents, distributors, or through other types of infrastructure located in those other Member States under the freedom to provide services, they shall apply the rules of the Member States in which they provide services in relation to those activities, unless Article 29a(2) of that Directive applies, in which case they shall apply the rules of the Member State where their head office is established.

6. Where obliged entities are required to appoint a central contact point pursuant to Article 31a of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], they shall ensure that the central contact point is able to ensure compliance with applicable law on behalf of the obliged entity.

▌

CHAPTER II

INTERNAL POLICIES, ▌ *PROCEDURES AND CONTROLS* OF OBLIGED ENTITIES

SECTION 1

INTERNAL PROCEDURES, RISK ASSESSMENT AND STAFF

Article 7

Scope of internal policies, ▌ *procedures and controls*

1. Obliged entities shall have in place policies, ▌ ***procedures and controls*** in order to ensure compliance with this Regulation***, the Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor*** and in particular to:

   (a) mitigate and manage effectively the risks of money laundering and terrorist financing identified at the level of the Union, the Member State and the obliged entity;

   (b) in addition to the obligation to apply targeted financial sanctions, mitigate and manage the risks of non-implementation and evasion of ▌ targeted financial sanctions.

   Those policies, ▌ ***procedures and controls*** shall be proportionate to the nature ***of the business, including its risks and complexity, and the*** ▌ size of the obliged entity ***and shall cover all the activities of the entity that fall under the scope of this Regulation***.

2. The policies, ▌ ***procedures and controls*** referred to in paragraph 1 shall include:

(a) ▌ internal policies ▌ and procedures, including ▌ ***in particular:***

(i) the establishment and updating of the business-wide risk assessment;

(ii) the entity's risk management framework;

(iii) customer due diligence to implement Chapter III of this Regulation, including procedures to determine whether the customer, the beneficial owner, or the person on whose behalf or for the benefit of whom a transaction or activity is being conducted is a politically exposed person or family member or close associate of a politically exposed person;

▌

(iv) reporting of suspicious transactions;

(v) outsourcing and reliance on customer due diligence performed by other obliged entities;

(vi) record-retention and policies in relation to the processing of personal data pursuant to Article 55;

(vii) the monitoring and management of compliance with such policies and procedures under the conditions set out in point (b), the identification and management of deficiencies and the implementation of remedial actions;

(viii) the verification, proportionate to the risks associated with the tasks and functions to be performed, when recruiting and assigning staff to certain tasks and functions and when appointing its agents and distributors, that those persons are of good repute;

(ix) the internal communication of the obliged entity's internal policies, procedures and controls, including to its agents, distributors and service providers involved in the implementation of its AML/CFT policies;

(x) a policy on the training of employees and, where relevant, its agents and distributors with regard to measures in place in the obliged entity to comply with the requirements of this Regulation, Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor.

(b) ▌ ***internal*** controls ***and an independent audit function to test the internal policies*** and procedures ***referred to in point (a) and the controls in place in the obliged entity. In the absence of an independent audit function, obliged entities may have this test carried out by an external expert*** ▌ ***.***

▌

The internal policies, procedures and controls set out in the first subparagraph shall be recorded in writing. Those policies shall be approved by the management body in its management function. Internal procedures, including controls, shall be approved, at least, by the compliance manager.

3. The obliged entities shall keep the policies, ***procedures and controls*** up to date, and enhance them where weaknesses are identified.

4. By [2 years after the entry into force of this Regulation], AMLA shall issue guidelines on the elements that obliged entities should take into account***, based on the nature of the business, including its risks and complexity, and their size,*** when deciding on the extent of their internal policies, ***procedures and*** controls***, in particular as regards the staff allocated to the compliance functions*** . ***Those guidelines shall also identify situations where, due to the nature and size of the obliged entity:***

(i) internal controls should be organised at the level of the commercial function, of the compliance function and of the audit function;

(ii) the independent audit function may be carried out by an external expert.

Article 8

Business-wide **risk assessment**

1. Obliged entities shall take appropriate measures, proportionate to ***the*** nature ***of their business, including its risk and complexity,*** and size, to identify and assess the risks of money laundering and terrorist financing to which they are exposed, as well as the risks of non-implementation and evasion of ▌ targeted financial sanctions, taking into account ***at least***:

   (a) the risk variables set out in Annex I and the risk factors set out in Annexes II and III;

   (b) the findings of the supra-national risk assessment drawn up by the Commission pursuant to Article 7 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final];

   (c) the findings of the national risk assessments carried out by the Member States pursuant to Article 8 of ***Directive*** [please insert reference – proposal for ***6th*** Anti-Money Laundering Directive - COM/2021/423 final]***, as well as of any relevant sector-specific risk assessment carried out by the Member States;***

   ▌

   (d) relevant information published by international standard setters in the AML/CFT area or, at the level of the Union relevant publications by the Commission or by AMLA;

   ▌

(e) information on money laundering and terrorist financing risks provided by competent authorities.

▌

(cd) information on the customer base;

Prior to the launch of new products, services or business practices, including the use of new delivery channels and new or developing technologies, in conjunction with new or pre-existing products and services or before starting to provide an existing service or product to a new customer segment or in a new geographical area, obliged entities shall identify and assess, in particular, the related money laundering and terrorist financing risks and take appropriate measures to manage and mitigate those risks.

▌

2. The ***business-wide*** risk assessment drawn up by the obliged entity pursuant to paragraph 1 shall be documented, kept up-to-date and ***regularly reviewed, including where any internal or external event significantly affect the money laundering or terrorist financing risks associated with the activities, products, transactions, delivery channels, customers or geographical zones of activities of the obliged entity. It shall be*** made available to supervisors ***upon request***.

The business-wide risk assessment shall be drawn up by the compliance officer and approved by the management body in its management function and, where such body exists, communicated to the management body in its supervisory function.

3. ***With the exception of credit institutions, financial institutions, crowdfunding service providers and crowdfunding intermediaries,*** supervisors***,*** may decide that individual documented ***business-wide*** risk assessments are not required where the specific risks inherent in the sector are clear and understood.

3a. By [2 years from the entry into force of this Regulation], AMLA shall issue guidelines on the minimum requirements for the content of the business-wide risk assessment drawn up by the obliged entity pursuant to paragraph 1, and additional sources of information to be taken into account when drafting the business-wide risk assessment.

Article 9

Compliance functions

1. Obliged entities shall appoint one ▌ member of ▌ ***the management body in its management function who shall be responsible to ensure compliance with this Regulation***, ***the Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], any other legal provisions adopted*** ▌ for the implementation of ▌ ***these Regulations and any administrative act issued by any supervisor*** (‘compliance manager’).

The compliance manager shall ensure that the obliged entity's policies, procedures and controls are consistent with ▌ the entity***'s risk exposure and that they are implemented. The compliance manager shall also ensure that sufficient human and material resources are allocated to that end. The compliance manager shall be responsible for receiving information on significant or material weaknesses in such policies, procedures and controls***. ▌

▌ ***Where the management body in its management function is a body collectively responsible for its decisions,*** the compliance manager shall ▌ ***be in charge to assist and advise it and to prepare the decisions referred to in this Article.***

2. Obliged entities shall have a compliance officer, to be appointed by the ▌ ***management body in its management function and with sufficiently high hierarchical standing***, who shall be ▌ ***responsible for the policies, procedures and controls in*** the day-to-day operation of the obliged entity's anti-money laundering and countering the financing of terrorism (AML/CFT) ***requirements, including in relation to the implementation of targeted financial sanctions, and shall be a contact point for competent authorities*** ▌ . That person shall also be responsible for reporting suspicious transactions to the Financial Intelligence Unit (FIU) in accordance with Article 50(6).

In the case of obliged entities subject to checks on their senior management or beneficial owners pursuant to Article 6 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] or under other Union acts, compliance officers shall be subject to verification that they comply with those requirements.

Where justified by the size of the obliged entity and the low risk of its activities, an obliged entity that is part of a group may appoint as its compliance officer an individual who performs that function in another entity within that group.

The compliance officer may only be removed following prior notification to the management body in its management function. The obliged entity shall notify the supervisor of the removal of the compliance officer, specifying whether the decision relates to the carrying out of the tasks assigned under this Regulation. The compliance officer may, spontaneously or upon request, provide information to the supervisor concerning the removal. The supervisor may use the information obtained under this paragraph to perform its tasks under Article 9(3), second subparagraph of this Regulation and under Article 29(4) of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

3. Obliged entities shall provide the compliance functions with adequate resources, including staff and technology, in proportion to the size, nature and risks of the obliged entity for ***effective performance of their tasks***, and shall ensure that the ***persons responsible for those functions are granted the*** powers to propose any measures necessary to ensure the effectiveness of the obliged entity's internal policies, procedures ***and controls***.

4b. ***Obliged entities shall take measures to ensure that the compliance officer is protected against retaliation, discrimination and any other unfair treatment, and that their decisions are not harmed or unduly influenced by commercial interests of the obliged entity.***

4c. ***Obliged entities shall ensure that the compliance officer and the person responsible of the audit function referred to in Article 7(2), point (b), can report directly to the management body in its management function and, where such a body exists, to the management body in its supervisory function independently, and can raise concerns and warn the management body, where specific risk developments affect or may affect the entity.***

Obliged entities shall ensure that the persons directly or indirectly participating in implementation of this Regulation, the Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, have access to all information and data necessary to perform their tasks.

5. ***The compliance manager shall regularly report on the implementation of the obliged entity's policies, procedures and controls to the management body. In particular,*** the compliance manager shall submit once a year, or more frequently where appropriate, to the ▌***management*** body a report on the implementation of the obliged entity's internal policies, ▌***procedures and controls drawn up by the compliance officer***, and shall keep ▌***that*** body informed of the outcome of any reviews. The ▌***compliance manager*** shall take the necessary actions to remedy any deficiencies identified in a timely manner.

6. Where the ▌***nature of the business*** of the obliged entity***, including its risks and complexity, and its size justify*** ▌ it, the functions referred to in paragraphs 1 and 3 may be performed by the same natural person. ***The compliance officer may cumulate functions referred to in paragraphs 1 and 3 with other functions.***

Where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only, that person shall be responsible for performing the tasks under this Article.

Article 10

Awareness of requirements

Obliged entities shall take measures to ensure that their employees ***or person in comparable position*** whose function so requires, ▌***including*** their agents and distributors are aware of the requirements arising from this Regulation ***, the Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor,*** and of the ***business wide risk assessment,*** internal policies, ▌***procedures and controls*** in place in the obliged entity, including in relation to the processing of personal data for the purposes of this Regulation.

The measures referred to in the first subparagraph shall include the participation of employees ***or person in comparable position, including agents and distributors,*** in specific, ongoing training programmes to help them recognise operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases. Such training programmes ***shall be appropriate to their functions or activities and to the risks of money laundering and terrorist financing to which the obliged entity is exposed, and*** shall be duly documented.

Article 11

Integrity of employees

1. Any employee***, or person in a comparable position, including agents and distributors, directly participating in*** ▌ the obliged entity′s compliance with this Regulation***, the*** ▌ Regulation ***[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] and any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor,*** shall undergo an assessment ***commensurate with the risks associated with the tasks performed and whose content is*** approved by the compliance officer of:

   (a) individual skills, knowledge and expertise to carry out their functions effectively;

   (b) good repute, honesty and integrity.

   Such assessment shall be performed prior to taking up of activities by the employee or person in a comparable position, including agents and distributors, and shall be regularly repeated. The intensity of the subsequent assessments shall be determined on the basis of the tasks entrusted to the person and risks associated with the function they perform.

2. Employees***, or persons in a comparable position, including agents and distributors,*** entrusted with tasks related to the obliged entity's compliance with this Regulation shall inform the compliance officer of any close private or professional relationship established with the obliged entity's customers or prospective customers and shall be prevented from undertaking any tasks related to the obliged entity's compliance in relation to those customers.

2a. Obliged entities shall have in place procedures to prevent and manage conflicts of interest that may affect the carrying out of tasks related to the obliged entity's compliance with this Regulation.

3. ▌ *This Article* shall ▌ *not apply where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only*.

▌

Article 11a

Reporting of breaches and protection of reporting persons

1. Directive (EU) 2019/1937 shall apply to the reporting of breaches of this Regulation, Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final], and any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, and the protection of persons reporting such breaches.

▌

2. Obliged entities shall establish internal reporting channels that meet the requirements set out in Directive (EU) 2019/1937.

▌

3. The second paragraph of this Article shall not apply where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only.

Article 12

Situation of specific employees

Where a natural person falling within any of the categories listed in Article 3, point (3) performs professional activities as an employee of a legal person, the requirements laid down in this ▌ ***Regulation*** shall apply to that legal person rather than to the natural person.

▌

SECTION 2

PROVISIONS APPLYING TO GROUPS

Article 13

Group-wide requirements

1. A parent undertaking shall ensure that the requirements on internal procedures, risk assessment and staff referred to in Section 1 of this Chapter apply in all branches and subsidiaries of the group in the Member States and, for groups whose ▌ ***head office is*** in the Union***,*** in third countries. ▌ ***To this end, a parent undertaking shall perform a*** group-wide ▌ ***risk assessment, taking into account the business-wide risk assessment performed by all branches and subsidiaries of the group, and establish and implement group-wide*** policies***, procedures and controls, including group-wide*** ▌ policies ***to ensure that employees within the group are aware of the requirements arising from this Regulation, group-wide policies on data protection and policies on information*** sharing ▌ within the group for AML/CFT purposes. ***Obliged entities within the group shall implement those group-wide policies, procedures and controls, taking into account their specificities and the risks to which they are exposed.***

The group-wide policies, procedures and controls and the group-wide risk assessments shall include all the elements listed in Articles 7 and 8.

For the purposes of the first subparagraph, where a group has establishments in more than one Member State and, for groups whose head office is in the Union, in third countries, parent undertakings shall take into account the information published by the authorities of all the Member States or third countries where the group's establishments are located.

1a ***Compliance functions shall be established at the level of the group. Those functions shall in any case include a compliance manager at the level of the group and, where justified by the activities carried out at group level, a compliance officer. The decision on the extent of the compliance functions shall be documented.***

The compliance manager referred to in the first sub-paragraph shall regularly report to the management body in management function of the parent undertaking on the implementation of the group-wide policies, procedures and controls. At a minimum, the compliance manager shall submit a yearly report on the implementation of the obliged entity's internal policies, controls and procedures and shall take the necessary actions to remedy any deficiencies identified in a timely manner. Where the management body in its management function is a body collectively responsible for its decisions, the compliance manager shall assist and advise it, and shall prepare the decisions necessary for the implementation of this Article.

2. The policies, ▌ ***procedures and controls*** pertaining to the sharing of information referred to in paragraph 1 shall require obliged entities within the group to exchange information when such sharing is relevant for ▌ ***the purposes of customer due diligence and*** money laundering and terrorist financing ***risk management***. The sharing of information within the group shall cover in particular the identity and characteristics of the customer, its beneficial owners or the person on behalf of whom the customer acts, the nature and purpose of the business relationship and ***of the occasional transactions and*** the suspicions***, accompanied by the underlying analyses,*** that funds are the proceeds of criminal activity or are related to terrorist financing reported to FIU pursuant to Article 50, unless otherwise instructed by the FIU.

▌ ***The*** group-wide policies, ▌ ***procedures and controls shall not prevent entities within a group which are not obliged entities to provide information to obliged entities within the same group where such sharing is relevant for those obliged entities to comply with requirements set out in this Regulation***.

Parent undertakings shall put in place group-wide policies, controls and procedures to ensure that the information exchanged pursuant to the first and second subparagraph is subject to sufficient guarantees in terms of confidentiality, data protection and use of the information, including to prevent its disclosure.

▌

3. By [2 years from the entry into force of this Regulation], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the minimum requirements of group-wide policies, including minimum standards for information sharing within the group, the ▌***criteria for identifying the*** parent ▌***undertaking in the cases covered by subpoint (b) of Article 2, point (29)*** and the conditions under which the provisions of this Article apply to entities that are part of structures which share common ownership, management or compliance control, including networks or partnerships***, as well as the criteria for identifying the parent undertaking in the Union in those cases***.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 3 of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Article 14

Branches and subsidiaries in third countries

1. Where branches or subsidiaries of obliged entities are located in third countries where the minimum AML/CFT requirements are less strict than those set out in this Regulation, the ▌***parent undertaking*** shall ensure that those branches or subsidiaries comply with the requirements laid down in this Regulation, including requirements concerning data protection, or equivalent.

2. Where the law of a third country does not permit compliance with the requirements laid down in this Regulation, ▌***the parent undertaking*** shall take additional measures to ensure that branches and subsidiaries in that third country effectively handle the risk of money laundering or terrorist financing, and ▌ shall inform the supervisors of ▌***its*** home Member State ***of those additional measures***. Where the supervisors of the home Member State consider that the additional measures are not sufficient, they shall exercise additional supervisory actions, including requiring the group not to establish any business relationship, to terminate existing ones or not to undertake transactions, or to close down its operations in the third country.

3. By [2 years after the date of entry into force of this Regulation], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the type of additional measures referred to in paragraph 2, including the minimum action to be taken by obliged entities where the law of a third country does not permit the implementation of the measures required under Article 13 and the additional supervisory actions required in such cases.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 3 of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Article 14a

Outsourcing

1. Obliged entities may outsource tasks deriving from requirements under this Regulation to service providers. Those service providers may be natural or legal persons. The obliged entity shall notify to the supervisor the outsourcing before the service provider starts the activities for the obliged entity.

7. ***When performing the tasks under this Article, the service provider is to be regarded as part of the obliged entity, including where the service providers is required to consult the beneficial ownership registers referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] for the purposes of carrying out customer due diligence on behalf of the obliged entity.***

The obliged entity shall remain fully liable for any action, whether an act of commission or omission, connected to the outsourced tasks that are carried out by the service provider.

For each outsourced task, the obliged entity shall be able to demonstrate to the supervisor that it understands the rationale behind the activities carried out by the service provider and the approach followed in their implementation, and that these activities mitigate the specific risks that the obliged entity is exposed to.

2. ***The tasks outsourced pursuant to paragraph 1 shall not be undertaken in such way as to impair materially the quality of the obliged entity's policies and procedures to comply with the requirements of this Regulation and of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final], and of the controls in place to test those policies and procedures. The following tasks shall not be outsourced under any circumstances:***

(a) the proposal and approval of the obliged entity's business-wide risk assessment pursuant to Article 8 (2);

(b) the approval of the obliged entity's policies, controls and procedures pursuant to Article 7;

(ba) decision on the risk profile to be attributed to the customer;

(bb) the decision to enter into a business relationship or carry out an occasional transaction with a client;

(bc) the reporting to FIU of suspicious activities pursuant to Article 50 or threshold-based reports pursuant to Article 54a and 59, except where such activities are outsourced to another obliged entity belonging to the same group and established in the same Member State;

(bd) the approval of the criteria for the detection of suspicious or unusual transactions and activities;

By way of derogation from the first subparagraph, where a collective investment undertaking has no legal personality, or has only a board of directors and has delegated the processing of subscriptions and the collection of funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 from investors to another entity, it may outsource the task referred to under point (ba), (bb) and (bc) to one of its service providers.

Such outsourcing may only take place after the collective investment undertaking has notified its intention to outsource the task to the supervisor pursuant to paragraph 1, and the supervisor has approved such outsourcing taking into consideration:

(a) the resources, experience and knowledge of the service provider in relation to the prevention of money laundering and terrorist financing;

(b) the knowledge of the service provider of the type of activities or transactions carried out by the collective investment undertaking.

3. Before an obliged entity outsources a task pursuant to paragraph 1, it shall assure itself that the service provider is sufficiently qualified to carry out the tasks to be outsourced.

Where an obliged entity outsources a task pursuant to paragraph 1, it shall ensure that the service provider, as well as any subsequent sub-outsourcing service provider, applies the policies and procedures adopted by the obliged entity. The conditions for the performance of such tasks shall be laid down in a written agreement between the obliged entity and the outsourced entity. The obliged entity shall perform regular controls to ascertain the effective implementation of such measures and procedures by the outsourced entity. The frequency of such controls shall be determined on the basis of the critical nature of the tasks outsourced.

4. Obliged entities shall ensure that outsourcing is not undertaken in such way as to impair materially the ability of the supervisory authorities to monitor and retrace the obliged entity's compliance with all of the requirements laid down in this Regulation and of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final]

5. By way of derogation from paragraph 1, obliged entities may not outsource tasks deriving from the requirements under this Regulation to service providers residing or established in third countries identified pursuant to Section 2 of Chapter III, unless all of the following conditions are met:

(a) the obliged entity outsources tasks solely to a service provider that is part of the same group;

(b) the group applies AML/CFT policies and procedures, customer due diligence measures and rules on record-keeping that are fully in compliance with this Regulation, or with equivalent rules in third countries;

(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by the supervisory authority of the home Member State in accordance with Chapter IV of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

6. By [3 years after the entry into force of this Regulation], AMLA shall issue guidelines addressed to obliged entities on:

(a) the establishment of outsourcing relationships, including any subsequent outsourcing relationship, in accordance with this article, their governance and procedures for monitoring the implementation of functions by the service provider and in particular those functions that are to be regarded as critical;

(b) the roles and responsibility of the obliged entity and the service provider within an outsourcing agreement;

(c) supervisory approaches to outsourcing as well as supervisory expectations regarding the outsourcing of critical functions.

CHAPTER III
CUSTOMER DUE DILIGENCE

SECTION 1
GENERAL PROVISIONS

Article 15

Application of customer due diligence

1. Obliged entities shall apply customer due diligence measures in any of the following circumstances:

   (a) when establishing a business relationship;

   (b) when ▌ carrying out an occasional transaction ▌ ***of a value of at least EUR 10 000***, or the equivalent in national currency, whether that transaction is carried out in a single operation or through linked transactions, or a lower threshold laid down pursuant to paragraph 5;

   (ba) when participating in the creation of a legal entity, the setting up of a legal arrangement or, for the obliged entities referred to in Article 3(3), points (a) to (c), in the transfer of ownership of a legal entity, irrespective of the value of the transaction.

   (c) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;

   (d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

   (da) when there are doubts that the persons they interact with are the customers or persons authorised to act on their behalf.

2. In addition to the circumstances referred to in paragraph 1, credit and financial institutions***,*** ***with the exception of*** ▌ crypto-asset service providers***,*** shall apply customer due diligence when ▌ initiating or executing an occasional transaction that constitutes a transfer of funds as defined in Article 3, point (9) of Regulation ***[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], that amounts to value of at least EUR 1 000 , or the equivalent in national currency, whether that transaction is carried out in a single operation or through linked transactions*** ▌ .

2a By way of derogation from paragraph 1, point (b), crypto-asset service providers shall:

(a) apply customer due diligence measures when carrying out an occasional transaction that amounts to value of at least EUR 1 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions;

(b) apply at least customer due diligence measures referred to under Article 16(1), point (a), when carrying out an occasional transaction where the value is below EUR 1 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions.

2b ***By way of derogation from paragraph 1, point (b), obliged entities shall apply at least customer due diligence measures referred to under Article 16(1), point (a), when carrying out an occasional transaction in cash amounting to a value of at least EUR 3 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions.***

The measure referred to in the first subparagraph shall not apply where Member States have in place, pursuant to Article 59(2) and (3), a limit for large cash payment of EUR 3 000 or less, except in the cases covered by paragraph 4, point (b) of that Article.

3. Providers of gambling services shall apply customer due diligence upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to at least EUR 2 000 or the equivalent in national currency, whether the transaction is carried out in a single operation or in linked transactions.

3a. ***For the purposes of this chapter, obliged entities shall consider as their customers the following persons:***

(a) In the case of obliged entities under Article 3(3) point (e), (ea) and (i) , in addition to their direct customer, the supplier of goods;

(b) In the case of lawyers and notaries intermediating a transaction and to the extent that they are the only lawyer or notary intermediating that transaction, both parties to the transaction;

(c) in the case of real estate agents, both parties to the transaction;

(d) in relation to payment initiation services carried out by payment initiation service providers, the merchant;

(e) in relation to crowdfunding service providers and crowdfunding intermediaries, the natural or legal person both seeking funding and providing funding through the crowdfunding platform.

3b. Supervisors may, directly or in collaboration with other authorities in that Member State, exempt obliged entities from conducting, in full or in part, the customer due diligence measures referred to under Article 16(1), points (a) to (c) with respect to electronic money on the basis of the proven low risk posed by the nature of the product, where all of the following risk-mitigating conditions are met:

a) the payment instrument is not reloadable, and the amount stored electronically does not exceed EUR 150;

b) the payment instrument is used exclusively to purchase goods or services provided by the issuer, or within a network of service providers;

c) the payment instrument is not linked to a payment account and it does not permit any stored amount to be exchanged for cash or for crypto-assets;

d) the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

3c. The obligation under Article 16 (1), point (a), may be fulfilled by identifying the customer and verifying his identity upon entry to the casino or other physical gambling premises, provided that providers of gambling services have systems in place that enable them to attribute transactions to specific customers.

▌

5. By ***[2 years from the date of entry into force of this Regulation]***, AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify:

(a) the obliged entities, sectors or transactions that are associated with higher money laundering and terrorist financing risk and which shall comply with thresholds lower than those set in paragraph 1 point (b);

(b) the related occasional transaction thresholds;

(ba) the criteria to be taken into account for identifying occasional transactions and business relationships;

(c) the criteria to identify linked transactions.

When developing the draft regulatory technical standards referred to in the first sub-paragraph, AMLA shall take due account of the following:

(a) the inherent levels of risks of the business models of the different types of obliged entities;

(b) the supra-national risk assessment developed by the Commission pursuant to Article 7 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]***.

6. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 5 of this Article in accordance with Articles 38 to 41 of ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***.

Article 16

Customer due diligence measures

1. For the purpose of conducting customer due diligence, obliged entities shall apply all of the following measures:

(a) identify the customer and verify the customer's identity;

(b) identify the beneficial owner(s) ***and take reasonable measures to*** verify their identity so that the obliged entity is satisfied that it knows who the beneficial owner is and that it understands the ownership and control structure of the customer;

(c) assess and, as appropriate, obtain information on ***and understand*** the purpose and intended nature of the business relationship ***or the occasional transactions***;

(ca) verify whether the customer or the beneficial owner(s) are subject to targeted financial sanctions, and, in the case of a customer or party to a legal arrangement who is a legal entity, whether natural or legal persons subject to targeted financial sanctions control the legal entity or have more than 50% of the proprietary rights of an entity or majority interest in it, whether individually or collectively;

(cb) assess and, as appropriate, obtain information on the nature of the customers' business, including, in the case of undertakings, whether they carry out activities, or of their employment or occupation;

(d) conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds***;***

(da) determine whether the customer, the beneficial owner of the customer and, where relevant, the person(s) on whose behalf or for the benefit of whom a transaction or activity is being carried out is a politically exposed person or a family member or person known to be a close associate thereof.

When applying the measures referred to in points (a) and (b) of the first subparagraph, obliged entities shall also***:***

(a) where a transaction or activity is being conducted on behalf of ***or for the benefit of a natural person other than the customer,*** identify and verify the identity of ***those natural person(s);***

(b) verify that any person ***purporting to act on behalf of the customer is so authorised and identify and verify their identity***.

2. Obliged entities shall determine the extent of the measures referred to in paragraph 1 on the basis of an individual analysis of the risks of money laundering and terrorist financing having regard to the specific characteristics of the client and of the business relationship or occasional transaction, and taking into account the ***business wide*** risk assessment by the obliged entity pursuant to Article 8 and the money laundering and terrorist financing variables set out in Annex I as well as the risk factors set out in Annexes II and III. ▌

Where obliged entities identify an increased risk of money laundering or terrorist financing they shall take enhanced due diligence measures pursuant to Section 4 of this Chapter. Where situations of lower risk are identified, obliged entities may apply simplified due diligence measures pursuant to Section 3 of this Chapter.

▌

3. By **…** [***two*** years after the date of application of this Regulation], AMLA shall issue guidelines the risk variables and risk factors to be taken into account by obliged entities when entering into business relationships or carrying out occasional transactions.

4. Obliged entities shall at all times be able to demonstrate to their supervisors that the measures taken are appropriate in view of the risks of money laundering and terrorist financing that have been identified.

Article 16a

Reporting of discrepancies with information contained in beneficial ownership registers

1. Obliged entities shall report to the entity in charge of the central registers referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] any discrepancies they find between the information available in the central registers and the information they collect pursuant to Article 18(5) and Article 16(1)(b).

The discrepancies referred to in the first subparagraph shall be reported without undue delay and in any case no later than 14 calendar days after detecting the discrepancy. That report shall be accompanied by the information obtained by the obliged entity indicating the discrepancy and whom the obliged entity considers the beneficial owner(s) and, where applicable, the nominee shareholders and nominee directors to be and why.

2. By way of derogation from paragraph 1, obliged entities may refrain from notifying the register and request additional information from the customers where the discrepancies identified:

(a) are limited to typographical errors, different ways of transliteration, or minor inaccuracies that do not affect the identification of the beneficial owners or their position; or

(b) consist of outdated data, but the beneficial owners are known to the obliged entity from another reliable source and there are no grounds for suspicion that there is an intention to conceal any information, and

(c) do not concern cases of higher risk to which measures under Section 4 of this Chapter apply.

Where the obliged entity concludes that the beneficial ownership information in the central register is incorrect, obliged entities shall invite the customers to report the correct information to the register pursuant to Articles 45, 46 and 48 without undue delay, and in any case within 14 calendar days.

3. Where the customer has not reported the correct information within the timeframes referred to in paragraph 2, second subparagraph , the obliged entity shall report the discrepancy to the register following the procedure set out in paragraph 1, second subparagraph.

4. This Article shall not apply to notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors in relation to information they receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client, or performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings.

However, the requirements of this Article shall apply when the obliged entities referred to in the first subparagraph provide legal advice in any of the situations covered by Article 17(1a), second subparagraph.

Article 17

Inability to comply with the requirement to apply customer due diligence measures

1. Where an obliged entity is unable to comply with the customer due diligence measures laid down in Article 16(1), it shall refrain from carrying out a transaction or establishing a business relationship, and shall terminate the business relationship and consider filing a suspicious transaction report to the FIU in relation to the customer in accordance with Article 50.

The termination of a business relationship pursuant to the first subparagraph shall not prohibit the receipt of funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 due to the obliged entity.

Where an obliged entity has a duty to protect its customer's assets, the termination of the business relationship shall not be understood as requiring the disposal of the assets of the customer.

In the case of life insurance contracts, obliged entities shall, where necessary as an alternative measure to terminating the business relationship, refrain from performing transactions for the customer, including payouts to beneficiaries, until the provisions of Article 16(1) are complied with.

1a. The first ***paragraph*** shall not apply to notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors, to the strict extent that those persons ascertain the legal position of their client, or perform the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

However, the exemption set out in the first subparagraph shall not apply when the obliged entities referred therein:

(a) take part in money laundering, its predicate offences or terrorist financing;

(b) provide legal advice for the purposes of money laundering, its predicate offences or terrorist financing, or

(c) know that the client is seeking legal advice for the purposes of money laundering, its predicate offences or terrorist financing. Knowledge or purpose may be inferred from objective factual circumstances.

2. ▌Obliged entities shall keep record of the actions taken in order to comply with the requirement to apply customer due diligence measures, including records of the decisions taken and the relevant supporting documents ***and justifications***. Documents, data or information held by the obliged entity shall be updated whenever the customer due diligence is reviewed pursuant to Article 21.

The requirements of the first subparagraph, first sentence, shall also apply to situations where obliged entities refuse to enter in a business relationship or to terminate a business relationship or apply alternative measures pursuant to Article 17(1).

2a. By ... [three years after the entry into force of this Regulation], AMLA shall issue joint guidelines with the European Banking Authority on the measures that may be taken by credit and financial institutions to ensure compliance with AML/CFT rules when implementing the requirements of Directive 2014/92/EU, including in relation to business relationships that are most affected by de-risking practices.

Article 18

Identification and verification of the customer's *and beneficial owners's* identity

1. With the exception of cases of lower risk to which measures under Section 3 apply and irrespective of the application of additional measures in cases of higher risk under Section 4 obliged entities shall obtain at least the following information in order to identify the customer***, any person purporting to act on behalf of the customer,*** and the ***natural*** person***(s) on whose*** behalf ***or for the benefit of whom a transaction or activity is being conducted***:

   (a) for a natural person:

      (i) ***all names and surnames***;

      (ii) place and ***full*** date of birth;

(iii) nationality or nationalities, or statelessness and refugee or subsidiary protection status where applicable, and the national identification 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;

(b) for a legal entity:

(i) legal form and name of the legal entity;

(ii) address of the registered or official office and, if different, the principal place of business, and the country of incorporation;

(iii) the names of the legal representatives as well as, where available, the registration number, the tax identification number and the Legal Entity Identifier ▌ ;

(iiia) the names of persons holding shares or a directorship position in nominee form, including reference to their status as nominee shareholders or directors.

(c) for a trustee of an express trust or a person holding an equivalent position in a similar legal arrangement:

(i) ***basic information on the legal arrangement. However, with regard to the assets held in the legal arrangement or managed through it, only the assets that are to be managed in the context of the business relationship or occasional transaction shall be identified***;

(ii) the address of residence of the trustee(s) or person(s) holding an equivalent position in a similar legal arrangement ***and, if different, the place from where the express trust or similar legal arrangement is administered,*** the powers that regulate and bind the legal arrangements, as well as, where available, the tax identification number and the Legal Entity Identifier;

(d) for other organisations that have legal capacity under national law:

(i) name, address of the registered office or equivalent;

(ii) names of the persons empowered to represent the organisation as well as, where applicable, legal form, tax identification number, register number, Legal Entity Identifier and deeds of association or equivalent.

2. For the purposes of identifying the beneficial owner of a legal entity ***or of a legal arrangement,*** obliged entities shall collect the information referred to in Article 44(1), point (a) ▌ .

Where, after having exhausted all possible means of identification pursuant to the first subparagraph, no natural person is identified as beneficial owner, or where there ***are doubts*** that the person(s) identified is/are the beneficial owner(s), obliged entities shall ***record that no beneficial owner was identified and*** identify ***all*** the natural person(s) holding the position(s) of senior managing official(s) in the corporate or other legal entity and shall verify their identity. ***Where the performance of such verification may tip off the customer that the obliged entity has doubts regarding the beneficial ownership of the legal person, the obliged entity shall abstain from verifying the senior managing officials' identity, and shall instead record the steps taken to ascertain the identity of the beneficial owners and senior managing officials.*** Obliged entities shall keep records of the actions taken as well as of the difficulties encountered during the identification process, which led to resorting to the identification of a senior managing official.

2a. Credit and financial institutions shall obtain information on the natural persons using any virtual IBAN they issue, and the associated bank or payment account.

The credit or financial institution servicing the bank or payment account to which a virtual IBAN, issued by another credit or financial institution, reroutes payments, shall ensure that it can obtain from the institution issuing the virtual IBAN the information identifying and verifying the identity of the natural person using that virtual IBAN without delay and in any case within no more than five working days..

3. In the case of beneficiaries of trusts or similar legal entities or arrangements that are designated by particular characteristics or class, an obliged entity shall obtain sufficient information concerning the beneficiary so that it will be able to establish the identity of the beneficiary at the time of the payout or at the time of the exercise by the beneficiary of its vested rights.

3a. In the case of discretionary trusts, an obliged entity shall obtain sufficient information concerning the objects of a power and default takers so that it will be able to establish the identity of the beneficiary at the time of the exercise by the trustees of their power of discretion, or at the time when the default takers become the beneficiaries due to the trustees' failure to exercise their power of discretion.

4. Obliged entities shall obtain the information, documents and data necessary for the verification of the ***identity of the*** customer and ***of any person purporting to act on their behalf*** through either of the following ***means***:

(a) the submission of the identity document, passport or equivalent and***, where relevant,*** the acquisition of information from reliable and independent sources, whether accessed directly or provided by the customer;

(b) the use of electronic identification means ***which meet the requirements of Regulation (EU) 910/2014 with regard to the assurance levels 'substantial' or 'high'*** and relevant ***qualified*** trust services as set out in ***that Regulation***.

▌

5. Obliged entities shall verify the identity of the beneficial owner and, where relevant, the person(s) on whose behalf or for the benefit of whom a transaction or activity is being carried out in either of the following ways:

(a) in accordance with paragraph 4;

(b) by taking reasonable measures to obtain the necessary information, documents and data from the customer or other reliable sources, including public registers other than the beneficial ownership registers referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

Obliged entities shall determine the extent of the information to be consulted, having regard to the risks posed by the occasional transaction or the business relationship and the beneficial owner, including risks relating to the ownership structure.

In addition to the measures set out in the first subparagraph, obliged entities shall verify the information on the beneficial owner(s) by consulting the central registers referred to in Article 10 of Directive (EU) .../... [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

Article 19

Timing of the verification of the customer and beneficial owner identity

1. Verification of the identity of the customer***, the beneficial owner,*** and of ***any persons pursuant to Article 16(1), second subparagraph, points (a) and (b)*** shall take place before the establishment of a business relationship or the carrying out of an occasional transaction. Such obligation shall not apply to situations of lower risk under Section 3 of this Chapter, provided that the lower risk justifies postponement of such verification.

For real estate agents, the verification referred to in the first subparagraph shall be carried out as from the point in time that an offer is accepted by the seller or lessor, and in all cases before any funds or property are transferred.

2. By way of derogation from paragraph 1, verification of the identity of the customer and of the beneficial owner may be completed during the establishment of a business relationship if necessary so as not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing. In such situations, those procedures shall be completed as soon as practicable after initial contact.

3. By way of derogation from paragraph 1, a credit institution or financial institution may open an account, including accounts that permit transactions in transferable securities, as may be required by a customer provided that there are adequate safeguards in place to ensure that transactions are not carried out by the customer or on its behalf until full compliance with the customer due diligence requirements laid down in Article 16(1), first subparagraph, points (a) and (b) is obtained.

▌

4. Whenever entering into a new business relationship with a legal entity or the trustee of an express trust or the person holding an equivalent position in a similar legal arrangement referred to in Articles 42, ***42f, 43, 43c*** and 48 and subject to the registration of beneficial ownership information pursuant to Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], obliged entities shall collect ***valid*** proof of registration or ***a recently issued*** excerpt of the register ***confirming validity of registration***.

Article 20

Identification of the purpose and intended nature of a business relationship or occasional transaction

Before entering into a business relationship or performing an occasional transaction, an obliged entity shall ***assure itself that it understands its purpose and intended nature. To that end, the obliged entity shall obtain, where necessary, information on***:

(a) the purpose ***and economic rationale*** of the ***occasional*** transaction or business relationship;

(b) the estimated amount ▌ of the envisaged ▌ activities;

(c) the source of funds;

(d) the destination of funds.

(da) the business activity or the occupation.

For the purposes of the first subparagraph, point (a), obliged entities covered by Article 54a shall collect information in order to determine whether the intended use of high value goods referred to in that Article is for commercial or non-commercial purposes.

▌

Article 21

Ongoing monitoring of the business relationship and monitoring of transactions performed by customers

1. Obliged entities shall conduct ongoing monitoring of the business relationship, including transactions undertaken by the customer throughout the course of that relationship, to control that those transactions are consistent with the obliged entity's knowledge of the customer, the customer's business activity and risk profile, and where necessary, with the information about the origin ***and destination*** of the funds and to detect those transactions that shall be made subject to a more thorough analysis pursuant to Article 50.

Where business relationships cover more than one product or service, obliged entities shall ensure that the customer due diligence measures cover all those products and services. Where obliged entities belonging to a group have business relationships with customers that are also the customers of other entities within that group, whether obliged entities or undertakings not subject to AML/CFT requirements, they shall take into account information relating to those other business relationships for the purposes of monitoring the business relationship with their customers.

2. In the context of the ongoing monitoring referred to in paragraph 1, obliged entities shall ensure that the relevant documents, data or information of the customer are kept up-to-date.

The frequency of updating customer information pursuant to the first sub-paragraph shall be based on the risk posed by the business relationship ***and shall in any case not exceed: (a) for higher risk customers to which measures under Section 4 of this Chapter apply, one year; (b) for all other customers,*** five years.

3. In addition to the requirements set out in paragraph 2, obliged entities shall review and, where relevant, update the customer information where:

(a) there is a change in the relevant circumstances of a customer;

(b) the obliged entity has a legal obligation in the course of the relevant calendar year to contact the customer for the purpose of reviewing any relevant information relating to the beneficial owner(s) or to comply with Council Directive 2011/16/EU[34];

(c) they become aware of a relevant fact which pertains to the customer.

3a. In addition to the ongoing monitoring referred to under paragraph 1, obliged entities shall regularly verify whether the conditions of Article 16(1), point (ca) are met. The frequency of that verification shall be commensurate to the exposure of the obliged entity and the business relationship to risks of non-implementation and evasion of targeted financial sanctions.

For credit and financial institutions, the verification referred to in the first subparagraph shall also be carried out upon any new designation in relation to targeted financial sanctions.

The requirements of this paragraph shall not replace the obligation to apply targeted financial sanctions nor stricter requirements under other Union acts or under national law on the verification of the client base against targeted financial sanctions lists.

[34] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

4. By [2 years after the entry into force of this Regulation], AMLA shall issue guidelines on ongoing monitoring of a business relationship and on the monitoring of the transactions carried out in the context of such relationship.

Article 21a

Temporary measures towards customers subject to United Nations' financial sanctions

1. In respect of customers that are subject to United Nations' financial sanctions or that are controlled by natural or legal persons or entities subject to United Nations' financial sanctions or in which natural or legal persons that are subject to United Nations' financial sanctions have more than 50% of the proprietary rights of an entity or majority interest in it, whether individually or collectively, obliged entities shall keep records of: (a) the funds or other assets that they manage for the customer at the time when United Nations' financial sanctions are made public; (b) the transactions attempted by the customer; (c) the transactions carried out for the customer.

2. Obliged entities shall apply this Article between the time that United Nations' financial sanctions are made public and the time of application of the relevant targeted financial sanctions in the Union.

Article 22

Regulatory technical standards on the information necessary for the performance of customer due diligence

1. By [2 years after the entry into force of this Regulation] AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify:

   (a) the requirements that apply to obliged entities pursuant to Article 16 and the information to be collected for the purpose of performing standard, simplified and enhanced customer due diligence pursuant to Articles 18 and 20 and Articles 27(1) and 28(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 27(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 Commission pursuant to Article 7 of [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final];

   (ba) 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 15(3b).

(c) 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 18(4) ***and (5)*** ;

(d) the list of attributes which electronic identification means and relevant ***qualified*** trust services referred to in Article 18(4), point (b), must feature in order to fulfil the requirements of Article 16***(1)***, points (a), (b) and (c) in case of standard, simplified and enhanced customer diligence***;***

▌

2. The requirements and measures referred to in paragraph 1, points (a) and (b), shall be based on the following criteria:

(a) the inherent risk involved in the service provided;

(aa) the risks associated with categories of customers;

(b) the nature, amount and recurrence of the transaction;

(c) the channels used for conducting the business relationship or the occasional transaction.

▌

3. AMLA shall review regularly the regulatory technical standards and, if necessary, prepare and submit to the Commission the draft for updating those standards in order, inter alia, to take account of innovation and technological developments.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraphs 1 and 3 of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

SECTION 2

THIRD-COUNTRY POLICY AND ML/TF THREATS FROM OUTSIDE THE UNION

Article 23

Identification of third countries with significant strategic deficiencies in their national AML/CFT regimes

1. Third countries with significant strategic deficiencies in their national AML/CFT regimes shall be identified by the Commission and designated as 'high-risk third countries'.

2. In order to identify the countries referred to in paragraph 1, the Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement this Regulation, where:

(a) significant strategic deficiencies in the legal and institutional AML/CFT framework of the third country have been identified;

(b) significant strategic deficiencies in the effectiveness of the third country's AML/CFT system in addressing money laundering or terrorist financing risks have been identified;

(c) the significant strategic deficiencies identified under points (a) and (b) are of a persistent nature and no measures to mitigate them have been taken or are being taken.

Those delegated acts shall be adopted within ***twenty days*** after the Commission has ascertained that the criteria in point (a), (b) or (c) are met ▌

3. For the purposes of paragraph 2, the Commission shall take into account calls for the application of enhanced due diligence measures and additional mitigating measures ('countermeasures') by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, as well as relevant evaluations, assessments, reports or public statements drawn up by them.

4. Where a third country is identified in accordance with the criteria referred to in paragraph ***2***, obliged entities shall apply enhanced due diligence measures listed in Article 28(4), points (a) to (g) with respect to the business relationships or occasional transactions involving natural or legal persons from that third country.

5. The delegated act referred to in paragraph 2 shall identify among the countermeasures listed in Article 29 the specific countermeasures mitigating country-specific risks stemming from high-risk third countries.

5b. Where a Member State identifies a specific risk posed by a third country that the Commission has identified in accordance with the criteria referred to in paragraph 2 which is not addressed by the countermeasures referred to in paragraph 5, it may require obliged entities established in its territory to apply specific additional countermeasures to mitigate the specific risks stemming from that third country. The risk identified and the corresponding countermeasures shall be notified to the Commission within 5 days of the countermeasures being applied.

6. The Commission shall review the delegated acts referred to in paragraph 2 on a regular basis to ensure that the specific countermeasures identified pursuant to paragraph 5 take account of the changes in the AML/CFT framework of the third country and are proportionate and adequate to the risks.

Upon receiving a notification pursuant to paragraph 5a, the Commission shall assess the information received to determine whether those specific risks affect the integrity of the Union's internal market. Where appropriate, the Commission shall review the delegated acts referred to in paragraph 2, by adding the necessary countermeasures to mitigate those additional risks. Where the Commission considers that the specific additional measures imposed by a Member State under paragrah 5 are not necessary to mitigate specific risks stemming from that third-country, it shall be empowered to decide by way of implementing act that the Member State shall put an end to the specific additional counter-measure.

Article 24

Identification of third countries with compliance weaknesses in their national AML/CFT regimes

1. Third countries with compliance weaknesses in their national AML/CFT regimes shall be identified by the Commission.

2. In order to identify the countries referred to in paragraph 1, the Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement this Regulation, where:

(a) compliance weaknesses in the legal and institutional AML/CFT framework of the third country have been identified;

(b) compliance weaknesses in the effectiveness of the third country's AML/CFT system in addressing money laundering or terrorist financing risks ***or in its system to assess and mitigate risks of non-implementation or evasion of United Nations' financial sanctions relating to proliferation financing*** have been identified.

Those delegated acts shall be adopted within ***twenty days*** after the Commission has ascertained that the criteria in point (a) or (b) are met.

3. The Commission, when drawing up the delegated acts referred to in paragraph 2 shall take into account***, as a baseline for its assessment,*** information on jurisdictions under increased monitoring by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, as well as relevant evaluations, assessments, reports or public statements drawn up by them.

4. The delegated act referred to in paragraph 2 shall identify the specific enhanced due diligence measures among those listed in Article 28(4), points (a) to (g), that obliged entities shall apply to mitigate risks related to business relationships or occasional transactions involving natural or legal persons from that third country.

5. The Commission shall review the delegated acts referred to in paragraph 2 on a regular basis to ensure that the specific enhanced due diligence measures identified pursuant to paragraph 4 take account of the changes in the AML/CFT framework of the third country and are proportionate and adequate to the risks.

Article 25

Identification of third countries posing a *specific and serious* threat to the Union's financial system

1. The Commission is empowered to adopt delegated acts in accordance with Article 60 identifying third countries ***where in exceptional cases it considers it indispensable to mitigate a*** specific and serious threat to the financial system of the Union and the proper functioning of the internal market ***posed by*** those ***third countries, and which cannot be mitigated pursuant to*** Articles 23 and 24.

2. The Commission, when drawing up the delegated acts referred to in paragraph 1, shall take into account in particular the following criteria:

   (a) the legal and institutional AML/CFT framework of the third country, in particular:

      (i) the criminalisation of money laundering and terrorist financing;

      (ii) measures relating to customer due diligence;

      (iii) requirements relating to record-keeping;

      (iv) requirements to report suspicious transactions;

(v) the availability of accurate and timely information of the beneficial ownership of legal persons and arrangements to competent authorities;

▌

(b) the powers and procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing including appropriately effective, proportionate and dissuasive sanctions, as well as the third country's practice in cooperation and exchange of information with Member States' competent authorities;

(c) the effectiveness of the third country's AML/CFT system in addressing money laundering or terrorist financing risks;

▌

3. For the purposes of determining the level of threat referred to in paragraph 1, the Commission may request AMLA to adopt an opinion aimed at assessing the specific impact on the integrity of the Union's financial system due to the level of threat posed by a third country.

3a. Where AMLA identifies that a third country other than those identified pursuant to Articles 23 and 24 poses a specific and serious threat to the Union's financial system, it may address an opinion to the Commission setting out the threat it has identified and why it believes that the Commission should identify the third country pursuant to paragraph 2.
Where the Commission decides not to identify the third country, it shall provide a justification to AMLA.

4. The Commission, when drawing up the delegated acts referred to in paragraph 1, shall take into account in particular relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing.

5. Where the identified specific and serious threat from the concerned third country amounts to a significant strategic deficiency, Article 23(4) shall apply and the delegated act referred to in paragraph ***1*** shall identify specific countermeasures as referred to in Article 23(5).

6. Where the identified specific and serious threat from the concerned third country amounts to a compliance weakness, the delegated act referred to in paragraph 2 shall identify specific enhanced due diligence measures as referred to in Article 24(4).

7. The Commission shall review the delegated acts referred to in paragraph 2 on a regular basis to ensure that the measures referred to in paragraphs 5 and 6 take account of the changes in the AML/CFT framework of the third country and are proportionate and adequate to the risks.

7a. The Commission is empowered to adopt, by means of an implementing act, the methodology for the identification of third countries pursuant to this Article. That implementing act shall set out, in particular: (a) how the criteria referred to under paragraph 2 are assessed; (b) the process for interaction with the third country under assessment; (c) the process for involvement of Member States and AMLA in the identification of third countries posing a serious and specific threat to the Union's financial system. The implementing act referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 61(2) of this Regulation.

Article 26

Guidelines on ML/TF risks, trends and methods

1. By ***[3 years from the date of entry into force of this Regulation]***, AMLA shall adopt guidelines defining the money laundering and terrorist financing trends, risks and methods involving any geographical area outside the Union to which obliged entities are exposed. AMLA shall take into account, in particular, the risk factors listed in Annex III. Where situations of higher risk are identified, the guidelines shall include enhanced due diligence measures that obliged entities shall consider applying to mitigate such risks.

2. AMLA shall review the guidelines referred to in paragraph 1 at least every two years.

3. In issuing and reviewing the guidelines referred to in paragraph 1, AMLA shall take into account evaluations, assessments or reports of ***Union institutions, bodies and agencies,*** international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing ▌

SECTION 3

SIMPLIFIED CUSTOMER DUE DILIGENCE

Article 27

Simplified customer due diligence measures

1. Where, taking into account the risk factors set out in Annexes II and III, the business relationship or transaction present a low degree of risk, obliged entities may apply the following simplified customer due diligence measures:

   (a) verify the identity of the customer and the beneficial owner after the establishment of the business relationship, provided that the specific lower risk identified justified such postponement, but in any case no later than ***60*** days of the relationship being established;

   (b) reduce the frequency of customer identification updates;

   (c) reduce the amount of information collected to identify the purpose and intended nature of the business relationship ***or occasional transaction*** or inferring it from the type of transactions or business relationship established ;

   (d) reduce the frequency or degree of scrutiny of transactions carried out by the customer;

(e) apply any other relevant simplified due diligence measure identified by AMLA pursuant to Article 22.

▌

The measures referred to in the first subparagraph shall be proportionate to the nature and size of the business and to the specific elements of lower risk identified. However, obliged entities shall carry out sufficient monitoring of the transactions and business relationship to enable the detection of unusual or suspicious transactions.

2. Obliged entities shall ensure that the internal procedures established pursuant to Article 7 contain the specific measures of simplified verification that shall be taken in relation to the different types of customers that present a lower risk. Obliged entities shall document decisions to take into account additional factors of lower risk.

3. For the purpose of applying simplified due diligence measures referred to in paragraph 1, point (a), obliged entities shall adopt risk management procedures with respect to the conditions under which they can provide services or perform transactions for a customer prior to the verification taking place, including by limiting the amount, number or types of transactions that can be performed or by monitoring transactions to ensure that they are in line with the expected norms for the business relationship at hand.

4. Obliged entities shall verify on a regular basis that the conditions for the application of simplified due diligence continue to exist. The frequency of such verifications shall be commensurate to the nature and size of the business and the risks posed by the specific relationship.

5. Obliged entities shall refrain from applying simplified due diligence measures in any of the following situations:

(a) the obliged entities have doubts as to the veracity of the information provided by the customer or the beneficial owner at the stage of identification, or they detect inconsistencies regarding that information;

(b) the factors indicating a lower risk are no longer present;

(c) the monitoring of the customer's transactions and the information collected in the context of the business relationship exclude a lower risk scenario;

(d) there is a suspicion of money laundering or terrorist financing.

(da) there is a suspicion that the customer, or the person acting on behalf of the customer, is attempting to circumvent or evade targeted financial sanctions.

SECTION 4

ENHANCED CUSTOMER DUE DILIGENCE

Article 28

Scope of application of enhanced customer due diligence measures

1. In the cases referred to in Articles 23, 24, 25 and 30 to 36, as well as in other cases of higher risk that are identified by obliged entities pursuant to Article 16(2), second subparagraph ('cases of higher risk'), obliged entities shall apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.

2. Obliged entities shall examine the origin and destination of funds involved in, and the purpose of, all transactions that fulfil at least one of the following conditions:

   (a) the transactions are of a complex nature;

   (b) the transactions are unusually large;

   (c) the transactions are conducted in an unusual pattern;

   (d) the transactions do not have an apparent economic or lawful purpose.

3. With the exception of the cases covered by Section 2 of this Chapter, when assessing the risks of money laundering and terrorist financing posed by a business relationship or occasional transaction, obliged entities shall take into account at least the factors of potential higher risk set out in Annex III and the guidelines adopted by AMLA pursuant to Article 26***, as well as any other indicators of higher risk such as notifications issued by the FIU and findings of the business-wide risk assessment under Article 8***.

4. With the exception of the cases covered by Section 2 of this Chapter, in cases of higher risk, obliged entities ***shall*** apply ▌ enhanced customer due diligence measures, proportionate to the higher risks identified**.**

For the purposes of the first subparagraph, enhanced due diligence measures may include:

(a) obtain additional information on the customer and the beneficial owner(s);

(b) obtain additional information on the intended nature of the business relationship;

(c) obtain additional information on the source of funds, and source of wealth of the customer and of the beneficial owner(s);

(d) obtain information on the reasons for the intended or performed transactions and their consistency with the business relationship;

(e) obtain the approval of senior management for establishing or continuing the business relationship;

(f) conduct enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;

(g) require the first payment to be carried out through an account in the customer's name with a credit institution subject to customer due diligence standards that are not less robust than those laid down in this Regulation.

4a. In addition to paragraph 4, where a business relationship that is identified as having a higher risk involves the handling of assets of EUR 5 000 000 or more through bespoke services for a customer holding a total minimum of EUR 50 000 000, whether in financial or investable wealth or real estate, or a combination thereof, excluding that customer's private residence, credit and financial institutions and trust and company service providers shall apply the following enhanced customer due diligence measures:

a) specific measures and procedures to mitigate risks associated with bespoke services and products offered to that customer;

b) obtain additional information on that customer's source of funds;

c) enhanced measures to prevent and manage conflicts of interest between the customer and senior managers or employees of that obliged entity that undertake tasks related to that obliged entity's compliance in relation to that customer.

By [3 years after the date of entry into force of this Regulation], AMLA shall issue guidelines on the measures to be taken by credit and financial institutions and trust and company service providers to establish whether a customer holds wealth of EUR 50 000 000 or more in financial, investable or real estate wealth and how to determine that wealth.

5. With the exception of the cases covered by Section 2 of this Chapter, where Member States identify ***cases of higher risks*** pursuant to Article 8 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], including as a result of sectoral risk assessments carried out by the Member States***, they may require obliged entities to apply enhanced due diligence measures and, where appropriate, specify those measures. Member States shall notify to the Commission and AMLA the enhanced due diligence requirements imposed upon obliged entities established in their territory within one month of their adoption, accompanied by a justification of the money laundering and terrorist financing risks underpinning such decision. ▌

Where the risks identified by the Member States pursuant to the first subparagraph are likely to ***stem from outside the Union and may*** affect the financial system of the Union, AMLA shall, upon a request from the Commission or ***on*** its own initiative, consider updating the guidelines adopted pursuant to Article 26.

5a. The Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement this Regulation where it identifies additional cases of higher risk that affect the Union as a whole and enhanced due diligence measures that obliged entities are to apply in those cases, taking into account the notifications by Member States pursuant to paragraph 5, first subparagraph.

6. Enhanced customer due diligence measures shall not be invoked automatically with respect to branches or subsidiaries of obliged entities established in the Union which are located ***in*** third countries referred to in Articles 23, 24 and 25 where those branches or subsidiaries fully comply with the group-wide policies, controls and procedures in accordance with Article 14.

Article 29

Countermeasures to mitigate ML/TF threats from outside the Union

For the purposes of Articles 23 and 25, the Commission may choose from among the following countermeasures:

(a) countermeasures that obliged entities are to apply to persons and legal entities involving high-risk third countries and, where relevant, other countries posing a threat to the Union's financial system consisting in:

(i) the application of additional elements of enhanced due diligence;

(ii) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions;

(iii) the limitation of business relationships or transactions with natural persons or legal entities from those third countries;

(b) countermeasures that Member States are to apply with regard to high-risk third countries and, where relevant, other countries posing a threat to the Union's financial system consisting in:

(i) refusing the establishment of subsidiaries or branches or representative offices of obliged entities from the country concerned, or otherwise taking into account the fact that the relevant obliged entity is from a third country that does not have adequate AML/CFT regimes;

(ii) prohibiting obliged entities from establishing branches or representative offices of obliged entities in the third country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a third country that does not have adequate AML/CFT regimes;

(iii) requiring increased supervisory examination or increased external audit requirements for branches and subsidiaries of obliged entities located in the third country concerned;

(iv) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the third country concerned;

(v) requiring credit and financial institutions to review and amend, or if necessary terminate, correspondent relationships with respondent institutions in the third country concerned.

Article 30

Specific enhanced due diligence measures for cross-border correspondent relationships

With respect to cross-border correspondent relationships, including relationships established for securities transactions or fund transfers, involving the execution of payments with a third-country respondent institution, in addition to the customer due diligence measures laid down in Article 16, credit institutions and financial institutions shall be required, when entering into a business relationship, to:

(a) gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

(b) assess the respondent institution's AML/CFT controls;

(c) obtain approval from senior management before establishing new correspondent relationships;

(d) document the respective responsibilities of each institution;

(e) with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

Where credit institutions and financial institutions decide to terminate cross-border correspondent relationships for reasons relating to anti-money laundering and counter-terrorist financing policy, they shall document their decision.

Article 30a

Specific enhanced due diligence measures for cross-border correspondent relationships for crypto-asset service providers

1. By way of derogation from Article 30, with respect to cross-border correspondent relationships involving the execution of crypto-asset services as defined in Article 3 (1) point 16 of Regulation [please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final] with the exception of providing advice on crypto-assets as referred to in Article 3(1), point (16) (h) of that Regulation, with a respondent entity not established in the EU and providing similar services, including transfers of crypto-assets, crypto-asset service providers shall, in addition to the customer due diligence measures laid down in article 16, when entering into a business relationship:

(a) determine if the respondent entity is licensed or registered;

(b) gather sufficient information about the respondent entity to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the entity and the quality of supervision;

(c) assess the respondent entity AML/CFT controls;

(d) obtain approval from senior management before the establishment of the correspondent relationship;

(e) document the respective responsibilities of each party to the correspondent relationship;

(f) with respect to payable-through crypto-asset accounts, be satisfied that the respondent entity has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent entity, and that it is able to provide relevant customer due diligence data to the correspondent entity, upon request.

Where crypto-asset service providers decide to terminate correspondent relationships for reasons relating to anti-money laundering and counter-terrorist financing policy, they shall document and record their decision.

Crypto-asset service providers shall update the due diligence information for the correspondent relationship on a regular basis or when new risks emerge in relation to the respondent entity.

2. Crypto-asset service providers shall take into account the information collected pursuant to the first paragraph in order to determine, on a risk sensitive basis, the appropriate measures to be taken to mitigate the risks associated with the respondent entity.

3. AMLA shall issue guidelines to specify the criteria and elements that crypto-asset services providers shall take into account for conducting the assessment referred to in paragraph 1 and the risk mitigating measures referred to in paragraph 2 , including the minimum action to be taken by crypto-asset service providers upon identification that the respondent entity is not registered or licensed.

Article 30b

Specific measures towards individual third country respondent institutions

1. Credit institutions and financial institutions shall apply the measures laid down in paragraph 5 in relation to third country respondent institutions with which they have a correspondent relationship pursuant to Articles 30 or 30a towards which AMLA issues a recommendation pursuant to paragraph 2.

2. AMLA shall issue a recommendation addressed to credit and financial institutions where there are concerns that respondent institutions in third countries fall in any of the following situations:

(a) they are in serious, repeated or systematic breach of AML/CFT requirements;

(b) they have weaknesses in their internal policies, procedures and controls that are likely to result in serious, repeated or systematic breaches of AML/CFT requirements;

(c) they have in place internal policies, procedures and controls that are not commensurate to the risks of money laundering, its predicate offences and terrorist financing to which the third country respondent institution is exposed.

The recommendation referred to in the first subparagraph shall be issued where all of the following conditions are met:

(a) on the basis of the information available in the context of its supervisory activities, a financial supervisor, including AMLA when performing its supervisory activities, deems that a third country respondent institution falls in any of the situations listed under the first subparagraph and may affect the risk exposure of the correspondent relationship;

(b) following an assessment of the information available to the financial supervisor referred to in point (a), there is an agreement among financial supervisors in the Union that the third country respondent institution falls in any of the situations listed under the first subparagraph and may affect the risk exposure of the correspondent relationship.

3. Prior to issuing the recommendation referred to in paragraph 2, AMLA shall consult the third country supervisor in charge of the respondent institution and request that it provides its own as well as the respondent institution's views on the adequacy of the policies, procedures and controls as well as of the customer due diligence measures the respondent institution has in place to mitigate risks of money laundering, its predicate offences and terrorist financing and remedial measures to be put in place. Where no reply is provided within two months or where the reply provided does not indicate that the third country respondent institution can implement satisfactory AML/CFT policies, procedures and controls as well as adequate customer due diligence measures to mitigate the risks to which it is exposed that may affect the correspondent relationship, AMLA shall proceed with the recommendation.

4. AMLA shall withdraw its recommendation as soon as it considers that a third country respondent institution on which it has adopted a recommendation as referred to in the paragraph 2 no longer fulfils the conditions listed under that paragraph, first subparagraph.

5. In relation to third country respondent institutions that fulfil any of the conditions of paragraph 1, credit and financial institutions shall:

(a) abstain from entering into new business relationships with the third country respondent institution unless they conclude, on the basis of the information collected under Article 30 or 30a, that the mitigating measures applied to the business relationship with the third country respondent institution and the measures in place in the third country respondent institution can adequately mitigate the money laundering and terrorist financing risks associated with that business relationship;

(b) for ongoing business relationships with the third country respondent institution:

(i) review and update the information on the respondent institution pursuant to Articles 30 or 30b;

(ii) terminate the business relationship unless they conclude, on the basis of the information collected under point (i), that the mitigating measures applied to the business relationship with the third country respondent institution and the measures in place in the third country respondent institution can adequately mitigate the money laundering and terrorist financing risks associated with that business relationship;

(c) inform the respondent institution of the conclusions they have drawn in relation to the risks posed by the correspondent relationship following the recommendation by AMLA and the measures taken pursuant to points (a) or (b) of this paragraph.

Where AMLA has withdrawn a recommendation pursuant to paragraph 3, credit and financial institutions shall review their assessment as to whether the third country respondent institutions fulfil any of the conditions laid down in paragraph 1.6. Credit institutions and financial institutions shall document any decision taken pursuant to this Article.

Article 31

Prohibition of correspondent relationships with shell *institutions*

Credit institutions and financial institutions shall not enter into, or continue, a correspondent relationship with a shell ***institution***. Credit institutions and financial institutions shall take appropriate measures to ensure that they do not engage in or continue correspondent relationships with a credit institution or financial institution that is known to allow its accounts to be used by a shell ***institution.***

In addition to the first subparagraph, crypto-asset service providers shall ensure that their accounts are not used by shell institutions to provide crypto-asset services. To that end, crypto-asset service providers shall have in place policies and procedures to detect any attempt to use their accounts for the provision of unregulated crypto-asset services.

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Article 31b

Measures to mitigate risks in relation to transactions with a self-hosted address

1. ***Crypto-asset service providers shall identify and assess the risk of money laundering and financing of terrorism associated with transfers of crypto-assets directed to or originating from a self-hosted address. To that end, crypto-asset service providers shall have in place internal policies, procedures and controls.***

Crypto-asset service providers shall apply mitigating measures commensurate with the risks identified. Those mitigating measures shall include one or more of the following:

(a) ***taking risk-based measures to identify, and verify the identity of, the originator or beneficiary of a transfer made from or to a self-hosted address or beneficial owner of such originator or beneficiary, including through reliance on third parties;***

(b) ***requiring additional information on the origin and destination of the crypto-assets;***

(c) ***conducting enhanced ongoing monitoring of those transactions;***

(d) ***any other measure to mitigate and manage the risks of money laundering and financing of terrorism as well as the risk of non-implementation and evasion of targeted financial sanctions.***

2. AMLA shall issue guidelines to specify the measures referred to in this Article, including
a) the criteria and means for identification and verification of the identity of the originator or beneficiary of a transfer made from or to a self-hosted address, including through reliance on third parties, taking into account the latest technological developments;
b) criteria and means for the verification of whether or not the self-hosted is owned or controlled by a customer.

Article 31c

Specific provisions regarding applicants for residence by investment schemes

In addition to the customer due diligence measures laid down in Article 16, with respect to customers who are third-country nationals who are in the process of applying for residence rights in a Member State in exchange for any kind of investment, including transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget, obliged entities shall, as a minimum, carry out enhanced customer due diligence measures as set out in Article 28(4), points (a), (c), (e) and (f).

Article 32

Specific provisions regarding politically exposed persons

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1. ***In addition to the customer due diligence measures laid down in Article 16***, obliged entities shall apply the following measures ***with respect to occasional transactions or business relationships with politically exposed persons***:

(a) obtain senior management approval for ***carrying out occasional transactions or for*** establishing or continuing business relationships with politically exposed persons;

(b) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or ***occasional*** transactions with politically exposed persons;

(c) conduct enhanced, ongoing monitoring of those business relationships.

3. By [3 years from the date of entry into force of this Regulation], AMLA shall issue guidelines on the following matters:

(a) the criteria for the identification of persons falling under the definition of persons known to be a close associate;

(b) the level of risk associated with a particular category of politically exposed person, their family members or persons known to be close associates, including guidance on how such risks are to be assessed after the person no longer holds a prominent public function for the purposes of Article 35.

Article 33

List of prominent public functions

1. Each Member State shall issue and keep up to date a list indicating the exact functions which, in accordance with national laws, regulations and administrative provisions, qualify as prominent public functions for the purposes of Article 2, point (25). Member States shall request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation for the purposes of Article 2, point (25). These lists shall also include any function which may be entrusted to representatives of third countries and of international bodies accredited at Member State level. Member States shall notify those lists, as well as any change made to them, to the Commission and to AMLA.

1a. The Commission is empowered to adopt, by means of an implementing act, the format for the establishment and communication of the national lists of prominent public functions pursuant to paragraph 1, first sentence. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 61(2) of this Regulation.

1b. The Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement Article 2(25) where the lists notified by the Member States pursuant to paragraph 1 identify common additional categories of prominent public functions and that those categories of prominent public functions are of relevance for the Union as a whole. When drawing up delegated acts pursuant to the first subparagraph, the Commission shall consult AMLA.

2. The Commission shall draw up and keep up to date the list of the exact functions which qualify as prominent public functions at the level of the Union. That list shall also include any function which may be entrusted to representatives of third countries and of international bodies accredited at Union level.

3. The Commission shall assemble, based on the lists provided for in paragraphs 1 and 2 of this Article, a single list of all prominent public functions for the purposes of Article 2, point (25). The Commission shall publish that single list shall in the ***Official Journal of the European Union***. AMLA shall make the list public on its website.

Article 34

Politically exposed persons who are beneficiaries of insurance policies

Obliged entities shall take reasonable measures to determine whether the beneficiaries of a life or other investment-related insurance policy or, where relevant, the beneficial owner of the beneficiary are politically exposed persons. Those measures shall be taken no later than at the time of the payout or at the time of the assignment, in whole or in part, of the policy. Where there are higher risks identified, in addition to applying the customer due diligence measures laid down in Article 16, obliged entities shall:

(a) inform senior management before payout of policy proceeds;

(b) conduct enhanced scrutiny of the entire business relationship with the policyholder.

Article 35

Measures towards persons who cease to be politically exposed persons

1. Where a politically exposed person is no longer entrusted with a prominent public function by the Union, a Member State, third country or an international organisation, obliged entities shall take into account the continuing risk posed by that person***, as a result of their former function,*** in their assessment of money laundering and terrorist financing risks in accordance with Article 16.

2. Obliged entities shall apply one or more of the measures referred to in Article 28(4) to mitigate the risks posed by the ***politically exposed person*** until such time as ***the risks referred to under paragraph 1 no longer exist***, but in any case for not less than 12 months following the time when the individual is no longer entrusted with a prominent public function.

3. The obligation referred to in paragraph 2 shall apply accordingly where an obliged entity ***carries out an occasional transaction or*** enters into a business relationship with a person who in the past was entrusted with a prominent public function by the Union, a Member State, third country or an international organisation.

Article 36

Family members and close associates of politically exposed persons

The measures referred to in Articles 32, 34 and 35 shall also apply to family members or persons known to be close associates of politically exposed persons.

SECTION 5

SPECIFIC CUSTOMER DUE DILIGENCE PROVISIONS

Article 37

Specifications for the life and other investment-related insurance sector

For life or other investment-related insurance business, in addition to the customer due diligence measures required for the customer and the beneficial owner, obliged entities shall conduct the following customer due diligence measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:

(a) in the case of beneficiaries that are identified as specifically named persons or legal arrangements, taking the name of the person or arrangement;

(b) in the case of beneficiaries that are designated by characteristics or by class or by other means, obtaining sufficient information concerning those beneficiaries so that it will be able to establish the identity of the beneficiary at the time of the payout.

For the purposes of the first subparagraph, points (a) and (b), the verification of the identity of the beneficiaries and, where relevant, their beneficial owners shall take place at the time of the payout. In the case of assignment, in whole or in part, of the life or other investment-related insurance to a third party, obliged entities aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

SECTION 6

RELIANCE ON CUSTOMER DUE DILIGENCE PERFORMED BY OTHER OBLIGED ENTITIES

Article 38

General provisions relating to reliance on other obliged entities

1. Obliged entities may rely on other obliged entities, whether situated in a Member State or in a third country, to meet the customer due diligence requirements laid down in Article 16(1), points (a), (b) and (c), provided that:

   (a) the other obliged entities apply customer due diligence requirements and record-keeping requirements laid down in this Regulation, or equivalent when the other obliged entities are established or reside in a third country;

   (b) compliance with AML/CFT requirements by the other obliged entities is supervised in a manner consistent with Chapter IV of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

   The ultimate responsibility for meeting the customer due diligence requirements shall remain with the obliged entity which relies on another obliged entity.

2. When deciding to rely on other obliged entities situated in third countries, obliged entities shall take into consideration the geographical risk factors listed in Annexes II and III and any relevant information or guidance provided by the Commission, or by AMLA or other competent authorities.

3. In the case of obliged entities that are part of a group, compliance with the requirements of this Article and with Article 39 may be ensured through group-wide policies, controls and procedures provided that all the following conditions are met:

(a) the obliged entity relies on information provided solely by an obliged entity that is part of the same group;

(b) the group applies AML/CFT policies and procedures, customer due diligence measures and rules on record-keeping that are fully in compliance with this Regulation, or with equivalent rules in third countries;

(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by the supervisory authority of the home Member State in accordance with Chapter IV of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] or of the third country in accordance with the rules of that third country.

4. Obliged entities shall not rely on obliged entities established in third countries identified pursuant to Section 2 of this Chapter. However, obliged entities established in the Union whose branches and subsidiaries are established in those third countries may rely on those branches and subsidiaries, where all the conditions set out in paragraph 3, points (a) to (c), are met.

Article 39

Process of reliance on another obliged entity

1. Obliged entities shall obtain from the obliged entity relied upon all the necessary information concerning the customer due diligence requirements laid down in Article 16(1), first subparagraph points (a), (b) and (c), or the business being introduced.

2. Obliged entities which rely on other obliged entities shall take all necessary steps to ensure that the obliged entity relied upon provides, upon request:

   (a) copies of the information collected to identify the customer;

   (b) all supporting documents or trustworthy sources of information that were used to verify the identity of the client, and, where relevant, of the customer's beneficial owners or persons on whose behalf the customer acts, including data obtained through electronic identification means and relevant trust services as set out in Regulation (EU) No 910/2014; and

   (c) any information collected on the purpose and intended nature of the business relationship.

3. The information referred to in paragraphs 1 and 2 shall be provided by the obliged entity relied upon without delay and in any case within five working days.

4. The conditions for the transmission of the information and documents mentioned in paragraphs 1 and 2 shall be specified in a written agreement between the obliged entities.

5. Where the obliged entity relies on an obliged entity that is part of its group, the written agreement may be replaced by an internal procedure established at group level, provided that the conditions of Article 38(2) are met.

▌

Article 41

Guidelines on *reliance on other obliged entities*

By [3 years after the entry into force of this Regulation], AMLA shall issue guidelines addressed to obliged entities on:

(a) the conditions which are acceptable for obliged entities to rely on information collected by another obliged entity, including in case of remote customer due diligence;

▌

(c) the roles and responsibility of ***the obliged entities involved*** in a situation of ***a reliance of*** reliance on another obliged entity ▌;

(d) supervisory approaches to reliance on other obliged entities ▌.

CHAPTER IV
BENEFICIAL OWNERSHIP TRANSPARENCY

Article 42

Identification of Beneficial Owners for corporate and other legal entities

1. In ***the*** case of corporate ***and other legal*** entities, the beneficial owner(s) ▌ shall be the natural person(s) who***:***

(a) have, directly or indirectly, ***an ownership interest in*** the corporate entity***; (b) controls, directly or indirectly, the corporate entity,*** through ***ownership interest or*** via other means***;***

Control via other means over the corporate entity shall ***be identified independently of and in parallel to the existence of an*** ownership interest ***or control*** through ***ownership interest***.

▌

Article 42a

Beneficial Ownership through ownership interest

1. For the purpose of Article 42(1), point (a), 'an ownership interest in the corporate entity' shall mean direct or indirect ownership of 25% or more of the shares or voting rights or other ownership interest in the corporate entity, including rights to a share of profits, other internal resources or liquidation balance. The indirect ownership shall be calculated by multiplying the shares or voting rights or other ownership interests held by the intermediate entities in the chain of entities in which the beneficial owner holds shares or voting rights and by adding together the results from those various chains, unless Article 42c applies.

For the purposes of assessing whether an ownership interest exists in the corporate entity, all shareholdings on every level of ownership shall be taken into account.

2. Where Member States identify pursuant to Article 8(4), point (c) of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] categories of legal entities that are exposed to higher money laundering and terrorist financing risks, including based on the sectors in which they operate, they shall inform the Commission thereof . By [two years after the date of application of this Regulation], the Commission shall assess whether the risks associated with those categories of legal entities are relevant for the internal market and, where it concludes that a lower threshold is appropriate to mitigate those risks, identify by means of a delegated act: (a) the categories of corporate entities that are associated with higher money laundering and terrorist financing risk and for which a lower threshold shall apply; (b) the related thresholds.

The lower threshold referred to in the first subparagraph shall be set at a maximum of 15% of ownership interest in the legal entity, unless the Commission concludes, on the basis of risk, that a higher threshold would be more proportionate, which shall in any case be set at less than 25%.

3. The Commission shall review the delegated act referred to in paragraph 2 on a regular basis to ensure that it identifies the relevant categories of corporate entities that are associated with higher risks, and that the related thresholds are commensurate to those risks.

4. In case of legal entities other than corporate entities, for which, having regard to their form and structure, it is not appropriate or possible to calculate ownership, the beneficial owner(s) shall be the natural person(s) who controls via other means, directly or indirectly, the legal entity, pursuant to Article 42b(3) and (4), except where Article 42f applies.

Article 42b

Beneficial Ownership through control

1. Control over a legal entity shall be exercised through ownership interest or via other means.

2. For the purpose of this Chapter, the following definitions shall apply:

(a) 'control of the legal entity' shall mean the possibility to exercise, directly or indirectly, significant influence and impose relevant decisions within the legal entity;

(b) 'indirect control of a legal entity' shall mean control of intermediate legal entities in the ownership structure or in various chains of the ownership structure, where the direct control is identified on each level of the structure;

(c) 'control through ownership interest of the corporate entity' shall mean direct or indirect ownership of 50% plus one of the shares or voting rights or other ownership interest in the corporate entity;

3. Control via other means of the legal entity shall in any case include the possibility to exercise:

(a) in case of a corporate entity, the majority of the voting rights in the corporate entity, whether or not shared by persons acting in concert;

(b) the right to appoint or remove a majority of the members of the board or the administrative, management or supervisory body or similar officers of the legal entity;

(c) relevant veto rights or decision rights attached to the share of the corporate entity and any decisions regarding distribution of profit of the legal entity or leading to a shift in assets in the legal entity.

4. In addition to paragraph 3, control of the legal entity may be exercised via other means. Depending on the particular situation of the legal entity and its structure, other means of control may include:

(a) formal or informal agreements with owners, members or the corporate entities, provisions in the articles of association, partnership agreements, syndication agreements, or equivalent documents or agreements depending on the specific characteristics of the legal corporate entity, as well as voting arrangements;

(b) relationships between family members;

(c) use of formal or informal nominee arrangements.

Article 42c

Coexistence of ownership interest and control in the ownership structure

1. Where corporate entities are owned through a multi-layered ownership structure, and in one or more chains of that structure the ownership interest and the control coexist in relation to different layers of the chain, the beneficial owner(s) shall be:

(i) the natural person(s) who controls, directly or indirectly, through ownership interest or via other means, legal entities that have a direct ownership interest in the corporate entity, whether individually or cumulatively.

(ii) the natural person(s) who, whether individually or cumulatively, directly or indirectly, has an ownership interest in the corporate entity that controls, through ownership interest or via other means, the legal entity, directly or indirectly.

Article 42d

Ownership structures involving legal arrangements or similar legal entities

1. Where legal entities referred to in Article 42f or legal arrangements have, directly or indirectly, an ownership of 25% or more of the shares or voting rights or other ownership interest in the corporate entity, whether individually or cumulatively, or control, directly or indirectly, the corporate entity, through ownership interest or via other means, the beneficial owner(s) shall be the natural person(s) who are the beneficial owners of the legal entities referred to in Article 42f or of the legal arrangements.

Article 42e

Notifications

1. Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of the types of corporate and other legal entities existing under their national laws with beneficial owner(s) identified in accordance with Article 42 and Article 42a, paragraph 4. The Commission shall communicate that notification to the other Member States. The notification by the Member States shall include the specific categories of entities, description of characteristics, names and, where applicable, legal basis under the national laws of the Member States. It shall also include an indication of whether, due to the specific form and structures of legal entities other than corporate entities, the mechanism under Article 45(3) applies, accompanied by a detailed justification of the reasons for that.

Article 42f

Identification of beneficial owners for legal entities similar to express trust

1. In the case of legal entities other than those referred to in Article 42, similar to express trust, such as foundations, the beneficial owners shall be all the following natural persons:

(a) the founder(s);

(b) the members of the management body in management function of the legal entity;

(c) the members of the management body in supervisory function of the legal entity;

(d) the beneficiaries, unless Article 43a applies;

(e) any other natural person, who controls directly or indirectly the legal entity.

2. In cases where legal entities referred to in paragraph 1 belong to multi-layered control structures, where any of the positions listed under paragraph 1, points (a) to (e), is held by a legal entity, beneficial owner of the legal entity referred to in paragraph 1 shall be:

(a) the natural persons listed in paragraph 1, points (a) to (e); and

(b) the beneficial owner of the legal entities that occupy any of the positions listed in paragraph 1, points (a) to (e).

3. Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of legal entities, where the beneficial owner(s) is identified in accordance with paragraph 1.

The notification referred to in the first subparagraph shall be accompanied by a description of:

(a) their form and basic features;

(b) the process through which they can be set up;

(c) the process for accessing basic and beneficial ownership information on those legal entities ;

(d) the websites at which the registers referred to under Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] where information on beneficial owners of those legal entities can be consulted and the contact detail of the Authorities in charge of those registers.

3a. The Commission is empowered to adopt, by means of an implementing act, a list of legal entities governed under the laws of Member States which should be subject to the requirements of this Article. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 61(2) of this Regulation.

Article 43

Identification of beneficial owners for express trusts and similar legal ▌ arrangements

1. In case of express trusts, the beneficial owners shall be all the following natural persons:

(a) the settlor(s);

(b) the trustee(s);

(c) the protector(s), if any;

(d) the beneficiaries***, unless Article 43a or 43b apply***;

(e) any other natural person exercising ultimate control over the express trust by means of direct or indirect ownership or by other means, including through a chain of control or ownership.

1a. In cases where legal arrangements belong to multi-layered control structures, where any of the positions listed under paragraph 1, points (a) to (e), is held by a legal entity, beneficial owner legal arrangements shall be:

(a) the natural persons listed in paragraph 1, points (a) to (e); and

(b) the beneficial owner of the legal entities that occupy any of the positions listed in paragraph 1, points (a) to (e).

2. In the case of ***other*** legal arrangements similar to express trusts, the beneficial owners shall be the natural persons holding equivalent or similar positions to those referred to under paragraph 1. ▌

Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of legal arrangements ▌ similar to express trusts, where the beneficial owner(s) is identified in accordance with paragraph 1.

The notification referred to in the second subparagraph shall be accompanied by a description of:

(a) their form and basic features;

(b) the process through which they can be set up;

(c) the process for accessing basic and beneficial ownership information on those legal arrangements;

(d) the websites at which the registers referred to under Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] where information on beneficial owners of those legal arrangements can be consulted and the contact detail of the Authorities in charge of those registers.

3. The Commission is empowered to adopt, by means of an implementing act, a list of legal arrangements ▌ governed under the laws of Member States which should be subject to the same beneficial ownership transparency requirements as express trusts***, accompanied by the information referred to in the previous paragraph, third subparagraph***. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 61(2) of this Regulation.

▌

Article 43a

Identification of a class of beneficiaries

1. In case of legal entities under Article 42f or, with the exception of discretionary trusts, express trusts and similar legal arrangements under Article 43, where beneficiaries have yet to be determined, the class of beneficiaries and its general characteristics shall be identified. Beneficiaries within the class shall be beneficial owner(s) as soon as they are identified or designated.

2. In the following cases, only the class of beneficiaries and its characteristics shall be identified:

(a) pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council[35];

(b) employee financial ownership or participation schemes, following an appropriate risk assessment, Member States have concluded a low risk of misuse for money laundering or terrorist financing;

(c) legal entities under Article 42f, express trusts and similar legal arrangements under Article 43, provided that:

(i) the legal entity, the express trusts or similar legal arrangement is set up for a non-profit or charitable purpose; and

(ii) following an appropriate risk assessment, Member States have concluded that the legal entity, express trust or similar legal arrangement is at a low risk of misuse for money laundering or terrorist financing.

3. Member State shall notify to the Commission the categories of legal entities, express trusts or similar legal arrangements under paragraph 2, together with a justification based on the specific risk assessment. The Commission shall communicate that decision to the other Member States.

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35 Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

Article 43b

Identification of objects of a power and default takers in discretionary trusts

In the case of discretionary trusts, where beneficiaries have yet to be selected, the objects of a power and default takers shall be identified. Beneficiaries among the objects of a power shall be beneficial owner(s) as soon as they are selected. Default takers shall be beneficial owners when the trustees fail to exercise their discretion.

Where discretionary trusts meet the conditions set out in Article 43a(2), only the class of objects of a power and default takers shall be identified. Those categories of discretionary trusts shall be notified to the Commission in accordance with paragraph 3 of that Article.

Article 43c

Identification of beneficial owners of undertakings for collective investment and alternative investment funds

By way of derogation from Article 42, paragraph 1 and Article 43, paragraph 1, the beneficial owner(s) of undertakings for collective investment and alternative investment funds shall be the natural person(s) who fulfil one or more of the following conditions: (a) they hold directly or indirectly 25% or more of the units held in the undertaking for collective investment or in the alternative investment fund; (b) they have the ability to define or influence the investment policy of the undertaking for collective investment or of the alternative investment fund; (c) they control the activities of the undertaking for collective investment or alternative investment fund through other means.

Article 44

Beneficial ownership information

1. ***Legal entities and trustees of express trusts or persons holding equivalent positions in similar legal arrangements*** shall ***ensure that the beneficial ownership information is*** adequate, accurate, and ***up-to-date.***

The requirements of the first subparagraph shall apply to: (a) beneficial ownership information held by legal entities and trustees of express trusts or persons holding equivalent positions in similar legal arrangements; (b) beneficial ownership information that they provide to obliged entities in the context of customer due diligence procedures in accordance with Chapter III; or (c) beneficial ownership information that they submit to beneficial ownership registers referred to under Article 10 of Directive [please insert reference to AMLD]

The beneficial ownership information referred to in the first subparagraph shall include the following:

(a) ***all names and surnames,*** place and ***full*** date of birth, residential address, country of residence and nationality or nationalities of the beneficial owner, ▌ number ***of identity document***, such as passport or national identity document, and, where ***it exists, unique personal*** identification number ▌ assigned to the person by his or her country of usual residence***, and general description of the source of such number***;

(b) the nature and extent of the beneficial interest held in the legal entity or legal arrangement, whether through ownership interest or control via other means, as well as the date ***as of which*** the beneficial interest ***is*** held;

(c) information on the legal entity of which the natural person is the beneficial owner in accordance with Article ***18(1),*** point (b) ***or, in the case of legal arrangements of which the natural person is the beneficial owner, basic information on the legal arrangement;***

(d) where the ownership and control structure contains more than one legal entity or legal arrangement, a description of such structure, including names and, where it exists, identification numbers of the individual legal entities or legal arrangements that are part of that structure, and a description of the relationships between them, including the share of the interest held;

(da) where a class of beneficiaries is identified under Article 43a, general description of the characteristic of the class of beneficiaries;

(db) where objects of a power and default takers are identified under Article 43b: (i) for natural persons, their name(s) and surname(s); (ii) for legal entities and legal arrangements, their names; (iii) for a class, its description.

2. ***Legal entities and trustees of express trusts or persons holding an equivalent position in a similar*** legal ***arrangement shall obtain adequate, accurate, and up-to-date beneficial ownership information within 28 calendar days from their creation***. It shall be updated promptly, and in any case no later than ***28*** calendar days following any change of the beneficial owner(s), and on an annual basis.

Article 45

Obligations of legal entities

1. All corporate and other legal entities incorporated in the Union shall obtain and hold adequate, accurate and ***up-to-date*** beneficial ownership information.

Legal entities shall provide, in addition to information about their legal owner(s), information on the beneficial owner(s) to obliged entities where the obliged entities are taking customer due diligence measures in accordance with Chapter III.

1a. Beneficial ownership information shall be obtained and reported to the register referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] by the legal entity without undue delay after its incorporation. Any change of the information shall be reported to the register without undue delay and no later than 28 calendar days following the change. The legal entity shall regularly verify that it holds updated information over its beneficial ownership. As a minimum, such verification shall be performed annually whether as a self-standing process or as part of other periodical processes, such as the submission of financial statement.

The beneficial owner(s) of corporate or other legal entities shall provide those entities with all the information necessary for the corporate or other legal entity ***to comply with the requirements of this Chapter or to respond to any request for additional information received pursuant to Article 10(2) of Directive [Reference to AMLD]. The same cooperation shall be provided by those legal persons and, in the case of legal arrangements, their trustees or person holding an equivalent position, who are part of the ownership or control structure***.

2. Where, after having exhausted all possible means of identification pursuant to Articles 42 ***to 42f***, no person is identified as beneficial owner, or where there is ***substantial and justified uncertainty on the part of the legal entity*** that the person(s) identified is the beneficial owner(s), ▌ legal entities shall keep records of the actions taken in order to identify their beneficial owner(s).

3. In the cases referred to in paragraph 2, when providing beneficial ownership information in accordance with Article 16 of this Regulation and Article 10 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]***, corporate or other legal entities shall provide the following:

(a) a statement ▌ that there is no beneficial owner or that the beneficial owner(s) could not be ***determined, accompanied by a justification as to why it was not possible to determine the beneficial owner in accordance with Articles 42 to 42f and what constitutes uncertainty about the ascertained information***;

(b) the details on ***all*** natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a).

For the purpose of this Article, 'senior management officials' shall mean the natural persons who are the executive members of the management body, as well as the natural persons who exercise executive functions within a corporate entity and are responsible, and accountable to the management body, for the day-to-day management of the entity.

4. Legal entities shall make the information collected pursuant to this Article available, upon request and without delay, to competent authorities.

5. The information referred to in paragraph 4 shall be maintained for five years after the date on which the companies are dissolved or otherwise ceases to exist, whether by persons designated by the entity to retain the documents, or by administrators or liquidators or other persons involved in the dissolution of the entity. The identity and contact details of the person responsible for retaining the information shall be reported to the registers referred to in Article 10 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]***.

▌

Article 46

Trustees obligations

1. ***In case*** of any ***legal arrangement*** administered in a Member State ***or whose trustee or the person holding an equivalent position in a similar legal arrangement is established or resides in a Member State, trustees*** and persons holding an equivalent position in a similar legal arrangement shall obtain and hold ***the following information regarding the legal arrangement:***

(a) basic information on the legal arrangement;

(b) adequate, accurate and current beneficial ownership information ***as provided under Article 44;***

(c) where legal entities or legal arrangements are parties to the trust, basic and beneficial ownership information on those legal entities and legal arrangements;

(d) information on any agent authorised to act on behalf of **the legal arrangement** ***or to take any action in relation to it, and on the obliged entities with which the trustee or person holding an equivalent position in a similar legal arrangement enter into a business relationship on behalf of the legal arrangement.***

The **information** ***referred to in the first subparagraph*** **shall be maintained for five years after** ***the*** **involvement** ***of the trustee or the person holding an equivalent position*** **with the express trust or similar legal arrangement ceases** ***to exist***.

1a. Beneficial ownership information and basic information on the legal arrangement shall be obtained and reported to the register referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive – COM/2021/423 final] by the trustee or the person holding an equivalent position in a similar legal arrangement without undue delay after the creation of the express trust or similar legal arrangements. Without undue delay after any change of the information, and in any case no later than 28 calendar days following the change of the beneficial ownership or of the basic information on the legal arrangement, the trustee or the person holding an equivalent position in a similar legal arrangement shall ensure that the updated information is reported to the register.

The trustee or the person holding an equivalent position in a similar legal arrangement shall regularly verify that the information they hold over the legal arrangement pursuant to paragraph 1, first subparagraph is updated. Such verification shall be performed at least annually, whether as a self-standing process or as part of other periodical processes.

2. The persons referred to in paragraph 1 shall disclose their status and provide the information on the beneficial owner(s) ***and on the assets of the legal arrangements that are to be managed in the context of a business relationship or occasional transaction*** to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.

3. The beneficial owner(s) of ***a*** legal arrangement other than the trustee or person holding an equivalent position, ***its agents and the obliged entities servicing the legal arrangement*** shall provide the trustee or person holding an equivalent position in a similar legal arrangement with all the information ***and documentation*** necessary ***for the trustee or person holding an equivalent position*** to comply with the requirements of this Chapter. ***The same cooperation shall be provided by those persons and, in the case of legal arrangements, their trustees, who are the links that mediate the indirect position of beneficial owner(s) of the legal arrangement.***

4. Trustees of an express trust and persons holding an equivalent position in a similar legal arrangement shall make the information collected pursuant to this Article available, upon request and without delay, to competent authorities.

4a. In the case of legal arrangements whose parties are legal entities, where, after having exhausted all possible means of identification pursuant to Articles 42 to 42f, no person is identified as beneficial owner of those legal entities, or where there is substantial and justified uncertainty that the person(s) identified is the beneficial owner(s), trustees of express trusts or persons in an equivalent position in similar legal arrangements shall keep records of the actions taken in order to identify their beneficial owner(s).

4b. In the cases referred to in paragraph 4a, when providing beneficial ownership information in accordance with Article 16 of this Regulation and Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final], trustees of express trusts or persons in an equivalent position in similar legal arrangements shall provide the following:

(a) a statement that there is no beneficial owner or that the beneficial owner(s) could not be determined, accompanied by a justification as to why it was not possible to determine the beneficial owner in accordance with Article 42 to 42f and what constitutes uncertainty about the ascertained information;

(b) the details of all natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity that is party to the legal arrangement equivalent to the information required under Article 44(1), point (a).

Article 46a

Exceptions to obligations of legal entities and legal arrangements

The provisions of Articles 45 and 46 shall not apply to:

(a)companies whose securities are admitted to trading on a regulated market, provided that:

(i) control over the company is exercised exclusively by the natural person with the voting rights; and

(ii) no other legal persons or legal arrangements are part of the company's ownership or control structure;

(iii) for foreign legal entities under Article 48, equivalent requirements to those referred to in (i) and (ii) under international standards exist;

(b) bodies governed by public law as defined under Article 2(1), point (4) of Directive 2014/24/EU of the European Parliament and of the Council[36].

[36] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Text with EEA relevance (OJ L 98, 28.3.2014, p. 65).

Article 47

Nominees obligations

Nominee shareholders and nominee directors of a corporate or other legal entities shall maintain adequate, accurate and current information on the identity of their nominator and the nominator's beneficial owner(s) and disclose them, as well as their status, to the corporate or other legal entities. Corporate or other legal entities shall report this information to the registers set up pursuant to Article 10 of Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]***.

Corporate and other legal entities shall also report this information to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.

Article 48

Foreign legal entities and arrangements

1. Legal entities incorporated outside the Union ***and trustees*** of express trusts or ***persons holding an equivalent position in a*** similar legal ***arrangement that are*** administered outside the Union ***or that reside or are established outside the Union*** shall ***submit beneficial ownership information pursuant to Article 44 to*** the central register referred to in Article 10 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final] set up by the Member State where ***they :***

(a) enter into a business relationship with an obliged entity ***if the conditions of paragraph 1a are fulfilled***;

(b) acquire***, whether directly or through intermediaries, real estate***

ba. acquire, whether directly or through intermediaries, any of the following goods from an obliged entity referred to in Article 3, point 3(j) in the context of an occasional transaction: (i) motor vehicles for non-commercial purposes for a price of at least EUR 250 000 or the equivalent in national currency; (ii) watercrafts for non-commercial purposes for a price of at least EUR 7.5 million or the equivalent in national currency; aircrafts for non-commercial purpose for a price of at least EUR 7.5 million or the equivalent in national currency;

(bb) are awarded a public procurement contract for goods, services or concessions by a contracting authority in the Union;

1a. Where legal entities incorporated outside the Union enter into a business relationship with an obliged entity, they shall only submit their beneficial ownership information to the central register in any of the following cases: (a) they enter into a business relationship with an obliged entity that is associated with medium-high or high money laundering or terrorist financing risks pursuant to the supranational risk assessment or national risk assessment of the Member State concerned referred to in Articles 7 and 8 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]; (b) the supranational risk assessment or the national risk assessment of the Member State concerned identifies that the category of legal entity or the sector in which the legal entity incorporated outside the Union operates is associated, where relevant, with medium-high or high risks money laundering or terrorist financing risks.

Trustees of express trusts or persons holding an equivalent position in a similar legal arrangement shall submit their beneficial ownership information regardless of whether the conditions laid down in the first subparagraph are fulfilled.

1b. The information referred to in paragraph 1 shall be accompanied by a statement setting out in relation to which of those activities the information is submitted, as well as any relevant document, and shall be submitted:

(a) for the cases referred to in point (a) of paragraph 1 prior to start of the business relationship;

(b) for the cases referred to in points (b) and (ba) of paragraph 1 before completion of the purchase;

(c) for the cases referred to in point (c) of paragraph 1 before signature of the contract.

1c. For the purposes of paragraph 1, points (a), obliged entities shall inform the legal entities where the conditions of paragraph 1 and 1a are met and require a certificate of proof of registration or an excerpt of the beneficial ownership information held in the register to proceed with the business relationship or occasional transaction.

1d. In the cases covered by paragraph 1, legal entities incorporated outside the Union and trustees of express trusts or persons holding an equivalent position in a similar legal arrangement that are administered outside the Union or that reside or are established outside the Union shall report any change to the beneficial ownership information submitted to the central register pursuant to paragraph 1 without undue delay, and in any case no later than 28 calendar days following the change of the beneficial owner.

The requirement of the first subparagraph shall apply:

(a) for the cases referred to in points (a) of the paragraph 1, for the entire duration of the business relationship with the obliged entity;

(b) for the cases referred to in point (b) of paragraph 1, as long as the legal person or legal arrangement owns the real estate;

(c) for the cases referred to in point (ba) of paragraph 1, for the period between the initial submission of the information to the register and the completion of the purchase;

(d) for the cases referred to in point (c) of paragraph 1, for the entire duration of the contract.

2. Where the legal entity, the trustee of the express trust or the person holding an equivalent position in a similar legal arrangement ***meets the conditions of the first paragraph*** in different Member States, a certificate of proof of registration of the beneficial ownership information in a central register held by one Member State shall be considered as sufficient proof of registration.

2a. Where, on [please insert date of application of this Regulation], legal entities incorporated outside the Union or legal arrangements administered outside the Union or whose trustee or person holding an equivalent position in a similar legal arrangement is established or resides outside the Union meet the conditions set out in paragraph 1, point (b), the beneficial ownership information of those legal entities and legal arrangements shall be recorded in accordance with paragraph 1b by [6 months after the date of application of this Regulation].

However, the first subparagraph shall not apply to legal entities or legal arrangements that have acquired real estate in the Union prior to 1st January 2014. Member States may decide, on the basis of risk, that an earlier date applies and notify the Commission thereof. The Commission shall communicate the decisions to the other Member States.

2b. Member States may, on the basis of risk, extend the obligation set out in paragraph 1, point (a) to business relationships with foreign legal entities that are ongoing on [date of entry into application of this Regulation] and notify the Commission thereof. The Commission shall communicate the decisions to the other Member States.

Article 49

Sanctions

1. Member States shall lay down the rules on sanctions applicable to ***breaches*** of the provisions of this Chapter and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

Member States shall notify those rules on sanctions by [6 months after the entry into force of this Regulation] to the Commission together with their legal basis and shall notify it without delay of any subsequent amendment affecting them.

1a. ***By [two years after the date of entry into force of this Regulation], the Commission shall adopt delegated acts to supplement this Regulation by defining:***
(a) the categories of breaches that are subject to sanctions and the persons liable for such breaches; (b) indicators to classify the level of gravity of those breaches; (c) the criteria to be taken into account when setting the level of sanctions.
The Commission shall regularly review the delegated act referred to in the previous paragraph to ensure that it identifies the relevant categories of breaches and that the related sanctions are effective, dissuasive and proportionate.

CHAPTER V
REPORTING OBLIGATIONS

Article 50

Reporting of *suspicions*

1. ▌ Obliged entities, and, where applicable, their directors and employees, shall cooperate fully by promptly:

   (a) reporting to the FIU, on their own initiative, where the obliged entity knows, suspects or has reasonable grounds to suspect that funds ***or activities***, regardless of the amount involved, are the proceeds of criminal activity or are related to terrorist financing ***or criminal activity*** and by responding to requests by the FIU for additional information in such cases;

   (b) providing the FIU directly, at its request, with all necessary information***, including information on transaction records, within the time frames imposed;***

All suspicious transactions, including attempted transactions and suspicions arising from the inability to conduct costumer due diligence shall be reported.

For the purposes of points (a) and (b) ***of the first subparagraph***, obliged entities shall reply to a request for information by the FIU within ***five working*** days. In justified and urgent cases, FIUs shall be able to shorten such a ***timeframe including to less than*** 24 hours**.**

By way of derogation from the previous subparagraph, the FIU may extend the time frame for a response beyond the five working days where it considers it justified and provided that the extension does not undermine the FIU's analysis.

2. For the purposes of paragraph 1, obliged entities shall assess transactions ***or activities carried out by their customers on the basis of and against any relevant fact and information known to them or which they are in possession of. Where necessary obliged entities shall prioritise their assessment taking into consideration the urgency of the transaction or activity and the risks affecting the Member State in which they are established.***

A suspicion ***pursuant to paragraph 1*** is based on the characteristics of the customer ***and their counterparts***, the size and nature of the transaction or activity ***or the methods and patterns thereof***, the link between several transactions or activities***, the origin, destination or use of funds, or*** any other circumstance known to the obliged entity, including the consistency of the transaction or activity with ***the information obtained pursuant to Chapter III including*** the risk profile of the client.

3. By [two years after entry into force of this Regulation], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the reporting of ***suspicions pursuant to paragraph 1, point (a) and for the provision of transaction records*** pursuant to paragraph 1***, point (b)***.

4. The Commission is empowered to adopt the implementing technical standards referred to in paragraph 3 of this Article in accordance with Article 42 of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***.

5. AMLA shall issue and periodically update guidance on indicators of **suspicious activity or behaviours.**

6. The person appointed in accordance with Article 9(3) shall transmit the information referred to in paragraph 1 of this Article to the FIU of the Member State in whose territory the obliged entity transmitting the information is established.

6a. Obliged entities shall ensure that the person appointed in accordance with Article 9(3), as well as any employee or person in an equivalent position, including agents and distributors, involved in the performance of the tasks covered by this Article are protected against retaliation, discrimination and any other unfair treatment as a result of carrying out those tasks.

This paragraph shall not affect the protection that those persons may be entitled to under Directive (EU) 2019/1937.

6b. ***Where the activities of a partnership for information sharing result in the knowledge, suspicion or reasonable grounds to suspect that funds, regardless of the amount involved, are the proceeds of criminal activity or are related to terrorist financing, obliged entities which identified suspicions in relation to the activities of their customers may designate one among them which shall be tasked with the submission of a report to the FIU pursuant to paragraph 1, point (a). Such submission shall include at least the name and contact details of all the obliged entities that participated in the activities giving rise to the report.***

Where the obliged entities referred to in the first subparagraph are established in several Member States, the information shall be reported to each relevant FIU. To that end, obliged entities shall ensure that the report is made by an obliged entity within the territory of the Member States where the FIU is located.

Where the obliged entities decide not to avail themselves of the possibility to file a single report with the FIU pursuant to the first subparagraph, they shall include a reference in their report to the fact that the suspicion is the result of the activities of a partnership for information sharing.

6c. ***All the obliged entities referred to in the previous paragraph shall maintain a record of the report in accordance with Article 56***

Article 51

Specific provisions for reporting of suspicious transactions by certain categories of obliged entities

1. By way of derogation from Article 50(1), Member States may allow obliged entities referred to in Article 3, point (3)(a) ***and (b)*** to transmit the information referred to in Article 50(1) to a self-regulatory body designated by the Member State.

The designated self-regulatory body shall forward the information referred to in the first sub-paragraph to the FIU promptly and unfiltered.

2. Notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors shall be exempted from the requirements laid down in Article 50(1) to the extent that such exemption relates to information that they receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client, or performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings.

However, the exemption set out in the first subparagraph shall not apply when the obliged entities referred therein:

(a) take part in money laundering, its predicate offences or terrorist financing;

(b) provide legal advice for the purposes of money laundering, its predicate offences or terrorist financing, or

(c) know that the client is seeking legal advice for the purposes of money laundering, its predicate offences or terrorist financing. Knowledge or purpose may be inferred from objective factual circumstances.

2a. In addition to the situations referred to in paragraph 2, second subparagraph, where justified on the basis of the higher risks of money laundering, its predicate offences or terrorist financing associated with certain types of transactions, Member States may decide that the exception referred to in paragraph 2, first subparagraph does not apply to those types of transactions and, as appropriate, impose additional reporting obligations on the obliged entities referred to in that paragraph. Member States shall notify to the Commission any decision taken pursuant to this paragraph.

Article 52

Refraining from carrying out transactions

1. Obliged entities shall refrain from carrying out transactions which they know or suspect to be related to proceeds of criminal activity or to terrorist financing until they have completed the necessary action in accordance with Article 50(1), second subparagraph, point (a), and have complied with any further specific instructions from the FIU or other competent authority in accordance with the applicable law. ***Obliged entities may carry out the transaction concerned after having assessed the risks of proceeding with the transaction if they have not received instructions to the contrary from the FIU within three working days of submitting the report of suspicious transaction.***

2. Where refraining from carrying out transactions referred to in paragraph 1 is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected transaction, the obliged entities concerned shall inform the FIU immediately afterwards.

Article 53

Disclosure to FIU

Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity in accordance with Articles 50 and 51 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind even in circumstances where they were not precisely aware of the underlying criminal activity and regardless of whether illegal activity actually occurred.

Article 54

Prohibition of disclosure

1. Obliged entities and their directors***, employees, or persons in a comparable position, including agents and distributors,*** shall not disclose to the customer concerned or to other third persons the fact ***that transactions or activities are being or have been assessed in accordance with Article 50,*** that information is being, will be or has been transmitted in accordance with Article 50 or 51 or that a money laundering or terrorist financing analysis is being, or may be, carried out.

2. Paragraph 1 shall not apply to disclosures to competent authorities and to self-regulatory bodies where they perform supervisory functions, or to disclosure for the purposes of investigating and prosecuting money laundering, terrorist financing and other criminal activity.

3. By way of derogation from paragraph 1, disclosure may take place between the obliged entities that belong to the same group, or between those entities and their branches and subsidiaries established in third countries, provided that those branches and subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 13, and that the group-wide policies and procedures comply with the requirements set out in this Regulation.

▌

4. By way of derogation from paragraph 1, disclosure may take place between the obliged entities as referred to in Article 3, point (3)(a) and (b), or entities from third countries which impose requirements equivalent to those laid down in this Regulation, who perform their professional activities, whether as employees or not, within the same legal person or a larger structure to which the person belongs and which shares common ownership, management or compliance control, including networks or partnerships.

5. For obliged entities referred to in Article 3, points (1), (2), (3)(a) and (b), in cases relating to the same ▌ transaction involving two or more obliged entities, and by way of derogation from paragraph 1, disclosure may take place between the relevant obliged entities provided that they are located in the Union, or with entities in a third country which imposes requirements equivalent to those laid down in this Regulation, and that they ▌ are subject to professional secrecy and personal data protection requirements.

6. Where the obliged entities referred to in Article 3, point (3)(a) and (b), seek to dissuade a client from engaging in illegal activity, that shall not constitute disclosure within the meaning of paragraph 1.

Article 54a

Threshold-based reports of transactions in certain high-value goods

1. Traders in high-value goods shall report to the FIU all transactions involving the sale of the following high-value goods when those goods are acquired for non-commercial purposes:

a) motor vehicles for a price of at least EUR 250 000 or the equivalent in national currency;

b) watercrafts for a price of at least EUR 7 500 000 or the equivalent in national currency;

c) aircrafts for a price of at least EUR 7 500 000 or the equivalent in national currency.

2. Credit and financial institutions that provide services in relation to the purchase of the goods referred to in paragraph 1 or the transfer of their ownership shall also report to the FIU all transactions they carry out for their customers in relation to those goods.

3. Reporting pursuant to paragraphs 1 and 2 shall be carried out within the time frames established by the FIU.

Chapter Va

Information sharing

Article 54b

Exchange of information in the framework of partnerships for information sharing

1. Members of partnerships for information sharing may share information among each other where strictly necessary for the purposes of complying with the obligations under Chapter III and Article 50 of this Regulation and in accordance with fundamental rights and judicial procedural safeguards.

2. Obliged entities intending to participate in a partnership for information sharing shall notify their respective supervisory authorities which shall, where relevant in consultation with each other and with the authorities in charge of verifying compliance with Regulation (EU) 2016/679, verify that the partnership for information sharing has mechanisms in place to ensure compliance with this Article and that the data protection impact assessment referred to in paragraph 4, point (h) has been carried out. The verification shall take place prior to the beginning of the activities of the partnership. Where relevant, the supervisory authorities shall also consult the national Financial Intelligence Units.

Responsibility for compliance with requirements under Union or national law shall remain with the participants in the partnership for information sharing.

3. Information exchanged in the framework of a partnership for information sharing shall be limited to:

(a) information on the customer, including any information obtained in the course of identifying and verifying the identity of the customer and, where relevant, the beneficial owner of the customer;

(b) information on the purpose and intended nature of the business relationship or/and occasional transaction between the customer and the obliged entity as well as, where applicable, the source of wealth and source of funds of the customer;

(c) information on customer transactions;

(d) information on higher and lower risk factors associated with the customer;

(e) the obliged entity's analysis of the risks associated with the customer pursuant to Article 16(2);

(f) information held by the obliged entity pursuant to Article 56(1) of this Regulation;

(g) information on suspicious transactions.

The information referred to in the first subparagraph shall only be exchanged to the extent that it is necessary for the purposes of carrying out the activities of the partnership for information sharing.

4. The following specific conditions shall apply to the sharing of information within the context of a partnership for information sharing:

(a) obliged entities shall record all instances of information sharing within the partnership;

(b) obliged entities shall not rely solely on the information received in the context of the partnership to comply with the requirements of this Regulation;

(c) obliged entities shall not draw conclusions or take decisions that have an impact on the business relationship with the customer or on the performance of occasional transactions for the customer on the basis of information received from other participants in the partnership for information sharing without having assessed that information. Any information received in the context of the partnership that is used in an assessment resulting in a decision to refuse or terminate a business relationship or to carry out an occasional transaction shall be included in the records kept pursuant to Article 17(2), and that record shall contain reference to the fact that the information originated from a partnership for information sharing;

(d) obliged entities shall carry out their own assessment of transactions involving customers in order to assess which ones may be related to money laundering or terrorist financing or involve proceeds of criminal activity;

(e) obliged entities shall implement appropriate technical and organisational measures, including measures to allows pseudonymization, to ensure a level of security and confidentiality proportionate to the nature and extent of the information exchanged;

(f) the sharing of information shall be carried out only in relation to customers

(i) whose behaviour or transaction activities are associated with a higher risk of money laundering, its predicate offences or terrorist financing, as identified pursuant to the supranational or national risk assessments drawn up in accordance with Articles 7 and 8 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final];

(ii) who fall under any of the situations referred to in Articles 23, 24, 25 and 30 to 36 of this Regulation;

or (iii) for whom the obliged entities need to collect additional information in order to determine whether they are associated with a higher level of risk of money laundering, its predicate offenses or terrorist financing;

(g) information generated through the use of artificial intelligence, machine learning technologies or algorithms may only be shared where those processes were subject to adequate human oversight;

(h) a data protection impact assessment referred to in Article 35 of Regulation 2016/679 shall be carried out prior to the processing of any personal data;

(i) the competent authorities that are members of a partnership for information sharing shall only obtain, provide and exchange information to the extent that this is necessary for the performance of their tasks under relevant Union or national law;

(j) where competent authorities referred to in letter (c) of Article 2, point (31) participate in a partnership for information sharing, they shall only obtain, provide or exchange personal data and operational information in accordance with national law transposing Directive (EU) 2016/680 of the European Parliament and of the Council1 and with the applicable provisions of national criminal procedural law, including prior judicial authorisation or any other national procedural safeguard as required;

(k) the exchange of information on suspicious transactions pursuant to point (g) of paragraph 3 shall only take place where the FIU to which the suspicious transaction report was submitted pursuant to Articles 50 or 51 has agreed with such disclosure.

5. Information received in the context of a partnership for information sharing shall not be further transmitted, except where:

(a) the information is provided to another obliged entity pursuant to Article 39(1);

(b) the information is to be included in a report submitted to the FIU or provided in response to a FIU request pursuant to Article 50(1);

(c) the information is provided to AMLA pursuant to Article 79 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final];

(d) the information is requested by law enforcement or judicial authorities, subject to any prior authorisations or other procedural guarantees as required under the national law.

6. Obliged entities that participate in partnerships for information sharing shall define policies and procedures for the sharing of information in their internal policies and procedures established pursuant to Article 7. Such policies and procedures shall:

(a) specify the assessment to be carried out to determine the extent of information to be shared, and where relevant for the nature of the information or the applicable judicial safeguards, provide for differentiated or limited access to information for members of the partnership;

(b) describe the roles and responsibilities of the parties to the partnership for information-sharing;

(c) identify the risk assessments that the obliged entity will take into account to determine situations of higher risk in which information can be shared.

The drawing up of internal procedures referred to in the first subparagraph shall take place prior to the participation in a partnership for information sharing.

7. Where supervisory authorities deem it necessary, obliged entities participating in a partnership for information sharing shall commission an independent audit of the functioning of that partnership and shall share the results with the supervisory authorities.

CHAPTER VI
DATA PROTECTION AND RECORD-RETENTION

Article 55

Processing of ▌ personal data

1. To the extent that it is strictly necessary for the purposes of preventing money laundering and terrorist financing, obliged entities may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to the safeguards provided for in paragraphs 2 and 3.

2. Obliged entities shall be able to process personal data covered by Article 9 of Regulation (EU) 2016/679 provided that:

   (a) obliged entities inform their customers or prospective customers that such categories of data may be processed for the purpose of complying with the requirements of this Regulation;

   (b) the data originate from reliable sources, are accurate and up-to-date;

(ba) the obliged entity does not take decisions that would lead to biased and discriminatory outcomes on the basis of that data;

▌

(c) the obliged entity adopts measures of a high level of security in accordance with Article 32 of Regulation (EU) 2016/679, in particular in terms of confidentiality.

3. ▌Obliged entities shall be able to process personal data covered by Article 10 of Regulation (EU) 2016/679 provided ***that they comply with the conditions set out in points (a) to (c) of paragraph 2 and*** that:

(a) such personal data relate to money laundering, its predicate offences or terrorist financing;

(b) the obliged entities have procedures in place that allow the distinction, in the processing of such data, between allegations, investigations, proceedings and convictions, taking into account the fundamental right to a fair trial, the right of defence and the presumption of innocence.

4. Personal data shall be processed by obliged entities on the basis of this Regulation only for the purposes of the prevention of money laundering and terrorist financing and shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for commercial purposes shall be prohibited.

4a. Obliged entities may adopt decisions resulting from automated processes, including profiling as defined in Article 4, point (4) of Regulation (EU) 2016/679, or from processes involving artificial-intelligence systems as defined in Article 3 of Regulation [please insert reference –Regulation EU-AI-Reg; COM(2021) 206 final], provided that:

(a) the data processed by such systems is limited to data obtained pursuant to Chapter III of this Regulation;

(b) any decision to enter or refuse to enter into or maintain a business relationship with a customer or to carry out or refuse to carry out an occasional transaction for a customer, or to increase or decrease the extent of the customer due diligence measures applied pursuant to Article 16, is subject to meaningful human intervention to ensure the accuracy and appropriateness of such a decision, and

(c) the customer may obtain an explanation on the decision reached by the obliged entity, and may challenge that decision, except for a report as referred to in Article 50 of this Regulation.

Article 56

Record retention

1. Obliged entities shall retain the following documents and information :

(a) a copy of the documents and information obtained in the performance of customer due diligence pursuant to Chapter III, including information obtained through electronic identification means ***;***

(aa) a record of the analyses undertaken pursuant to Article 50 including the information and circumstances considered and the results of such analyses, whether or not such analyses result in a suspicious transaction report being made to the FIU, and a record of those suspicion transaction reports;

(b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, which are necessary to identify transactions.

(ba) when they participate in partnerships for information sharing pursuant to Chapter Va, copies of the documents and information obtained in the framework of those partnerships, and records of all instances of information sharing.

Obliged entities shall ensure that the documents, information and records kept pursuant to this article are not redacted.

2. By way of derogation from paragraph 1, obliged entities may decide to replace the retention of copies of the information by a retention of the references to such information, provided that the nature and method of retention of such information ensure that the obliged entities can provide immediately to competent authorities the information and that the information cannot be modified or altered.

Obliged entities making use of the derogation referred to in the first subparagraph shall define in their internal procedures drawn up pursuant to Article 7, the categories of information for which they will retain a reference instead of a copy or original, as well as the procedures for retrieving the information so that it can be provided to competent authorities upon request.

3. The information referred to in paragraphs 1 and 2 shall be retained for a period of five years ***commencing on the date of the termination of the*** **business** relationship ***or on the date of the carrying out of the occasional transaction, or on*** the date of ***refusal to enter into a business relationship or carry out*** an occasional transaction. ***Without prejudice to retention periods for data collected for the purposes of other acts of Union law or national law complying with the GDPR***, obliged entities shall delete personal data ***upon expiry of that retention period.***

Competent authorities may require further retention of the information referred to in the first subparagraph on a case-by-case basis, provided that it is necessary for the prevention, detection or investigation of money laundering or terrorist financing. That further retention period shall not exceed five additional years.

4. Where, on [the date of application of this Regulation], legal proceedings concerned with the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing are pending in a Member State, and an obliged entity holds information or documents relating to those pending proceedings, the obliged entity may retain that information or those documents, in accordance with national law, for a period of five years from [the date of application of this Regulation].

Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents for a further period of five years where the necessity and proportionality of such further retention have been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing.

Article 57

Provision of records to competent authorities

Obliged entities shall have systems in place that enable them to respond fully and speedily to enquiries from their FIU or from other competent authorities, in accordance with their national law, as to whether they are maintaining or have maintained, during a five-year period prior to that enquiry a business relationship with specified persons, and on the nature of that relationship, through secure channels and in a manner that ensures full confidentiality of the enquiries.

CHAPTER VII

Measures to mitigate risks deriving from anonymous instruments

Article 58

Anonymous accounts and bearer shares and bearer share warrants

1. Credit institutions, financial institutions and crypto-asset service providers shall be prohibited from keeping anonymous ***bank and payment*** accounts, anonymous passbooks, anonymous safe-deposit boxes or anonymous crypto-asset ***accounts*** as well as any account otherwise allowing for the anonymisation of the customer account holder ***or the anonymisation or increased obfuscation of transactions, including through anonymity-enhancing coins.***

   Owners and beneficiaries of existing anonymous ***bank or payment*** accounts, anonymous passbooks, anonymous safe-deposit boxes ***held by credit or financial institutions,*** or crypto-asset ***accounts*** shall be subject to customer due diligence measures before those accounts, passbooks, ***or deposit boxes*** are used in any way.

2. Credit institutions and financial institutions acting as acquirers ***within the meaning Article 2, point (1) of Regulation (EU) 2015/751 of the European Parliament and of the Council***[37] shall not accept payments carried out with anonymous prepaid cards issued in third countries, unless otherwise provided in the regulatory technical standards adopted by the Commission in accordance with Article 22 on the basis of a proven low risk.

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[37] ***Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).***

3. Companies shall be prohibited from issuing bearer shares, and shall convert all existing bearer shares into registered shares ***or shall immobilise them in the meaning of Article 2(1)(3) of Regulation (EU) No 909/2014 or shall deposit them with a financial institution*** by [2 years after the date of application of this Regulation]. However, companies with securities listed on a regulated market or whose shares are issued as intermediated securities ***either through immobilisation within the meaning of Article 2(1)(3) of Regulation (EU) No 909/2014 or through a direct issuance in dematerialised form within the meaning of Article 2(1)(4) of Regulation (EU) No 909/2014*** shall be permitted to ***issue new and*** maintain ***existing*** bearer shares. ***For existing bearer shares that are not converted, immobilised or deposited by [2 years after the date of application of this Regulation], all voting rights and rights to distribution attached to these shares shall be automatically suspended until their conversion, immobilisation or deposit. All shares not converted, immobilised or deposited by [3 years after the date of application of this Regulation] shall be cancelled, leading to a share capital decrease of the corresponding amount.***

Companies shall be prohibited from issuing bearer share warrants that are not in intermediated form.

Article 59

Limits to large cash payments *in exchange for goods or services*

1. Persons trading in goods or providing services may accept or make a payment in cash only up to an amount of EUR 10 000 or equivalent amount in national or foreign currency, whether the transaction is carried out in a single operation or in several operations which appear to be linked.

2. Member States may adopt lower limits following consultation of the European Central Bank in accordance with Article 2(1) of Council Decision 98/415/EC[38]. Those lower limits shall be notified to the Commission within 3 months of the measure being introduced at national level.

3. When limits already exist at national level which are below the limit set out in paragraph 1, they shall continue to apply. Member States shall notify those limits within 3 months of the entry into force of this Regulation.

4. The limit referred to in paragraph 1 shall not apply to:

   (a) payments between natural persons who are not acting in a professional function;

[38] Council Decision of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

(b) payments or deposits made at the premises of credit institutions***, electronic money issuers as defined in Article 2(3) of Directive 2009/110/EC and payment service providers as defined in Article 4(11) of Directive (EU) 2015/2366*** **.** In such cases, ▌***payments or deposits above the limit*** shall ▌***be reported to the FIU within the time frames established by*** the FIU.

▌

5. Member States shall ensure that appropriate measures, including sanctions, are taken against natural or legal persons acting in their professional capacity which are suspected of a breach of the limit set out in paragraph 1, or of a lower limit adopted by the Member States.

6. The overall level of the sanctions shall be calculated, in accordance with the relevant provisions of national law, in such way as to produce results proportionate to the seriousness of the infringement, thereby effectively discouraging further offences of the same kind.

6a. ***Where, by reason of force majeure, means of payment by funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 other than banknotes and coins become unavailable at national level, Member States may temporarily suspend the application of paragraph 1 or, where applicable, of paragraph 2 and shall inform the Commission of the situation without delay. The Commission shall also be informed of the expected duration of the unavailability of means of payment by funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 other than banknotes and coins and of the measures taken by Member States to reinstate their availability.***

Where, on the basis of the information communicated by the Member State, the Commission considers that the suspension of the application of paragraph 1 or, where applicable, of paragraph 2 is not justified by a case of force majeure, it shall adopt a decision addressed to that Member State requesting the immediate lifting of the suspension referred to in the first subparagraph.

CHAPTER VIII
FINAL PROVISIONS

SECTION 1

COOPERATION BETWEEN FIUS AND THE EPPO

Article 59a

Cooperation between FIUs and the EPPO

1. Pursuant to Article 24 of Council Regulation (EU) 2017/1939, each FIU shall without undue delay report to the EPPO the results of its analyses and any additional relevant information where there are reasonable grounds to suspect that money laundering and other criminal activity are being or have been committed in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of Council Regulation (EU) 2017/1939.

By [2 years after the data of entry into force of this Regulation], AMLA shall, in consultation with the EPPO, develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used by FIUs for the dissemination of information to the EPPO.

2. FIUs shall respond in a timely manner to requests for information by the EPPO in relation to money laundering and other criminal activity in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of Council Regulation (EU) 2017/1939.

3. FIUs and the EPPO may exchange the results of strategic analyses, including typologies and risk indicators, where such analyses relate to money laundering and other criminal activity in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of the EPPO Regulation.

Article 59b

Requests for information to EPPO

1. The EPPO shall respond without undue delay to reasoned requests for information by an FIU where that information is necessary for the performance of the FIU's functions under Chapter 3 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

2. The EPPO may postpone or refuse the provision of such information where this is likely to prejudice the proper conduct and confidentiality of an ongoing investigation. The EPPO shall communicate in a timely manner the postponement of or refusal to provide the requested information, including the reasons therefor, to the requesting FIU.

SECTION 2

COOPERATION BETWEEN FIUS AND OLAF

Article 59c

Cooperation between FIUs and OLAF

1. Pursuant to Article 8(3) of Regulation (EU, EURATOM) No 883/2013, each FIU shall transmit without delay the results of its analyses and any additional relevant information to the European Anti-Fraud Office (OLAF) where there are reasonable grounds to suspect that fraud, corruption or any other illegal activity affecting the financial interests of the Union are being or have been committed in respect of which OLAF could exercise its competence in accordance with Article 8 of Regulation (EU, EURATOM) No 883/2013.

2. FIUs shall respond in a timely manner to requests for information by the OLAF in relation to that fraud, corruption or any other illegal activity affecting the financial interests of the Union are being or have been committed in respect of which OLAF could exercise its competence in accordance with Article 8 of Regulation (EU, EURATOM) No 883/2013.

3. FIUs and OLAF may exchange the results of strategic analyses, including typologies and risk indicators, where such analyses relate to fraud, corruption or any other illegal activity affecting the financial interests of the Union are being or have been committed in respect of which OLAF could exercise its competence in accordance with Article 8 of Regulation (EU, EURATOM) No 883/2013.

Article 59d

Requests for information to OLAF

1. OLAF shall respond in a timely manner to reasoned requests for information by an FIU where that information is necessary for the performance of the FIU's functions under Chapter 3 of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final].

2. OLAF may postpone or refuse the provision of such information where it is likely to have a negative impact on an ongoing investigation. OLAF shall communicate in a timely manner the postponement of or refusal to provide the requested information, including the reasons therefor, to the requesting FIU.

SECTION 3

OTHER PROVISIONS

Article 60

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 23, 24***, 25, 28, 33, 42a, 49*** shall be conferred on the Commission for an indeterminate period ▌ from [date of entry into force of this Regulation].

3. The power to adopt delegated acts referred to in Articles 23, 24***, 25, 28, 33, 42a, 49*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 23, 24***, 25 and 28*** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

6a. A delegated act adopted pursuant to 33, 42a and 49 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 61

Committee

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing established by Article 28 of Regulation ***[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]***. That committee shall be a committee within the meaning of Regulation (EU) ***182/2011.***

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 62

Review

By ***[5 years from the date of application of this Regulation]***, and every three years thereafter, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation.

The first report shall include an assessment of:

(a) the national systems for reporting of suspicions pursuant to Article 50 and obstacles and opportunities to establish a single reporting system at Union level;

(b) the adequacy of the beneficial ownership transparency framework to mitigate risks associated with legal entities and legal arrangements.

Article 63

Reports

By ***[3 years from the date of application of this Regulation]***, the Commission shall present reports to the European Parliament and to the Council assessing the need and proportionality of:

(a) lowering the ***25% threshold*** for the identification of beneficial ownership of legal entities ***through ownership interest***;

(ae) extending the scope of high-value goods referred to in Annex IIIa to include high-value garments and accessories;

(af) extending the scope of the threshold-based disclosures under Article 54a to cover the sale of other goods, of introducing harmonised formats for the reporting of those transactions based on the usefulness of those reports for FIUs, and of extending the scope of information collected from traders in free-trade zones;

(b) ***adjusting*** the limit for large cash payments.

Article 64

Relation to Directive 2015/849

References to Directive (EU) 2015/849 shall be construed as references to this Regulation and to Directive ***[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*** and read in accordance with the correlation table set out in Annex IV.

Article 65

Entry into force and application

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 ***[3 years from its date of entry into force]***.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

Annex I

Indicative list of risk variables

The following is a non-exhaustive list of risk variables that obliged entities shall take into account when drawing up their risk assessment in accordance with Article 8 determining to what extent to apply customer due diligence measures in accordance with Article 16:

(a) Customer risk variables:

(i) the customer's and the customer's beneficial owner's business or professional activity;

(ii) the customer's and the customer's beneficial owner's reputation;

(iii) the customer's and the customer's beneficial owner's nature and behaviour;

(iv) the jurisdictions in which the customer and the customer's beneficial owner are based;

(v) the jurisdictions that are the customer's and the customer's beneficial owner's main places of business;

(vi) the jurisdictions to which the customer and the customer's beneficial owner have relevant personal links;

(b) Product, service or transaction risk variables:

(i) the purpose of an account or relationship;

(ii) the regularity or duration of the business relationship;

(iii) the level of assets to be deposited by a customer or the size of transactions undertaken;

(iv) the level of transparency, or opaqueness, the product, service or transaction affords;

(v) the complexity of the product, service or transaction;

(vi) the value or size of the product, service or transaction.

(c) Delivery channel risk variables:

(i) the extent to which the business relationship is conducted on a non-face-to-face basis;

(ii) the presence of any introducers or intermediaries that the customer might use and the nature of their relationship with the customer;

(d) Risk variable for life and other investment-related insurance:

(i) the risk level presented by the beneficiary of the insurance policy.

Annex II

Lower risk factors

The following is a non-exhaustive list of factors and types of evidence of potentially lower risk referred to in Article 16:

(1) Customer risk factors:

(a) public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;

(b) public administrations or enterprises;

(c) customers that are resident in geographical areas of lower risk as set out in point (3);

(2) Product, service, transaction or delivery channel risk factors:

(a) life insurance policies for which the premium is low;

(b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;

(c) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;

(d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;

(e) products where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money);

(3) Geographical risk factors — registration, establishment, residence in:

(a) Member States;

(b) third countries having effective AML/CFT systems;

(c) third countries identified by credible sources as having a low level of corruption or other criminal activity;

(d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the revised FATF Recommendations and effectively implement those requirements.

Annex III

Higher risk factors

The following is a non-exhaustive list of factors and types of evidence of potentially higher risk referred to in Article 16:

(1) Customer risk factors:

(a) the business relationship ***or occasional transaction*** is conducted in unusual circumstances;

(b) customers that are resident in geographical areas of higher risk as set out in point (3);

(c) legal persons or ***legal*** arrangements that are personal asset-holding vehicles;

(d) ***corporate entities*** that have nominee shareholders or shares in bearer form;

(e) businesses that are cash-intensive;

(f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;

(g) customer is a third country national who applies for residence rights in a Member State in exchange of any kind of investment, including capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget;

(ga) customer is a legal entity or arrangement incorporated or created or established in a jurisdiction in which it has no real economic activity, substantial economic presence or apparent economic rationale;

(gb) customer is directly or indirectly owned by one or several entities or arrangements mentioned under (h);

▌

(2) Product, service, transaction or delivery channel risk factors:

(a) private banking;

(b) products or transactions that might favour anonymity;

(c) payment received from unknown or unassociated third parties;

(d) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products;

(e) transactions related to oil, arms, precious metals ***or stones***, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or of rare scientific value, as well as ivory and protected species;

(3) Geographical risk factors:

(a) third countries subject to increased monitoring or otherwise identified by the FATF due to the compliance weaknesses in their AML/CFT systems;

(b) third countries identified by credible sources/ acknowledged processes, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;

(c) third countries identified by credible sources/ acknowledged processes as having significant levels of corruption or other criminal activity;

(d) third countries subject to sanctions, embargos or similar measures issued by, for example, the Union or the United Nations;

(e) third countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

(ea) third countries identified by credible sources or pursuant to acknowledged processes as enabling financial secrecy by:
(i) Posing barriers to the cooperation and exchange of information with other jurisdictions;
(ii) Having strict corporate or banking secrecy laws which prevent institutions and their employees from providing customer information to competent authorities, including through fines and sanctions;
(iii) Having weak controls for the incorporation of legal entities or setting up of legal arrangements; or
(iv) Not requiring beneficial ownership information to be recorded or held in a central database or register.

Annex IIIa

List of high value goods referred to in Article 3:

(1) Jewellery, gold- or silversmith articles of a value exceeding EUR 10 000;

(2) Clocks and watches of a value exceeding EUR 10 000;

(3) Motor vehicles of a price exceeding EUR 250 000 or equivalent in national currency;

(4) Aircrafts of a price value exceeding EUR 7 500 000 or equivalent in national currency;

(5) Watercrafts of a price value exceeding EUR 7 500 000 or equivalent in national currency.

Annex IV

Correlation table

Directive (EU) 2015/849	Directive (EU) XXXX/XX [please insert reference to proposal for 6th anti-money laundering Directive]	This Regulation
Article 1(1)	-	-
Article 1(2)	-	-
Article 1(3)		Article 2, point (1)
Article 1(4)		Article 2, point (1)
Article 1(5)		Article 2, point (2)
Article 1(6)		Article 2, points (1) and (2)
Article 2(1)		Article 3
Article 2(2)		Article 4
Article 2(3)		Article 5(1)
Article 2(4)		Article 5(2)
Article 2(5)		Article 5(3)
Article 2(6)		Article 5(4)
Article 2(7)		Article 5(5)

Article 2(8)		Article 6
Article 2(9)		Article 4(3) and Article 5(6)
Article 3, point (1)		Article 2, point (5)
Article 3, point (2)		Article 2, point (6)
Article 3, point (3)		Article 2, point (4)
Article 3, point (4)		Article 2, point (3)
Article 3, point (5)		Article 2, point (35)
Article 3, point (6)		Article 2, point (22)
Article 3, point (6) (a)		Article 42(1)
Article 3, point (6) (b)		Article 43
Article 3, point (6) (c)		Article 42(2)
Article 3, point (7)		Article 2, point (7)
Article 3, point (8)		Article 2, point (19)
Article 3, point (9)		Article 2, point (25)
Article 3, point (10)		Article 2, point (26)
Article 3, point (11)		Article 2, point (27)
Article 3, point (12)		Article 2, point (28)
Article 3, point (13)		Article 2, point (16)
Article 3, point (14)		Article 2, point (8)
Article 3, point (15)		Article 2, point (29)

Article 3, point (16)		Article 2, point (15)
Article 3, point (17)		Article 2, point (20)
Article 3, point (18)		Article 2, point (13)
Article 3, point (19)	-	-
Article 4	Article 3	
Article 5	-	-
Article 6	Article 7	
Article 7	Article 8	
Article 8(1)		Article 8(1)
Article 8(2)		Article 8(2) and (3)
Article 8(3)		Article 7(1)
Article 8(4)		Article 7(2)
Article 8(5)		Article 7(2) and (3)
Article 9		Article 23
Article 10		Article 58
Article 11		Article 15
Article 12	-	-
Article 13(1)		Article 16(1)
Article 13(2)		Article 16(2)
Article 13(3)		Article 16(2)
Article 13(4)		Article 16(4)

Article 13(5)		Article 37
Article 13(6)		Article 18(3)
Article 14(1)		Article 19(1)
Article 14(2)		Article 19(2)
Article 14(3)		Article 19(3)
Article 14(4)		Article 17
Article 14(5)		Article 21(2) and (3)
Article 15		Article 27
Article 16		Article 27(1)
Article 17	-	-
Article 18(1)		Article 28(1)
Article 18(2)		Article 28(2)
Article 18(3)	-	Article 28(3)
Article 18(4)	-	-
Article 18a(1)		Article 28(4)
Article 18a(2)	-	Article 23(5) and Article 29, point (a)
Article 18a(3)		Article 23(5) and Article 29, point (b)
Article 18a(4)	-	-
Article 18a(5)	-	-

Article 19		Article 30
Article 20		Article 32
Article 20a		Article 33
Article 21		Article 34
Article 22		Article 35
Article 23		Article 36
Article 24		Article 31
Article 25		Article 38(1)
Article 26		Article 38
Article 27		Article 39
Article 28		Article 38(3)
Article 29	-	-
Article 30(1)		Article 45(1) and (3) and Article 49
Article 30(2)		Article 45(4)
Article 30(3)	Article 10(1)	
Article 30(4)	Article 10(5)	
Article 30(5)	Article 11 and Article 12(1)	
Article 30(5)a	Article 12(2)	
Article 30(6)	Article 11(1), (2) and (3)	

Article 30(7)	Article 45(2)	
Article 30(8)		Article 18(4)
Article 30(9)	Article 13	
Article 30(10)	Article 10(11) and (12)	
Article 31(1)		Articles 43(1) and 46(1) and Article 49
Article 31(2)		Article 46(2)
Article 31(3)		Article 46(3)
Article 31(3a)	Article 10(1)	Article 48
Article 31(4)	Article 11 and Article 12(1)	
Article 31(4a)	Article 12(2)	
Article 31(5)	Article 10(5)	
Article 31(6)		Article 18(4)
Article 31(7)	Article 45(2)	
Article 31(7a)	Article 13	
Article 31(9)	Article 10(11) and (12)	
Article 31(10)		Article 43(2)
Article 31a	Article 15(1)	
Article 32(1)	Article 17(1)	
Article 32(2)	Article 46(1)	

Article 32(3)	Article 17(2), (4) and (5)	
Article 32(4)	Articles 18(1) and 19(1)	
Article 32(5)	Article 19(1)	
Article 32(6)	Article 19(2)	
Article 32(7)	Article 20(1)	
Article 32(8)	Article 17(3)	
Article 32(9)	Article 18(4)	
Article 32a(1)	Article 14(1)	
Article 32a(2)	Article 14(2)	
Article 32a(3)	Article 14(3)	
Article 32a(4)	Article 14(4)	
Article 32b	Article 16	
Article 33(1)		Article 50(1)
Article 33(2)		Article 50(6)
Article 34(1)		Article 51(1)
Article 34(2)		Article 51(2)
Article 34(3)	-	-
Article 35		Article 52
Article 36	Article 32	

Article 37		Article 53
Article 38	Article 43(3)	Article 11(3)
Article 39		Article 54
Article 40		Article 56
Article 41		Article 55
Article 42		Article 57
Article 43	-	-
Article 44(1)	Article 9(1)	
Article 44(2)	Article 9(2)	
Article 44(3)	Article 9(3)	
Article 44(4)	Article 9(6)	
Article 45(1)		Article 13(1)
Article 45(2)	-	-
Article 45(3)		Article 14(1)
Article 45(4)	Article 35	
Article 45(5)		Article 14(2)
Article 45(6)		Article 14(3)
Article 45(7)		Article 14(4)
Article 45(8)		Article 13(2)
Article 45(9)	Article 5(1)	
Article 45(10)	Article 5(2)	

Article 45(11)	Article 5(3)	
Article 46(1)		Article 10
Article 46(2)	-	-
Article 46(3)	Article 21	
Article 46(4)		Article 9
Article 47(1)	Article 4	
Article 47(2)	Article 6(1)	
Article 47(3)	Article 6(2)	
Article 48(1)	Article 29(1)	
Article 48(1a)	Article 29(5) and Article 46	
Article 48(2)	Article 29(2) and (5)	
Article 48(3)	Article 29(6)	
Article 48(4)	Articles 33 and 34	
Article 48(5)	Articles 33(4) and 34(2)	
Article 48(6)	Article 31(1)	
Article 48(7)	Article 31(2)	
Article 48(8)	Article 31(5)	
Article 48(9)	Article 29(3)	
Article 48(10)	Article 31(4)	

Article 49	Article 45(1)	
Article 50	Article 47	
Article 50a	Article 45(3)	
Article 51	-	-
Article 52	Article 22	
Article 53	Article 24	
Article 54	Article 26	
Article 55	Article 27	
Article 56	Article 23(2) and (3)	
Article 57	Article 28	
Article 57a(1)	Article 50(1)	
Article 57a(2)	Article 50(2)	
Article 57a(3)	Article 50(3)	
Article 57a(4)	Articles 33(1) and 34(1) and (3)	
Article 57a(5)	Article 37	
Article 57b	Article 51	
Article 58(1)	Article 39(1)	
Article 58(2)	Article 39(2)	
Article 58(3)	Article 39(3)	
Article 58(4)	-	-

Article 58(5)	Article 39(4)	
Article 59(1)	Article 40(1)	
Article 59(2)	Articles 40(2) and 41(1)	
Article 59(3)	Article 40(3)	
Article 59(4)	Article 40(4)	
Article 60(1)	Article 42(1)	
Article 60(2)	Article 42(2)	
Article 60(3)	Article 42(3)	
Article 60(4)	Article 39(5)	
Article 60(5)	Article 42(4)	
Article 60(6)	Article 42(5)	
Article 61	Article 43	
Article 62(1)	Article 44(1)	
Article 62(2)	Article 6(6)	
Article 62(3)	Article 44(2)	
Article 63	-	
Article 64		Article 60
Article 64a	Article 54	Article 61
Article 65	-	-
Article 66	-	-

Article 67	-	-
Article 68	-	-
Article 69	-	-
Annex I		Annex I
Annex II		Annex II
Annex III		Annex III
Annex IV	-	-

Annex IVa

Precious metals refered to in Article 2 (37) of this Regulation include:

a) Gold

b) Silver

c) Platinium

d) Iridium

e) Osmium

f) Palladium

g) Rhodium

h) ***Rhutenium***

Precious stones refered to in Article 2 (37) of this Regulation include:

a) ***Diamond***

b) ***Ruby***

c) ***Sapphire***

d) ***Emerald***

2021/0240 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 1094/2010, (EU) 1095/2010

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[39],

[39] OJ C , , p. .

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Experience with the current Anti-Money Laundering and Countering the Financing of Terrorism (AML/CTF) framework, which heavily relies on the national implementation of AML/CFT measures, has disclosed weaknesses not only with regard to the efficient functioning of the AML/CFT framework of the Union but also with regards to integrating international recommendations. Those weaknesses lead to the emergence of new obstacles to the proper functioning of internal market both due to the risks within the internal market as well as external threats facing the internal market.

(2) Cross-border nature of crime and criminal proceeds endanger Union financial system efforts relating to prevention of money laundering and financing of terrorism. Those efforts have to be tackled at Union level through the creation of an Authority responsible for contributing to the implementation of harmonised rules. In addition, the Authority should pursue a harmonised approach to strengthen the Union's existing AML/CFT preventive framework, and specifically AML supervision and cooperation between FIUs. That approach should reduce divergences in national legislation and supervisory practices and introduce structures that benefit the smooth functioning of the internal market in a determined manner and should, consequently, be based on Article 114 TFEU.

(3) Therefore, a European Authority for anti-money laundering and countering the financing of terrorism, the Anti-Money Laundering Authority ('the Authority') should be established. The creation of this new Authority is crucial to ensure efficient and adequate supervision of obliged entities ***that pose a high risk with regard to*** Money Laundering/Terrorist Financing (ML/TF) ▌, strengthening common supervisory approaches for ***all other*** obliged entities and facilitating joint analyses and cooperation between Financial Investigation Units (FIUs).

(4) This new instrument is part of a comprehensive package aiming at strengthening the Union's AML/CFT framework. Together, this instrument, Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive], Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847] and Regulation [please insert reference – proposal for the Anti-Money Laundering Regulation] will form the legal framework governing the AML/CFT requirements to be met by obliged entities and underpinning the Union's AML/CFT institutional framework.

(5) To bring AML/CFT supervision to an efficient and uniform level across the Union, it is necessary to provide the Authority with the following powers: direct supervision of a certain number of selected obliged entities of the financial sector***, including crypto-asset service providers***; monitoring, analysis and exchange of information concerning ML/TF risks affecting internal market; coordination and oversight of AML/CFT supervisors of the financial sector; coordination and oversight of AML/CFT supervisors of the non-financial sector, including self-regulatory bodies and the coordination and support of FIUs.

(6) Combining both direct and indirect supervisory competences over obliged entities, and also functioning as a support and ***coordination*** mechanism for FIUs, is the most appropriate means of bringing about supervision and cooperation between FIUs at Union level. This should be achieved by creating an Authority which should combine independence and a high level of technical expertise and which should be established in line with the Joint Statement and Common Approach of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies[3].

(7) ***The arrangements concerning the seat of the Authority*** should be ***laid down in a headquarters agreement*** between the Authority and the host Member State***.*** ***The headquarters agreement should stipulate*** the conditions of establishment of the seat and ***the*** advantages conferred by the Member State on the Authority and its staff. ***The Authority should conclude a headquarters agreement with the host Member State in a timely manner before it begins operations.***

[3] https://europa.eu/european-union/sites/default/files/docs/body/joint_statement_and_common_approach_2012_en.pdf.

(7a) Criteria to be taken into account in order to contribute to the decision making process for choosing the Anti-Money Laundering Authority seat should be the assurance that Authority can be set up on site upon the entry into force of this Regulation, the accessibility of the location and the existence of adequate education facilities for the children of staff members, appropriate access to the labour market, social security and medical care for both children and spouses of staff members as well as geographical balance. In view of the nature of the Anti-Money Laundering Authority tasks and powers, it should be in a place that allows the Authority: to fully execute such tasks and powers; to recruit highly qualified and specialised staff; to offer adequate training opportunities for AML/CFT activities; where relevant, to closely cooperate with Union institutions, bodies and agencies; and in order to avoid reputational risks, to consider how ML/TF risks are adequately addressed in the Member State based on publicly available, relevant and comparable information such as FATF reports. Considering these criteria, the Authority should be located at […].

(8) The powers of the Authority should allow it to improve AML/CFT supervision in the Union in various ways. With respect to selected obliged entities, the Authority should ensure group-wide compliance with the requirements laid down in the AML/CFT framework and any other legally binding Union acts that impose AML/CFT-related obligations on financial institutions. ***With respect to financial supervisors***, the Authority should ***in particular*** carry out periodic reviews to ensure that all financial supervisors ***perform*** their tasks ***adequately***. It should ***also investigate systematic failures of supervision resulting from breaches, non-application or incorrect application of Union law***. With respect to non-financial supervisors, including self-regulatory bodies where appropriate, the Authority should coordinate peer reviews of supervisory standards and practices and request non-financial supervisors to ***ensure the observance*** of AML/CFT requirements ***in their sphere of competence. The Authority should be able to act in cases of potential breaches or non-application of Union law by non-financial supervisors and in case such breaches are not rectified in line with Authority's recommendations, it should issue warnings to the affected counterparties of the relevant non-financial supervisors. The Authority should facilitate the functioning of the AML/CFT supervisory colleges in both the financial and non-financial sectors. Overall, the Authority should contribute to convergence of supervisory practices and promotion of high supervisory standards***. In addition, the Authority should coordinate ***and support*** the conduct of joint analyses by FIUs ***or request the launch of a joint analyses, and should*** ▌ make available to FIUs IT and artificial intelligence services ***to enhance their analysis capabilities*** and tools for secure information sharing, including through hosting of FIU.net.

(9) With the objective to strengthen AML/CFT rules at Union level and to enhance their clarity while ensuring consistency with international standards and other legislation, it is necessary to establish the coordinating role of the Authority at Union level in relation to all types of obliged entities to assist national supervisors and promote supervisory convergence, in order to increase the efficiency of the implementation of AML/CFT measures, also in the non-financial sector. Consequently, the Authority should be mandated to prepare regulatory technical standards, to adopt guidelines, recommendations and opinions with the aim that where supervision remains at national level, the same supervisory practices and standards apply in principle to all comparable entities. ***In addition, Authority should be tasked with monitoring and measuring the degree of convergence and consistent application of legal requirements and high supervisory standards by supervisory authorities and obliged entities.*** The Authority should be entrusted, due to its highly specialised expertise, with the development of a supervisory methodology, in line with a risk-based approach.

Certain aspects of the methodology, which can incorporate harmonised quantitative benchmarks, such as approaches for classifying the ▌ risk profile of obliged entities***, including its inherent and residual risk,*** should be detailed in directly applicable binding regulatory measures – regulatory or implementing technical standards ***factoring ML/TF risks in prudential supervision, in order to ensure effective interaction between prudential and AML/CFT supervision***. Other aspects, which require wider supervisory discretion, such as approaches to assessing ▌ internal controls ***of*** the obliged entities should be covered by non-binding guidelines, recommendations and opinions of the Authority. The harmonised supervisory methodology should take due account of, and where appropriate, leverage the existing supervisory methodologies relating to other aspects of supervision of the financial sector obliged entities, especially where there is interaction between AML/CFT supervision and prudential supervision. Specifically, the supervisory methodology to be developed by the Authority should be complementary to guidelines and other instruments developed by the European Banking Authority detailing approaches of prudential supervisory authorities with respect to factoring ML/TF risks in prudential supervision, in order to ensure effective interaction between prudential and AML/CFT supervision.

A harmonised supervisory methodology would enable development of common supervisory tools for interactions with, and data requests from, the obliged entities across the entire supervisory system. The Authority should be able to coordinate the development of such tools, in the form of structured questionnaires, based online or offline, and ultimately integrated into a single platform for interaction with obliged entities and among supervisors within the system. Such platform would not only facilitate supervisory processes and harmonised supervisory approaches but also ensure avoiding duplicative reporting requirements and excessive burden on obliged entities in the process of supervision both at Union as well as national levels.

(9a) The extension of criminal offences that are predicate to money laundering to include non-implementation and evasion of targeted financial sanctions requires the development of an understanding of threats and vulnerabilities in that area at the level of obliged entities, supervisors and the Union. In carrying out its supervisory tasks over selected obliged, the Authority should therefore ensure that those entities have in place adequate systems to implement requirements related to targeted financial sanctions. Similarly, given its central role in ensuring an effective supervisory system across the internal market, the Authority should support supervisory convergence in this area to ensure adequate oversight of credit and financial institutions' compliance with requirements related to the implementation of targeted financial sanctions.

The information collected through its supervisory and convergence tasks constitutes a resource for the Union's understanding of risks in relation to non-implementation and evasion of targeted financial sanctions, and can contribute to the identification of effective mitigating measures. To this end, the Authority should contribute with its experience and knowledge to the development of the Union supranational risk assessment in relation to non-implementation and evasion of targeted financial sanctions.

(10) The Authority should be empowered to develop regulatory technical standards in order to complete the harmonised rulebook established in the [please insert references – proposal for 6th Anti-Money Laundering Directive, Anti-money laundering Regulation and proposal for a recast of Regulation (EU) 2015/847]. The Commission should endorse draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU in order to give them binding legal effect. They should be subject to amendment only in very restricted and extraordinary circumstances, since the Authority is the actor in close contact with and knowing best the AML/CFT framework. To ensure a smooth and expeditious adoption process for those standards, the Commission's decision to endorse draft regulatory technical standards should be subject to a time limit.

(11) The Commission should also be empowered to adopt implementing technical standards by means of implementing acts pursuant to Article 291 TFEU.

(11a) In the process of developing regulatory technical standards, implementing technical standards, guidelines and recommendations addressed to obliged entities, supervisors or Financial Intelligence units, the Authority should as a rule conduct open public consultations, unless those consultations and analyses are highly disproportionate in relation to the scope and impact of the measures concerned or in relation to the particular urgency of the matter. The public consultations should be conducted in order to analyse the potential related costs and benefits of the new measures and requirements it is introducing, and in order to make sure that all the relevant stakeholders, including other Union bodies whose area of competence may be concerned, have had a chance to provide their input and advice. As the role of the civil society, including academia, investigative journalists, and non-governmental organisations, has proven paramount over the past years in identifying criminal patterns and how the Union AML/CFT framework can be strengthened to prevent criminal misuse of the Union internal market, the Authority should pay particular attention to input provided by civil society. It should ensure appropriate engagement of the civil society and active solicitations of its views during its policy-making process.

(12) Since there are no sufficiently effective arrangements to handle AML/CFT incidents involving cross-border aspects**,** it is necessary to put in place an integrated AML/CFT supervisory system at Union level that ensures consistent high-quality application of the AML/CFT supervisory methodology and promotes efficient cooperation between all relevant competent authorities. For these reasons, the Authority and national AML/CFT supervisory authorities ('supervisory authorities') should constitute an AML/CFT supervisory system. ***The AML/CFT supervisory system should be based on mutual trust and cooperation in good faith, including exchanges of the information and data related to supervision, in order to enable the Authority and supervisory authorities carry out their tasks effectively. This AML/CFT supervisory system*** would ▌benefit supervisory authorities when facing specific challenges, for example vis-à-vis an enhanced AML/CFT risk or due to a lack of resources, as within that system mutual assistance should be possible on request. This could ***also*** involve exchange and secondments of personnel, training activities and exchanges of best practices. Furthermore, the Commission could provide technical support to Member States under Regulation (EU) 2021/240 of the European Parliament and of the Council to promote reforms aimed at reinforcement of the fight against money laundering.[40]

[40] **Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).**

(13) Considering the important role of thematic reviews in AML/CFT supervision across the Union as they enable to identify and compare the level of exposure to risks and trends in relation to obliged entities under supervision, and that currently supervisors in different Member States do not benefit from these reviews, it is necessary that the Authority identifies national thematic reviews that have a similar scope and time-frame and ensures their coordination at the level of the Union. To avoid situations of possibly conflicting communications with supervised entities, the coordination role of the Authority should be limited to interaction with relevant supervisory authorities, and should not include any direct interaction with non-selected obliged entities. For the same reason, the Authority should explore the possibility of aligning or synchronising the timeframe of the national thematic reviews and facilitate any activities that the relevant supervisory authorities may wish to carry out jointly or similarly.

(-1) The efficient usage of data leads to better monitoring and compliance of firms. Therefore, both direct and indirect supervision by the Authority and supervisory authorities of all obliged entities across the system should rely on expeditious access to relevant data and information about the obliged entities themselves and the supervisory actions and measures taken towards them, subject to limited retention periods in accordance with the applicable data protection framework. To that end, and taking into account the confidential and sensitive nature of the information, the Authority should establish a central AML/CFT database with information collected from all supervisory authorities, and should make such information available to any supervisory authority and non-AML/CFT authority within the system when necessary, on a confidential and need-to-know basis. The collected data should also cover the relevant aspects of the withdrawal of authorisation procedures, fit and proper assessments of shareholders and members of individual obliged entities as this will enable relevant authorities to duly consider possible shortcomings of specific entities and individuals that might have materialised in other Member States.

The database should also include statistical information about and supervisory authorities and Financial Intelligence Units. All collected data and information would enable effective oversight by the Authority of the proper functioning and effectiveness of the AML/CFT supervisory system. The information from the database would enable the Authority to react in a timely manner to potential weaknesses and cases of non-compliance by non-selected obliged entities. In order to ensure that the database can contain all the relevant information that is across the AML/CFT supervisory system, the supervisory authorities should have the flexibility to submit other categories of data in addition to those directly envisaged by the Regulation. In the same vein, the Authority, while managing the database and analysing the submitted data, would be best placed to identify which additional data points or categories could be requested from supervisory authorities to boost the effectiveness of the database. To enable compiling, storing and using a coherent, structured dataset, it is necessary to further specify the format, procedures, timelines and further details on the scope and nature of the data to be transmitted to the database. For that purpose, AMLA should develop a draft regulatory technical standards and submit them to the Commission. The specifications provided in the standard would determine the appropriate level of detail for specific categories of information expected to be to be transmitted with respect to various type of supervisory activities or types of obliged entities.

The data collected with regard to obliged entities in the non-financial sector should consider the principle of proportionality and the mandate of the Authority in the non-financial sector. Additionally, considering that in the non-financial sector the Authority would introduce the Union level oversight for the first time, and the Directive [OP: please insert reference to AMLD6] requires adjustments in the national institutional framework of supervision which need to be transposed, it is necessary to envisage a sufficient period to prepare the integration of the information from supervisory authorities in the non-financial sector. Specifically, the database should have the non-financial sector data submitted by four years after the entry into force of this Regulation, approximately one year after the deadline for transposition of the Directive. However supervisory authorities in the non-financial sector should be able on a voluntary basis already to submit those data before that date. The personal data processed in the context of the database should be retained for a period of up to 10 years after the date of their collection by the Authority. Such duration of the retention period is strictly necessary and proportionate for the purpose of supervisory activities carried out by the Authority and supervisory authorities.

The length of the data retention period ensures that the Authority and supervisory authorities retain access to the necessary information on the risk assessment, business activities, controls in place and breaches of individual obliged entities in order to carry out their duties, which requires them to access case-related information over a longer period of time. Such duration of the retention period is notably necessary since supervisory authorities should take into account, among other factors, the gravity, the duration and the repetitiveness of the breach to determine the level of sanctions or measures to be applied, which requires to analyse case-related information regarding a longer period of reference. Similarly, such duration of the data retention period is also necessary with regard to information resulting from fit-and-proper assessments of shareholders or members of the management in order to ensure that supervisory authorities have sufficient information to assess whether they are of good repute, act with honesty and integrity and possesses the knowledge and expertise necessary to carry out their functions, and to ensure ongoing monitoring of those conditions as required by [AMLD]. Personal data should be deleted where it is no longer necessary to keep them. Considering the purpose of the database and the use of information contained therein by various participants of the AML/CFT supervisory system, it should not contain any data covered by the legal privilege.

(15) With the objective of ensuring a more effective and less fragmented protection of the Union's financial framework, a limited number of the riskiest obliged entities should be directly supervised by the Authority. As ML/TF risks are not proportional to the size of the supervised entities, other criteria should be applied to identify the most risky entities. In particular, two categories should be considered: high-risk cross-border credit and financial institutions with activity in a significant number of Member States, selected periodically; and, in exceptional cases, any entity whose material breaches of applicable requirements are not sufficiently or in a timely manner addressed by its national supervisor. ***In the latter case, either the Authority or financial supervisors could request a transfer of supervision from national to Union level, with a proper justification. The Commission should examine the requests submitted by the Authority and either approve or reject the transfer by means of an official decision and taking into account the justification submitted. Where the request of transfer comes from the financial supervisors to the Authority and involve voluntary delegation of tasks and powers, it should be up to the Authority to render the decision on the necessity of the transfer, and assume direct supervision of the obliged entity or group in question where it finds that the Union interests and solidity of the AML/CFT system so require. All*** those entities ***towards which the Authority would be exercising direct supervisory powers*** would fall under the category of 'selected obliged entities'.

(16) The first category of credit and financial institutions, or groups of such institutions should be assessed every three years, based on a combination of objective criteria related to their cross-border presence and activity, and criteria related to their ▌ML/FT risk profile. Only ***credit or*** financial ***institutions or groups thereof, which are present in a significant*** number of ▌Member States, ***regardless of whether they operate through establishments or under the*** freedom ***to provide services in*** Member States, ***and for which supervision at Union level would therefore be more adequate, should be included in the selection process.***

(16a) The periodic assessment of the risk profile of credit and other financial institutions for the purpose of selection for direct supervision should rely on data to be provided by the national financial supervisors and, for already selected obliged entities, by the Authority. In addition, the Authority should ensure harmonised application of the methodology by financial supervisors and provide coordination of the assessment of the risk profile of entities at group level. An implementing technical standard should precise the respective role of the Authority and the financial supervisors in the assessment process. The Authority should ensure alignment, where appropriate, between the methodology for assessment of risk profile for the purpose of the selection process pursuant to article 12 and the methodology for harmonising the assessment of the inherent and residual risk profiles of obliged entities at national level, to be developed in the regulatory technical standards pursuant to Article 31(2) of Directive [OP: please insert reference to AMLD6].

(17) ***Given the current wide diversity of approaches adopted by*** national ▌ authorities ***to the evaluation of the residual risk profile*** of obliged entities***, the process of regulatory development of a refined and detailed*** harmonised methodology ***allowing for assessment of residual risk with comparable outcomes is evolving and*** should be ***started on the basis*** of the ***work carried out by the European Banking Authority as soon as possible. Therefore the methodology*** for the ***categorisation of residual risk to be adopted for the first identification of selected*** obliged entities ***may be more straightforward and aimed at harmonising the different diverse approaches applied at national level. The Authority should review the methodology it is to apply every three years, taking account of the evolution*** of the ***relevant knowledge***.

(18) The final selection criterion should warrant a level playing field among directly supervised obliged entities, and to that end, no discretion should be left to the Authority or supervisory authorities in deciding on the list of obliged entities that should be subject to direct supervision. Therefore, where a given assessed obliged entity operates cross-border and falls within the high risk category in accordance with the harmonised methodology ▌, it should be deemed a selected obliged entity. ▌

(19) To provide transparency and clarity to the relevant institutions, the Authority should publish a list of the selected obliged entities within ***six months*** of commencement of a selection round, after verifying the correspondence of information provided by the financial supervisors to the cross-border activities criteria and the ▌risk ***profile*** methodology. Therefore it is important that at the beginning of each selection period, the relevant financial supervisors***, and, if necessary, the obliged entities themselves,*** provide the Authority with up-to-date statistical information to determine the list of financial institutions eligible for assessment in accordance with the assessment entry criteria relating to their cross-border operations. In this context, the financial supervisors should inform the Authority about the ▌risk ***profile*** category that a financial institution falls into in their jurisdictions in accordance with the methodology laid down in the regulatory technical standards. The Authority should then assume the tasks related to direct supervision ***six*** months after the publication of the list. That time is needed to appropriately prepare the transfer of supervisory tasks from national to Union level, including the formation of a joint supervisory team, and adopting any relevant working arrangements with the relevant financial supervisors.

(20) To ensure legal certainty and a level playing field among selected entities, any selected entity should remain under direct supervision of the Authority for at least three years, even if since the moment of selection and in the course of the three years it ceases to meet any of the cross-border activity or risk-related criteria due to e.g. potential ***ceasing,*** consolidation, expansion or re-allocation of activities carried out via establishments or freedom to provide services. The Authority should also ensure that sufficient time is allocated to preparation by the obliged entities and their supervisory authorities to the transfer of supervision from national to Union level. Therefore, each subsequent selection should commence ***twelve*** months before the end-date of the three year period of supervision of the previously selected entities.

(20a) The Authority should supervise financial sector obliged entities with a high risk profile within the Union, where such entities operate in six Member States through multiple establishments or through the freedom to provide services within the EU. In such cases, supranational supervision by the Authority would bring significant added value compared to fragmented supervision between home and host Member States by eliminating the need for national supervisors of home and host Member States to coordinate and align the measures taken vis-à-vis various parts of the single group. In order to ensure homogeneous supervision of groups and a more granular analysis of the risk of the cross-border entities assessed, the assessment of the ML/TF risk of obliged entities which are part of a group should be always done at the level of the group, resulting in a single group-wide risk score to be considered for the purposes of the selection.

The entire group should then be considered as the selected obliged entity. While the exact number of entities that could meet the risk and cross-border activities criteria for direct supervision varies and depends on their business model and money-laundering risk profile at the moment of the assessment, it is necessary to ensure an optimal, progressive and dynamic repartition of competence between the Union and national authorities in the first phase of the existence of the Authority. To ensure a sufficient number and adequate range of types of high risk groups and entities that are supervised at Union level, the Authority should have sufficient resources to simultaneously supervise up to 40 groups and entities at least in the first selection process. In case more than 40 entities would qualify for direct supervision based on their high risk profile, the Authority should select among them the 40 entities operating through the freedom of establishment or the freedom to provide services in the highest number of Member States. In the event that this criterion is not sufficient to select 40 entities, in particular where several obliged entities operate in the same number of Member States – for example, entity number 39, 40 and 41 all operate in the same number of Member States – the Authority should be able to distinguish among them and should select those that have the highest ratio of volume of transactions with third countries to the total volume of transactions.

In the steady state of functioning of the Authority, and building on experience with supervision in the first selection process, it would be beneficial for the number of entities under its supervision to increase but also for the Authority to ensure a complete coverage of the internal market under its supervision. To that end, on the one hand, in case more than 40 entities would qualify for direct supervision based on their high risk profile, the Authority could, in consultation with the supervisory authorities, agree supervising a specific different number of entities or groups that is greater than 40. In deciding on the number of selected obliged entities, the Authority should take into account its own resources capacity to allocate or additionally hire the necessary number of supervisory and support staff and should ensure that the increase in the financial and human resources is feasible. At the same time, the complete coverage of the internal market could be ensured by supervising at least one entity in each Member State. To that end, in the Member States where no entities were selected following a regular process, it should be the entity with high risk profile in accordance with the risk methodology designed for the selection process, including the criteria to choose between several entities with the high risk profile.

(21) The relevant actors involved in the application of the AML/CFT framework should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties. In order to ensure that the AML supervisory system composed of the Authority and supervisory authorities functions as an integrated mechanism, and that jurisdiction-specific risks and local supervisory expertise are duly taken into account and well utilised, direct supervision of selected obliged entities should take place in the form of joint supervisory teams ***and, where appropriate, dedicated on-site inspection teams***. These teams should be led by a staff member of the Authority coordinating all supervisory activities of the team ***('JST coordinator'). The JST coordinator and other staff members of the Authority allocated to the joint supervisory team should be based at the premises of the Authority but*** should be ***able to carry out their day-to-day tasks and supervisory activities in any*** Member ***States*** where ***the*** selected ***obliged*** entity has ***it operations. To that end, the financial supervisors should assist in ensuring smooth and flexible working arrangements for all the joint supervisory team members.***

The Authority should be in charge of ***the*** establishment and composition of the joint supervisory team, and ***local supervisor involved in the supervision of the entity*** should ensure that a sufficient number of their staff members are appointed to the team, taking into account the risk profile of the selected entity in their jurisdiction***, as well as its overall volume of activity. Each supervisor involved in the supervision of the group should appoint a member to the joint supervisory team. However, in cases where the risk of the obliged entity's activities is low in a particular Member State, the financial supervisor in that Member State should be able to choose, in agreement with the JST coordinator, not to appoint a member to the joint supervisory team. Where no member is appointed to the joint supervisory team, the relevant financial supervisor should still have a contact point for any joint supervisory team matters and responsibilities***.

(22) To ensure that the Authority can fulfil its supervisory obligations in an efficient manner with regard to selected obliged entities, the Authority should be able to obtain any internal documents and information necessary for the exercise of its tasks and for that purpose have general investigation powers afforded to all supervisory authorities under national administrative law. ***To that end, the Authority should be able to address information requests to any natural or legal person belonging to the selected obliged entity, such as an obliged entity itself or any legal person within the obliged entity; employees of the obliged entity and persons in comparable positions, including agents and distributors; external contractors which may be natural or legal persons; or third parties to whom a selected obliged entity has outsourced its activities, which may be natural or legal persons.***

(23) The Authority should have the power to require actions, internal to the entity, to enhance the compliance of obliged entities with the AML/CFT framework, including reinforcement of internal procedures and changes in the governance structure, going as far as removal of members of the management body, without prejudice to the powers of other relevant supervisory authorities of the same selected entity. Following relevant findings related to non-compliance or partial compliance with applicable requirements by the obliged entity, it should be able to impose specific measures or procedures for particular clients or categories of clients who pose high risks. On-site inspections should be a regular feature of such supervision ***and could be performed by dedicated teams***. If a specific type of on-site inspection***, for instance with respect to natural person, where the business premises are the same as person's private residence,*** requires an authorisation by the national judicial authority, such authorisation should be applied for by the Authority.

(24) The Authority should have a full range of supervisory powers in relation to directly supervised entities in order to ensure compliance with applicable requirements. These powers should apply in cases where the selected entity does not meet its requirements, in cases where certain requirements are not likely to be met, as well as in cases where internal ***procedures*** and controls are not appropriate to ensure sound management of selected obliged entity's ML/FT risks. The exercise of these powers could be done by means of binding decisions addressed to selected individual obliged entities.

(25) In addition to supervisory powers ***to impose administrative measures,*** and in order to ensure compliance, in ***any*** cases of ▌ breaches of directly applicable requirements, the Authority should be able to impose ▌ pecuniary sanctions on the selected obliged entities. ***For serious, repeated or systematic breaches, the Authority should always apply pecuniary sanctions.*** Such sanctions should be proportionate and dissuasive, should have both punitive and deterrent effect, and should comply with the principle of ne bis in idem. The maximum amounts of pecuniary sanctions should be in line with those established by [please insert reference – 6th Anti-Money Laundering Directive] and available to all supervisory authorities across the Union. The basic amounts of these sanctions should be determined within the limits established by the AML/CFT framework, taking into account the nature of the requirements that have been breached. In order for the Authority to take aggravating or mitigating factors adequately into account, adjustments to the relevant basic amount should be possible. With the objective to achieve a timely change of the damaging business practice, the Executive Board of the Authority should be empowered to impose periodic penalty payments to compel the relevant legal or natural person to cease the relevant conduct.

With the aim to heighten awareness of all obliged entities, by encouraging them to adopt business practices in line with the AML/CFT framework, the ***pecuniary*** sanctions and penalties should be disclosed***. The disclosure regime for administrative measures as well as the pecuniary sanctions and periodic penalty payments imposed by the Authority and detailed in this Regulation should be closely aligned with that at national level, as provided by Directive [OP: please insert reference to AMLD6]***. The Court of Justice should have jurisdiction to review the legality of decisions adopted by the Authority, the Council and the Commission, in accordance with Article 263 TFEU, as well as for determining their non-contractual liability.

(26a) It is important that authorities in charge of overseeing implementation of targeted financial sanctions at national level are timely informed of any violation of such obligation by selected obliged entities. To that end, the Authority may share such information with the financial supervisor in the relevant Member State and instruct it to convey such information to the national authority responsible for overseeing the implementation of those sanctions.

(27) For non-selected obliged entities, the AML/CFT supervision is to remain primarily at national level, with national competent authorities retaining full responsibility and accountability for direct supervision. The Authority should be granted adequate indirect supervisory powers to ensure that supervisory actions at national level are consistent and of a high quality across the Union. Therefore, it should carry out assessments of the state of supervisory convergence and publish reports with its findings. It should be empowered to ***adopt follow-up measures in the form of*** guidelines and recommendations, ***including individual recommendations*** addressed to ***financial supervisors as a result of the assessment***, with a view to ensuring harmonised and high level supervisory practices across the Union. ***Individual recommendations could contain suggestions of specific follow-up measures which the financial supervisor is expected to make every effort to comply with. Where a financial supervisor does not implement the follow-up measures, the Authority should take the adequate and necessary steps in accordance with this Regulation.***

(27a) The Authority should also be able to settle disagreements between financial supervisors concerning the measures to be taken towards a non-selected obliged entity in the financial sector. In order to ensure constructive cooperation, the Authority should in the first instance attempt to resolve the dispute through a conciliation phase with a time limit. In the event that it does not achieve the desired results, the Authority should be able to adopt a binding decision requiring those supervisors to take specific action or to refrain from certain action, in order to settle the matter and to ensure compliance with Union law.

(27b) For the purposes of safeguarding the proper functioning and effectiveness of the AML/CFT supervisory system, the Authority should be able to identify and act in cases of systematic failures of supervision caused by breaches of Union law resulting from non-application or improper application of national measures transposing Union Directives. To that end, and without prejudice to the powers of the European Commission to launch an infringement procedure pursuant to TFEU, the Authority should be able to investigate such possible breaches. Where a breach has been established by the Authority, after informing the supervisor concerned and, where appropriate, giving other financial supervisors the opportunity to provide information on the matter, the Authority could, if it considers it appropriate, issue a recommendation to the supervisor in question, outlining the measures to be taken to rectify the breach. Where the shortcomings identified have not been remedied, the Commission should also be able to issue an opinion requiring the supervisor to comply with the recommendation issued by the Authority.

(28) Certain obliged entities in the financial sector that do not meet the requirements for regular selection might still have a high inherent ***and/or residual risk*** profile from the money laundering and terrorism financing perspective, or might take on, change or expand activities that entail high risk, not mitigated with a commensurate level of internal controls, thus leading to ***serious, repeated or systematic*** breaches of its AML/CFT requirements. If there are indications of possible ***serious, repeated or systematic*** breaches of applicable AML/CFT requirements, they may be a sign of gross negligence on part of the obliged entity. The supervisory authority should ▌ be able to adequately respond to any possible breaches and prevent the risks from materialising and leading to gross negligence of AML/CFT requirements. However, in certain cases a national level response might not be sufficient or timely, especially when there are indications that ***serious, repeated or systematic*** breaches at the level of the entity have already occurred. In those cases, the Authority should ▌ request the local supervisor to take specific measures to remedy the situation, including requesting to issue financial sanctions ***or other coercive measures***. To prevent money laundering and terrorism risks from materialising, the deadline for action at national level should be sufficiently short.

(28a) The Authority should be notified where the situation of any non-selected obliged entity with regard to its compliance with applicable requirements and its exposure to ML/TF risks deteriorates rapidly and significantly, especially where such deterioration could lead to significant harm to the reputation of several Member States or of the Union as a whole.

(29) The Authority should have the opportunity to request a transfer of supervisory tasks and powers relating to a specific obliged entity on its own initiative in case of inaction***, failure or inability*** to follow its instructions within the provided deadline. Since the transfer of tasks and powers over an obliged entity without the specific request of the financial supervisor to the Authority would require a discretionary decision on the part of the Authority, the Authority should address a specific request to that end to the Commission. In order for the Commission to be able to take a decision coherent with the framework of the tasks allocated to the Authority within the AML/CFT framework, the request of the Authority should enclose an appropriate justification, and should indicate a precise duration of the reallocation of tasks and powers towards the Authority.

The timeframe for the reallocation of powers should correspond to the time the Authority requires to deal with the risks at entity level, and should not exceed three years. The ***Authority should be able to request a prolongation of this timeframe in case the breaches identified have not been addressed. This prolongation should be limited to what is necessary to address those breaches and not exceed 3 years. The*** Commission should adopt a decision transferring powers and tasks for supervising the entity to the Authority swiftly, and in any case ***without undue delay. That decision should be communicated to the European Parliament and to the Council***.

(30) In order to improve supervisory practices in the non-financial sector, the Authority should carry out peer reviews of ***non-financial supervisors, which should also include peer reviews of*** public authorities overseeing self-regulatory bodies***. To that end, the Authority should develop the methodological framework for such reviews, including rules to avoid any conflict of interest in the conduct of peer reviews and in the drawing-up of findings, and regarding the consideration to be given to evaluations by international organisations or intergovernmental bodies with competence in the field of preventing money laundering and terrorist financing, when deciding on the planning of peer reviews and on their content.***

With a view to fostering convergence of supervisory practices, the Authority should publish reports with ***findings from those peer reviews, including shortcomings and good practices identified***; those ***reports*** could be accompanied by guidelines or recommendations addressed to the relevant public authorities, including public authorities overseeing ***self-regulatory bodies. Self-regulatory bodies*** should be able to participate in peer reviews ▌ where they have expressed ***an interest to do so***.

(31) With the objective to increase the efficiency of the implementation of AML/CFT measures also in the non-financial sector, the Authority should also be able to investigate possible breaches or incorrect application of Union law by ***supervisors*** in that sector ***as well as*** public authorities overseeing ***self-regulatory bodies. Where the Authority establishes that a breach exists, it should be able to issue a recommendation vis-a-vis the non-financial supervisor or supervisory authority concerned specifying the measures to be taken to rectify it. Where no appropriate action has been taken in response to that recommendation, the Authority should also be able to issue a warning to the relevant counterparties of the supervisory authority or non-financial supervisor. The powers of the Authority to issue such recommendations and warnings are without prejudice to the powers of the Commission to launch infringement procedures against Member States where it detects situation of non-implementation or bad implementation of Union law, in accordance with the powers conferred on it under the Treaties***.

(31a) The Authority should also be able to settle disagreements between non-financial supervisors concerning the measures to be taken towards an obliged entity in the non-financial sector. In order to ensure constructive cooperation, the Authority should attempt to resolve the dispute through a conciliation phase with a time limit. At the end of the conciliation phase, the Authority should issue an opinion on how to settle the matter of disagreement.

(31b) Considering the cross-border nature of money laundering and terrorist financing, effective and efficient cooperation, information exchange and coordinated action between FIUs are of crucial importance. In order to improve such coordination and cooperation, the Authority should be entrusted with tasks and powers enabling the Authority and the FIUs to jointly constitute an FIUs support and coordination mechanism. To that end, the Authority should have sufficient human, financial and IT resources, which should, where necessary, be organisationally separated from the staff carrying out the tasks relating to the Authority's supervisory activities. The success of the support and coordination mechanism depends on the Authority and the FIUs cooperating in good faith and exchanging all the relevant information required to fulfil their respective tasks. In case of a disagreement between FIUs in relation to cooperation and the exchange of information, the Authority should be informed accordingly and should be able to act as a mediator between the relevant FIUs.

(32) In order to analyse suspicious activity affecting multiple jurisdictions, the relevant FIUs that received linked reports should be able to efficiently conduct joint analyses of cases of common interest. To this end, the Authority should be able to propose, ***initiate,*** coordinate and support with all appropriate means the joint analyses of cross-border suspicious transactions or activities. The joint analyses should be triggered where there is a need to conduct ▌such joint analyses pursuant to the relevant provisions in Union law ***and in accordance with the methods and criteria for the selection and prioritisation of cases relevant for the conduct of joint analyses developed by the Authority. The FIUs should make every effort to accept the Authority's invitation to take part in a joint analysis. An FIU that declines to take part in a joint analysis exercise should explain the primary reasons for its refusal to the Authority. Where relevant, these reasons should be provided to the FIU that identified the need to carry out joint analysis***. Upon the explicit consent of the FIUs participating in the joint analyses, the staff of the Authority supporting the conduct of joint analyses should be able to receive and process all necessary data and information, including the data and information pertaining to the analysed cases.

(32a) The Authority should be able to request FIUs to initiate joint analysis exercises under specific circumstances where, for example, information has been brought to the attention of the Authority by whistleblowers or investigative journalists or where the joint analysis of complex and cross-border cases would add value. The concerned FIUs should respond to the Authority without delay if they are willing to take part in the joint analysis and should provide reasons if they decide not to participate.

(32b) Identifying links with information held by other agencies, bodies and offices, and by relevant third parties at an early stage is critical to ensure that the most relevant cross-border cases, including those requiring extensive operational analysis, are selected. In this respect, subject to the consent of all FIUs that have indicated their willingness to take part in a joint analysis, the staff of the Authority should be authorised to cross-match, on a hit/no-hit basis, the data of those FIUs with the information made available by other FIUs and Union bodies, offices and agencies, including Europol. The Authority should ensure that the most advanced available state-of-the-art technology, including 'privacy-enhancing technologies', is used for the purposes of cross-matching information on a hit/no-hit basis.

The ma3tch functionality of the FIU.net system is an example of a solution which enables establishing in real time, in a pseudonymous manner, if a subject is already known by the FIU of another country or by an EU body, office or agency, which avoids the unnecessary processing of personal data. In case of a hit, the Authority should share the information that generated a hit with the FIUs involved in the joint analysis. In case of a hit, the Authority should share the information that triggered the hit with Union bodies, offices and agencies subject to the prior consent by the FIU providing the information.

(32b) In order to ensure a fast and efficient set up process for the joint analyses, the Authority should be responsible for the establishment and composition of the joint analysis team and its coordination.

(32d) Effective operational cooperation in cross-border cases between the Authority and other relevant Union bodies is of crucial importance. In order to ensure that, where relevant, the results of joint analyses of cross-border cases are effectively followed up, the Authority should disseminate the results of joint analysis to the European Public Prosecutor's Office (EPPO) and to the European Anti-Fraud Office (OLAF) where the results of the joint analysis exercise indicate that a criminal offence, in respect of which the EPPO and OLAF could exercise their competences, may have been committed. Furthermore, subject to the agreement of all FIUs participating in joint analysis exercises, the Authority should also be able to disseminate the results of joint analyses to Europol and Eurojust where the results of the joint analysis exercises indicate that a criminal offence may have been committed in respect of which Europol and Eurojust could exercise their competences. The Authority should be able to exchange strategic information, such as typologies and risk indicators with the EPPO, OLAF, Europol and Eurojust.

(32e) Pursuant to Article 24 of Council Regulation (EU) 2017/1939[5], the Authority is to report without undue delay to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. Pursuant to Article 8 of Regulation 883/2013[6], the Authority is to transmit to OLAF without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with the applicable provisions in their founding legal instruments, the EPPO and OLAF should inform the Authority about the steps taken in relation to the information provided and any relevant outcomes.

(33) In order to improve the effectiveness of the joint analyses, the Authority should be able to ***establish methods and procedures for the*** conduct of the joint analyses***. Based on the feedback provided by the FIUs involved in the joint analyses, the Authority should be able to review their conduct, to identify the lessons learnt. Such reviews*** should enable the Authority to issue ***follow-up reports and conclusions to be shared with all FIUs, without disclosing confidential or restricted information, with the aim to further refine and improve*** the methods and procedures for the conduct of joint analyses***, ultimately leading to improving and promoting the analyses themselves***.

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5 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

6 Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1073/1999 (OJ L 248, 18.9.2013, p. 1).

(34) In order to facilitate and improve cooperation between FIUs and the Authority, including for the purposes ***of*** conducting joint analyses, the FIUs should ▌ delegate one staff member per FIU to the Authority ▌. The national FIU delegates should support the Authority's staff in carrying out all the tasks relating to FIUs, including the conduct of joint analyses and the preparation of threat assessments and strategic analyses of money laundering and terrorist financing threats, risks and methods. ***FIU delegates should be operationally independent and autonomous when carrying out their tasks and duties under this Regulation. They*** should ***not seek nor take instructions from Union institutions, bodies, offices or agencies, or from governments or other public or private bodies. Their tasks and duties should be without prejudice to the security and confidentiality rules of*** FIUs.

(34a) Apart from the joint analyses, the Authority should encourage and facilitate various forms of mutual assistance between FIUs, including training and staff exchanges in order to improve capacity building and enable the exchange of knowledge and good practices amongst FIUs. The Authority's role in supporting FIUs in their activities grants it a unique position to facilitate access by FIUs to databases and tools that are instrumental to improve the quality of financial intelligence.

The Authority should use its position to negotiate, on behalf of all FIUs, contracts with providers of those tools and databases, as well as relevant training for its staff and the staff of FIUs. The Authority should also have a mediation role in cases of disagreement between FIUs. To that end, FIUs should be able to refer disputes related to cooperation, including the exchange information between FIUs, to the Authority for mediation after failing to solve them by means of direct contact and dialogue.

(35) The Authority should manage, host, and maintain FIU.net, the dedicated IT system allowing FIUs to cooperate and exchange information amongst each other and, where appropriate, with their counterparts from third countries and third parties. The Authority should ***keep the system up-to-date, taking into account the needs expressed by the FIUs***. To this end, the Authority should ensure that at all times the most advanced available state-of-the-art technology is used for the development of the FIU.net, subject to a cost-benefit analysis. ***The Authority should rely on third-party service providers only for non-essential tasks. In particular, the Authority should not outsource the hosting and management of FIU.net. The Authority should not have access to the content of the information exchanged within FIU.net, except where it is an intended recipient of such information. In order to be able to send, receive and cross-match information, the Authority should be provided with an operational node in the FIU.net system.***

(36) In order to establish consistent, efficient and effective supervisory and FIU-related practices and ensure common, uniform and coherent application of Union law, the Authority should be able to issue guidelines and recommendations addressed to all or ***a*** category of obliged entities and all or a category of supervisory authorities and FIUs. The guidelines and recommendations could be issued pursuant to a specific empowerment in the applicable Union acts, or on the own initiative of the Authority, where there is a need to strengthen the AML/CFT framework at Union level.

(36a) To provide an optimal assistance to FIUs and thereby increase the effectiveness of the FIU support and coordination mechanism, the Authority and the FIUs should be able to strengthen the effectiveness of FIU activities, identifying and promoting best practices. Peer reviews would be the best instrument to allow an objective assessment of such activities and practices, and therefore the Authority should be tasked with organising such peer reviews, based on methods for their conduct developed centrally by the Authority. To be informative, peer reviews should be comprehensive and cover all relevant aspects of the tasks of the FIUs laid out in Chapter III of Directive [insert reference to 6AMLD].

Therefore, they should include, inter alia, the adequacy of the FIUs' resources, the measures implemented to ensure the FIUs' operational independence and autonomy, the measures put in place to protect the security and confidentiality of the information processed by the FIUs, the functions related to receipt of STRs, the functions related to operational and strategic analyses of the FIUs and their dissemination, domestic and cross-border cooperation arrangements and practices of the FIUs. The peer reviews could result in issuance by the Authority of guidelines and recommendations aimed at promoting any identified best practices and addressing any shortcomings.

(37) The establishment of a solid governance structure within the Authority is essential for ensuring effective exercise of the tasks granted to the Authority, and for an efficient and objective decision-making process. Due to the complexity and variety of the tasks conferred on the Authority in both the supervision and FIU areas, the decisions cannot be taken by a single governing body, as is often the case in decentralised agencies. Whereas certain types of decisions, such as decisions on adoption of common instruments, need to be taken by representatives of appropriate authorities or FIUs, and respect voting rules of the TFEU, certain other decisions, such as the decisions towards individual selected obliged entities, or individual authorities, require a smaller decision-making body, whose members should be subject to appropriate accountability arrangements. Therefore, the Authority should comprise a General Board, and an Executive Board composed of five full-time independent members and of the Chair of the Authority.

(38) In order to ensure the relevant expertise, the General Board should have two compositions. For all the decisions on the adoption of acts of general application such as the regulatory and implementing technical standards, guidelines, recommendations, and opinions relating to FIUs, it should be composed of the heads of FIUs of Member States ('General Board in FIU composition'). For the same types of acts related to direct or indirect supervision of financial and non-financial obliged entities, it should be composed of the heads of AML/CFT supervisors which are public authorities ('General Board in supervisory composition'). All parties represented in the General Board should make efforts to limit the turnover of their representatives, in order to ensure continuity of the Board's work. All parties should aim to achieve a ***gender*** balanced representation ▌ on the General Board.

(39) For a smooth decision making process, the tasks should be clearly divided: the General Board in FIU composition should decide on the relevant measures for FIUs, the General Board in supervisory composition should decide on delegated acts, guidelines and similar measures for obliged entities. The General Board in supervisory composition should also be able to provide***, following procedures to be defined in agreement with the Executive Board, its opinion*** to the Executive Board on all draft decisions towards individual selected obliged entities proposed by the Joint Supervisory Teams. In absence of such opinion▌, the decisions should be taken by the Executive Board. Whenever the Executive Board deviates from the ***opinion*** provided by the General Board in supervisory composition in the final decision, it should explain the reasons thereof in writing.

(40) For the purposes of voting and taking decisions, each Member State should have one voting representative. Therefore, the heads of public authorities should appoint a permanent representative as the voting member of the General Board in supervisory composition. Alternatively, depending on the subject-matter of the decision or agenda of a given General board meeting, public authorities of a Member State may decide on an ad-hoc representative. The practical arrangements related to decision-making and voting by the General Board members in supervisory composition should be laid down in the Rules of Procedure of the General Board, to be developed by the Authority.

(40a) In order to assist the General Board in FIU composition with a preparation of all the relevant decisions under its mandate, it should be supported by a standing committee with a more limited composition. The standing committee should support the work of the General Board in FIU composition and perform its duties solely in the interest of the Union as a whole. It should work in close cooperation with FIU delegates and AMLA staff in charge of tasks related to FIUs, and in full transparency vis-a-vis the General Board in FIU composition.

(41) The Chair of the Authority should chair the General Board meetings and have a right to vote when decisions are taken by simple majority. The Commission should be a non-voting member on the General Board. To establish good cooperation with other relevant institutions, the General Board should also be able to admit other non-voting observers, ***in particular the representatives*** of the Single Supervisory Mechanism and of each of the three European Supervisory Authorities (EBA, EIOPA and ESMA) for the General Board in its supervisory composition and Europol, the EPPO and Eurojust for the General Board in its FIU composition, where matters that fall under their respective mandates are discussed or decided upon. ***To ensure that relevant Union authorities and bodies are invited to the meetings where their presence would be required or beneficial, the Rules of Procedure of the General Board should clearly define the circumstances under which the Union institutions, bodies and agencies listed above as well as other observers should be admitted to the meetings. When drafting the relevant parts of the Rules of Procedure, the Authority should agree with the Union institutions, bodies and agencies listed above on the terms and conditions of their participation. Such an agreement is presumed where the terms and conditions for participation are already included in the bilateral working arrangements or MoUs mandated by the present Regulation. To*** allow a smooth ***decision-making*** process, decisions of the General Board should be taken by a simple majority, except for decisions concerning draft regulatory and implementing technical standards, guidelines and recommendations which should be taken by a qualified majority of Member State representatives in accordance with voting rules of the TFEU.

(42) The governing body of the Authority should be the Executive Board composed of the Chair of the Authority and of five full time members, ***including the Vice-Chair, and*** appointed by the ***European Parliament and the Council upon a proposal of the*** General Board based on the shortlist ***of qualified candidates drawn up*** by the Commission. With the aim of ensuring a speedy and efficient ***decision-making*** process, the Executive Board should be in charge of planning and execution of all the tasks of the Authority except where specific decisions are explicitly allocated to the General Board. In order to ensure objectivity and appropriate rapidity of the decision-making process in the area of direct supervision of the selected obliged entities, the Executive Board should take all binding decisions addressed to selected obliged entities. ***The representatives of the financial supervisors where the entity is established*** should be ***able to attend the deliberation*** of the ***Executive Board. In addition, together with a representative of the Commission,*** the Executive Board ***should be collectively responsible for the administrative and budgetary decisions*** of the Authority.

(43) To allow for swift decisions, all decisions of the Executive Board, including the ***decisions*** where the Commission has a right to vote, should be taken by simple majority, with the Chair holding a casting vote in case of a tied vote. To ensure sound financial management of the Authority, ***with respect to the decisions where the Commission has a right to vote and the Commission's opinion is deviated from,*** the Executive Board should be ***able to provide a thorough justification of such deviation***.

(44) To ensure the independent functioning of the Authority the five Members of the Executive Board and the Chair of the Authority should act independently and in the interest of the Union as a whole. They should behave, both during and after their term of office, with integrity and discretion as regards the acceptance of certain appointments or benefits. To avoid giving any impression that a Member of the Executive Board might use its position as a Member of the Executive Board of the Authority to get a high-ranking appointment in the private sector after his term of office and to prevent any post-public employment conflicts of interests, a cooling-off period for the five Members of the Executive Board, including the Chair of the Authority, should be introduced.

(45) The Chair of the Authority should be appointed based on objective criteria by the Council after approval by the European Parliament. ***Both the European Parliament as well as the General Board could conduct hearings of the candidates for the position of the Chair shortlisted by the Commission. In order to ensure an informed choice of the best candidate by the European Parliament and the Council and a high degree of transparency in the process of appointment, the General Board could issue a public opinion following its hearings, or transmit its opinion to the European Parliament, the Council, or the Commission. The Chair*** should represent the Authority externally and should report on the execution of Authority's tasks.

(46) The Executive Director of the Authority should be appointed by the Executive Board based on a shortlist from the Commission. ***To enable an optimal choice, the shortlist of candidates to be prepared by the Commission should comprise at least two candidates selected by the Commission based on the grounds of merit and documented high-level administrative, budgetary and management skills, which should be demonstrated by the shortlisted candidates during an open selection procedure.*** The Executive Director of the Authority should be a senior administrative official of the Authority, in charge of the day-to-day management of the Authority, and responsible for budget administration, procurement, and recruitment and staffing.

(46a) Equality between women and men and diversity are fundamental values of the Union, which it set out to promote across the whole range of Union actions. While progress has been made in these areas over time, more is needed to achieve balanced representation in decision-making, whether at Union or at national level. The Authority's main governing body, the Executive Board, would be collegial and composed of a Chair and five other independent members, while the day-to-day management would be entrusted to an Executive Director.

All those persons would be selected on the basis of an open selection procedure primarily guided by individual merit-based criteria. At the same time, collectively the appointments should result in the Authority collegially steered by a group with sufficiently diverse expertise, background and gender balanced representation. Considering that the Commission is tasked with preparation of the shortlists of the candidates for all the aforementioned positions, it should be guided by an imperative to consider the collective outcome of the appointments. Specifically, the shortlisted candidates should allow the appropriate appointing authorities to make the choices ultimately enabling sufficient diversity and gender balance among top management of the Authority.

(47) To protect effectively the rights of parties concerned, for reasons of procedural economy and to reduce the burden on the Court of Justice of the European Union, the Authority should provide natural and legal persons with the possibility to request a review of decisions taken under the powers related to direct supervision and conferred on the Authority by this Regulation and addressed to them, or which are of direct and individual concern to them. The independence and objectivity of the decisions taken by the Administrative Board of Review should be, among others, ensured by its composition of five independent and suitably qualified persons. Decisions of the Administrative Board of Review should be in turn appealable before the Court of Justice of the European Union.

(48) ***It is necessary to provide the Authority with the requisite human and financial resources so that it can fulfil the objectives, tasks and responsibilities assigned to it under this Regulation.*** To guarantee the proper functioning of the Authority, funding should be provided***, depending on the tasks and functions*** by a combination of fees levied on certain obliged entities and a contribution from the Union budget***. To ensure that the Authority can fulfil its*** tasks ***as direct and indirect supervisor of obliged entities, an adequate mechanism for the determination and the collection*** of the ***fees*** should be ***introduced. As regards the fees levied on selected obliged entities and certain non-selected obliged entities, the methodology for their calculation and the process of collection of fees should be developed in a delegated act of the Commission. The fees levied on certain obliged entities should be calculated according to the principle of proportionality and taking into account, in particular, whether the obliged entities have qualified for direct supervision or not, their risk profile and their turn-over. The methodology should be calibrated in a way to ensure that a lower risk profile results in a smaller fee contribution relative to the size of the entity. The contribution*** from the ***Union budget is to be decided by the Budgetary Authority through the budgetary procedure. To that end,*** the Authority should submit to the Commission a ***statement of estimates. It should also adopt*** financial ***rules after consulting the Commission***.

▌

(50) The rules on establishment and implementation of the budget of the Authority, as well as the presentation of annual accounts of the Authority, should follow the provisions of Commission Delegated Regulation (EU) 2019/715[7] as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations.

(51) In order to prevent and effectively combat internal fraud, corruption or any other illegal activity within the Authority, it should be subject to Regulation (EU, Euratom) No 883/2013 as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations. The Authority should accede to Interinstitutional Agreement concerning internal investigations by OLAF, which should be able, to carry out on-the-spot checks within the area of its competence.

(52) As stated in the Cybersecurity Strategy for the European Union[8], it is essential to ensure a high level of cyber resilience in all EU institutions, bodies and agencies due to the increasingly hostile threat environment.

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7 Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

8 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52013JC0001.

The Executive Director must thus ensure appropriate IT risk management, a strong internal IT governance and sufficient IT security funding. ***As a rule, at least 10% of*** the Authority***'s IT expenditure should be transparently allocated to direct IT security. The contribution to the*** Computer Emergency Response Team of the European ▌ Institutions, Bodies and ***Agencies (CERT-EU) could be counted in this minimum expenditure requirement. The Authority should work closely with the CERT-EU*** and report major incidents with 24 hours to CERT EU as well as to the Commission.

(53) The Authority should be accountable to both the European Parliament and the Council for the execution of its tasks and implementation of this Regulation. The Chair of the Authority should present a respective report to the European Parliament, the Council and the Commission on a yearly basis.

(54) The staff of the Authority should be composed of temporary agents, contractual agents and seconded national experts***, including the*** national delegates placed at the disposition of the Authority by Union FIUs ***but remaining under the authority of their national FIU***. The Authority, in agreement with the Commission, should adopt the relevant implementing measures in accordance with the arrangements provided for in Article 110 of the Staff Regulations[9].

[9] Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385).

(55) To ensure that confidential information is treated accordingly, all members of the governing bodies of the Authority, all staff of the Authority, including seconded staff and staff placed at the disposition of the Authority, as well as any persons carrying out tasks for the Authority on a contractual basis, should be subject to obligation of professional secrecy, including any confidentiality restrictions and obligations stemming from the relevant provisions of Union legislation, and related to the specific tasks of the Authority. However, confidentiality and professional secrecy obligations should not prevent the Authority from cooperating with, exchanging or disclosing information to other relevant national or Union authorities or bodies, where it is necessary for the performance of their respective tasks and where such cooperation and exchange of information obligations are envisaged in Union law.

(56) Without prejudice to the confidentiality obligations that apply to the Authority's staff and representatives in accordance with the relevant provisions in Union law, the Authority should be subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council ▌[10]. In line with the confidentiality and professional secrecy restrictions related to supervisory and FIU support and coordination tasks of the Authority, such access should not be extended to confidential information handled by the staff of the Authority. In particular, any operational data or information related to such operational data of the Authority and of the EU FIUs that is ***handled by staff*** of the Authority due to carrying out the tasks and activities related to support and coordination of FIUs should be deemed as confidential. With regard to supervisory tasks, access to information or data of the Authority, the financial supervisors, or the obliged entities obtained in the process of carrying out the tasks and activities related to direct supervision should in principle also be treated as confidential and not subject to any disclosure. However, confidential information listed that relates to a supervisory procedure can be fully or partially disclosed to the obliged entities which are parties to such supervisory procedure, subject to the legitimate interest of legal and natural persons other than the relevant party, in the protection of their business secrets.

[10] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

(57) Without prejudice to any specific language arrangements that could be adopted within AML supervisory system and with selected obliged entities, Council Regulation No 1[11] should apply to the Authority and any translation services which may be required for the functioning of the Authority should be provided by the Translation Centre for the Bodies of the European Union.

(58) Without prejudice to the obligations of the Member States and their authorities, the processing of personal data on the basis of this Regulation for the purposes of the prevention of money laundering and terrorist financing should be considered necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Authority under Article 5 of Regulation (EU) 2018/1725 of the European Parliament and of the Council[12] and Article 6 of Regulation 2016/679 of the European Parliament and of the Council[13].

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11 Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

12 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

13 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Regulation (EU) No 2018/1725 requires the Commission to consult the European Data Protection Supervisor when preparing delegated or implementing acts that have an impact on the protection of ***individuals' rights and freedoms with regard to the processing of*** personal data***. This may be the case for regulatory and implementing technical standards to be developed by*** the Authority***. In order to ensure a smooth process for the preparation and adoption of those acts, when the Authority considers that there is an added value in consulting*** the European Data Protection Supervisor ***already at the stage of their development, it should inform the Commission thereof and obtain its authorisation to proceed with the consultation***.

(58a) Reporting of irregularities by employees of obliged entities or groups can provide the Authority with critical information on the overall level of compliance by credit and financial institutions across the Union with AML/CFT requirements. Similarly, reporting by employees of supervisory authorities, self-regulatory bodies performing supervisory functions and FIUs can assist the Authority in its role of ensuring high-quality supervision and supporting the development of effective financial intelligence across the internal market.

However, those employees need to have sufficient assurance that their reports will be treated with a high level of confidentiality and that their personal data will not be disclosed under any circumstances. To that end, the Authority should have in place measures to maintain the confidentiality of reports. In establishing its internal rules for the handling of reports concerning possible breaches of AML/CFT rules, the Authority should ensure that reports by employees of selected obliged entities are prioritised and may set out procedures to deal with repetitive reports, high inflows of reports and situations where reports are submitted, which concern breaches that fall outside the Authority's mandate. In addition, persons reporting breaches relating to AML/CFT to the AMLA should qualify for the protection provided under Directive 2019/1937, provided the conditions established therein are fulfilled.

(59) The Authority should establish cooperative relations with the relevant Union agencies and bodies, including Europol, Eurojust, the EPPO, and the European Supervisory Authorities, namely the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority. To improve cross-sectoral supervision and a better cooperation between prudential and AML/CFT supervisors**,** the Authority should also establish cooperative relations with the authorities competent for prudential supervision of financial sector obliged entities, including the European Central Bank with regard to matters relating to the tasks conferred on it by Council Regulation (EU) No 1024/2013[14], as well as with resolution authorities as defined in Article 3 of Directive (EU) 2014/59/EU of the European Parliament and the Council[15]**,** designated Deposit Guarantee Schemes authorities as defined in Article 2 (1), point 18 of Directive 2014/49/EU of the European Parliament and the Council[16] ***and competent authorities as defined in Article 3, point (35) of the Regulation (EU) 2023/1114 of the European Parliament and of the Council***.

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14 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

15 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

16 Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

To this end, the Authority should be able to conclude agreements or memoranda of understanding with such bodies, including with regard to any information exchange which is necessary for the fulfilment of the respective tasks of the Authority and these bodies. The Authority should make its best efforts to share information with such bodies on their request, within the limits posed by legal constraints, including data protection legislation. In addition, the Authority should enable effective information exchange between all financial supervisors in the AML/CFT supervisory system and the aforementioned authorities, such cooperation and information exchanges should take place in a structured and efficient way.

(60) ***Partnership for information sharing*** have become increasingly important cooperation and information exchange fora between ***competent authorities and obliged entities in some Member States. Given the Authority's mandate in preventing and detecting money laundering, its predicate offences and terrorist financing, it should be possible for the Authority to set up Partnership for Information Sharing pursuing this goal. Information exchanged within the scope of those Partnerships for Information Sharing should be consistent with the scope of the Authority's mandate***. Where the Authority would act as direct supervisor of selected obliged entities ***or in support to FIUs*** which are part of a ***Partnership for Information Sharing*** in any Member State, it could be beneficial for the Authority to also participate therein, on conditions determined by the relevant national public authority or authorities that set up such ***Partnership for Information Sharing*** and with their explicit agreement.

(61) Considering that cooperation between supervisory, administrative and law enforcement authorities is crucial for successful combatting of money laundering and terrorism financing, and certain Union authorities and bodies have specific tasks or mandates in that area, the Authority should make sure that it is able to cooperate with such authorities and bodies, in particular OLAF, Europol, Eurojust, and the EPPO. If there is a need to establish specific working arrangements or conclude Memoranda of Understanding between the Authority and these bodies and authorities, the Authority should be able to do so. The arrangement should be of strategic and technical nature, should not imply sharing of any confidential or operational information in possession of the Authority and should account for tasks already carried out by the other Union institutions, bodies, offices or agencies as regards the prevention of and fight against money laundering and terrorist financing.

(62) Since both predicate ***offences*** as well as the crime of money laundering itself often are of global nature, and given that the Union obliged entities also operate with and in third countries, effective cooperation with all the relevant third country authorities in the areas of both supervision and functioning of FIUs are crucial for strengthening the Union AML/CFT framework. Given the Authority's unique combination of direct and indirect supervision and FIU cooperation-related tasks and powers, it should be able to take an active role in such external cooperation arrangements.

Specifically, the Authority should be empowered to develop contacts and enter into administrative arrangements with authorities in third countries that have regulatory, supervisory and FIU-related competences. The Authority's role could be particularly beneficial in cases where the interaction of several Union public authorities and FIUs with third country authorities concerns matters within the scope of the Authority's tasks. In such cases, the Authority should have a leading role in facilitating this interaction.

(62a) Given its tasks and powers in the field of AML/CFT, the Authority is well placed to support the action of the Commission in international fora, including the Financial Action Task Force, with a view to promoting a united, common, consistent and effective representation of the Union's interests there. Therefore, the Authority should assist the Commission in its activities as member of the FATF, and contribute to the representation of the Union and the defence of its interests in international fora. In view of the importance of the mutual evaluations carried out by the Financial Action Task Force and Moneyval, and where they concern Member States, the staff of the Authority should make themselves available and cooperate with the assessment teams responsible for carrying out evaluations, where needed.

(63) Since the Authority will have a full range of powers and tasks related to direct and indirect supervision and oversight of all obliged entities, it is necessary that these powers remain consolidated within one Union body, and do not give rise to conflicting competences with other Union bodies. Therefore, the European Banking Authority should not retain its tasks and powers related to anti-money laundering and countering the financing of terrorism ***after the present Regulation becomes fully applicable***, and the respective articles in Regulation (EU) No 1093/2010 of the European Parliament and of the Council[17] should be deleted. The resources allocated to the European Banking Authority for the fulfilment of those tasks should be transferred to the Authority. Considering that all three European Supervisory Authorities (EBA, ESMA and EIOPA) will be cooperating with the Authority, and may attend the meetings of the General Board in supervisory composition as observers, the same possibility should be afforded to the Authority in respect of meetings of the Board of Supervisors of the European Supervisory Authorities. In cases where the respective Boards of Supervisors discuss or decide on matters that are relevant for the execution of the Authority's tasks and powers, the Authority should be able to participate in their meetings as an observer.

[17] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

The articles on the compositions of the Board of Supervisors in Regulation (EU) No 1093/2010, Regulation (EU) 1094/2010 of the European Parliament and the Council[18], and Regulation (EU) 1095/2010 of the European Parliament and the Council[19] should therefore be amended accordingly.

(64) The Authority should ***assume most of its tasks and powers in accordance with the present Regulation by mid-2025. Direct supervision of selected obliged entities should commence as of 2028***. This should give the Authority sufficient time to establish its headquarter in the Member State as determined by this Regulation.

(64a) The European Central Bank delivered an opinion on 16 February 2022.

(65) The European Data Protection Supervisor has been consulted in accordance with Article 42 of Regulation (EU) 2018/1725 [and delivered an opinion on ...],

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18 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

19 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

HAVE ADOPTED THIS REGULATION:

CHAPTER I
ESTABLISHMENT, LEGAL STATUS AND DEFINITIONS

Article 1
Establishment and scope of action

1. The Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('the Authority') is ***hereby established***.

2. The Authority shall act within the powers conferred by this Regulation, in particular those set out in Article 6, and within the scope of Regulation (EU) 2015/847 of the European Parliament and of the Council[20], the Directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU)2015/849 [OP: please insert the next number of COM(2021)0423] and the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [OP: please insert the next number of COM(2021)0422], including all directives, regulations and decisions based on those acts, of any further legally binding Union act which confers tasks on the Authority and of national legislation implementing the Anti-Money Laundering Directive [OP: please insert the next number of COM(2021)0423] or other Directives conferring tasks on supervisory authorities.

[20] Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

3. The objective of the Authority shall be to protect the public interest, the stability ***and the integrity*** of the Union's financial system and the good functioning of the internal market by:

(a) preventing the use of the Union's financial system for the purposes of money laundering and terrorist financing;

(b) contributing to identify and assess risks ***and threats*** of money laundering and terrorist financing across the internal market, as well as risks and threats originating from outside the Union that are impacting, or have the potential to impact the internal market;

(c) ensuring high-quality supervision in the area of anti-money laundering and countering the financing of terrorism ('AML/CFT') across the internal market;

(d) contributing to supervisory convergence in the area of anti-money laundering and countering the financing of terrorism across the internal market;

(e) contributing to the harmonisation of practices in the detection of ▌ suspicious flows of monies or activities by Financial Intelligence Units ('FIUs');

(f) supporting and coordinating the exchange of information between FIUs and between FIUs and others competent authorities.

The provisions of this Regulation are without prejudice to the powers of the Commission, in particular pursuant to Article 258 TFEU, to ensure compliance with Union law.

Article 2
Definitions

1. For the purposes of this Regulation, in addition to the definitions set out in Article 2 of [OP: please insert the reference to Anti-Money Laundering Regulation COM(2021)0420] and Article 2 [OP: please insert the reference to 6th Anti-Money Laundering Directive COM(2021)0423], the following definitions apply:

(1) 'selected obliged entity' means a credit institution, a financial institution, or a group of credit ***and/or*** financial institutions at the highest level of consolidation in the Union***, in accordance with applicable accounting standards***, which is under direct supervision by the Authority pursuant to Article 13;

(2) ‘non-selected obliged entity’ means a credit institution, a financial institution, or a group of credit institutions ***and/or*** financial institutions at the highest level of consolidation in the Union***, in accordance with applicable accounting standards***, other than a selected obliged entity;

(3) ‘AML/CFT supervisory system’ means the Authority and the supervisory authorities in the Member States;

▌

(5) ‘non-AML/CFT authority’ means:

(a) a competent authority as defined in Article 4(1), point (40) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[21];

(b) the European Central Bank when it carries out the tasks conferred on it by Council Regulation (EU) No 1024/2013;

[21] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1)

(c) a resolution authority designated in accordance with Article 3 of Directive 2014/59/EU of the European Parliament and of the Council;

(d) a deposit guarantee schemes ('DGS') designated authority as defined in Article 2(1), point (18) of Directive 2014/49/EU of the European Parliament and of the Council;

(da) a competent authority as defined in Article 3, point (35) of the Regulation (EU) 2023/1114 of the European Parliament and of the Council.

Article 3
Legal Status

1. The Authority shall be a Union body with legal personality.

2. In each Member State, the Authority shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

3. The Authority shall be represented by its Chair.

Article 4
Seat

The Authority shall have its seat in […]

CHAPTER II
TASKS AND POWERS OF THE AUTHORITY

SECTION 1
TASKS AND POWERS

Article 5
Tasks

1. The Authority shall perform the following tasks with respect to money ***laundering/terrorist*** financing ('ML/TF') risks facing the internal market:

   (a) monitor developments across the internal market and assess threats, vulnerabilities and risks in relation to ML/TF;

   (b) monitor developments in third countries and assess threats, vulnerabilities and risks in relation to their AML/CFT systems ***that have an actual or potential impact in the internal market***;

(c) collect ***and analyse*** information from its own supervisory activities and those of the supervisors and supervisory authorities on weaknesses identified in the application of AML/CFT rules by obliged entities, their risk exposure, the sanctions administered and the remedial actions applied;

(d) establish a central AML/CFT database of information collected from ▌ supervisory authorities and keep ***it*** up to date;

(e) analyse the information collected in the central database and share these analyses with supervisors***, supervisory authorities and non-AML/CFT*** authorities on a need-to-know and confidential basis;

(f) ***support the analysis of risks of money laundering and terrorist financing as well as risks of non-implementation and evasion of targeted financial sanctions affecting*** the internal market ***referred to in Article 7 of [reference to AMLD6];***

(g) support, facilitate and strengthen cooperation and exchange of information between obliged entities and ***supervisors, supervisory authorities and non-AML/CFT*** authorities in order to develop a common understanding of ML/TF risks and threats facing the internal market***, including by participating in partnerships for information sharing in the field of AML/CFT***;

(ga) issue publications and provide training, as well as other services on demand, in order to raise awareness of, and address ML/TF risks;

(gc) report to the Commission any instances where, in the performance of its duties, the Authority discovers incorrect or incomplete transposition of [OP: please insert reference to: AMLD] by a Member State;

(h) undertake any other specific tasks set out in this Regulation and in other legislative acts ***referred to in Article 1(2)***.

2. The Authority shall perform the following tasks with respect to selected obliged entities:

(a) ensure ▌compliance ▌***of*** the selected obliged entities ***with the requirements applicable to them pursuant to [AMLR] and [FTR], including obligations related to the implementation of targeted financial sanctions;***

(b) carry out supervisory reviews and assessments on individual entity and group-wide level in order to determine whether the ***internal policies, procedures and controls*** put in place by the selected obliged entities are adequate to ***comply with the requirements applicable to them***, and on the basis of those supervisory reviews impose specific requirements, ***administrative*** measures and ▌ pecuniary sanctions pursuant to Articles 20, 21 and 22;

(c) participate in group-wide supervision, in particular in colleges of supervisors, including where a selected obliged entity is part of a group that has headquarters, subsidiaries or branches outside the Union;

(d) develop and maintain up to date a system to assess the risks and vulnerabilities of the selected obliged entities to inform the supervisory activities of the Authority and supervisory authorities, including through the collection of data from these entities ***by means of structured questionnaires and other online or offline tools***.

3. The Authority shall perform the following tasks with respect to financial supervisors:

(a) maintain an up-to-date list of financial supervisors within the Union;

(b) carry out periodic ***assessments*** to ensure that all financial supervisors have adequate resources***, powers and strategies*** necessary for the performance of their tasks in the area of AML/CFT***, and make the results of such assessments available;***

(ba) take appropriate measures in exceptional circumstances requiring Authority's intervention and related to non-selected obliged entities' compliance or risk exposure, in response to a request by financial supervisors to assume direct supervision or on Authority's own initiative;

▌

(d) facilitate the functioning of the colleges of financial supervisors in the area of AML/CFT;

(e) contribute***, in collaboration with financial supervisors,*** **to** ***the*** convergence of supervisory practices and promotion of high supervisory standards in the area of AML/CFT***, including in relation to verification of compliance with AML/CFT requirements related to targeted financial sanctions;***

(f) coordinate staff and information exchanges among financial supervisors in the Union;

(g) provide assistance to financial supervisors, following their specific requests, including the requests to ***mediate between financial supervisors;***

(ga) settle, with binding effect, disagreements between financial supervisors concerning the measures to be taken in relation to an obliged entity, including in the context of AML/CFT supervisory colleges, following a request as referred to in point (g).

4. The Authority shall perform the following tasks with respect to non-financial supervisors:

(a) maintain an up-to-date list of non-financial supervisors within the Union;

(b) coordinate peer reviews of supervisory standards and practices in the area of AML/CFT;

(c) ***investigate potential breaches or non-application of Union law by*** non-financial supervisors ***and public authorities overseeing self-regulatory bodies, issue recommendations setting the action necessary to remedy the identified*** breaches***, and, in case of non-compliance with the recommendations, issue warnings identifying measures to be implemented to mitigate the effects of the breach***;

(d) carry out periodic reviews to ensure that all non-financial supervisors have adequate resources and powers necessary for the performance of their tasks in the area of AML/CFT;

(e) contribute to convergence of supervisory practices and promotion of high supervisory standards in the area of AML/CFT;

(ea) facilitate the functioning of colleges of non-financial supervisors in the area of AML/CFT;

(f) provide assistance to non-financial supervisors, following their specific requests, including the requests to ***mediate between non-financial supervisors in case of*** any disagreements on the measures to be taken in relation to an obliged entity***, including in the context of AML/CFT supervisory colleges***.

Where supervision of specific sectors is delegated at national level to self-regulatory bodies ('SRBs'), the Authority shall exercise the tasks set out in the first subparagraph in relation to supervisory authorities overseeing the activity of SRBs.

5. The Authority shall perform the following tasks with respect to FIUs and their activities in the Member States:

(-a) maintain an up-to-date list of FIUs within the Union;

(-aa) monitor changes in the legal framework of FIUs, as well as in their organisation, focusing on resources for the performance of their tasks;

(a) support ▌ the work of FIUs and contribute to improved cooperation ***and coordination*** between FIUs;

(b) contribute to the identification and the selection of relevant cases for the conduct of joint analyses by FIUs;

(c) develop appropriate methods and procedures for the conduct of such joint analyses of cross-border cases;

(d) set up, coordinate, organise and facilitate the conduct of joint analyses carried out by FIUs;

(da) provide assistance to FIUs, upon their specific requests, including any requests for mediation in case of disagreement between FIUs;

(db) conduct peer reviews of the activities of FIUs aimed at strengthening their consistency, effectiveness and identification of best practices;

(e) develop and make available to FIUs ***tools and services to enhance the analyses capabilities of FIUs, as well as*** IT and artificial intelligence services and tools for secure information sharing, including by hosting FIU.net;

(f) develop, share and promote expert knowledge on detection, analysis, and dissemination methods of suspicious transactions;

(g) ***at the request of FIUs,*** provide ***them with*** specialised training and assistance ▌, including through the provision of financial support, within the scope of its objectives and in accordance with the staffing and budgetary resources at its disposal;

(h) support***, at the request*** of FIUs***, their interaction*** with obliged entities by providing ***expert knowledge*** to obliged entities, including improving their awareness and procedures to detect suspicious activities and financial operations and their reporting to the FIUs;

(i) prepare and coordinate threat assessments, strategic analyses of money laundering and terrorism financing threats, risks and methods identified by FIUs.

6. For the purpose of carrying out the tasks conferred on it by this Regulation, the Authority shall apply all relevant Union law, and where this Union law is composed of Directives, the national legislation transposing those Directives. Where the relevant Union law is composed of Regulations and where currently those Regulations explicitly grant options for Member States, the Authority shall apply also the national legislation exercising those options.

Article 6
Powers of the Authority

1. With respect to the selected obliged entities, the Authority shall have the supervisory and investigative powers as specified in Articles 16 to 20 and the power to impose ▌ pecuniary sanctions and periodic penalty payments as specified in Articles 21 and 22.

The Authority shall also have the powers and obligations which financial supervisors have under the relevant Union law, unless otherwise provided for by this Regulation. To the extent necessary to carry out the tasks conferred on it by this Regulation, the Authority may require, by way of instructions, those financial supervisors to make use of their powers, under and in accordance with the conditions set out in national law, where this Regulation does not confer such powers on the Authority.

For the purposes of exercising those powers, the Authority may issue binding decisions addressed to individual selected entities. The Authority shall have the power to impose administrative ***measures as well as*** pecuniary sanctions for non-compliance with the decisions taken in the exercise of powers laid down in Article 20 in accordance with Article 21.

2. With respect to supervisors and supervisory authorities, the Authority shall have the following powers:

(a) to require the submission of ▌ information or document, including written or oral explanations, necessary for the performance of its functions, including statistical information and information concerning internal processes or arrangements of national ***supervisors and supervisory*** authorities***, including by means of accessing and extracting this information from the common structured questionnaires and other online and offline tools developed by the Authority***;

(b) to issue guidelines and recommendations;

(c) to issue requests to act and instructions on measures that should be taken towards non-selected obliged entities pursuant to Section 4 of Chapter II***;***

(ca) to carry out mediation upon the request of a financial supervisor or of a non-financial supervisor

(cb) to settle disagreements between financial supervisors with binding effect upon a request, including in the context of the AML/CFT supervisory colleges.

3. With respect to FIUs in the Member States, the Authority shall have the following powers:

(a) to request ***non-operational*** data and analyses from FIUs***, where they are necessary for*** the assessment of threats, vulnerabilities and risks facing the internal market in relation to money laundering and terrorist financing;

(b) to collect information and statistics in relation to the tasks and activities of the FIUs;

(c) to obtain and process information and data required for ***initiating, conducting and coordinating*** joint analyses as specified in Article 33;

(d) to issue guidelines and recommendations.

4. For the purposes of carrying out the tasks set out in Article 5(1), the Authority shall have the following powers:

(a) to develop draft regulatory technical standards in the specific cases referred to in Article 38;

(b) to develop draft implementing technical standards in the specific cases referred to in Article 42;

(c) to issue guidelines and recommendations, as provided in Article 43;

(d) to issue opinions to the European Parliament, to the Council, or to the Commission as provided for in Article 44.

SECTION 2
AML/CFT SUPERVISORY SYSTEM

Article 7
Cooperation within the AML/CFT supervisory system

1. The Authority shall be responsible for the effective and consistent functioning of the AML/CFT supervisory system.

2. The Authority and supervisory authorities shall be subject to a duty of cooperation in good faith, and to an obligation to exchange information ***for the purposes of prevention of money laundering and the financing of terrorism in accordance with this Regulation and [insert reference to AMLR, AMLD6, FTR]***.

At the request of the Authority, supervisory authorities shall provide the Authority with all information concerning obliged entities that remain directly supervised at national level which is necessary for the fulfilment of Authority's tasks pursuant to Article 5, paragraphs 1, 3 and 4, where the supervisory authorities have legal access to such information.

Supervisory authorities shall assist the Authority in taking into account the specificities of their respective national legal frameworks, including where the Authority is applying national law provisions transposing Union law as referred to in Article 1(2).

Article 8
AML/CFT supervisory methodology

1. ***In cooperation with supervisory authorities,*** the Authority shall develop and maintain an up-to-date and harmonised ***AML/CFT*** supervisory methodology detailing the risk-based approach to supervision of obliged entities in the Union. The methodology shall comprise guidelines, recommendations***, opinions*** and other measures and instruments as appropriate, including in particular draft regulatory and implementing technical standards, on the basis of the empowerments laid down in the acts referred to in Article 1(2).

2. When developing the supervisory methodology the Authority shall make a distinction between obliged entities***, including*** on the ***basis of their activities and the type and the nature of money laundering and terrorist financing risks to*** which they ***are exposed***. The supervisory methodology shall ***be risk-based and*** contain at least the following elements:

   (a) benchmarks and methodology for classification of obliged entities into risk categories on the basis of their residual risk profile, separately for each category of obliged entities;

   (b) approaches to supervisory review of money laundering ***and terrorist financing*** risk self-assessments of obliged entities;

(c) approaches to supervisory review of obliged entities' internal policies and procedures of obliged entities, including customer due diligence policies ***and procedures, in line with a risk-based approach to the prevention of money laundering and terrorist financing***;

(d) approaches to supervisory evaluation of risk factors inherent in, or related to, customers, business relationships, transactions and delivery channels of obliged entities, as well as geographical risk factors.

2a. The Authority shall develop structured questionnaires and other online or offline tools that shall be used by the Authority and supervisors for the purposes of requesting, collecting, compiling and analysing the data and information from the obliged entities, including the data to be relied upon in application of the elements of common supervisory methodology listed in paragraph 2.

The tools developed by the Authority shall ensure collection of objective and comparable AML/CFT-related data and information from obliged entities and enable efficient and speedy exchange of information between supervisors and the Authority.

The Authority shall endeavour to develop these tools as soon as the common supervisory methodology referred to in the first paragraph is in place and applicable across the entire AML/CFT supervisory system.

3. The methodology shall reflect high supervisory standards at Union level and shall build on relevant international standards and guidance. The Authority shall periodically review and update its supervisory methodology, taking into account the evolution of risks affecting the internal market***, including risks and trends identified by national law enforcement authorities and FIUs. The methodology shall, to the extent possible, take into account best practices and guidance developed by international standard setters***.

Article 9
Thematic reviews

1. ***No later than the 1st December*** each year, supervisory authorities shall ***provide information*** to the Authority ***on supervisory reviews they intend to carry out on a thematic basis. The information shall be provided for the*** reviews ***that are planned for the following year or supervisory term*** with the aim of assessing ML/TF risks or a specific aspect of such risks which multiple obliged entities are exposed to at the same time***. The following information*** shall ***be provided***:

   (a) the scope of each planned thematic review in terms of category and number of obliged entities included and the subject matter(s) of the review;

   (b) the ***timeframe*** of each planned thematic review;

   (c) the planned types, nature and frequency of supervisory activities to be performed in relation to each thematic review, including any on-site inspections or other types of direct interaction with obliged entities, where applicable.

2. By the end of each year, the Chair of the Authority shall present to the General Board in supervisory composition as referred to in Article 46(2) a consolidated planning of the thematic reviews that supervisory authorities intend to undertake during the following year.

3. Where the scope and Union-wide relevance of thematic reviews justify coordination at Union level, they shall be carried out jointly by the relevant supervisory authorities and shall be coordinated by the Authority. The ***Executive Board may propose joint thematic reviews based on the available analyses of risks, trends and vulnerabilities in the internal market. The*** General Board in supervisory composition shall draw up a list of joint thematic reviews. The General Board in supervisory composition shall draw up a report relating to the conduct, subject-matter and outcome of each joint thematic review. The Authority shall publish that report on its website.

4. The Authority shall coordinate the activities of the supervisory authorities and facilitate the planning and execution of the selected joint thematic reviews referred to in paragraph 3. Any direct interaction with ***obliged entities other than the selected*** obliged entities in the context of any thematic review shall remain under the exclusive responsibility of the supervisory authority responsible for supervision of ***these*** obliged entities and shall not be construed as a transfer of tasks and powers related to those entities within the AML/CFT supervisory system.

5. Where planned thematic reviews at national level are not subject to a coordinated approach at the level of the Union, the Authority shall, jointly with the supervisory authorities, explore the need for and the possibility of aligning or synchronising the timeframe of those thematic reviews, and shall facilitate information exchange and mutual assistance between supervisory authorities carrying out those thematic reviews. The Authority shall also facilitate any activities that the relevant supervisory authorities may wish to carry out jointly or in similar manner in the context of their respective thematic reviews.

6. The Authority shall ensure the sharing with all supervisory authorities of the outcomes and conclusions of thematic reviews conducted at national level by several supervisory authorities, with the exception of confidential information pertaining to individual obliged entities. The sharing of information shall include any common conclusions resulting from exchanges of information or any joint or coordinated activities among several supervisory authorities.

Article 10
Mutual assistance in AML/CFT supervisory system

1. The Authority may, as appropriate, develop:

(a) new practical instruments and convergence tools to promote common supervisory approaches and best practices;

(b) practical tools and methods for mutual assistance following:

(i) specific requests from supervisory authorities;

(ii) referral of disagreements between supervisory authorities on the measures to be taken jointly by several supervisory authorities in relation to an obliged entity.

2. The Authority shall facilitate and encourage at least the following activities:

(a) sectoral and cross-sectoral training programmes, including with respect to technological innovation;

(b) exchanges of staff and the use of secondment schemes, twinning and short-term visits;

(c) exchanges of supervisory ***best*** practices between supervisory authorities, when one authority has developed expertise in a specific area of AML/CFT supervisory practices.

3. Each supervisory authority may submit a request for mutual assistance related to its supervisory tasks to the Authority, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more supervisory authorities, or a combination thereof. If the request concerns activities that relate to the supervision of specific obliged entities, the requesting supervisory authority shall ***transmit to the Authority*** information and data necessary for the provision of assistance ▌. The Authority shall keep and regularly update the information on specific areas of expertise and on the capacities of supervisory authorities to provide mutual assistance.

4. Where the Authority is requested to provide assistance for the performance of specific supervisory tasks at national level towards ***obliged entities other than selected*** obliged entities, the requesting supervisory authority shall detail the tasks for which support is sought in its request. The assistance shall not be construed as the transfer of supervisory tasks, powers, or accountability for supervision of the ***obliged entities other than selected*** obliged entities from the requesting supervisory authority to the Authority.

5. ***After having assessed whether the request is appropriate and feasible,*** the Authority shall make every effort to provide the requested assistance, including by mobilising own human resources as well as by ensuring mobilisation of resources at supervisory authorities on a voluntary basis.

6. By the end of each year, the Chair of the Authority shall inform the General Board in supervisory composition of the ***human*** resources that the Authority will allocate to providing such assistance. ***When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(2) to 5(4), the Chair of the Authority shall inform the General Board in supervisory composition thereof.***

7. Any interaction between the staff of the Authority and the obliged entity shall remain under the exclusive responsibility of the supervisory authority responsible for the supervision of that entity, and shall not be construed as a transfer of tasks and powers related to individual obliged entities within the AML/CFT supervisory system.

Article 11
Central AML/CFT database

1. The Authority shall establish and keep up to date a central database of information collected pursuant to ***this Article. The database shall include the information stemming from the activities of Authority in the area of direct supervision which corresponds to the categories of information collected from supervisory authorities listed in this Article.***

The Authority shall ***make the collected*** information ***available to*** **supervisory authorities*****, non-AML/CFT authorities, national authorities and bodies competent for ensuring compliance with Directive 2014/17/EU [Mortgage Credit Directive, reference to be replaced when the recast is published in OJ], Directive 2008/48/EC [Consumer Credit Directive], Directive (EU) 2015/2366 [PSD], Directive 2009/110/EC [e-money Directive], Directive 2009/138/EC [Solvency II], Directive 2014/65/EU [Mifid II], Directive 2014/56/EU [Audit Directive], Regulation (EU) No 537/2014 [Audit Regulation], and to the European Supervisory Authorities,*** on a need-to-know and confidential basis***, and where it is necessary for the fulfilment of their tasks***.

The Authority shall also analyse the collected information and may share the results of its analysis ▌ on its own initiative with supervisory authorities ***where necessary to facilitate*** their supervisory activities***, and where relevant, with obliged entities***.

2. The supervisory authorities shall transmit to the Authority at least the following information, including the data related to individual obliged entities:

(a) a list of all supervisory authorities and self-regulatory bodies entrusted with supervision of obliged entities, including information about their mandate, tasks and powers ***and where applicable the identification of the leading supervisor or coordination mechanism***;

(b) statistical information about the ***categories*** and number of supervised obliged entities ***per category*** in each Member State and basic information about the risk profile;

(c) ***administrative*** measures ***taken and pecuniary*** sanctions ***imposed*** in the course of supervision of individual obliged entities ***in response to breaches of AML/CFT requirements, accompanied by:***

(i) reasoning relating to the grounds for imposition of the administrative measure or pecuniary sanction, such as the nature of the breach;

(ii) related information on supervisory activities and outcomes leading to imposition of the administrative measure or pecuniary sanction;

(d) any advice ***or opinion related to ML/TF risks*** provided to other ▌ authorities in relation to authorisation procedures, withdrawal of authorisation procedures, and fit and proper assessments of shareholders or members of the management body of individual obliged entities;

(e) **outcomes of** ***assessment of the inherent and residual risk profile by supervisory authorities of all credit and financial institutions that meet the criteria of Article 12(1), as well as the outcomes of the risk assessment process carried out by AMLA pursuant to Article 12***;

(f) ***outcomes and reports of thematic reviews and other horizontal supervisory actions with regard to high-risk areas or activities***;

(g) ▌ information regarding performed supervisory activities over the past calendar year, ***collected pursuant to article 31(6a) of Directive [please insert AMLD]***;

(h) statistical information about staffing and other resources of ***supervisors and supervisory*** authorities.

The information provided pursuant to this paragraph shall not include reference to specific suspicious transaction reported pursuant to article 50 AMLR.

3. The Authority may request supervisory authorities to provide other information in addition to that referred to in paragraph 2. The supervisory authorities shall update any provided information ***as soon as the update is necessary or on request of the Authority***.

4. The Authority shall incorporate in the database any data or information relevant for the purposes of AML/CFT supervisory activities which is provided by the non-AML/CFT authorities, other national authorities and bodies competent for ensuring compliance with the requirements of Directive 2014/17/EU [Mortgage Credit Directive, reference to be replaced when the recast is published in OJ], Directive 2008/48/EC [Consumer Credit Directive], Directive (EU) 2015/2366 [PSD], Directive 2009/110/EC [e-money Directive], Directive 2009/138/EC [Solvency II], Directive 2014/65/EU [Mifid II], Directive 2014/56/EU [Audit Directive], Regulation (EU) No 537/2014 [Audit Regulation], as well as the European Supervisory Authorities.

The information referred to in the first subparagraph shall include instances where the aforementioned authorities have reasonable grounds to suspect that money laundering is being attempted or committed or existence of an increased risk thereof in connection with an obliged entity, and where such reasonable grounds arise in the context of the exercise of their respective tasks. With respect to the authorities or bodies that supervise credit institutions in accordance with Directive (EU) 2013/36, including the ECB acting in accordance with Council Regulation (EU) 1024/2013], the database shall include relevant information obtained by such authorities in the context of on-going supervision including business model assessments, assessments of governance arrangements, authorisation procedures, assessment of acquisitions of qualifying holdings, fit and proper assessments and procedures related to the withdrawal of licenses.

5. Any supervisory authority ▌***,*** any non-AML authority***, national authorities and bodies competent for ensuring compliance with the requirements of Directive 2014/17/EU [Mortgage Credit Directive, reference to be replaced when the recast is published in OJ], Directive 2008/48/EC [Consumer Credit Directive], Directive (EU) 2015/2366 [PSD], Directive 2009/110/EC [e-money Directive], Directive 2009/138/EC [Solvency II], Directive 2014/65/EU [Mifid II], Directive 2014/56/EU [Audit Directive], Regulation (EU) No 537/2014 [Audit Regulation], or the European Supervisory Authorities*** may address to the Authority a reasoned request for information collected pursuant to ***this Article*** that is ***necessary*** for its supervisory activities. The Authority shall assess those requests and provide the information requested ▌ on a need-to-know basis and confidential basis and in a timely manner**.**. The Authority shall inform the authority that has initially provided the requested information, of the identity of the requesting supervisory or other authority, the identity of an obliged entity concerned, the reason for the information request as well as whether the information has been provided to the requesting authority. ***Where the Authority decides not to provide the requested information, it shall provide a reasoned justification for that decision.***

The information referred to in the first subparagraph shall include instances where the aforementioned authorities have reasonable grounds to suspect that money laundering is being attempted or committed or existence of an increased risk thereof in connection with an obliged entity, and where such reasonable grounds arise in the context of the exercise of their respective tasks. With respect to the authorities or bodies that supervise credit institutions in accordance with Directive (EU) 2013/36, including the ECB acting in accordance with Council Regulation (EU) 1024/2013], the database shall include relevant information obtained by such authorities in the context of on-going supervision including business model assessments, assessments of governance arrangements, authorisation procedures, assessment of acquisitions of qualifying holdings, fit and proper assessments and procedures related to the withdrawal of licenses.

6. The Authority shall develop a draft regulatory technical standard specifying:

(i) the transmission procedure, formats and timelines for collection of information;

(ii) the scope and level of detail of information to be transmitted taking into account any relevant distinction between obliged entities, such as their risk profile;

(iii) the scope and level of detail of information to be transmitted in relation to obliged entities in the non-financial sector;

(iv) the type of information whose dissemination by the Authority, pursuant to a reasoned request or at its own initiative, requires a prior approval of the supervisory authority that originated it;

(v) the level of materiality of breaches with respect to which the information mentioned in indent (c) of paragraph 2 shall be submitted;

(vi) the conditions under which the Authority can direct additional requests pursuant to paragraph 3;

(vii) the types of additional information to be transmitted to the Authority pursuant to paragraph 2.

The Authority shall submit the draft regulatory technical standards to the Commission by … [18 months after the date of entry into force of this Regulation].

The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 38 of this Regulation.

7. ***Personal data collected in accordance with this Article may be kept in an identifiable form for a period of up to 10 years after the date of collection of the data by the Authority, at the end of which the personal data shall be deleted. Based on a regular assessment of their necessity, personal data may be deleted before the expiry of that period on a case-by-case basis.***

I

SECTION 3

DIRECT SUPERVISION OF SELECTED OBLIGED ENTITIES

Article 12

Assessment of **credit and financial institutions** for the purposes of selection for direct supervision

-1. For the purposes of carrying out the tasks listed in Article 5(2), the Authority***, in collaboration with financial supervisors,*** shall carry out a periodic assessment of ***credit and financial institutions and groups of credit and financial institutions referred to in paragraph 3 where they operate in at least six Member States, including the home Member State, either through establishments or under the freedom to provide services in the Member States other than the Member State where the obliged entity's head office is established, regardless of whether the activities are carried out through an infrastructure in their territory or remotely.***

1a. The supervisory authorities and the obliged entities subject to periodic assessment shall supply the Authority with any information necessary to carry out the periodic assessment.

2. The inherent ***and residual*** risk profile of the assessed obliged entities referred to in paragraph 1 ▌ shall be classified ***by the Authority*** as low, medium, substantial or high ▌, based on the benchmarks and following the methodology set out in the regulatory technical standard referred to in paragraph 5. ***Where the assessed obliged entity is a group of credit institution and/or financial institutions, the risk profile should be classified at group-wide level.***

3. The methodology for classifying the inherent ***and residual*** risk profile shall be established separately for at least the following categories of obliged entities:

(a) credit institutions;

(b) bureaux de change;

(c) ▌ collective investment ***undertakings***;

(d) credit providers other than credit institutions;

(e) e-money institutions;

(f) investment firms;

(g) ***payment institutions***;

(h) life insurance undertakings;

(i) life insurance intermediaries;

(j) ***crypto-asset service providers;***

(k) other financial institutions.

4. For each category of obliged entities referred to in paragraph ***3***, the benchmarks ***for the assessment of inherent risk*** in the assessment methodology shall be based on the risk factor categories related to customer, products, services, transactions, delivery channels and geographical areas. The benchmarks shall be established for at least the following indicators of inherent risk in any Member State they operate in:

(a) with respect to customer-related risk: the share of non-resident customers ***from third countries identified pursuant to in Chapter III Section 2 of [please insert reference – proposal for Anti-Money Laundering Regulation];*** the presence and share of customers identified as Politically Exposed persons ('PEPs');

(b) with respect to products and services offered:

(i) the significance and the trading volume of products and services identified as the most potentially vulnerable to money laundering and terrorist financing risks at the level of the internal market in the supra-national risk assessment or at the level of the country in the national risk assessment;

▌

(iii) for money remittance service providers, the significance of aggregate annual emission and reception activity of each remitter in ***countries identified pursuant to in Chapter III Section 2 of Regulation [please insert reference to Anti-Money Laundering Regulation]***;

(iiib) the relative volume of products, services or transactions that offer a considerable level of protection of client's privacy and identity or other form of anonymity;

(c) with respect to geographical areas:

(i) the annual volume of correspondent banking services***, or correspondent crypto-asset services,*** provided by Union financial sector entities in third countries ***identified pursuant to Chapter III Section 2 of Regulation [please insert reference to Anti-Money Laundering Regulation]***;

(ii) the number and share of correspondent banking clients ***or crypto-asset clients in*** third countries ***identified pursuant to Chapter III Section 2 of Regulation [OP please insert reference to for Anti-Money Laundering Regulation].***

▌

4a. For each category of obliged entities referred to in paragraph 3, the assessment of residual risk in the assessment methodology shall include benchmarks for the assessment of the quality of internal policies, controls and procedures put in place by obliged entities to mitigate their inherent risk.

5. The Authority shall develop draft regulatory technical ***standard specifying:***

(a) the minimum activities to be carried out by a credit or financial institutions 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;

(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.

The Authority shall submit the draft regulatory technical standards to the Commission by ▌1 January ***2026***.

The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 38 of this Regulation.

6. The Authority shall review the benchmarks and methodology at least every three years. Where amendments are required, the Authority shall submit amended draft regulatory technical standards to the Commission.

Article 13
The process of listing selected obliged entities

-1. The ***credit institutions, financial institutions and groups thereof whose residual risk profile has been classified as high pursuant to Article 12*** shall qualify as ▌selected obliged ***entities.***

-1a. Where more than 40 selected obliged entities are identified pursuant to paragraph 1, the Authority may, in consultation with the supervisory authorities, agree on limiting the selection to a specific different number of entities or groups that is greater than 40.

In deciding on the number of selected obliged entities, the Authority shall take into account its own resources capacity to allocate or additionally hire the necessary number of supervisory and support staff and shall ensure that the increase in the financial and human resources is feasible.

Pursuant to the decision of the maximum number, the selected obliged entities shall be the obliged entities and groups among those qualifying under paragraph 1, which are operating in the highest number of Member States either through establishments or under the freedom to provide services, and, where necessary, those which have the highest ratio of the volume of transactions with third countries to the total volume of transactions measured in the last financial year.

1b. ***Where in a Member State no credit, financial institution or a group of credit and/or financial institutions which is established, authorised or registered, or has a subsidiary therein whose risk profile is classified as high, qualifies as a selected obliged entity pursuant to paragraphs 1 and 1a, an additional selection process shall be carried out by the Authority in that Member State, based on methodology referred to in Article 12(5).***

Following the additional selection process, the credit or financial institution or a group of credit and/or financial institutions established or registered in this Member State whose risk profile qualifies as high shall qualify as a selected obliged entity.

Where several credit or financial institutions or groups thereof in the Member State in question have a high risk profile, then the selected obliged entity shall be the one operating in the highest number of Member States through either free establishment or active free provision of services. If several credit or financial institutions or groups thereof operate in the same number of Member States, the entity with the highest ratio of transaction volume with third countries to total transaction volume as measured over the last financial reporting year shall qualify as a selected obliged entity.

2. The Authority shall commence the first selection process ***by*** 1 July ***2027*** and shall conclude the selection within ***six months***. The selection shall be made every three years after the date of commencement of the first selection, and shall be concluded within ***six months*** in each selection ***process***. The list of the selected obliged entities shall be published by the Authority without undue delay upon completion of selection process. The Authority shall commence the direct supervision of the selected obliged entities ***six*** months after publication of the list.

2a. Prior to the publication of the list of the selection obliged entities, the Authority shall inform the relevant non-AML authorities of the outcomes of the process of assessment and classification of inherent and residual risk of the obliged entities subject to assessment.

3. A selected obliged entity shall remain subject to direct supervision by the Authority until the Authority commences the direct supervision of selected obliged entities based on a list established for the subsequent selection round which no longer includes that obliged entity.

Article 13a
Additional transfer of direct supervision tasks and powers in exceptional circumstances upon the request of a financial supervisor

1. ***A financial supervisor may submit a reasoned request to the Authority to exercise direct supervision and carry out the tasks listed in Article 5(2) with respect to a particular non-selected obliged entity.***

The request shall only be addressed to the Authority in exceptional circumstances with the aim to address at Union level a heightened risk or compliance failures at a non-selected obliged entity and to ensure a consistent application of high supervisory standards.

2. ***The request referred to in paragraph 1 shall:***

(a) ***identify the non-selected obliged entity in respect of which the financial supervisor is of the view that the Authority should assume direct supervision;***

(b) state the reasons for which AML/CFT direct supervision of the non-selected obliged entity is necessary;

(c) identify and duly justify the date of proposed commencement and the proposed duration of the requested transfer of the tasks and powers;

(d) provide all the necessary supporting information, data and evidence that could be helpful for the assessment of the request.

3. The financial supervisor's request shall be accompanied by a report indicating the supervisory history and risk profile of the non-selected obliged entity concerned. The non-selected obliged entity shall be informed of the fact of the request and the indicated timeliness therein

4. The Authority shall assess the request referred to in paragraph 1 within 2 months, or within the timeframe that allows the commencement of the transfer of tasks and powers by the date suggested in the request, whichever is longer. The Authority may agree to the transfer of supervision to Union level only provided that at least one of the following conditions are met:

(a) the requesting supervisor can demonstrate the lack of desired effect of supervisory measures imposed on the non-selected obliged entity in relation to serious, repeated or systematic breaches of applicable requirements;

(b) the heightened risk of money laundering or terrorism financing or the serious, repeated and systemic breaches of applicable requirements affect several entities within a non-selected obliged entity group, and the relevant financial supervisors agree that coordinated supervisory action at Union level would be more effective to address them;

(c) the request concerns a temporary, objective and demonstrable lack of capacity at the financial supervisor's level to adequately and timely address the risk of money laundering or terrorism financing at a non-selected obliged entity.

5. Where the Executive Board of the Authority finds that the conditions set out in paragraphs 1 and 4 have been fulfilled, it shall adopt a decision addressed to the requesting financial supervisor and to the non-selected obliged entity concerned informing them of acceptance of the request. The decision shall specify the date on which the Authority is to assume direct supervision and its duration. As of the date on which the Authority is to assume direct supervision, the non-selected obliged entity concerned shall be deemed a selected obliged entity for the purposes of this Regulation. Upon the end of the duration of the direct supervision set out in the decision referred to in the previous sub-paragraph, the tasks and powers related to the direct supervision of the selected obliged entity concerned shall be automatically transferred to the financial supervisor, unless the Authority extends the application following a corresponding request made by the financial supervisor in accordance with paragraphs 1 to 4.

6. Where the Executive Board of the Authority does not agree with the financial supervisor's request, it shall provide the reasons thereof in writing, clearly indicating the conditions of paragraphs 1 and 4 of this Article which have not been met. The Authority shall consult the financial supervisor prior to its final assessment and shall ensure that the non-selected obliged entity is informed of the outcome of the process.

Article 14

Cooperation within the AML/CFT supervisory system for the purposes of direct supervision

1. Without prejudice to the Authority's power pursuant to Article 20(2), point (g), to receive directly, or have direct access to, information reported, on an ongoing basis, by selected obliged entities, financial supervisors shall provide the Authority with all information necessary for carrying out the tasks conferred on the Authority ***in accordance with this Regulation and other applicable Union law***.

2. Where appropriate, financial supervisors shall be responsible for assisting the Authority with the preparation and implementation of any acts relating to the tasks referred to in Article 5(2), point (b), as regards all selected obliged entities, including assistance in verification activities. They shall follow the instructions given by the Authority when performing those tasks.

3. The Authority shall develop implementing technical standards specifying***:***

(a) the conditions under which financial supervisors are to assist the Authority pursuant to paragraph 2;

(b) the process of periodic assessment referred to in Article 12(1) including the respective roles of the supervisory authorities and the Authority in assessing the risk profile of credit institutions and other financial institutions referred to in this same paragraph.

(c) the working arrangements for the transfer of supervisory tasks and powers to the Authority or from the Authority to national level following a selection process, including arrangements on continuity of pending supervisory procedures or investigations;

(cc) the procedures for the preparation and adoption of decisions on the selection of obliged entities;

(d) the detailed rules and arrangements for the composition and functioning of the joint supervisory teams referred to in paragraphs 1 and 2 of Article 15.

4. The Authority shall submit the draft implementing technical standards to the Commission by 1 January ***2026***.

The Commission is empowered to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 42.

Article 15
Joint supervisory teams

1. A joint supervisory team shall be established for the supervision of each selected obliged entity. Each joint supervisory team shall be composed of staff from the Authority and from the financial supervisors responsible for supervision of the selected obliged entity at national level. The members of the joint supervisory team shall be appointed in accordance with paragraph 4 and shall work under the coordination of a designated staff member from the Authority ('JST coordinator').

Each financial supervisor that appoints more than one staff member to the joint supervisory team may designate one of them as sub-coordinator ('national sub-coordinator'). The national sub-coordinators shall assist the JST coordinator as regards the organization and coordination of the tasks in the joint supervisory team, in particular as regards the staff members that were appointed by the same financial supervisor as the relevant national sub-coordinator. The national sub-coordinator may give instructions to the members of the joint supervisory team appointed by the same financial supervisor, provided that these do not conflict with the instructions given by the JST coordinator.

2. The JST coordinator shall ensure the coordination of the work within the joint supervisory team. Joint supervisory team members shall follow the JST coordinator's instructions as regards their tasks in the joint supervisory team. This shall ***be without prejudice to*** their tasks and duties within their respective financial supervisors. ▌

3. The tasks of a joint supervisory team shall include the following:

   (a) performing the supervisory reviews and assessments for the selected obliged entities;

   (b) ▌coordinating on-site inspections at selected obliged entities and preparing supervisory measures ▌ where necessary;

(c) taking into account the reviews, assessments and on-site inspections referred to in points (a) and (b), participating in the preparation of draft decisions applicable to the respective selected obliged entity to be proposed to the General Board and Executive Board;

(d) liaising with financial supervisors where necessary for exercises of supervisory tasks in any Member State where a selected obliged entity is established.

4. The Authority shall be responsible for the establishment and the composition of joint supervisory teams. The ***Authority and the*** respective financial supervisors shall appoint one or more persons from their staff as a member or members of a joint supervisory team. A ▌ member may be appointed as a member of more than one joint supervisory team.

5. The Authority and financial supervisors shall consult each other and agree on the use of staff with regard to the joint supervisory teams.

5a. The Authority shall develop internal operational rules and procedures on the composition of joint supervisory teams, notably with regard to staff from each financial supervisor in a home/host context, the status of staff from national supervisors, the allocation of human resources by the Authority to participate in joint supervisory teams, which shall ensure that the joint supervisory team is composed of staff having a sufficient level and diversity of knowledge, background, expertise and experience.

Article 16
Request for information

1. The Authority may require selected obliged entities and natural or legal persons belonging to them, and third parties to whom the selected obliged entities have outsourced operational functions or activities and natural or legal persons affiliated to them, to provide all information that is necessary in order to carry out the tasks conferred on it by this Regulation ***and other applicable Union law***.

2. The persons referred to in paragraph 1 or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law or by their constitution, shall supply the ***requested*** information ***without undue delay, ensuring that it is clear, accurate and complete.*** Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.

3. Where the Authority obtains ***the requested information pursuant to*** paragraph 1, it shall make that information available to the financial supervisor concerned.

Article 17
General investigations

1. In order to carry out the tasks conferred on it by this Regulation, the Authority may conduct all necessary investigations of any selected obliged entity or any natural or legal person employed by or belonging to a selected obliged entity and established or located in a Member State.

To that end, the Authority may:

(a) require the submission of documents;

(b) examine the books and records of the persons and take copies or extracts from the books and records;

(c) obtain access to internal audit reports, certification of accounts and any software, databases, IT tools or other electronic means of recording information;

(ca) obtain access to documents and information relating to decision-making processes, including those developed by algorithms or other digital processes;

(d) obtain written or oral explanations from any person referred to in Article 16 or their representatives or staff;

(e) interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject-matter of an investigation.

2. The persons referred to in Article 16 shall be subject to investigations launched on the basis of a decision of the Authority. When a person obstructs the conduct of the investigation, the financial supervisor of the Member State where the relevant premises are located shall provide, in compliance with national law, the necessary assistance, including facilitating the access by the Authority to the business premises of the legal persons referred to in Article 16, so that the rights listed in paragraph 1 of this Article can be exercised.

Article 18
On-site inspections

1. In order to carry out the tasks conferred on it by this Regulation, the Authority may, subject to prior notification to the financial supervisor concerned, conduct all necessary on-site inspections at the business premises of the ***natural and*** legal persons referred to in Article 16. ***With respect to natural persons, where the business premises are the same as person's private residence, the Authority shall seek and obtain judicial authorisation for an on-site inspection.*** Where the proper conduct and efficiency of the inspection so require, the Authority may carry out the on-site inspection without prior announcement to those legal persons.

1a. The Authority may decide to entrust the performance of the on-site inspections to a joint supervisory team in accordance with Article 15 or a dedicated team, which could include joint supervisory team members as the case may be. The Authority shall be in charge of the establishment and the composition of on-site inspection teams in cooperation with the financial supervisors.

2. The staff of the Authority and other persons authorised by the Authority to conduct an on-site inspection may enter any business premises and land of the ***natural or*** legal persons subject to a decision on investigation adopted by the Authority and***, where relevant, upon obtaining a judicial authorisation for an on-site inspection at the business premises of a natural person pursuant to paragraph 1. The Staff of the Authority and other persons authorised by the Authority*** shall have all the powers provided in Article 20.

3. The ***natural and*** legal persons referred to in Article 16 shall be subject to on-site inspections on the basis of a decision of the Authority.

4. Staff and other accompanying persons authorised or appointed by the financial supervisor of the Member State where the inspection is to be conducted shall, under the supervision and coordination of the Authority, actively assist the officials of and other persons authorised by the Authority. To that end, they shall enjoy the powers set out in paragraph 2. Staff of financial supervisors of the Member State concerned shall also have the right to participate in the on-site inspections.

5. Where ***a person opposes the conduct of*** an on-site inspection ordered pursuant to this Article, the financial supervisor of the Member State concerned shall provide the necessary assistance in accordance with national law. To the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the financial supervisor concerned, it shall use its powers to request the necessary assistance of other national authorities.

Article 19
Authorisation by a judicial authority

1. If an on-site inspection provided for in Article 18 requires authorisation by a judicial authority in accordance with national law, the Authority shall apply for such an authorisation.

2. Where an authorisation as referred to in paragraph 1 is applied for, the national judicial authority shall control that the decision of the Authority is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Authority for detailed explanations, in particular relating to the grounds the Authority has for suspecting that an infringement of the acts referred to in Article 1(2), ▌ has taken place, the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the Authority's file. The lawfulness of the Authority's decision shall be subject to review only by the Court of Justice of the European Union.

Article 20
Administrative measures

1. For the purpose of carrying out its tasks referred to in Article 5(2), the Authority shall have the ***power to impose administrative measures*** set out in ***paragraphs 2 and 3*** of this Article to require any selected obliged entity to take the necessary measures where:

   (a) the selected obliged entity ***is found to be in breach of*** the requirements of Union acts and national legislation referred to in Article 1(2);

(b) the Authority has ***sufficient and demonstrable indication*** that the selected obliged entity is likely to breach the requirements of Union acts and national legislation referred to Article 1(2) ***and the imposition of an administrative measure can prevent the occurrence of the breach or reduce the risk thereof***;

(c) ***based on a duly justified determination by the Authority, the internal policies, procedures and controls in place in*** the selected obliged entity ***are not commensurate to the risks of money laundering, its predicate offences or terrorist financing to which the selected obliged entity is exposed***.

2. For the purposes of Article 6(1) the Authority shall have, in particular, the ***power to impose the*** following ***administrative measures***:

(a) ***issue recommendations;***

(b) ***order obliged entities to comply***, including ***to implement specific corrective measures***;

(ba) issue a public statement which identifies the natural or legal person and the nature of the breach;

(d) ***order the natural or legal person to cease the conduct and to refrain from repeating that conduct;***

(e) restrict or limit the business, operations or network of institutions comprising the selected obliged entity, or ▌require the divestment of activities ▌;

(f) ▌require changes in the governance structure;

(g) ***where the selected entity is subject to authorisation,*** propose the withdrawal ***or suspension of the authorisation of the*** selected obliged entity to the authority that has granted ***it. In case the authority which has granted such authorisation does not follow the suspension or withdrawal proposal of the Authority, the Authority shall request it to provide the reasons thereof in writing***.

2a. ***When taking the administrative measures referred to in paragraph 2, the Authority shall be able to:***

(a) require the provision of any data or information necessary for the fulfilment of tasks listed in Article 5(2) ***without undue delay***, to require submission of any document, or impose additional or more frequent reporting requirements;

(b) require the reinforcement of the ***internal policies, procedures and controls***;

(c) ▌require to apply a specific policy or ***requirements relating to categories of or individual*** clients, transactions, ***activities*** or delivery channels ***that pose high risks***;

▌

(e) require the implementation of measures to bring about the reduction of the money laundering and ***terrorist*** financing risks in the activities ***and products*** of selected obliged entities;

(ha) impose a temporary ban against any person discharging managerial responsibilities in the selected obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities.

▌

4. The administrative measures referred to in paragraph 2 and 3 shall be accompanied, where relevant, by binding deadlines for their implementation. The Authority shall follow up and assess the implementation by the selected obliged entity of the actions requested.

5. Financial supervisors shall notify the Authority without undue delay in case they become aware of one or more indication(s) of a breach by a selected obliged entity of requirements of Regulation [OP please insert the next number to the AMLR, COM(2021)0420] or Regulation [OP please insert the next number to the TFR, COM(2021)0422].

2e. The administrative measures applied shall be effective, proportionate and dissuasive.

Article 21
▌Pecuniary sanctions

1. For the purpose of carrying out the tasks conferred on it by this Regulation, where a selected obliged entity ***breaches, whether*** intentionally or negligently ▌**,** a requirement ***of Regulation [OP please insert the next number to the AMLR, COM(2021)0420] or Regulation [OP please insert the next number to the TFR, COM(2021)0422]***, or does not comply with a binding decision referred to in Article 6(1), the Authority may impose ▌pecuniary sanctions**.**

For breaches that are serious, repeated or systematic, the conditions specified in paragraphs 2 to 7 of this Article ***apply***.

2. Where the Executive Board of the Authority finds that a selected obliged entity has, intentionally or negligently, committed a ***serious, repeated or systematic*** breach of directly applicable requirements contained in [OP please insert the next number to the AMLR, COM(2021)0420] or [OP please insert the next number to the TFR, COM(2021)0422], it shall adopt a decision imposing ▌pecuniary sanctions, in accordance with paragraph 3. ▌ Pecuniary sanctions shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, the ***administrative measures*** referred to in Article 20(2).

3. The basic amount of the ▌ pecuniary sanctions referred to in paragraph 1 shall be included within the following limits:

(a) for ***serious, repeated or systematic*** breaches of one or more requirements related to customer due diligence, group ***wide*** policies***, procedures and controls*** and/or reporting obligations that have been identified in two or more Member States where a selected obliged entity operates, the ***amount*** shall ***be*** at least EUR ***500 000*** and shall not exceed EUR 2 000 000 or 1 % of the annual turnover, whichever is higher;

(b) for ***serious, repeated or systematic*** breaches of one or more requirements related to customer due diligence, internal policies, ***procedures and controls*** and/or reporting obligations that have been identified ***in*** one Member State where a selected obliged entity operates, the ***amount*** shall ***be*** at least EUR ***100 000*** and shall not exceed EUR 1 000 000 or 0,5 % of the annual turnover, whichever is higher;

(c) for ***serious, repeated or systematic*** breaches of all other requirements that have been identified in two or more Member States where a selected obliged entity operates, the ***amount*** shall ***be*** at least EUR ***100 000*** and shall not exceed EUR 2 000 000;

(d) for ***serious, repeated or systematic*** breaches of all other requirements that have been identified in one Member State the ***amount*** shall ***be*** at least EUR ***100 000*** and shall not exceed EUR 1 000 000;

(e) for ***serious, repeated or systematic*** breaches of the decisions of the Authority referred to in Article 6(1), the ***amount*** shall ***be*** at least EUR 100 000 and shall not exceed EUR 1 000 000.

4. The basic amounts defined within the limits set out in paragraph 3 shall be adjusted, where needed, by taking into account aggravating or mitigating factors in accordance with the relevant coefficients set out in Annex I. The relevant aggravating coefficients shall be applied one by one to the basic amount. If more than one aggravating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual aggravating coefficient shall be added to the basic amount. Where the benefit derived from the breach ▌ or the losses to third parties caused by the breach can be determined, they shall be added to the total amount of the sanction, after application of the coefficients.

5. The relevant mitigating coefficients shall be applied one by one to the basic amount. If more than one mitigating ***coefficient*** is applicable, the difference between the basic amount and the amount resulting from the application of each individual mitigating coefficient shall be subtracted from the basic amount.

6. The maximum amount of a sanction for ***serious, repeated or systematic*** breaches referred to in paragraph ***3***, points (a) and (b) shall not exceed 10 % of the total annual turnover of the obliged entity in the preceding business year, after application of the coefficients referred to in paragraphs 4 and 5.

7. The maximum amount of a sanction for ***serious, repeated or systematic*** breaches referred to in paragraph ***3***, points (c) and point (d) shall not exceed EUR 10 000 000 ▌, after application of the coefficients referred to in paragraphs 4 and 5.

8. Where the selected obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and the Council[22], the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable accounting standards according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

[22] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

9. In the cases not covered by paragraph 1 of this Article, where necessary for the purpose of carrying out the tasks conferred on it by this Regulation, the Authority may require financial supervisors to open proceedings with a view to taking action in order to ensure that appropriate ▌ pecuniary sanctions are imposed in accordance with the ***national law transposing Directive [OP: please insert the next number to the AMLD, COM(2021)0423]*** and any relevant national legislation which confers specific powers which are currently not required by Union law. The sanctions ***imposed*** shall be effective, proportionate and dissuasive.

The first subparagraph shall be applicable to ▌ pecuniary sanctions to be imposed on selected obliged entities for breaches of national law transposing [OP please insert the next number to the AMLD, COM(2021)0423] and to any▌ pecuniary sanctions to be imposed on members of the management board of selected obliged entities who under national law are responsible for a breach by ***the selected*** obliged entity.

10. The ▌ pecuniary sanctions ***imposed by the Authority*** shall be effective, proportionate and dissuasive.

When calculating the amount of the pecuniary sanction, the Authority shall take due consideration of the ability of the obliged entity to pay the sanction and, where the pecuniary sanction may affect compliance with prudential regulation, consult the authorities competent to supervise compliance by the obliged entities with relevant Union acts.

Article 22
Periodic penalty payments

1. The Executive Board ***may*** by decision impose a periodic penalty payment in order to compel:

(a) a selected obliged entity to put an end to a breach, ***where it fails to comply with an administrative measure imposed*** pursuant to ***points (b), (d), (e) and (f) of*** Article ***20(1)***;

(b) a person referred to in Article 16(1) to supply complete information which has been required by a decision pursuant to Article 6(1);

(c) a person referred to in Article 16(1) to submit to an investigation and in particular to produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched pursuant to Article 17.

2. The periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed ▌ until the selected obliged entity or person concerned complies with the relevant ***administrative measure*** referred to in paragraph 1.

3. Notwithstanding paragraph 2, the amount of a periodic penalty payment shall ***not exceed*** 3 % of the average daily turnover in the preceding business year or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date set in the decision imposing the periodic penalty payment.

4. A periodic penalty payment may be imposed for a period of no more than six months following the notification of Authority's decision. ***Where, upon expiry of that period, the selected obliged entity has not yet complied with the administrative measure, the Authority can apply periodic penalty payments for an additional period of no more than six months.***

4a. The decision imposing a periodic penalty payment may be taken at a later stage with retroactive effect up to the date of the application of the administrative measure.

Article 23
Hearing of persons subject to proceedings

1. Before taking any decision imposing ***a*** pecuniary sanction or periodic penalty payment under Articles 21 and 22, the Executive Board shall give the persons subject to the proceedings the opportunity to be heard on Authority's findings. The Executive Board shall base its decisions only on findings on which the persons subject to the proceedings have had the opportunity to comment.

2. The rights of defence of the persons subject to the proceedings shall be fully respected during the proceedings. They shall be entitled to have access to the Authority's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or internal preparatory documents of the Authority.

Article 24

Disclosure ▌ of administrative **measures,** pecuniary sanctions and periodic penalty payments

1. The Authority shall ***publish every decision imposing a*** pecuniary sanction and**,** periodic penalty payment ***and administrative measures referred to in Article 20(2), points (c) to (g) adopted on cases referred to in article 20(1)(a), immediately after the person sanctioned is informed of that decision.***

By way of derogation from the first subparagraph, where the publication concerns administrative measures against which there is an appeal and that do not aim to remedy serious, repeated and systematic breaches, the Authority may defer the publication of those administrative measures until expiry of the deadline for an appeal to the ***Court of Justice of the European Union***.

2. ***Upon the expiry of the deadline for a review of the decision by the Administrative Board of Review or, in case such a review was not requested by the obliged entity, the expiry of the deadline for an appeal to the Court of Justice of the European Union, the Authority shall publish the information on a request for review or an appeal. Any subsequent information on the outcome of such review or appeal shall be published by the Authority immediately after obtaining such information.***
Any decision annulling a previous decision to impose a pecuniary sanction, a periodic penalty payment, or an administrative measure pursuant to Article 20(1)(a), shall also be published.

3. ***The publication of decisions referred to in paragraph 1 shall include at least the information on the type and nature of the breach, the identity of the persons responsible, and the size of the pecuniary sanction or periodic penalty payment, where applicable.***

4. ***Notwithstanding the requirement referred to in paragraph 1, where the publication of the identity of the persons responsible as referred to in paragraph 3 or the personal data of such persons is considered by the Authority to be disproportionate following a case-by-case assessment, or where publication jeopardises the stability of financial markets or an on-going investigation, the Authority shall:***

(a) delay the publication of the decision until the moment at which the reasons for not publishing it cease to exist;

(b) publish the decision on an anonymous basis, if such anonymous publication ensures an effective protection of the personal data concerned; in that case, the Authority shall postpone the publication of the relevant data for a reasonable period of time if it is provided that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision at all in the event that the options set out in points (a) and (b) are considered insufficient to ensure one of the following:

(i) that the stability of financial markets would not be put in jeopardy;

(ii) the proportionality of the publication of the decision with regard to administrative measures adopted in accordance with 20(1)(a) which are deemed to be of a minor nature.

5. The Authority shall keep any publication in accordance with this Article on its official website for a period of five years after its publication.

Article 24a
Enforcement and allocation of pecuniary sanctions and periodic penalty payments

1. ***Pecuniary sanctions and periodic penalty payments imposed pursuant to Articles 21 and 22 shall be enforceable.***

Enforcement shall be governed by the rules of civil procedure in force in the Member State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision without other formality than verification of the authenticity of the decision by the authority which the government of each Member State shall designate for that purpose and shall make known to the Authority and to the Court of Justice of the European Union.

When those formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with national law, by bringing the matter directly before the competent body.

Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the Member State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

2. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the European Union.

Article 25

Procedural rules for taking supervisory measures and imposing ▌ pecuniary sanctions

1. Where, in carrying out its duties under this Regulation, the Authority finds that there are serious indications of the possible existence of facts liable to constitute one or more of the breaches listed in Annex II, the Authority shall appoint an independent investigatory team within the Authority to investigate the matter. The investigatory team shall not be involved or have been involved in the direct supervision of the selected obliged entity concerned and shall perform their functions independently from the Authority's Executive Board. ***The Authority shall develop internal procedures to determine the rules governing the selection of the members of the independent investigatory teams, in particular with regard to the knowledge, background, expertise and experience.***

2. The investigatory team shall investigate the alleged breaches, taking into account any comments submitted by the persons subject to investigation, and shall submit a complete file with their findings to the Authority's Executive Board.

In order to carry out their tasks, the investigatory team may exercise the power to require information in accordance with Article 16 and to conduct investigations and on-site inspections in accordance with Articles 17 and 18.

Where carrying out their tasks, the investigatory team shall have access to all documents and information gathered by the joint supervisory team in its supervisory activities.

3. Upon completion of their investigation and before submitting the file with their findings to Authority's Executive Board, the investigatory team shall give the persons subject to investigation the opportunity to be heard on the matters being investigated. The investigatory team shall base their findings only on facts on which the persons subject to investigation have had the opportunity to comment.

The rights of defence of the persons concerned shall be fully respected during investigations under this Article.

4. When submitting the file with their findings to the Authority's Executive Board, the investigatory team shall notify that fact to the persons subject to investigation. The persons subject to investigation shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties.

5. On the basis of the file containing the investigatory team's findings and, when requested by the persons concerned, after having heard the persons subject to investigation in accordance with Article ***23(1)***, the Executive Board shall decide if one or more of the breaches listed in Annex II have been committed by the persons who have been subject to investigation, and in such case, shall ***impose a pecuniary sanction*** in accordance with Article ***21 and take*** an administrative ***measure*** in accordance with Article ***20 in addition to, or instead of pecuniary sanctions***.

6. The investigatory team shall not participate in the deliberations of the Executive Board or in any other way intervene in the decision-making process of the Executive Board.

7. The Commission shall adopt further rules of procedure for the exercise of the power to impose ▌ pecuniary sanctions or periodic penalty payments, including provisions on rights of defence, temporal provisions, and the collection of ▌ pecuniary sanctions or periodic penalty payments, and shall adopt detailed rules on the limitation periods for the imposition and enforcement of penalties.

The rules referred to in the first subparagraph shall be adopted by means of delegated acts in accordance with Article ***86***.

8. The Authority shall refer matters for criminal prosecution to the relevant national authorities where, in carrying out its duties under this Regulation, it finds that there are serious indications of the possible existence of facts liable to constitute criminal offences. In addition, the Authority shall refrain from imposing ▌ pecuniary sanctions or periodic penalty payments where a prior acquittal or conviction arising from identical facts, or from facts which are substantially the same, has acquired the force of res judicata as the result of criminal proceedings under national law.

Article 26
Review by the Court of Justice of the European Union

The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions of the Authority imposing an ▌ pecuniary sanction or a periodic penalty payment. It may annul, reduce or increase the fine or periodic penalty payment imposed.

Article 27
Language arrangements in direct supervision

1. The Authority and the financial supervisors shall adopt arrangements for their communication within the AML/CFT supervisory system, including the language(s) to be used.

2. Any document which a selected obliged entity or any other natural or legal person individually subject to the Authority's supervisory procedures submits to the Authority may be drafted in any of the official languages of the Union, chosen by the selected obliged entity or natural or legal person concerned.

3. The Authority, selected obliged entities and any other legal or natural person individually subject to the Authority's supervisory procedures may agree to exclusively use one of the official languages of the Union in their written communication, including with regard to the Authority's supervisory decisions.

4. The revocation of such agreement on the use of one language shall only affect the aspects of the Authority's supervisory procedure which have not yet been carried out.

5. Where participants in an oral hearing request to be heard in an official language of the Union other than the language of the Authority's supervisory procedure, sufficient advance notice of this requirement shall be given to the Authority so that it can make the necessary arrangements.

SECTION 4
INDIRECT SUPERVISION OF NON-SELECTED OBLIGED ENTITIES

Article 28
Assessments of the state of supervisory convergence

1. The Authority shall perform periodic assessments of some or all of the activities of one, several, or all financial supervisors, including ***their tools and resources. As part of each assessment, the Authority shall assess the extent to which a financial supervisor performs its tasks in accordance with Directive [OP: please insert reference to AMLD] and takes the necessary steps*** to ensure ***consistent*** high level supervisory standards and practices. The assessments ***shall take into account the level of harmonisation of supervisory approaches, and to that end*** shall include a review of the application of ***all or part of*** the AML/CFT supervisory methodology developed pursuant to Article 8***,*** and shall cover all financial supervisors in a single assessment cycle. The ***Executive Board shall adopt, after consulting the General Board in supervisory composition, an assessment cycle plan. The General Board, acting by a majority of two thirds of the members, may require the Executive Board to adopt a new plan. The*** length of each assessment cycle shall be determined by the Authority and shall not exceed seven years.

The Authority shall develop methods to allow for a consistent assessment and comparison between the financial supervisors reviewed in the same cycle. At the end of each assessment cycle, the Authority shall submit its findings to the European Parliament and the Council.

2. The assessments shall be carried out by the staff of the Authority ***and, following an open call for participation, by*** the staff of financial supervisors that are not subject to review, ***on a voluntary basis. Where relevant,*** the assessments shall take due account of ***the*** evaluations, assessments or reports drawn up by international organisations and intergovernmental bodies with competence in the field of preventing money laundering and terrorist financing. ***The assessments may also take due account of the information set out in the central AML/CFT database established pursuant to Article 11.***

3. The Authority shall produce a report setting out the results of each assessment. ***A draft version of the*** report shall be ***submitted to the financial supervisor or financial supervisors subject to the assessment for comments, prior to its consideration by the General Board in supervisory composition. Within a deadline determined by the Authority, the*** financial ***supervisor subject to review shall submit comments to the draft report. The final*** report shall be adopted by the Executive Board, taking into account the observations of the General Board in supervisory composition.

The ***Executive Board shall ensure consistency in the application of the assessment methodology. The*** report shall explain and indicate any specific follow-up measures required to be taken by the financial supervisor or financial supervisors subject to the assessment that are deemed appropriate, proportionate and necessary as a result of the assessment. The follow-up measures may be adopted in the form of guidelines and recommendations ***of the General Board. The follow up measures may also be adopted in the form of individual*** recommendations ***taken by the Executive Board. Those individual follow-up measures shall only be published upon consent of the*** financial supervisor ***concerned and in summary or aggregate form, such that individual financial institutions cannot be identified. The published version of the report shall not include confidential information nor references to specific financial supervisors***.

4. Financial supervisors shall make every effort to comply with the specific follow-up measures addressed to them as a result of the assessment. ***Where applicable, financial supervisors shall provide regular updates to the Authority on the type of measures they have implemented in response to the report referred to in paragraph 3.***

Article 29

Coordination and facilitation of work of the **AML/CFT supervisory** colleges **in the financial sector**

1. The Authority shall ensure, within the scope of its powers and without prejudice to the powers of the relevant financial supervisors***, that AML/CFT supervisory colleges in the financial sector*** are established and functioning consistently for non-selected obliged entities operating ***establishments*** in several Member States in accordance with Article 36 ***of Directive*** [OP please insert the next number to the AMLD, COM(2021)0423]. To that end, the Authority may:

   (a) establish colleges, convene and organize the meetings of colleges, where such college has not been established although the relevant conditions for its establishment set out in Article 36 [***OP please insert the next number to the AMLD, COM(2021)0423***] are met;

   (b) assist in the organisation of college meetings, where requested by the relevant financial supervisors;

   (c) assist in the organisation of joint supervisory plans and joint ***on-site or off-site inspections***;

(d) collect and share all relevant information in cooperation with the financial supervisors in order to facilitate the work of the college and make such information accessible to the authorities in the college;

(e) promote effective and efficient supervisory activities ***and practices***, including evaluating the risks to which ***non-selected*** obliged entities are or might be exposed;

(f) oversee, in accordance with the tasks and powers specified in this Regulation, the tasks carried out by the financial supervisors.

2. For the purposes of paragraph 1, the staff of the Authority shall have full participation rights in the ***AML/CFT*** supervisory colleges and shall be able to participate in their activities, including on-site inspections, carried out jointly by two or more financial supervisors.

Article 30

Requests to act in exceptional circumstances **following indications of serious, repeated or systematic breaches**

1. Financial supervisors shall notify the Authority where the situation of any non-selected obliged entity with regard to its compliance with ***Regulation [AMLR], Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM(2021)0422 final], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, and where*** its exposure to money laundering and terrorism financing risks deteriorates rapidly and significantly, ***in particular*** where such deterioration ***may negatively impact several Member States or the Union as a whole or undermine the integrity*** of the Union***'s financial system***.

2. The Authority may, where it has indications of ***serious, repeated or systematic*** breaches by a non-selected obliged entity, request its financial supervisor to:

   (a) investigate ***such*** breaches of Union law, and where such Union law is composed of Directives or explicitly grants options for Member States, breaches of national law to the extent that it transposes Directives or exercises options granted to Member States by Union law, by a non-selected obliged entity; and

(b) consider imposing sanctions in accordance with directly applicable Union law or national law transposing Directives on that entity in respect of such breaches.

Where necessary, the Authority may also request a financial supervisor to adopt an individual decision addressed to that entity requiring it to undertake all necessary actions to comply with its obligations under directly applicable Union law or under national law, to the extent that it transposes Directives or exercises options granted to Member States by Union law, including the cessation of any practice. ***The requests referred to in this paragraph shall not impede ongoing supervisory measures by the financial supervisor to which the request is addressed.***

2a. The request referred to in the first subparagraph may be initiated when the Authority has indications of a serious, repeated or systematic breaches:

(a) following notifications by financial supervisors pursuant to paragraph 1;

(b) as a result of the Authority's own collection of well-substantiated information;

(c) upon reception of information by Union institutions and bodies, or by any other reliable and credible information source.

3. The financial supervisor concerned shall comply with any request addressed to it in accordance with paragraph 2 and shall inform the Authority, as soon as possible and within ten working days from the day of the notification of such request at the latest, of the steps it has taken or intends to take to comply with that request.

4. Where the ▌ request referred to in paragraph 2 ***is not complied with or information is not provided to*** the Authority of the steps ▌ taken or ***intended to be taken*** to comply with ***it*** within ten days from the day of the notification of the request, the Authority may request the Commission to grant permission to transfer ***temporarily*** the relevant tasks and powers referred to in Article 5(2) and Article 6(1) related to direct supervision of the non-selected obliged entity from the financial supervisor concerned to the Authority.

5. The request from the Authority ***to the Commission pursuant to paragraph 4*** shall contain:

   (a) a description of the ***serious, repeated or systematic*** breaches of the directly applicable requirements by an identified non-selected obliged entity and a justification that such breaches fall within the scope of competence of the Authority, pursuant to ***paragraphs 2 and 2a***;

   (b) a justification why the request to the financial supervisor referred to in paragraph 2 did not result in any action taken within the ***time limit*** set in paragraph 3***, including, where relevant, the information that no reply was submitted by the financial supervisor***;

(c) a time limit, which shall not exceed three years, for the requested transfer of the relevant tasks and powers;

(d) a description of the measures that the Authority intends to take in relation to the non-selected obliged entity upon the transfer of the relevant tasks and powers to address the ***serious, systematic or repeated*** breaches referred to in paragraph 2;

(e) any relevant communication between the Authority and the financial supervisor concerned.

6. ***Based on the information referred to in paragraph 5,*** the Commission shall have one month from the date of receipt of the request from the Authority to adopt a ***duly justified*** decision whether to authorise the transfer of the relevant tasks and powers or to oppose it. The decision shall be notified to the Authority, which shall immediately inform the financial supervisor and the non-selected obliged entity thereof. ***The European Parliament and the Council shall be informed about the decision.***

7. On the tenth working day after the notification of the decision authorising the transfer of tasks and powers in relation to the non-selected obliged entity, the non-selected obliged entity referred to in paragraph 2 shall be deemed a selected obliged entity for the purposes of the exercise of the tasks referred to in Article 5(2) and the powers referred to in Article 6(1) and Articles 16 to 22. The Commission decision shall set a time-limit for the exercise of these tasks and powers, upon the expiry of which they shall be automatically transferred back to the financial supervisor concerned.

7a. After having consulted the financial supervisor concerned, the Authority may submit to the Commission a request to extend the application of the decision referred to in paragraph 6. That request shall be submitted at least two months before the expiry of the initial period of time.

The request referred to in the first subparagraph shall be accompanied by:

(a) a description of the measures that the Authority has taken in relation to the obliged entity and of the further measures that it intends to take;

(b) a justification as to why those remaining measures address breaches that still fall within the scope of competence of the Authority, pursuant to paragraph 2;

(c) a time limit, which shall not exceed three years, for the continued exercise of the tasks referred to in Article 5(2) and the powers referred to in Article 6(1) and Articles 16 to 22 in relation to the obliged entity;

(d) any relevant communication between the Authority and the financial supervisor concerned.

The Commission shall adopt a decision on whether to grant the extension within the time limits indicated in paragraph 6. Any extension pursuant to this paragraph may only be granted once.

Article 30b
Settlement of disagreements between financial supervisors in cross-border situations

1. ***The Authority may assist financial supervisors in reaching an agreement in accordance with the procedure set out in paragraphs 3 to 5 of this Article at the request of one or more financial supervisors pursuant to Articles 34, 34a, 36 and 39a of Directive [AMLD] or in other instances where a financial supervisor disagrees with the procedure or content of an action, proposed action, or inactivity of another financial supervisor insofar as it affects its own supervisory tasks and responsibilities towards a specific non-selected obliged entity or multiple non-selected obliged entities.***

2. ***In cases other than those covered by Article 34, 36, 34a and 39a of Directive [OP: please insert reference to AMLD], a financial supervisor shall notify the Authority without undue delay that its assistance is required where a provision in Union law requires the financial supervisor to reach an agreement, an arrangement, or other form of established or formalized cooperation relating to supervision of specific non-selected obliged entities with another financial supervisor or supervisors, and either of the following occurs:***

(a) the agreement has been reached but has not been effectively applied or adhered to by one of the parties;

(b) a financial supervisor concludes that a disagreement exists, on the basis of objective reasons;

(c) two months have elapsed from the date of receipt by a financial supervisor of a request by the financial supervisor addressing the Authority to take certain action in order to comply with those legislative acts and the requested supervisor has not adopted a decision that satisfies the request.

3. The Executive Board shall assess the request and notify the relevant parties whether it considers it justified and intends to act upon it in line with this Article.

4. The Authority shall set a time limit for conciliation between the financial supervisors taking into account any relevant time periods specified in Union law and the complexity and urgency of the matter. For the purposes of the conciliation phase, the Authority shall act as a mediator. Where necessary or provided for in the Union law, it shall issue an opinion on how to settle the matter of disagreement.

5. Where the financial supervisors fail to reach an agreement during the conciliation phase referred to in paragraph 4, or where they fail to follow the opinion issued by Authority, the Authority may take a decision requiring those supervisors to take specific action, or to refrain from certain action, in order to settle the matter, and to ensure compliance with Union law. The decision of the Authority shall be binding on the financial supervisors. The Authority's decision may require financial supervisors to revoke or amend a decision that they have adopted or to make use of the powers which they have under the relevant Union law.

The Authority shall notify the financial supervisors of the conclusion of the procedures under paragraphs 4 and 5 together with, where applicable, its decision taken under paragraph 5.

7. Any action by the financial supervisors in relation to facts which are subject to a decision pursuant to paragraph 5 shall be compatible with those decisions.

8. In the report referred to in Article 72, the Chair of the Authority shall set out the nature and type of disagreements between financial supervisors, the agreements reached and the decisions taken to settle such disagreements.

Article 30c
Action in case of systematic failures of supervision

1. ***Where a financial supervisor has not applied measures laid down in Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM(2021)0423 final] or the provisions of national law transposing that Directive, or has applied measures in a way that appears to be a breach of Union law leading to systematic failures in its supervision which affect multiple obliged entities and undermine the effectiveness of the AML/CFT supervisory system, the Authority shall act in accordance with the powers set out in paragraphs 2, 3 and 4 of this Article.***

2. ***The Authority may initiate an investigation of a potential breach of Union law referred to in paragraph 1 on its own initiative where it has an indication of such a breach derived from well-substantiated information collected by the Authority when carrying out its tasks pursuant to this Regulation.***

The Authority may also investigate an alleged breach or non-application of Union law upon a well-substantiated request of one or more financial supervisors, the European Parliament, or the Commission.

Where an investigation has been requested, the Authority shall duly inform the requestor on how it intends to proceed with the case and whether an investigation into an alleged breach is warranted. Prior to deciding to investigate a potential breach of Union law, the Authority shall inform the financial supervisor concerned.

3. The financial supervisor shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation, including with regard to how the acts referred to in paragraph 1 are applied in accordance with Union law.

4. Where deemed appropriate and necessary, the Authority may also, after having informed the financial supervisor concerned, provide an opportunity to all other financial supervisors to transmit information to it that they deem relevant or address a duly justified and reasoned request for information to any other financial supervisor directly. The addressees of such a request shall, without undue delay, provide the Authority with clear, accurate and complete information.

5. The Authority may, no later than six months from the date of initiating its investigation, address a recommendation to the financial supervisor subject to investigation, setting out the action necessary to comply with Union law.

Before issuing such a recommendation, the Authority shall engage with the financial supervisor, where it considers such engagement appropriate in order to resolve the systematic failures of supervision resulting in the breach of Union law, in an attempt to reach agreement on the actions necessary for compliance with Union law.

The financial supervisor shall, within 10 working days of receipt of the recommendation, inform the Authority of the steps it has taken or intends to take to ensure compliance with Union law.

6. Where the financial supervisor has not complied with Union law within one month of the date of receipt of the Authority's recommendation, the Commission may, after having been informed of that fact by the Authority, or on its own initiative, issue a formal opinion requiring the financial supervisor to take the action necessary to comply with Union law. The Commission's formal opinion shall take into account the Authority's recommendation.

The Commission shall issue such a formal opinion within three months of the date of adoption of the recommendation. The Commission may extend that period by one month.

The Authority and the financial supervisor shall provide the Commission with all necessary information.

7. The financial supervisor shall, within 10 working days of receipt of the formal opinion referred to in paragraph 4, inform the Commission and the Authority of the steps it has taken or intends to take to comply with that formal opinion. When taking action in relation to issues which are subject to a formal opinion, financial supervisor shall comply with the formal opinion.

SECTION 5
OVERSIGHT OF NON-FINANCIAL SECTOR

Article 31
Peer reviews

1. The Authority shall periodically conduct peer reviews of some or all of the activities of non-financial supervisors ***and public authorities referred to under Article 38 of Directive [OP please insert the next number to the AMLD, COM(2021)0423]*** to strengthen consistency and effectiveness in supervisory outcomes. ▌The Authority shall develop methods to allow for an objective assessment and comparison between non-financial supervisors reviewed. ***Where relevant, the*** planning and conducting ***of assessments shall take due account of the*** evaluations***, assessments or reports drawn up by international organisations and intergovernmental bodies with competence in the field of preventing money laundering and terrorist financing. The assessments may also take due account of the*** information ***contained in the central AML/CFT database established pursuant to Article 11.***

The methods referred to in the first sub-paragraph shall take into account the specific features of the supervisory framework in cases where supervision is entrusted to self-regulatory bodies, including the role of the public authority in charge of overseeing those bodies ***pursuant to Article 38 of Directive [OP please insert the next number to the AMLD, COM(2021)0423], and the specific characteristics of supervisors in those cases***.

2. ***The peer reviews*** shall be ***carried out by the*** staff of the Authority ***jointly with the relevant staff of the non-financial supervisors***.

3. The peer review shall include an assessment of, but shall not be limited to:

   (a) the adequacy of powers and financial, human and technical resources, the degree of independence, the governance arrangements and professional standards of non-financial supervisor to ensure the effective application of Chapter IV [OP please insert the next number to the AMLD, COM(2021)0423];

   (b) the effectiveness and the degree of convergence reached in the application of Union law and in supervisory practice, and the extent to which the supervisory practice achieves the objectives set out in Union law;

(c) the application of best practices developed by non-financial supervisors whose adoption might be of benefit for other non-financial supervisors;

(d) the effectiveness and the degree of convergence reached with regard to the enforcement of the provisions adopted in the implementation of Union law, including the ***pecuniary*** sanctions and ▌ administrative measures imposed against persons responsible where those provisions have not been complied with.

4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be ***jointly*** prepared by the ***staff of the Authority and the relevant staff of the non-financial supervisors involved in the*** peer review ▌and adopted by the Executive Board, having received the observations of the General Board in supervisory composition as to the consistency of application of the methodology with other peer review reports. The report shall explain and indicate the follow-up measures that are deemed appropriate, proportionate and necessary as a result of the peer review. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article ***43*** and opinions pursuant to Article 44. The non-financial supervisors shall make every effort to comply with any guidelines and recommendations issued, in accordance with Article 43.

5. The Authority shall publish the findings of the peer review on its website and ***inform at least the European Parliament thereof. It shall*** submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to obliged entities in the non-financial sector or to non-financial supervisors would be necessary from the Union's perspective.

6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be ***jointly*** prepared by the ***staff of the Authority and the relevant staff of the non-financial supervisors involved in the*** peer review ▌ and adopted by the Executive Board, having received the observations of the General Board in supervisory composition on the consistency with other peer review reports. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the non-financial supervisors that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.

7. For the purposes of this Article, the Executive Board shall adopt***, after consulting of the General Board in supervisory composition,*** a peer review work plan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in supervisory composition***. The General Board, acting by a majority of two thirds of the members, may require the Executive Board to adopt a new plan***. The peer review work plan shall constitute a separate part of the annual and multiannual working programme and shall be included in the Single Programming Document. In case of urgency or unforeseen events, the Authority may decide to carry out additional peer reviews.

8. ***Where peer reviews concern supervisory activities which in one or more Member States are carried out by self-regulatory bodies***, the peer review exercise shall include the assessment ▌ of measures pursuant to Article 38 of ***Directive*** [OP please insert the next number to the AMLD, COM(2021)0423] that are taken by the public authority in charge of overseeing these bodies to ensure that they perform their function ***adequately and effectively***.

9. ***Where peer reviews concern supervisory activities which in one or more Member States are carried out by self-regulatory bodies, those self-regulatory bodies shall not be required to participate. However, where they*** indicate an interest to participate in a peer review exercise, ***staff entrusted with supervisory tasks from such bodies shall be allowed*** to participate in that peer review.

Article 31a
Coordination and facilitation of work of the AML/CFT supervisory colleges in the non-financial sector

1. The Authority shall, within the scope of its powers and without prejudice to the powers of the relevant non-financial supervisors pursuant to Article 36a of Directive [OP please insert the next number to the AMLD, COM(2021)0423], assist the set up and functioning of AML/CFT supervisory colleges in the non-financial sector for obliged entities in the non-financial sector operating establishments in several Member States in accordance with Article 36a of Directive [OP please insert the next number to the AMLD, COM(2021)0423].

2. To that end, the Authority may:

(a) suggest the establishment of colleges and the convocation and organisation of college meetings, where such college has not been established although the Authority considers that the money laundering and terrorist financing risks exposure of the obliged entity or group and the scale of its cross-border activities justify the establishment of a college;

(b) assist in the organisation of college meetings and in the assessment of whether the conditions for participation of third country supervisors in the college are met, where requested by the relevant non-financial supervisors;

(c) assist in the organisation of joint supervisory plans and joint on-site or off-site inspections;

(d) assist the non-financial supervisors in the collection and sharing of all relevant information in order to facilitate the work of the college and make such information accessible to the supervisors in the college;

(e) promote effective and efficient supervisory activities and practices, including evaluating the risks to which obliged entities other than credit and financial institutions are or might be exposed;

(f) provide assistance to non-financial supervisors, upon their specific requests, including the requests to mediate between non-financial supervisors in the situations covered by Article 36(a)(2) and (3) of Directive [OP please insert the next number to the AMLD, COM(2021)0423].

3. For the purposes of paragraph 1, the staff of the Authority shall have full participation rights in the AML/CFT supervisory colleges. Upon agreement of the non-financial supervisors concerned, the staff of the Authority shall be able to participate in the activities of the college carried out jointly by two or more non-financial supervisors, including on-site inspections of obliged entities referred to under Article 3(3) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM(2021)0420], except those covered under points (a) and (b) of that paragraph.

Article 32

Warning on breaches of Union rules by non-financial **supervisors and public authorities overseeing self-regulatory bodies**

1. Where ***the*** Authority ***has ground to suspect that a supervisor*** in the non-financial sector ***or a public authority overseeing self-regulatory bodies referred to in Article 38 of Directive [reference to AMLD]*** has not applied the Union acts or the national legislation referred to in Article 1(2), or has applied them in a way which appears to be a breach of Union law, ***it shall inform the supervisor or public authority concerned of those suspected breaches and investigate them.***

For the purposes of the first subparagraph, the Authority may act upon request from one or more supervisors in the non-financial sector or public authorities, the European Parliament, the Council, the Commission, or on its own initiative, including when this is based on well-substantiated information from natural or legal persons pursuant to Article ***76a***.

2. ***The Authority shall be able to*** request from ***the supervisor or public authority concerned all information which the Authority considers necessary for its investigation including information on how the Union acts or in that legislation referred to in Article 1(2) are applied in accordance with Union law, with the exception of information covered by the legal privilege, unless the exemptions set out in Articles 17(1), third subparagraph, and 51(2), second subparagraph of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM(2021)0420] and in Article 38(x) of Directive [reference to AMLD] apply***.

The ***supervisor or public*** authority shall, without delay, provide the Authority with ***the requested*** information ▌**.**

Whenever ***the requested*** information from the ***supervisor or public*** authority concerned has proven, or is deemed to be, insufficient to obtain the information that is deemed necessary for the purposes of investigating ***a suspected*** breach ▌, the Authority may, after having informed the ***supervisor or oversight*** authority, address a duly justified and reasoned request for information directly to other ***supervisors or oversight*** authorities.

The addressee of such a request shall provide the Authority with clear, accurate and complete information without undue delay.

3. The Authority may, not later than six months from initiating its investigation, address a recommendation to the ***supervisor or public authority*** concerned setting out the action necessary to ***remedy the identified breach***.

Before issuing such a recommendation, the Authority shall engage with the ***supervisor or the public*** authority concerned, where it considers such engagement appropriate in order to resolve ***the*** breach ▌, in an attempt to reach agreement on the actions necessary ***to that end.***

The ***supervisor or public authority concerned*** shall, within ten working days of receipt of the recommendation, inform the Authority of the steps it has taken or intends to take to ***resolve the breach.***

4. Where the ***supervisor or public*** authority ***has not resolved the identified breach referred to in paragraph 3, first subparagraph,*** within one month from receipt of the Authority's recommendation, the ***Authority shall address a warning detailing the breach(es) and identifying measures to be implemented by the addressees of the warning to mitigate their effects.***

The ***warning referred to in the first subparagraph*** shall ***be addressed: (a) in the case of a supervisor in the non-financial sector, to the counterpart supervisors in other Member States and, where the supervisor is a self-regulatory body, its public authority; (b) in the case of a public authority, to the self-regulatory bodies under its oversight***.

5. ***As soon as the supervisor or public authority has resolved the breach, the Authority shall*** inform ***the addressees of its warning that the breach has been resolved and that the mitigating measures shall be ceased***.

Article 32a
Settlement of disagreements between non-financial supervisors in cross-border situations

1. The Authority may assist non-financial supervisors in reaching an agreement in accordance with the procedure set out in paragraphs 3 to 5 of this Article at the request of one or more non-financial supervisors pursuant to Articles 34, 34a, 36a and 39a of Directive [AMLD] or in other instances where a non-financial supervisor disagrees with the procedure or content of an action, proposed action, or inactivity of another non-financial supervisor insofar as it affects its own supervisory tasks and responsibilities towards a specific obliged entity or multiple obliged entities.

2. In cases other than those covered by Article 34, 34a, 36a and 39a of Directive [OP: please insert reference to AMLD], a non-financial supervisor shall notify the Authority without undue delay that its assistance is required where a provision in Union law requires the non-financial supervisor to reach an agreement, an arrangement, or other form of established or formalized cooperation relating to supervision of specific obliged entities with another non-financial supervisor or supervisors, and either of the following occurs:

(a) the agreement has been reached but has not been effectively applied or adhered to by one of the parties,

(b) a non-financial supervisor concludes that a disagreement exists, on the basis of objective reasons;

(c) two months have elapsed from the date of receipt by a non-financial supervisor of a request by the non-financial supervisor addressing the Authority to take certain action in order to comply with those legislative acts and the requested supervisor has not adopted a decision that satisfies the request.

3. The Executive Board shall assess the request and notify the relevant parties whether it considers it justified and intends to act up

4. The Authority shall set a time limit for conciliation between the non-financial supervisors taking into account any relevant time periods specified in Union law and the complexity and urgency of the matter. For the purposes of the conciliation phase, the Authority shall act as a mediator. Where necessary or provided for in the Union law, it shall issue an opinion on how to settle the matter of disagreement.

SECTION 6
FIUs SUPPORT AND COORDINATION MECHANISM

Article 32b
Cooperation between the Authority and Financial Intelligence Units

1. The Authority shall be responsible for the effective and consistent cooperation between Financial Intelligence Units ('FIUs') within the framework of the FIUs' support and coordination mechanism. To that end, the Authority shall support and coordinate the activities of FIUs.

2. The Authority and FIUs shall be subject to a duty of cooperation in good faith, including in joint analyses supported or initiated by the Authority, and to an obligation to exchange information that is necessary to fulfil their respective tasks.

3. The Authority shall have dedicated human, financial and IT resources to support the tasks referred to under Article 5(5), and shall ensure, where necessary, organisational separation of the staff dedicated to those tasks from the staff carrying out the tasks relating to the Authority's supervisory activities.

An FIU may inform the Authority in the case of a failure to cooperate with another FIU. In that case, the Authority shall act as a mediator.

Article 33
Conduct of joint analyses

-1a. The Authority shall define methods and criteria for the selection and prioritisation of cases relevant for the conduct of joint analyses in accordance with Article 25 of [OP please insert the next number to the AMLD, COM(2021)0423] to be supported by the Authority.

-1b. ***To that end, the Authority shall draw up, on an annual basis, a list of priority areas for the conduct of joint analysis. That list may be reviewed where new priority areas are identified.***

1. Where, pursuant to Article 25 of [OP please insert the next number to the AMLD, COM(2021)0423] ***and with respect to the criteria referred to in paragraph -1a***, a FIU of a Member State identifies a potential need to conduct a joint analysis with one or several FIUs in other Member States, it shall notify the Authority thereof.

The Authority shall register all notifications received pursuant to the first subparagraph and assess the relevance of the case in accordance with the methods and criteria referred to in paragraph -1a. Where the Authority ***assesses that the case is relevant, it*** shall inform ***within five days of the initial notification*** the FIUs in all the relevant Member States and invite them to take part in the joint analysis ▌. To this end, the Authority shall use secured channels of communication. The FIUs in all the relevant Member States shall consider taking part in the joint analysis. ▌

-1d. If at least one other FIU agrees to join the joint analysis, the Authority shall ensure that the joint analysis is instituted within 20 days of the initial assessment, unless the urgency of the case justifies the imposition of a shorter deadline.

2. Any FIU that declines to participate in the conduct of the joint analysis shall provide the reasons thereof in writing to the Authority, within five days of the receipt of the invitation. The Authority shall provide such explanation without delay to the FIU having identified the need for a joint analysis.

3. Upon explicit consent of the FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be granted access to all the data pertaining to the subject-matter of the ***case*** and shall be able to process those data ***for the purposes of supporting the joint analysis***.

Where an FIU refuses to grant access to the staff of the Authority to the information it holds that is relevant to the case, it shall ensure that the information is otherwise provided in a way that does not impede the staff of the Authority to provide operational support to the joint analysis, nor effectively hamper their ability to provide such support.

Where several FIU refuse to grant access to the information relevant for the case, the Authority shall re-assess whether the tasks that its staff would perform justify its support to the joint analysis, and consider recommending that the joint analysis proceeds without its support instead.

4. The Authority shall provide all ▌ necessary tools and operational support required for the conduct of the particular joint analysis, in accordance with the developed methods and procedures. In particular, the Authority shall set up a dedicated, secured channel of communication for the performance of the joint analysis, and shall provide the appropriate technical coordination, including IT support, budgetary and logistical support.

4a. Upon explicit consent of all FIUs participating in the joint analysis, the staff of the Authority supporting the joint analysis shall be authorised to cross-match, on the basis of a hit/no-hit system, the data of those FIUs with data made available by other FIUs and Union bodies, offices and agencies within their respective mandates.

In case of a hit, the Authority shall share with all FIUs participating in the joint analysis the information that triggered the hit to the extent that the provider of the information authorised its sharing and that the information is necessary for the conduct of the joint analysis.

For the purposes of this paragraph, the Authority shall use a system designed for the cross-matching of information relevant for the purposes of preventing money laundering, its predicate offences and terrorist financing in a proportionate manner. That system shall ensure a level of security and confidentiality proportionate to the nature and extent of the information cross-matched. The methods and procedures to be established for the conduct of the joint analyses pursuant to Article 34(1) of this Regulation and the working arrangements to be concluded pursuant to Article 80(2) of this Regulation shall specify the methods for carrying out the cross-matching on the basis of a hit/no-hit system as referred to in the first subparagraph.

Article 33a
Dissemination of the results of joint analyses

1. Where the results of the joint analyses indicate that there are reasonable grounds to suspect that money laundering and other criminal activity are being or have been committed in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 22(2) and (3) of Council Regulation (EU) 2017/1939, the Authority shall report without undue delay the results of the joint analyses and any additional relevant information to the EPPO. By … [2 years after the data of entry into force of this Regulation], AMLA shall, in consultation with the EPPO, develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used by the Authority for the reporting of information to the EPPO.

2. Where the results of the joint analyses indicate that there are reasonable grounds to suspect that fraud, corruption or any other illegal activity affecting the financial interests of the Union are being or have been committed in respect of which OLAF could exercise its competence in accordance with Article 8 of Regulation (EU, Euratom) No 883/2013, the Authority shall disseminate the results of the joint analyses and any additional relevant information to the OLAF.

3. The Authority, the EPPO and OLAF may exchange strategic and other non-operational information, such as typologies and risk indicators, in the areas within their competence. The modalities of this type of information-sharing shall be laid down in the working arrangements pursuant to Article 80 of this Regulation.

3. Upon explicit consent of all FIUs participating in the joint analysis and where the results of the joint analysis indicate that there are reasonable grounds to suspect that a criminal offence has been committed in respect of which Europol could exercise its competence in accordance with Regulation (EU) 2016/794, the Authority shall disseminate the results of the joint analyses and any additional relevant information to Europol.

4. Upon explicit consent of all FIUs participating in the joint analysis and where the results of the joint analysis indicate that there are reasonable grounds to suspect that a criminal offence has been committed in respect of which Eurojust could exercise its competence in accordance with Regulation (EU) 2018/1727, the Authority shall disseminate the results of the joint analyses and any additional relevant information to Eurojust.

5. The Authority may exchange strategic and other non-operational information, such as typologies and risk indicators with the EPPO, Europol, Eurojust and OLAF, in the areas within their competence. The conditions for the exchange of the information referred to in the first subparagraph shall be laid down in the working arrangements pursuant to Article 80 of this Regulation.

Article 33b
Request by the Authority for the initiation of joint analysis

1. In specific cases where the Authority identifies a potential need to conduct a joint analysis pursuant to Article 33 of this Regulation and Article 25 of Directive [Insert reference to 6AMLD], it shall inform the concerned FIUs and invite them to take part in the joint analysis.

2. The concerned FIUs shall inform the Authority without undue delay, preferably within five days of receipt of the request, of their decision concerning a request pursuant to paragraph 1.

3. Where one of the FIUs invited to take part in the joint analysis refuses to accede to a request made by the Authority pursuant to paragraph 1, it shall inform the Authority of the reasons for its decision without undue delay, preferably within five days of receipt of the request.

Article 34
Review of the methods, procedures and conduct of the joint analyses

1. The Authority shall ***establish*** methods and procedures ▌for the conduct of the joint analyses ***and*** periodically ***review and update them*** where necessary. ***Such review and update shall also apply to the procedures referred to in Article 33(-1a).***

2. The FIUs that participated or were otherwise involved in one or more joint analyses may provide their feedback ***to the Authority*** on the conduct of the analysis, including feedback on the operational support provided by the Authority in the process of the joint analysis, as well as feedback on the outcome of the analysis working methods and arrangements in place, the tools available and the coordination between the participating FIUs. The feedback may be labelled as confidential, in which case it will not be shared with other FIUs.

3. On the basis of the feedback referred to in paragraph 2, or on its own initiative, the Authority may issue follow-up reports relating to the conduct of joint analyses, including specific suggestions on adjustments regarding the methods and procedures for the conduct of the joint analyses, and conclusions on the outcome of the joint analyses. The ▌ follow-up report shall be shared with all FIUs, without disclosing confidential or restricted information on the case. The conclusions and recommendations relating to the conduct of the joint analyses shall be shared with the FIUs that participated in the relevant joint analyses, and with all the other FIUs insofar as these conclusions do not contain confidential or restricted information.

Article 35
National FIU delegates

1. The FIU of each Member State ***shall*** delegate one ***or more*** staff ***members*** to the Authority. The ***regular place of work of the national FIU delegate shall be*** at the seat of the Authority.

2. FIU delegates shall have the status of staff personnel of the delegating FIU at the time of their appointment and for the entire duration of their delegation. Member States shall appoint their FIU delegate on the basis of a proven high level of relevant, practical experience in the field of FIU tasks. The ***delegate shall remain under the authority*** of the ***delegating FIU and*** shall ***comply with the security and confidentiality rules of*** the delegating FIU***, including relevant national law***.

3. ***The General Board in FIU composition may reject a person who has been appointed as FIU delegate if that person does not fulfil the criteria referred to in paragraph 2.*** The term of office of the FIU delegates shall be three years, renewable once with consent of the delegating FIU.

4. FIU delegates shall support the Authority in carrying out the tasks set out in Article 5(5). To that end, the national FIU delegates shall be granted access to the Authority's data and information necessary for the performance of their tasks for the duration of the delegation.

5. FIU delegates ***shall*** be granted access to any data accessible by their delegating FIU for the purposes of carrying out the tasks referred to in paragraph 4 ▌.

6. The Executive Board shall determine the rights and obligations of the FIU delegates in relation to the Authority ***taking into account the opinion of the General Board in FIU composition. FIUs shall ensure that their FIU delegate complies with those rights and obligations***.

Article 36
Mutual assistance in the area of cooperation between FIUs

1. In the context of promoting cooperation and support of the work of the FIUs, the Authority***, taking into account the needs of FIUs,*** shall ***promote common approaches, methods and best practices. The Authority shall also*** organise and facilitate at least the following activities:

(a) training programmes, including with respect to technological innovation;

(b) personnel exchanges and secondment schemes, including secondment of FIU staff from a Member State to the Authority;

(c) exchanges of practices between FIUs, including sharing expertise in a specific area***;***

(d) development or procurement of IT tools and services to enhance the analysis capabilities of FIUs.

2. Any FIU may submit to the Authority a request for assistance related to the tasks of the FIU, specifying the type of assistance that can be provided by the staff of the Authority, the staff of one or more than one FIU, or a combination thereof. The FIU requesting assistance shall ensure the access to any information and data necessary for the provision of such assistance. The Authority shall keep and regularly update information on specific areas of expertise and capacity of FIUs to provide mutual assistance ***related to the tasks of FIUs***.

3. The Authority shall make every effort to provide the requested assistance, including by considering the support to be provided with its own human resources as well as coordinating and facilitating the provision of any form of assistance by other FIUs on a voluntary basis.

4. At the beginning of each year, the Chair of the Authority shall inform the General Board in FIU composition of the human resources that the Authority can allocate to providing the assistance referred to in the previous paragraph. When changes occur to the availability of human resources due to performance of tasks referred to in Article 5(5), the Chair of the Authority shall inform the General Board in FIU composition thereof.

Article 36a
Mediation between FIUs

1. ***The Authority may facilitate a solution in the case of a disagreement between two or more FIUs regarding individual cases related to cooperation, including the exchange of information, under Directive [insert reference to 6AMLD] between FIUs. The purpose of such mediation shall be to reconcile divergent points of view between the FIUs and to adopt a non-binding opinion.***

2. ***Where a disagreement cannot be solved by direct contact and dialogue between the FIUs concerned, the Authority shall launch a mediation procedure upon request by one or more of those FIUs. The Authority may also suggest launching a mediation procedure on its own initiative. Mediation shall be conducted only with the agreement of all FIUs concerned.***

3. The mediation procedure shall be launched before the Authority's General Board in FIU composition. All members of the General Board in FIU composition, except the Heads of the FIUs that concerned by the disagreement, shall seek to reconcile the points of view of the FIUs that concerned by the disagreement and shall agree on a non-binding opinion. Where relevant, experts from the Commission may be invited to participate in the mediation in an advisory capacity.

4. The General Board in FIU composition shall adopt the rules of procedure for mediation, including the applicable deadlines.

5. Where an FIU that is concerned by a disagreement refuses to participate in mediation, it shall inform the Authority and the other FIUs that are concerned by the disagreement of the reasons for its decision within the period set in the rules of procedure referred to in paragraph 4.

6. Within three months of the adoption of the non-binding opinion, the FIUs that are concerned by the disagreement shall report to the General Board in FIU composition with regard to the measures that they have taken for the purpose of following up on the opinion or, where they have not taken measures, with regard to the reasons why they have not done so.

Article 37
FIU.net

1. The Authority shall ensure adequate ▌**,** uninterrupted ***and secure*** hosting, management, maintenance, and development of the FIU.net. ***Taking into account the needs of FIUs, the Authority shall*** ensure that the most advanced ***and secure*** available technology is used for the FIU.net, subject to a cost-benefit analysis.

2. The Authority shall ensure uninterrupted functioning of the FIU.net and keep it ***up-to-date***. Where necessary to support or strengthen the exchange of information and cooperation between the FIUs and based on the needs of FIUs, the Authority shall design and implement, or otherwise make available, upgraded or additional functionalities of FIU.net.

3. The Authority shall ***also*** be responsible for the following tasks relating to the FIU.net:

   (a) ***implement*** appropriate technical and organizational measures to ***ensure a level of security to ensure*** protection ***of personal data***;

   (b) ***plan,*** coordinate, manage and support any testing activities;

   (c) ensure adequate financial resources;

   (d) provide training on the technical use of FIU.net by end-users.

4. For the purposes of carrying out the tasks referred to in paragraphs 1, 2 and 3, the Authority shall be empowered to conclude or enter into legally binding contracts or agreements with third party service providers***, after appropriate audits of their security standards***.

5. The Authority shall adopt and implement the measures necessary for fulfilment of the tasks referred to in this Article, including a security plan, a business continuity plan and a disaster recovery plan for the FIU.net.

5a. The General Board in FIU composition, acting unanimously, may decide to suspend the access of an FIU or counterpart in a third country or Union body, office or agency to the FIU.net where it has grounds to believe that such an access would jeopardise the implementation of Chapter III of Directive [please insert reference to AMLD6] and the security and confidentiality of the information held by FIUs and exchanged through the FIU.net system, including where there are concerns in relation to an FIU's lack of independence and autonomy.

When adopting a decision as referred to in the first subparagraph suspending the access of an FIU, the General Board shall act unanimously by vote of all members of the General Board in FIU composition, except the Head of the FIU in question.

The General Board in FIU composition shall define the criteria for the suspension of access to the FIU.net and adopt the rules of procedure for such suspension.

Article 37a
Peer review

1. ***The Authority shall set up a peer review process of the activities of FIUs pursuant to Chapter III of Directive [insert reference to 6AMLD] to strengthen consistency and effectiveness of FIU activities and to facilitate the exchange of best practices between FIUs. The Authority shall develop methods to allow for an objective assessment of the FIUs reviewed and rules of procedure for the conduct of peer reviews.***

Where relevant, the planning and conducting of peer reviews shall take due account of the evaluations, assessments and reports drawn up by international organisations and intergovernmental bodies with competence in the field of preventing money laundering, its predicate offences and terrorist financing.

2. For the purposes of the first paragraph, the Authority shall set up a peer review team, which shall be composed of staff of the Authority and representatives of FIUs participating in the peer review.

3. The peer review shall include an assessment of, but shall not be limited to:

(a) the adequacy of the FIU's resources, including human and technical and IT resources, to perform its functions;

(b) the measures implemented to ensure it has operational independence and autonomy and it is not subject to undue influence;

(c) the measures the FIU has put in place to protect the security and confidentiality of information;

(d) the FIU's function to receive STRs and other disclosures, including the number and nature of disclosures received and their quality;

(e) the measures the FIU has put in place to enhance the reporting of STRs by obliged entities, in particular in relation to their quality;

(f) the FIU's access to and use of additional information to enrich its analysis;

(g) the tools used by the FIU to carry out analysis;

(h) the extent to which FIU's analysis and dissemination support the operational needs of authorities competent for the investigation and prosecution of money laundering, its predicate offences and terrorist financing;

(i) domestic cooperation between the FIU and other competent authorities;

(j) cross-border cooperation between the FIU and counterpart FIUs from other Member States.

4. The Authority shall produce a report setting out the results of the peer review. That peer review report shall be jointly prepared by the staff of the Authority and the relevant staff of the FIUs involved in the peer review team and adopted by the Executive Board, having received the observations of the General Board in FIU composition as to the consistency of application of the methodology with other peer review reports. The report shall include good practices identified and, where relevant, follow-up measures that are deemed appropriate, proportionate and necessary as a result of the peer view. Those follow-up measures may be adopted in the form of guidelines and recommendations pursuant to Article 43 and opinion pursuant to Article 44. FIUs shall make every effort to comply with any guidelines and recommendations issued in accordance with Article 43.

5. The Authority shall publish the findings of the peer review on its website and submit an opinion to the Commission where, having regard to the outcome of the peer review or to any other information acquired by the Authority in carrying out its tasks, it considers that further harmonisation of Union rules applicable to FIUs would be necessary from the Union's perspective.

6. The Authority shall provide a follow-up report two years after the publication of the peer review report. The follow-up report shall be jointly prepared by the staff of the Authority and the relevant staff of the FIUs involved in the peer review team and adopted by the Executive Board, having received the observations of the General Board in FIU composition on the consistency with other peer review reports. The follow-up report shall include an assessment of the adequacy and effectiveness of the actions undertaken by the FIUs that were subject to the peer review in response to the follow-up measures of the peer review report. The Authority shall publish the findings of the follow-up report on its website.

7. ***For the purposes of this Article, the Executive Board shall adopt a peer review work plan every two years, which shall reflect the lessons learnt from the past peer review processes and discussions held in the General Board in FIU composition. The peer review work plan shall constitute a separate part of the annual and multiannual working programme and shall be included in the Single Programming Document. Every FIU shall participate in peer reviews which concern it.***

SECTION 7
COMMON INSTRUMENTS

Article 38
Regulatory technical standards

1. Where the European Parliament and the Council delegate power to the Commission to adopt regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU in order to ensure consistent harmonisation in the areas specifically set out in the legislative acts referred to in Article 1(2) of this Regulation, the Authority may develop draft regulatory technical standards. The Authority shall submit its draft regulatory technical standards to the Commission for adoption. At the same time, the Authority shall forward those draft regulatory technical standards for information to the European Parliament and to the Council.

Regulatory technical standards shall be technical, shall not imply strategic decisions or policy choices and their content shall be delimited by the legislative acts on which they are based.

Before submitting them to the Commission, the Authority shall conduct open public consultations on draft regulatory technical standards and shall analyse the potential related costs and benefits, unless those consultations and analyses are highly disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter.

Within three months of receipt of a draft regulatory technical standard, the Commission shall decide whether to adopt it. The Commission shall inform the European Parliament and the Council in due time where the adoption cannot take place within the three-month period. The Commission may adopt the draft regulatory technical standard in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to adopt a draft regulatory technical standard or to adopt it in part or with amendments, it shall send the draft regulatory technical standard back to the Authority, explaining why it does not adopt it or explaining the reasons for its amendments.

The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft regulatory technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If, on the expiry of that six-week period, the Authority has not submitted an amended draft regulatory technical standard, or has submitted a draft regulatory technical standard that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the regulatory technical standard with the amendments it considers relevant, or reject it.

The Commission may not change the content of a draft regulatory technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

2. Where the Authority has not submitted a draft regulatory technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.

3. Only where the Authority does not submit a draft regulatory technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt a regulatory technical standard by means of a delegated act without a draft from the Authority.

The Commission shall conduct open public consultations on draft regulatory technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft regulatory technical standards concerned or in relation to the particular urgency of the matter.

The Commission shall immediately forward the draft regulatory technical standard to the European Parliament and the Council.

The Commission shall send its draft regulatory technical standard to the Authority. Within a period of six weeks, the Authority may amend the draft regulatory technical standard and submit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft regulatory technical standard, the Commission may adopt the regulatory technical standard.

If the Authority has submitted an amended draft regulatory technical standard within the six-week period, the Commission may amend the draft regulatory technical standard on the basis of the Authority's proposed amendments or adopt the regulatory technical standard with the amendments it considers relevant. The Commission shall not change the content of the draft regulatory technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

4. The regulatory technical standards shall be adopted by means of regulations or decisions. The words ‘regulatory technical standard’ shall appear in the title of such regulations or decisions. Those standards shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

Article 39
Exercise of the delegation

1. The power to adopt regulatory technical standards referred to in Article 38 shall be conferred on the Commission for a period of four years from ▌ the date of entry into force of this Regulation ▌ . The Commission shall draw up a report in respect of the delegated power not later than 6 months before the end of the 4-year period. The delegation of power shall be automatically extended for periods of an identical duration. ▌

2. As soon as it adopts a regulatory technical standard, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt regulatory technical standards is conferred on the Commission subject to the conditions laid down in Articles 38, 40 and 41.

Article 40
Objections to regulatory technical standards

1. The European Parliament or the Council may object to a regulatory technical standard within a period of three months from the date of notification of the regulatory technical standard adopted by the Commission. At the initiative of the European Parliament or the Council that period shall be extended by three months.

2. If, on the expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the regulatory technical standard, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

The regulatory technical standard may be published in the ***Official Journal of the European Union*** and enter into force before the expiry of ***the*** period ***referred to in paragraph 1*** if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to a regulatory technical standard within the period referred to in paragraph 1, it shall not enter into force. In accordance with Article 296 TFEU, the institution which objects shall state the reasons for objecting to the regulatory technical standard.

Article 41
Non-endorsement or amendment of draft regulatory technical standards

1. In the event that the Commission does not endorse a draft regulatory technical standard or amends it as provided for in Article ***38***, the Commission shall inform the Authority, the European Parliament and the Council, stating its reasons.

2. Where appropriate, the European Parliament or the Council may invite the responsible Commissioner, together with the Chairperson of the Authority, within one month of the notice referred to in paragraph 1, for an ad hoc meeting of the competent committee of the European Parliament or the Council to present and explain their differences.

Article 42
Implementing technical standards

1. Where the European Parliament and the Council confer implementing powers on the Commission to adopt implementing technical standards by means of implementing acts pursuant to Article 291 TFEU, in the areas specifically set out in the legislative acts referred to in Article 1(2) of this Regulation, the Authority may develop draft implementing technical standards. Implementing technical standards shall be technical, shall not imply strategic decisions or policy choices and their content shall be to determine the conditions of application of those acts. The Authority shall submit its draft implementing technical standards to the Commission for adoption. At the same time, the Authority shall forward those technical standards for information to the European Parliament and to the Council.

Before submitting draft implementing technical standards to the Commission, the Authority shall conduct open public consultations and shall analyse the potential related costs and benefits, unless such consultations and analyses are highly disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter.

Within three months of receipt of a draft implementing technical standard, the Commission shall decide whether to adopt it. The Commission may extend that period by one month. The Commission shall inform the European Parliament and the Council in due time where the adoption cannot take place within the three-month period. The Commission may adopt the draft implementing technical standard in part only, or with amendments, where the Union's interests so require.

Where the Commission intends not to adopt a draft implementing technical standard or intends to adopt it in part or with amendments, it shall send it back to the Authority explaining why it does not intend to adopt it or explaining the reasons for its amendments. The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft implementing technical standard on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If, on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft implementing technical standard, or has submitted a draft implementing technical standard that is not amended in a way consistent with the Commission's proposed amendments, the Commission may adopt the implementing technical standard with the amendments it considers relevant or reject it.

The Commission shall not change the content of a draft implementing technical standard prepared by the Authority without prior coordination with the Authority, as set out in this Article.

2. Where the Authority has not submitted a draft implementing technical standard within the time limit set out in the legislative acts referred to in Article 1(2), the Commission may request such a draft within a new time limit. The Authority shall inform the European Parliament, the Council and the Commission, in due time, that it will not comply with the new time limit.

3. Only where the Authority does not submit a draft implementing technical standard to the Commission within the time limits in accordance with paragraph 2, may the Commission adopt an implementing technical standard by means of an implementing act without a draft from the Authority.

The Commission shall conduct open public consultations on draft implementing technical standards and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the draft implementing technical standards concerned or in relation to the particular urgency of the matter.

The Commission shall immediately forward the draft implementing technical standard to the European Parliament and the Council.

The Commission shall send the draft implementing technical standard to the Authority. Within a period of six weeks, the Authority may amend the draft implementing technical standard and submit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

If, on the expiry of the six-week period referred to in the fourth subparagraph, the Authority has not submitted an amended draft implementing technical standard, the Commission may adopt the implementing technical standard.

If the Authority has submitted an amended draft implementing technical standard within that six-week period, the Commission may amend the draft implementing technical standard on the basis of the Authority's proposed amendments or adopt the implementing technical standard with the amendments it considers relevant.

The Commission shall not change the content of the draft implementing technical standards prepared by the Authority without prior coordination with the Authority, as set out in this Article.

4. The implementing technical standards shall be adopted by means of regulations or decisions. The words 'implementing technical standard' shall appear in the title of such regulations or decisions. Those standards shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

Article 43
Guidelines and recommendations

1. The Authority shall, with a view to establishing consistent, efficient and effective supervisory and FIU-related practices, and to ensuring the common, uniform and consistent application of Union law, issue guidelines ***and recommendations*** addressed to ▌ supervisory authorities, ***supervisors,*** FIUs, or ▌ obliged entities***.*** ▌

2. The Authority shall, where appropriate, conduct open public consultations***,*** regarding ***those*** guidelines and recommendations ▌ and analyse the related potential costs and benefits ▌. Those consultations and analyses shall be proportionate in relation to the scope, nature and impact of the guidelines or recommendations. Where the Authority does not conduct open public consultations, the Authority shall provide its reasons ***and make them public***.

3. ***Supervisors,*** supervisory authorities***,*** obliged entities ***and FIUs*** shall make every effort to comply with those guidelines and recommendations.

Within two months of the issuance of a guideline or recommendation, each supervisory authority***, supervisor or FIU*** shall confirm whether it complies or intends to comply with that guideline or recommendation. In the event that a supervisory authority***, supervisor or a FIU*** does not comply or does not intend to comply, it shall inform the Authority, stating its reasons.

The Authority shall publish the fact that a supervisory authority***, supervisor or FIU*** does not comply or does not intend to comply with that guideline or recommendation. The Authority may also decide, on a case-by-case basis, to publish the reasons provided by the supervisory authority***, supervisor or an FIU*** for not complying with that guideline or recommendation. The supervisory authority***, supervisor or an FIU*** shall receive advanced notice of such publication.

If required by that guideline or recommendation, obliged entities shall report, in a clear and detailed way, whether they comply with that guideline or recommendation.

3a. In the report referred to in Article 53(4)(c), the Authority shall list guidelines and recommendations that have been issued.

3c. The guidelines and recommendations issued by the Authority shall replace the guidelines and recommendations previously issued by the EBA or the competent authorities on the same subject. Provided that they are still relevant, the guidelines and recommendations issued by the EBA or the competent authorities pursuant to Directive (EU) 2015/849 and [insert reference to new Funds Transfer Regulation recast] shall remain applicable until such time as the new guidelines and recommendations issued by the Authority on the same subject apply. The Authority shall provide for a suitable transition period for the application of the new guidelines and recommendations.

Article 44
Opinions

1. The Authority may, upon a request from the European Parliament, from the Council or from the Commission, or on its own initiative, provide opinions to the European Parliament, to the Council and to the Commission on all issues related to its area of competence.

2. The request referred to in paragraph 1 may include a ***consultation with other relevant Union bodies where their competence is concerned,*** public consultation or a technical analysis.

3. The Authority may, upon a request from the European Parliament, from the Council or from the Commission provide technical advice to the European Parliament, the Council and the Commission in the areas set out in the legislative acts referred to in Article 1(2).

CHAPTER III
ORGANISATION OF THE AUTHORITY

Article 45
Administrative and management structure

The Authority's structure shall comprise:

(1) a General Board, which shall exercise the tasks set out in Article 49;

(2) an Executive Board, which shall exercise the tasks set out in Article 53:

(3) a Chair of the Authority, who shall exercise the tasks set out in Article 57;

(4) an Executive Director, who shall exercise the tasks set out in Article 59;

(5) an Administrative Board of Review which shall exercise the functions listed in Article 62.

SECTION 1
GENERAL BOARD

Article 46
Composition of the General Board

1. The General Board shall have, alternatively, the supervisory composition as laid down in paragraph 2 or the FIU composition as laid down in paragraph 3.

2. The General Board in supervisory composition shall be composed of:

   (a) the Chair of the Authority with a right to vote;

   (b) the heads of supervisory authorities of obliged entities in each Member State with a right to vote;

   (c) one representative of the Commission, without the right to vote.

   The heads of the supervisory authorities referred to in the first subparagraph, point (b) in each Member State shall share a single vote and shall agree on a single common representative***, which shall be either a permanent*** representative ***or an*** ad-hoc voting ***representative,*** for the purposes of ***each specific*** meeting or voting procedure. ▌ Where items to be discussed by the General Board in supervisory composition concern the competence of several public authorities, the ***single common representative*** may be accompanied by a representative from up to two other public authorities, who shall be non-voting.

Each public authority that has a voting member under ad-hoc or permanent agreement shall be responsible for nominating a high-level alternate from its authority, who may replace the voting member of the General Board referred to in the second ***subparagraph*** where that person ***cannot attend***.

3. The General Board in FIU composition shall be composed of:

(a) the Chair of the Authority with a right to vote;

(b) the heads of FIUs with the right to vote;

(c) one representative of the Commission, without the right to vote.

3a Each FIU shall nominate a high-level alternate from its authority, who may replace the head of the FIU referred to in the first subparagraph where that person cannot attend.

4. The General Board may decide to admit observers. ▌ In particular, the General Board in FIU composition ***may*** admit as ***observers the representatives*** of OLAF, Europol, Eurojust and the EPPO to meetings when matters fall under their respective mandates. The General Board in supervisory composition shall admit a representative nominated by the Supervisory Board of the European Central Bank and a representative of each of the European Supervisory Authorities, where matters within the scope of their respective mandates are discussed.

The circumstances under which the Union institutions, bodies, offices and agencies listed in the first subparagraph shall be invited to the meetings of the General Board, shall be specified in the Rules of Procedure of the General Board and reflect an agreement reached between the Authority and each of those observers.

Other observers may be admitted on an ad hoc basis if approved by a two-thirds majority of the voting members of the General Board in the relevant composition.

5. The members of the Executive Board may participate in the meetings of the General Board in both compositions, without the right to vote, where the items covered by their areas of responsibility as determined by the Chair of the Authority and referred to in Article 55(2), are discussed.

Article 47
Internal committees of the General Board

The General Board, on its own initiative or at the request of the Chair of the Authority, may establish internal committees for specific tasks attributed to it. The General Board may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive Board or to the Chair. The General Board may revoke such delegation at any time. ***All conclusions reached by internal committees shall be reported for decision to the General Board. The members of the Executive Board may participate in the meetings of internal committees in accordance with Article 46(5).***

The General Board in FIU composition shall establish a standing committee from among its members or representatives with adequate expertise from their respective national FIU, to support it in performing its tasks pursuant to article 49(3), including by submitting proposals and preparing draft decisions. The committee shall have no decision-making powers. The standing committee shall execute its tasks in the interest of the Union as a whole and shall work in full transparency with the General Board in FIU composition. The General Board in FIU composition shall adopt the Rules of Procedure of the standing committee. The composition of the committee shall ensure a fair balance and rotation between national FIUs. It shall consist of 9 members, appointed by the General Board in FIU composition.

Article 48
Independence of the General Board

1. When carrying out the tasks conferred upon them by this Regulation, The ***Chair of the Authority and the*** members of the General Board in both compositions referred to in Article 46(2) ***and (3)*** shall act independently and ▌ in the ***general*** interest of the Union as a whole and shall neither seek nor take instructions from Union institutions, bodies, offices nor agencies from any government or any other public or private body.

2. Member States, Union institutions, agencies, offices or bodies, and any other public or private body, shall not seek to influence the members of the General Board in the performance of its tasks.

3. The General Board shall lay down, in its Rules of Procedure, the practical arrangements for the prevention and the management of conflict of interest.

Article 49
Tasks of the General Board

1. The General Board in supervisory composition shall take the decisions relating to tasks referred to in Articles 7 to 10 as well as any decisions explicitly provided by this Regulation for the General Board in supervisory composition.

2. The General Board in supervisory composition may provide its ▌opinion on any draft decisions prepared by the Executive Board towards selected obliged entities in accordance with Section 3 of Chapter II ***and article 53(2)***.

The General Board in supervisory composition and the Executive board shall jointly agree on and adopt the procedures and timelines to be followed for the purpose of providing the opinion referred to in the first subparagraph.

3. The General Board in FIU composition shall perform the tasks and adopt the decisions pursuant to ***Article 5(5) and*** section 6 of Chapter II.

4. The General Board shall adopt ▌ opinions, recommendations, guidelines and decisions of the Authority referred to in Section 7 of Chapter II, in an appropriate composition, depending on the subject-matter of the instrument. Where a given instrument concerns both FIU and supervision-related matters, adoption shall be required by both compositions of the General Board independently. The ▌ opinions, recommendations, and guidelines shall be adopted based on a proposal of the relevant internal committee. ***The General Board shall vote on and submit the draft regulatory technical standards referred to in Article 38 as well as the implementing technical standards referred to in Article 42 for adoption by the European Commission.***

5. The General Board in either composition shall be consulted on the draft decisions to be taken by the Executive Board pursuant to Article 53(4), points (a), (c), (e) and (m). Where the subsequent decision taken by the Executive Board deviates from the opinion of the General Board, the Executive Board shall provide the reasons thereof in writing.

6. The General Board shall adopt and make public its Rules of Procedure.

7. Without prejudice to Articles 52 (3) and (4) and Article 56 (1) and (2), the appointing authority powers over the Chair and the five permanent members of the Executive Board throughout their mandate shall be exercised by the General Board.

Article 50
Voting rules of the General Board

1. Decisions of the General Board shall be taken by a simple majority of its members. Each voting member as determined by Article ***46(2) and (3)*** shall have one vote. In case of a tied vote, the Chair of the Authority shall have a casting vote.

2. With regard to the acts referred to in Articles 38, 42, 43 and 44 of this Regulation, and by way of derogation from paragraph 1, the General Board shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) TEU.

The Chair of the Authority shall not vote on the decisions referred to in the first subparagraph***,*** ***the opinion referred to in Article 49(2)*** and the decisions related to the evaluation of the performance of the Executive Board referred to in Article 52 (4).

3. The non-voting members and the observers shall not attend any discussions within the General Board in supervisory composition relating to individual obliged entities, unless otherwise provided for in the legislative acts referred to in Article 1(2)***, or decided upon by the voting members***.

4. Paragraph 3 shall not apply to the Executive Board members and the European Central Bank representative nominated by its Supervisory Board.

5. The Chair of the Authority shall have the prerogative to call a vote at any time. Without prejudice to that power and to the effectiveness of the Authority's decision-making procedures, the General Board shall strive for consensus when taking its decisions.

Article 51
Meetings of the General Board

1. The Chair of the Authority shall convene the meetings of the General Board.

2. The General Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chair, ▌ or at the request of at least one-third of its members.

3. The General Board may invite any person whose opinion may be of interest to attend its meetings as an observer.

4. The members of the General Board and their alternates may, subject to its Rules of Procedure, be assisted at the meetings by advisers or experts.

5. The ***General Board*** shall ***be assisted by a*** secretariat ***provided by the Authority***.

6. The Chair of the Authority and the permanent five members of the Executive Board shall not attend those meetings of the General Board where matters concerning the performance of their mandate are discussed or decided upon.

SECTION 2
EXECUTIVE BOARD

Article 52
Composition and appointment of the Executive Board

1. The Executive Board shall be composed of:

   (a) the Chair of the Authority;

   (b) five full-time members***, including the Vice-Chair***;

(c) a representative of the Commission where the Executive Board carries out the tasks referred to in Article 53(4) point (a) to (l). The representative of the Commission shall be entitled to participate in the debates and shall have access to the documents pertaining to these tasks only.

2. The Executive Director shall participate in meetings of the Executive Board without the right to vote.

2a. Where the decisions referred to in Article 53(2) towards a selected obliged entity are deliberated upon, the member of the General Board in supervisory composition from the Member State where the concerned selected obliged entity is established may participate in the deliberations during the relevant meetings of the Executive Board. The member of the General Board referred to in the previous subparagraph shall not be present in the vote following such deliberations.

3. The five members of the Executive Board referred to in paragraph 1, point (b), shall be selected ***on the basis of merit, skills, knowledge, integrity, recognised standing and experience in the area of anti-money laundering and countering the financing of terrorism, and other relevant qualification,*** following an open selection procedure which shall be published in the Official Journal of the European Union.

The Commission shall ***prepare a shortlist of candidates for the position of the five full-time members of the Executive Board. The European Parliament may conduct hearings of the candidates on that shortlist.***

The General Board ***shall submit a proposal for the appointment of the five full-time members of the Executive Board to the European Parliament*** based on the shortlist ***prepared*** by the Commission. ***Following the European Parliament's approval of that proposal, the Council shall adopt an implementing decision to appoint the five full-time members of the Executive Board. The Council shall act by qualified majority***.

Throughout the appointment process the principles of gender and geographical balance shall be taken into account to the extent possible.

4. The term of office of the five members of the Executive Board ***referred to in paragraph 1, point (b),*** shall be four years. In the course of the 12 months preceding the end of ***their*** four-year term of office ▌, the General Board in both compositions or a smaller committee selected among General Board members including a Commission representative shall carry out an assessment of performance of ***those*** Executive Board ***members***. The assessment shall take into account an evaluation of ***those*** Executive Board members' performance and the Authority's future tasks and challenges. Based on the assessment, the General Board in both compositions may ***propose to the European Parliament to*** extend their term of office once. ***Following the European Parliament's approval, the Council shall adopt an implementing decision to extend the term of office of those Executive Board members. The Council shall act by qualified majority.***

5. The Executive Board members referred to in paragraph 1, point ▌(b) shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union institutions, Union decentralised agencies and other Union bodies from any government or from any other public or private body. The institutions, bodies, offices and agencies of the Union and the governments of the Member States and any other bodies shall respect that independence.

6. If one or more of the members of the Executive Board ***referred to in paragraph 1, point (b),*** no longer fulfil the conditions required for the performance of his or her duties or has been guilty of serious misconduct, the ***Council may, acting on its own initiative or*** following a proposal by the ***European Parliament or the General Board in either composition, adopt an implementing decision to*** remove any of the members of the Executive Board from office. ***The Council shall act by qualified majority.***

7. During a period of ***eighteen months*** after ceasing to hold office, the former members of the Executive Board, including the Chair ***and the Vice-Chair*** of the Authority, are prohibited from engaging in a gainful occupational activity with

   (a) a selected obliged entity;

   (b) any other entity ***in case the employment therein would lead to the existence or possibility of a conflict with the legitimate interests of the Authority***.

In its rules for the prevention and management of conflicts of interest in respect of its members referred to in Article 53 (4) point (e), the Executive Board shall specify the circumstances under which such a conflict of interest exists or could be perceived to exist.

Article 53
Tasks of the Executive Board

1. The Executive Board shall be responsible for the overall planning and the execution of the tasks conferred on the Authority pursuant to Article 5. The Executive Board shall adopt all the decisions of the Authority with the exception of the decisions that shall be taken by the General Board in accordance with Article 49.

2. The Executive Board shall adopt all the decisions addressed to selected obliged entities ***for the purposes of the exercise of the powers referred to in Article 6(1) taking into account*** the proposal of the selected obliged entity's Joint Supervisory Team referred to in Article 15, ***the proposal of the independent investigatory team referred to in article 25, and*** the opinion provided by the General Board on that proposed decision ***pursuant to Article 49(2)***. Where the Executive Board ***decides to deviate*** from such an opinion, it shall provide the ***detailed*** reasons thereof in writing.

3. The Executive Board shall adopt all the decisions addressed to individual public authorities pursuant to Articles 28, ***30, 13a, 30b, 30c,*** 31, and 32.

4. In addition, the Executive Board shall have the following tasks:

(a) adopt, by 30 November of each year, on the basis of a proposal by the Executive Director, the draft Single Programming Document ***in accordance with Article 54***, and ▌ transmit it for information to the European Parliament, the Council and the Commission by 31 January the following year, as well as any other updated version of the document***;***▌

(b) adopt the draft annual budget of the Authority and exercise other functions in respect of the Authority's budget;

(c) assess and adopt a consolidated annual activity report on the Authority's activities, including an overview of the fulfilment of its tasks and send it, by 1 July each year, to the European Parliament, the Council, the Commission and the Court of Auditors and make the consolidated annual activity report public;

(d) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

(e) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as the members of the Administrative Board of Review;

(f) adopt its rules of procedure;

(g) exercise, with respect to the staff of the Authority, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ("the appointing authority powers");

(h) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110(2) of the Staff Regulations;

(i) appoint the Executive Director and remove him/her from office, in accordance with Article 58;

(j) appoint an Accounting Officer, who may be the Commission's Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of other servants, who shall be totally independent in the performance of his/her duties;

(k) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;

(l) adopt the financial rules applicable to the Authority;

(m) take all decisions on the establishment of the Authority's internal structures and, where necessary, their modification.

5. The Executive Board shall select a Vice-Chair of the Authority among its voting members. The Vice-Chair shall automatically replace the Chair, if the latter is prevented from attending to his/her duties.

6. With respect to the powers mentioned in paragraph 4 point (h), the Executive Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Executive Director. The Executive Director shall be authorised to sub-delegate those powers.

7. In exceptional circumstances, the Executive Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any sub-delegation by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 54
Annual and multiannual programming

1. By 30 November each year the Executive Board shall adopt a Single Programming Document containing multiannual and annual programming, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and in relation to multiannual programming after consulting the European Parliament. ***If the Executive Board decides not to take into account any elements of the opinion of the Commission,*** it shall ***provide a thorough justification for that decision. The obligation to provide a thorough justification shall also apply to any elements raised by the European Parliament when it is consulted. The Executive Board shall forward the Single Programming Document*** to the European Parliament, the Council and the Commission.

The programming document shall become final after final adoption of the general budget and if necessary shall be adjusted accordingly.

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the ***multiannual*** work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year.

3. The Executive Board shall amend the adopted annual work programme when a new task is given to the Authority.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Executive Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

4. The multiannual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multiannual budget and staff.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate.

Article 55
Voting rules of the Executive Board

1. The Executive Board shall take decisions by simple majority of its members. Each member of the Executive Board shall have one vote. The Chair of the Authority***, or the Vice-Chair when replacing the Chair,*** shall have a casting vote in case of a tie.

2. A representative of the Commission shall have a right to vote whenever matters pertaining to Article 53(4) points (a) to (l) are discussed and decided upon.

3. The Executive Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

Article 55a
Fundamental Rights Officer

1. The Executive Board shall, upon a proposal of the Executive Director, designate a Fundamental Rights Officer. The Fundamental Rights Officer may be a member of the existing staff of the Authority.

2. The Fundamental Rights Officer shall perform the following tasks:

(a) advise the staff of the Authority on any activity carried out by the Authority where he or she deems it necessary, or where requested by the staff without impeding or delaying those activities;

(b) promote and monitor the Authority's compliance with fundamental rights;

(c) provide non-binding opinions on the compliance of Authority's activities with fundamental rights;

(d) inform the Executive Director and the Executive Board about possible violations of fundamental rights in the course of the Authority's activities.

3. The Executive Board shall ensure that the Fundamental Rights Officer does not seek nor take any instructions regarding the exercise of the Officer's tasks.

4. The Fundamental Rights Officer shall report directly to the Executive Director and prepare regular reports on the performance of the tasks referred to in paragraph 2. Those reports shall be made available to the Executive Board.

SECTION 3
THE CHAIR OF THE AUTHORITY

Article 56
Appointment of the Chair of the Authority

1. The Chair of the Authority shall be selected on the basis of merit, skills, knowledge, ***integrity,*** recognised standing and experience in the area of anti-money laundering and countering the financing of terrorism and other relevant qualification, following an open selection procedure which shall be published in the Official Journal of the European Union. The ***European Parliament, the Council and the General Board*** shall ***be kept duly informed at every stage of that procedure in a timely manner.***

The Commission shall prepare a shortlist of ***at least*** two qualified candidates for the position of the Chair of the Authority. The ***European Parliament and the General Board may conduct hearings of the candidates on that shortlist. The General Board may issue a public opinion on the results of its hearings, or address its opinion to the European Parliament, the Council and the Commission.***

The Commission shall submit a proposal for the appointment of the Chair of the Authority to the European Parliament. By way of derogation from the second subparagraph, for the appointment of the first Chair of the Authority following the entry into force of this Regulation, the Commission shall provide the proposal for the appointment of the Chair without the involvement of the General Board.

Following the European Parliament***'s approval of that proposal, the Council*** shall adopt an implementing decision to appoint the Chair of the Authority. ***The Council shall act by qualified majority.***

1a. The Chair of the Authority shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union institutions, Union decentralised agencies and other Union bodies from any government or from any other public or private body. The institutions, bodies, offices and agencies of the Union and the governments of the Member States and any other bodies shall respect that independence.

1b. The term of office of the Chair shall be four years. In the course of the 12 months preceding the end of the four-year term of office of the Chair of the Authority, the General Board in both compositions or a smaller committee selected among General Board members including a Commission representative shall carry out an assessment of performance of the Chair. The assessment shall take into account an evaluation of the Chair's performance and the Authority's future tasks and challenges. Based on the assessment, the Commission may propose to the European Parliament to extend the Chair's term of office once. Following the European Parliament's approval, the Council shall adopt an implementing decision to extend the term of office of the Chair of the Authority. The Council shall act by qualified majority.

2. If the Chair of the Authority no longer fulfils the conditions required for the performance of his or her duties or has been guilty of serious misconduct, the Council may, ***acting on its own initiative or*** following a proposal by ***the European Parliament or*** the General Board in either composition, adopt an implementing decision to remove the Chair of the Authority from office. The Council shall act by qualified majority.

3. Should the Chair resign or be unable to attend to his or her duties for any other reason, the functions of the Chair shall be performed by the Vice-Chair.

Article 57
Responsibilities of the Chair of the Authority

1. The Chair of the Authority shall represent the Authority and shall be responsible for preparing the work of the General Board and the Executive Board, including setting the agenda, convening and chairing all the meetings and tabling items for decision.

2. The Chair shall assign to the five members of the Executive Board specific areas of responsibility within the scope of tasks of the Authority for the duration of their mandate.

SECTION 4
THE EXECUTIVE DIRECTOR

Article 58
Appointment of the Executive Director

1. The Executive Director shall be engaged as a temporary agent of the Authority under Article 2(a) of the Conditions of Employment of Other Servants.

2. The Executive Director shall perform his ***or her*** duties in the interests of the Union, and independently of any specific interests.

3. The Executive Director shall manage the Authority. The Executive Director shall be accountable to the Executive Board. Without prejudice to the powers of the Commission and of the Executive Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any ***Union institutions or bodies, from any*** government or from any other body.

4. The Executive Director shall be selected on the grounds of merit and documented high-level administrative, budgetary and management skills, following an open selection procedure which shall be published in the Official Journal of the European Union, and, as appropriate, other press or internet sites. The Commission shall draw up a shortlist of ***at least*** two qualified candidates for the position of the Executive Director. The Executive Board shall appoint the Executive Director.

5. The term of office of the Executive Director shall be five years. In the course of the nine months preceding the end of the Executive Director's term of office, the Executive Board shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges. The Executive Board, taking into account the evaluation referred to in the first subparagraph, may extend the term of office of the Executive Director once.

The Executive Director may be removed from office by the Executive Board on proposal by the Commission.

6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the extended term of office.

Article 59
Tasks of the Executive Director

1. The Executive Director shall be in charge of the day-to-day management of the Authority and shall aim to ensure gender ***and, to the extent possible, geographical*** balance within the Authority. In particular, the Executive Director shall be responsible for:

(a) implementing decisions adopted by the Executive Board;

(b) preparing the draft Single Programming Document and submitting it to the Executive Board after consulting the Commission;

(c) implementing the Single Programming Document and reporting to the Executive Board on its implementation;

(d) preparing the draft consolidated annual report on the Authority's activities and presenting it to the Executive Board for assessment and adoption;

(e) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-fraud Office (OLAF) and reporting on progress ***regularly*** to the Commission***, the General Board*** and the Executive Board;

(f) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative, including financial penalties;

(g) preparing an anti-fraud strategy for the Authority and presenting it to the Executive Board for approval;

(h) preparing draft financial rules applicable to the Authority;

(i) preparing***, as part of the draft Single Programming Document*** the Authority's draft statement of estimates of revenue and expenditure ***pursuant to Article 66*** and implementing its budget ***pursuant to Article 67***;

(j) preparing and implementing an IT security strategy, ensuring appropriate risk management for all IT infrastructure, systems and services, which are developed or procured by the Authority as well as sufficient IT security funding.

(k) implementing the annual work programme of the Authority under the control of the Executive Board;

▌

(m) preparing a draft report describing all activities of the Authority with a section on financial and administrative matters.

2. The Executive Director shall take other necessary measures, notably the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Authority, in accordance with this Regulation.

3. The Executive Director shall decide whether it is necessary to locate one or more staff in one or more Member States for the purpose of carrying out the Authority's tasks in an efficient and effective manner. Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the Commission, the Executive Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Authority. ***An*** agreement with the Member State(s) concerned shall be concluded ***accordingly***.

SECTION 5
ADMINISTRATIVE BOARD OF REVIEW

Article 60
Creation and Composition of the Administrative Board of Review

1. The Authority shall establish an Administrative Board of Review for the purposes of carrying out an internal administrative review of the decisions taken by the Authority in the exercise of the powers listed in Articles 20, 21***, 22 and 65***. The scope of the internal administrative review shall pertain to the procedural and substantive conformity with this Regulation of such decisions.

2. The Administrative Board of Review shall be composed of five individuals of high repute, having a proven record of relevant knowledge and professional experience, including supervisory experience in the area of anti-money laundering and countering the financing of terrorism, excluding current staff of the Authority, as well as current staff of AML/CFT supervisory authorities and FIUs or other national or Union institutions, bodies, offices and agencies who are involved in the carrying out of the tasks conferred on the Authority by this Regulation. The Administrative Board of Review shall have sufficient resources and expertise to assess the exercise of the powers of the Authority under this Regulation.

3. The Administrative Board of Review shall decide on the basis of a majority of at least three of its five members.

Article 61
Members of the Administrative Board of Review

1. The members of the Administrative Board of Review and two alternates shall be appointed by the General Board in supervisory composition for a term of five years, which may be extended once, following a public call for expressions of interest published in the Official Journal of the European Union. They shall not be bound by any instructions.

2. The members of the Administrative Board of Review shall act independently and in the public interest and shall not perform any other duties within the Authority. For that purpose, they shall make a public declaration of commitments and a public declaration of interests indicating any direct or indirect interest which might be considered prejudicial to their independence or the absence of any such interest.

Article 62
Decisions subject to review

1. A request for review may be brought before the Administrative Board of Review against decisions taken by the Authority pursuant to Articles 6(1), 20, 21***, 22 and 65*** by any natural or legal person to whom the decision is addressed, or to whom it is of a direct and individual concern.

2. Any request for review shall be made in writing, including a statement of grounds, and shall be lodged at the Authority within one month of the date of notification of the decision to the person requesting the review, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

3. After ruling on the admissibility of the review, the Administrative Board of Review shall express an opinion within a period appropriate to the urgency of the matter and no later than two months from the receipt of the request and remit the case for preparation of a new draft decision to the Executive Board. The Executive Board shall take into account the opinion of the Administrative Board of Review and shall promptly adopt a new decision. The new decision shall abrogate the initial decision, replace it with a decision of identical content, or replace it with an amended decision.

4. A request for review pursuant to paragraph 2 ***may include a request to suspend the application of the contested decision.*** The Administrative Board of Review ▌ may, if it considers that circumstances so require ***and taking into account the view of the Executive Board, order that*** application of the ***decision in question be suspended until the Executive Board adopts a new*** decision ***pursuant to paragraph 3. If the Administrative Board of Review does not decide on the request for suspension within 14 days, that request shall be deemed to be rejected***.

5. The opinion expressed by the Administrative Board of Review, and the new decision adopted by the Executive Board pursuant to this Article, shall be reasoned and notified to the parties.

6. The Authority shall adopt a decision establishing the Administrative Board of Review's operating Rules of Procedure.

Article 63
Exclusion and objection

1. The members of the Administrative Board of Review shall not take part in any review proceedings if they have any personal interest in the proceedings, if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the adoption of the decision under review.

2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of the Administrative Board of Review considers that he/she should not take part in any review proceeding, he/she shall inform the Administrative Board of Review accordingly.

3. Any party to the review proceedings may object to any member of the Administrative Board of Review on any of the grounds listed in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the review proceedings has taken a procedural step. No objection may be based on the nationality of members.

4. The Administrative Board of Review shall decide as to the action to be taken in the cases referred to in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking that decision, the member concerned shall be replaced on the Administrative Board of Review by his/her alternate.

CHAPTER IV
FINANCIAL PROVISIONS

Article 64
Budget

1. Estimates of all revenue and expenditure for the Authority shall be prepared each financial year, corresponding to the calendar year, and shall be shown in the Authority's budget.

2. The Authority's budget shall be balanced in terms of revenue and of expenditure.

3. Without prejudice to other resources, the Authority's revenue shall consist of a combination of the following:

   (a) a contribution from the Union entered in the general budget of the European Union;

(b) the fees paid by the selected and non-selected obliged entities in accordance with Article 65, for tasks mentioned in Article ***5(2)***, points ***(a),*** (b) and (c)***, and 5(3), points (a) to (d), (f) and (g);***

(c) any voluntary financial contribution from the Member States***;***

(ca) agreed charges for publications, training and for any other services provided by the Authority where they have been specifically requested by one or more FIUs or their counterparts in third countries, or non-AML/CFT authorities;

(cb) possible Union funding in the form of contribution agreements or ad hoc grants in accordance with the Authority's financial rules referred to in Article 69 and with the provisions of the relevant instruments supporting the policies of the Union.

The amount and origin of any revenue referred to in points (b), (c), (ca) and (cb) of the first subparagraph of this paragraph shall be included in the annual accounts of the Authority and clearly detailed in the annual report on the Authority's budgetary and financial management referred to in Article 68(2).

4. The expenditure of the Authority shall include staff remuneration, administrative and infrastructure expenses and operating costs.

Article 65
Fees levied on selected and non-selected obliged entities

1. The Authority shall levy an annual supervisory fee on all selected obliged entities referred to in Article 13 and on the non-selected obliged entities that meet the criteria of Article 12(1) ▌. The fees shall cover expenditure incurred by the Authority in relation to the tasks related to supervision and referred to in Sections 3 and 4 of Chapter II. Those fees shall not exceed the expenditure relating to these tasks. Where these criteria are not fully respected in any given year, the necessary adjustments shall be made when calculating the fees for the two following years.

2. The amount of the fee levied on each obliged entity referred to in paragraph 1 shall be calculated in accordance with the arrangements established in the delegated act referred to in paragraph 6.

3. The fees shall be calculated at the highest level of consolidation in the Union.

4. The basis for calculating the annual supervisory fee for a given calendar year shall be the expenditure relating to the direct and indirect supervision of the selected and non-selected obliged entities subject to fees in that year. The Authority may require advance payments in respect of the annual supervisory fee, which shall be based on a reasonable estimate. The Authority shall communicate with the relevant financial supervisor before deciding on the final fee level so as to ensure that supervision remains cost-effective and reasonable for all financial sector obliged entities. The Authority shall communicate to respective financial sector obliged entities the basis for the calculation of the annual supervisory fee. Member States shall ensure that the obligation to pay the fees specified in this Article is enforceable under national law, and that due fees are fully paid.

5. This Article is without prejudice to the right of financial supervisors to levy fees in accordance with national law, to the extent supervisory tasks have not been conferred on the Authority, or in respect of costs of cooperating with and assisting the Authority and acting on its instructions, in accordance with relevant Union law.

6. The Commission is empowered to adopt a delegated act in accordance with Article 86 to supplement this Regulation by specifying the methodology for calculating the amount of the fee levied on each selected and non-selected obliged entity subject to fees in accordance with paragraph 1, and the procedure for collecting these fees. When developing the methodology for determining the individual amount of fees the Commission shall take into account the following:

(a) the total annual turnover or the corresponding type of income of the obliged entities at the highest level of consolidation in the Union in accordance with the relevant accounting standards;

(a1) whether the obliged entity has qualified for direct supervision or not;

(b) the ▌ AML/CFT risk profile classification of the obliged entities in accordance with the methodology referred to in Article ***12(5)(b)***;

(c) the importance of the obliged entity to the stability of the financial system or economy of one or more Member States or of the Union;

(d) the amount of fee to be collected from any non-selected obliged entity in proportion to its income or turnover referred to in point (a), which shall not exceed 1/5 of the amount of fee to be collected from any selected obliged entity relative to same level of income or turnover.

The Commission shall adopt the delegated acts referred to in the first subparagraph by 1 January ***2027***.

Article 66
Establishment of the budget

1. Each year, the Executive Director shall draw up a draft statement of estimates of the Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Executive Board.

2. The Executive Board shall, on the basis of that draft, adopt a provisional draft estimate of the Authority's revenue and expenditure for the following financial year.

3. The final draft estimate of the Authority's revenue and expenditure shall be sent to the Commission by 31 January each year.

4. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.

5. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.

6. The budgetary authority shall authorise the appropriations for the contribution to the Authority.

7. The budgetary authority shall adopt the Authority's establishment plan.

8. The Authority's budget shall be adopted by the Executive Board. It shall become final following final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.

Article 67
Implementation of the budget

1. The Executive Director shall implement the Authority's budget respecting the principles of economy, efficiency, effectiveness and sound financial management.

2. Each year, the Executive Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

Article 68
Presentation of accounts and discharge

1. By 1 March of the following financial year (year N+1) the Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors.

2. By 31 March of the following financial year, the Authority shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

By 31 March of the following financial year, the Commission's accounting officer shall send the Authority's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.

3. On receipt of the Court of Auditors' observations on the Authority's provisional accounts pursuant to Article 246 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[23], the Executive Board shall deliver an opinion on the Authority's final accounts.

4. The accounting officer shall, by 1 July of year N+1, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Executive Board's opinion.

5. A link to the pages of the website containing the final accounts of the Authority shall be published in the Official Journal of the European Union by 15 November of year N + 1.

6. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September of year N+1. The Executive Director shall also send this reply to the Executive Board.

[23] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

7. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year N, in accordance with Article 261(3) of Regulation (EU, Euratom) 2018/1046.

8. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 69
Financial rules

The financial rules applicable to the Authority shall be adopted by the Executive Board after consulting the Commission. They shall not depart from Commission Delegated Regulation (EU) ***2019/715 unless*** such a departure is specifically required for the Authority's operation and the Commission has given its prior consent.

Article 70
Anti-fraud measures

1. For the purposes of combating fraud, corruption and any other illegal activity, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council as well as Article 86 of Regulation (EU) 2019/715 shall apply to the Authority without any restriction.

2. The Authority shall accede to the Interinstitutional Agreement concerning internal investigations by OLAF and shall immediately adopt appropriate provisions for all staff of the Authority.

3. The funding decisions, the agreements and the implementing instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, where necessary, carry out on-the-spot checks on the beneficiaries of monies disbursed by the Authority.

Article 71
IT Security

1. The Authority shall establish an internal IT governance at the level of the Executive Director which establishes and manages the IT budget and ensures regular reporting to the Executive Board on the compliance with applicable IT security rules and standards.

2. The ***Authority*** shall ensure that ***a sufficient share*** of its IT expenditure is transparently allocated to direct IT security. The contribution to the Computer Emergency Response Team of the European Institutions, Bodies and Agencies (CERT-EU) may be counted in this ***share***.

3. An adequate IT security monitoring, detection and response service shall be established, using the services of CERT-EU. Major Incidents must be reported to CERT-EU as well as to the Commission within 24 hours of detection.

Article 72
Accountability and reporting

1. The Authority shall be accountable to the European Parliament and to the Council for the implementation of this Regulation.

2. The Authority shall submit on an annual basis to the European Parliament, to the Council, and to the Commission a report on the execution of the tasks conferred on it by this Regulation, including information on the planned evolution of the structure and amount of the supervisory fees referred to in Article 66. ***With respect to the guidelines and recommendations the Authority has issued in accordance with Article 43, the report shall contain an information on compliance with guidelines and recommendations issued over the year of reporting as well as any relevant updates on compliance with previously issued guidelines and recommendations. The report shall be made public and shall include any other relevant information requested by the European Parliament on an ad hoc basis.*** The Chair of the Authority shall present that report in public to the European Parliament.

3. At the request of the European Parliament, the Chair of the Authority shall participate in a hearing on the execution of its tasks by the competent committees of the European Parliament. ***A hearing shall take place at least annually. At the request of the European Parliament, the Chair of the Authority shall make a statement before the relevant committees of the European Parliament and answer any questions from their members, whenever so requested.***

3a. Within six weeks of each meeting of the General Board, the Authority shall at least provide the European Parliament with a comprehensive and meaningful record of the proceedings of that meeting that enables an understanding of the discussions, including an annotated list of decisions. Such record shall not reflect discussions within the General Board relating to individual obliged entities or discussions relating to confidential supervisory or FIU-related data, unless otherwise provided for in the legislative acts referred to in Article 1(2).

4. The Authority shall reply orally or in writing to questions put to it by the European Parliament ***within five weeks of their receipt***.

4a. Upon request, the Chair of the Authority shall hold confidential oral discussions behind closed doors with the Members of the competent committees of the European Parliament, where such discussions are required for the exercise of the European Parliament's powers under the Treaties. All participants shall respect the requirements of professional secrecy.

4b. When informing the European Parliament on matters pertaining to the Authorities' contribution to the Union's action in international fora, the Authority shall not disclose any information it received in the performance of that task subject to confidentiality requirements imposed by third parties.

CHAPTER V
GENERAL AND FINAL PROVISIONS

SECTION 1
STAFF

Article 73
General provision

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Authority for all matters not covered by this Regulation.

2. By way of derogation from paragraph 1, the Chair of the Authority, and the five members of the Executive Board referred to in Article 53 shall, respectively, be on a par with a Member and the Registrar of the General Court regarding emoluments and pensionable age, as defined in Council Regulation (EU) 2016/300[24]. For aspects not covered by this Regulation or by Regulation (EU) 2016/300, the Staff Regulations and the Conditions of Employment shall apply by analogy.

[24] Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p. 1).

3. The Executive Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.

4. The Authority may make use of seconded national experts or other staff not employed by the Authority including FIU delegates.

5. The Executive Board shall adopt rules related to staff from Member States to be seconded to the Authority and update them as necessary. Those rules shall include, in particular, the financial arrangements related to those secondments, including insurance and training. Those rules shall take into account the fact that the staff is seconded and to be deployed as staff of the Authority. They shall include provisions on the conditions of deployment. Where relevant, the Executive Board shall aim to ensure consistency with the rules applicable to reimbursement of the mission expenses of the statutory staff.

Article 74
Privileges and immunities

Protocol (No 7) on the privileges and immunities of the TEU and to the TFEU shall apply to the Authority and its staff.

Article 74a
Staff of the Authority previously employed by the European Banking Authority

Temporary agents employed under point (f) of Article 2 and contract agents employed under Article 3a of the Conditions of Employment, employed at the Authority by a contract concluded before entry into force of this Regulation and until the date this Regulation becomes fully applicable in accordance with Article 93, and who immediately prior to their employment at the Authority have been employed by the European Banking Authority in carrying out the tasks and activities of the European Banking Authority related to preventing and countering money laundering and terrorist financing listed in Regulation (EU) No 1093/2010, shall be offered under the limit of the number of posts that will be deducted from the European Banking Authority to allocate to the Authority, the same type of contracts as at the European Banking Authority, and under the same conditions. Those agents shall be deemed to have served their entire service at the Authority.

Article 75
Obligation of professional secrecy

1. Members of the General Board and the Executive Board, and all members of the staff of the Authority, including officials seconded by Member States on a temporary basis, and all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and Article 50 [OP please insert the next number to the AMLD, COM(2021)0423], even after their duties have ceased.

2. The Executive Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the Authority, including officials and other persons authorised by the Executive Board or appointed by the public authorities and FIUs for that purpose, are subject to requirements of professional secrecy equivalent to those in paragraph 1.

3. For the purpose of carrying out the tasks conferred on it by this Regulation, the Authority shall be authorised, within the limits and under the conditions set out in the acts referred to in Article 1(2), to exchange information with national or Union authorities and bodies in the cases where these acts allow financial supervisors to disclose information to those entities or where Member States may provide for such disclosure under the relevant Union law.

4. The Authority shall establish practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

5. The Authority shall apply Commission Decision (EU, Euratom) 2015/444[25].

Article 76
Security rules on the protection of classified and sensitive non-classified information

1. The Authority shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in Commission Decisions (EU, Euratom) 2015/443[26] and (EU, Euratom) 2015/444. The security rules of the Authority shall cover, inter alia, provisions for the exchange, processing and storage of such information. The Executive Board shall adopt the Authority's security rules following approval by the Commission.

2. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad-hoc release of EUCI to those authorities, shall be subject to the Commission's prior approval.

[25] Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

[26] Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

Article 76a
Reporting of breaches and protection of reporting persons

1. The Authority shall have in place dedicated reporting channels for receiving and handling information provided by persons reporting on actual or potential breaches of:

(a) Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM(2021)0420] insofar as requirements applicable to credit and financial institutions are concerned;

(b) Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847];

(c) Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM(2021)0423] insofar as requirements applicable to supervisory authorities, self-regulatory bodies in the exercise of supervisory functions and FIUs are concerned.

2. The persons reporting through those channels and the persons concerned shall enjoy the protections of Directive (EU) 2019/1937[27], where applicable.

3. Following the submission of reports pursuant to Article 43(2a) of Directive [please insert reference – proposal for 6th Anti-Money Laundering Directive - COM(2021)0423] by supervisory authorities in the non-financial sector, the Authority shall be able to request additional information from those authorities on how they followed up on the reports received. Supervisory authorities shall promptly provide the requested information but shall not disclose information that may lead to the identification of the reporting person.

SECTION 2
COOPERATION

Article 77
Cooperation with European Supervisory Authorities

1. The Authority shall establish and maintain a close cooperation with the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority***, in particular when drafting regulatory technical standards, implementing technical standards, guidelines or recommendations within the remit of their respective tasks***.

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[27] ***Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).***

1a. By ... [12 months after the date of entry into force of this Regulation], the Authority shall conclude a memorandum of understanding with the authorities referred to in paragraph 1 setting out how they intend to cooperate.

Article 78
Cooperation with non-AML/CFT authorities

1. ***The Authority shall cooperate and exchange information with the non-AML/CFT authorities and, on a need-to-know and confidential basis, with other national authorities and bodies competent for ensuring compliance with Directive 2014/17/EU [consumer credit directive], Directive (EU) 2015/2366 [PSD], Directive 2009/110/EC [e-money Directive], Directive 2009/138/EC [Solvency II], Directive 2014/65/EU [Mifid II], and Mortgage Credit Directive 2014/17/EU and the European Supervisory Authorities, within the boundaries of their respective mandates.***

2. The Authority shall conclude a memorandum of understanding with the ***prudential*** authorities ***as defined in Article 4(1), point (4), of Regulation (EU) No 575/2013 of the European Parliament and of the Council, the European Supervisory Authorities and the other national authorities competent for ensuring compliance with Regulation [MiCA],*** setting out in general terms how they will cooperate and exchange information in the performance of their supervisory tasks under Union law in relation to selected ***and non-selected*** obliged entities.

Where it deems it necessary, the Authority may also conclude a memorandum of understanding with any of the other authorities referred to in paragraph 1 setting out in general terms how they will cooperate and exchange information in the performance of their supervisory tasks under Union law in relation to selected and non-selected obliged entities.

2a. By ... [12 months after the date of entry into force of this Regulation], the Authority and the European Central Bank shall conclude a memorandum of understanding setting out the practical modalities for cooperation and for exchanging information in the performance of their respective tasks under Union law.

3. The Authority shall ensure effective cooperation and information exchange between all ***supervisory authorities*** in the AML/CFT supervisory system and the relevant ▌ authorities referred to in paragraph 1, including with regard to access to any information and data in central AML/CFT database referred to in Article 11.

Article 79

Partnerships for information sharing in the field of AML/CFT

1. Where relevant for the fulfilment of the tasks referred to in ▌ Chapter II, the Authority may ***set up cross-border partnerships for information sharing, in accordance with fundamental rights and judicial procedural safeguards, or*** participate in ***partnerships for information sharing*** established in one or across several Member States ***with the objective of supporting the prevention and combating of money laundering, its predicate offences and terrorist financing***. Participation of the Authority shall be subject to ***the agreement*** of the relevant ***authorities that have*** established such arrangement.

2. ***Where AMLA sets up cross-border partnerships for information sharing, it shall ensure that the partnerships comply with the requirements of paragraphs 3 to 5 of Article 54a of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM(2021)0420]. In addition to the obliged entities taking part in the partnership, AMLA may invite competent authorities referred to in point 31, letters (a), (b) and (c), of Article 2 of that Regulation, as well as Union bodies, offices and agencies which have a task in the prevention and combating of money laundering, its predicate offences and terrorist financing, to take part in the partnership, where such participation is relevant for the fulfilment of their tasks and powers. Upon unanimous consent of the participating members, other third parties may be invited to participate, on an occasional basis, in meetings of the partnership, where relevant.***

Article 80
Cooperation with OLAF, Europol, Eurojust and the EPPO

1. The Authority may conclude working arrangements with Union institutions, Union decentralised agencies and other Union bodies, acting in the field of law enforcement and judicial cooperation. Those working arrangements may be of a strategic***, operational*** or technical nature, and shall in particular aim to facilitate cooperation and the exchange of information between the parties thereto. The working arrangements shall neither form the basis for allowing the exchange of personal data nor shall bind the Union or its Member States.

2. The Authority shall establish and maintain a close relationship with OLAF, Europol, Eurojust, and the EPPO. To that end, the Authority shall conclude separate working arrangements with OLAF, Europol, Eurojust, and the EPPO setting out the details of their cooperation. The relationship shall aim in particular to ensure the exchange of ***operational and*** strategic information and trends in relation to money laundering and terrorist financing threats facing the Union.

3. In order to promote and facilitate smooth cooperation between the Authority and Europol, Eurojust and EPPO, the working arrangements with them shall in particular provide for the possibility of posting liaison officers at each other's premises, and lay down conditions to that end.

Article 81
Cooperation with third countries and international organisations

1. In order to achieve the objectives set out in this Regulation, and without prejudice to the respective competences of the Member States and the Union institutions, the Authority may develop contacts and enter into administrative arrangements with AML/CFT authorities in third countries that have regulatory, supervisory and FIU-related competences in the field of anti-money laundering and counter terrorism financing as well as with international organisations and third-country administrations. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral ***or multilateral*** arrangements with those third countries.

2. The Authority may develop model administrative arrangements, with a view to establishing consistent, efficient and effective practices within the Union and to strengthening international coordination and cooperation in the fight against money laundering and terrorist financing. ***Supervisory*** authorities and FIUs shall make every effort to follow such model arrangements.

3. In cases where the interaction of several Union ***supervisory*** authorities and FIUs with third country authorities concerns matters falling within the scope of the Authority's tasks as defined in Article 5, the Authority shall have a leading role in facilitating such interaction where necessary. This role of the Authority shall be without prejudice to the regular interactions by ***supervisory*** authorities ***and FIUs*** with third-country authorities.

4. The Authority shall, within its powers pursuant to this Regulation and to the legislative acts referred to in Article 1(2), contribute to the united, common, consistent and effective representation of the Union's interests in international fora, including by assisting the Commission in its tasks relating to Commission's membership of the Financial Action Task Force and by supporting the work and objectives of the Egmont Group of Financial Intelligence Units.

SECTION 3
GENERAL AND FINAL PROVISIONS

Article 82
Access to documents

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Authority.

2. Decisions taken by the Authority under Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 TFEU, respectively.

3. The right of access to documents shall not apply to confidential information comprising:

   (a) information or data of the Authority, the financial supervisors, or the obliged entities obtained in the process of carrying out the tasks and activities referred to in Article 5(2) and Section 3 of Chapter II;

   (b) any operational data or information related to such operational data of the Authority and of the FIUs that is in the possession of the Authority due to carrying out the tasks and activities referred to in Article 5(5) and Section 6 of Chapter II.

4. The confidential information referred to in paragraph 3, point (a), that relates to a supervisory procedure can be fully or partially disclosed to the obliged entities which are parties to that supervisory procedure, subject to the legitimate interest of natural and legal persons other than the relevant party, in the protection of their business secrets. This access shall not extend to internal documents of the Authority, financial supervisors, or correspondence between them.

5. The Executive Board shall adopt practical measures for applying Regulation (EC) No 1049/2001 and the rules regarding disclosure of information relating to supervisory procedures.

Article 83
General language arrangements

1. Council Regulation No 1 shall apply to the Authority.

2. The Executive Board shall decide on the internal language arrangements for the Authority, which shall be consistent with the language arrangements in direct supervision, adopted pursuant to Article 27.

3. ***Translation and all other linguistic*** services required ***by the Authority, other than interpretation,*** shall be provided by the Translation Centre for the Bodies of the European Union, as established by Council Regulation (EC) No 2965/94[28].

Article 84
Data protection

1. The processing of personal data on the basis of this Regulation for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 53 [OP please insert the next number to the AMLD, COM(2021)0423] and Article 55 of [OP please insert the next number to the AMLR, COM(2021)0420] shall be considered necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Authority under Article 5 of Regulation (EU) 2018/1725 and Article 6 of Regulation (EU) 2016/679.

When drafting guidelines and recommendations in accordance with Article 43, having a significant impact on the protection of personal data, the Authority shall ***closely cooperate with the European Data Protection Board established by Regulation (EU) 2016/679 to avoid duplication, inconsistencies and legal uncertainty in the sphere of data protection.*** After being authorized by the Commission, ***the Authority shall also*** consult the European Data Protection Supervisor established by Regulation (EU) 2018/1725. The Authority may also invite national data protection authorities as observers in the process of drafting such guidelines and recommendations.

[28] Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1).

2. In accordance with Article 25 of Regulation (EU) 2018/1725, the Authority shall adopt internal rules which may restrict the application of the rights of the data subjects where such restrictions are necessary to the performance of the tasks referred in Article 53 [AMLD] and Article 55 of [AMLR].

Article 85
Liability of the Authority

1. In the case of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its staff in the performance of their duties. The Court of Justice of the European Union shall have jurisdiction in any dispute over the remedying of such damage.

2. The personal financial liability and disciplinary liability of Authority staff towards the Authority shall be governed by the relevant provisions applying to the staff of the Authority.

Article 86
Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 25 and Article 65 shall be conferred on the Commission for an indeterminate period of time from ▌ 6 months after the date of entry into force of this Regulation ▌ .

3. The power to adopt delegated acts referred to in Article 25 and Article 65 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 25 ▌ shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three months*** of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ***three months*** at the initiative of the European Parliament or of the Council.

6a. A delegated act adopted pursuant to Article 65 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 87
Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Authority in the Member State where its seat is located and the facilities to be made available by that Member State, as well as the specific rules applicable in that Member State to the staff of the Authority and members of their families, shall be laid down in a Headquarters Agreement ***to be concluded*** between the Authority and that Member State ▌ after obtaining the approval of the Executive Board.

2. The Authority's host Member State shall provide the best possible conditions to ensure the proper functioning of the Authority, including multilingual, European-oriented schooling and appropriate transport connections.

Article 88
Evaluation and review

1. By 31 December ***2030***, and every five years thereafter, the Commission shall assess the Authority's performance in relation to its objectives, mandate, tasks and location(s), in accordance with the Commission's guidelines. The evaluation shall, in particular, address:

(a) the possible need to amend the mandate of the Authority, and the financial implications of any such modification;

(b) the impact of all supervisory activities and tasks of the Authority on the interests of the Union as a whole, and specifically the effectiveness of:

(i) supervisory tasks and activities related to direct supervision of selected obliged entities;

(ii) indirect supervision of non-selected obliged entities;

(iii) indirect oversight of other obliged entities;

(c) the impact of the activities related to support and coordination of FIUs, and in particular the coordination of the joint analyses of cross-border activities and transactions conducted by FIUs;

(d) the impartiality, objectivity and autonomy of the Authority;

(e) the appropriateness of governance arrangements, including the composition of, and voting arrangements in, the Executive Board and its relation with the General Board***;***

(f) the cost effectiveness of the Authority, if appropriate, separately in relation to its distinct sources of funding;

(g) the effectiveness of the recourse mechanism against decisions of the Authority and the independence and accountability arrangements applicable to the Authority;

(h) the effectiveness of cooperation and information sharing arrangements between the Authority and non-AML authorities;

(i) the interaction between the Authority and the other Union supervisory authorities and bodies, including the EBA, the Europol, Eurojust, OLAF and the EPPO;

(ia) the scope of direct supervision and the criteria and methodology for the assessment and selection of entities for direct supervision;

(j) the effectiveness of the Authority's supervisory and sanctioning powers;

(k) effectiveness and convergence in supervisory practices reached by supervisory authorities and the role of the Authority therein.

2. The report referred to in paragraph 1 shall also examine whether:

(a) the resources of the Authority are adequate to carry out its responsibilities;

(b) it is appropriate to confer additional supervisory tasks regarding non-financial sector obliged entities, specifying, as appropriate, the types of entities that should be subject to additional supervisory tasks;

(c) it is appropriate to confer additional tasks in the area of support and coordination of the work of FIUs;

(d) it is appropriate to confer on the Authority additional sanctioning powers.

3. On the occasion of every second evaluation, ***the Commission*** shall ***conduct a thorough review*** of the results achieved by the Authority having regard to its objectives, mandate***, tasks and powers***, including an assessment of whether the continuation of the Authority is still justified with regard to these objectives, mandate and tasks.

4. The report and any accompanying proposals, as appropriate, shall be forwarded to the European Parliament and to the Council.

Article 89
Amendments to Regulation (EU) No 1093/2010

Regulation (EU) No 1093/2010 is amended as follows:

(1) Article 1 is amended as follows:

(a) in paragraph 2, the second subparagraph is deleted;

(b) in paragraph 5, point (h) is deleted;

(2) Article 4 is amended as follows:

(a) point (1a) is deleted;

(b) in point (2), point (iii) is deleted;

(3) in Article 8(1), point (l) is deleted;

(4) Articles 9a and 9b are deleted;

(5) in Article 17, paragraph 6 is replaced by the following:

‘6. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the formal opinion referred to in paragraph 4 of this Article within the period specified therein, and where it is necessary to remedy, in a timely manner, such non-compliance in order to maintain or restore neutral conditions of competition in the market or ensure the orderly functioning and integrity of the financial system, the Authority may, where the relevant requirements of the legislative acts referred to in Article 1(2) of this Regulation are directly applicable to financial institutions, adopt an individual decision addressed to a financial institution ▌ requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice.

The decision of the Authority shall be in conformity with the formal opinion issued by the Commission pursuant to paragraph 4.’;

(6) in Article 19, paragraph 4 is replaced by the following:

‘4. Without prejudice to the powers of the Commission pursuant to Article 258 TFEU, where a competent authority does not comply with the decision of the Authority, and thereby fails to ensure that a financial institution complies with requirements directly applicable to it by virtue of the legislative acts referred to in Article 1(2) of this Regulation, the Authority may adopt an individual decision addressed to that financial institution requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice.**’**;

(7) in Article 33(1), the second subparagraph is deleted;

(8) in Article ***40(7), the first subparagraph is replaced by the following***:

‘***7. The Board of Supervisors may decide to admit observers. In particular, the Board of Supervisors shall admit a representative of AMLA where matters that fall under its mandates are discussed or decided upon.’***;

(9) in Article 81, paragraph 2b is deleted.

Article 90
Amendments to Regulation (EU) No 1094/2010

Regulation (EU) No 1094/2010 is amended as follows:

(1) in Article 1(2), the second subparagraph is deleted;

(2) in Article ***40(5), the first subparagraph is replaced by the following***:

‘***5. The Board of Supervisors may decide to admit observers. In particular, the Board of Supervisors shall admit a representative of AMLA where matters that fall under its mandates are discussed or decided upon***.’;

(3) in Article 54, paragraph 2a is deleted.

Article 91
Amendments to Regulation (EU) No 1095/2010

Regulation (EU) No 1095/2010 is amended as follows:

(1) in Article 1(2), the second subparagraph is deleted;

(2) in Article ***40(6), the first subparagraph is replaced by the following***:

‘***6. The Board of Supervisors may decide to admit observers. In particular, the Board of Supervisors shall admit a representative of AMLA where matters that fall under its mandates are discussed or decided upon.’;***

(3) in Article 54, paragraph 2a is deleted.

Article 91a
Transitional arrangements

1. Until ... [4 years after entry into force of this Regulation], Article 11 shall only apply to financial supervisors and credit and financial institutions. However supervisory authorities in the non-financial sector may on a voluntary basis already comply with the requirements of that Article before that date.

For the purposes of establishing and maintaining the database referred to in Article 11, the Authority shall conclude a bilateral agreement with the European Banking Authority on access to, as well as the financing and the joint management of, the AML/CFT database established in accordance with Article 9a of Regulation EU (No) 1093/2010 (EuReCA). The arrangement shall be established for a mutually agreed period of time which can be extended until no later than 30 June 2027. During this period, the European Banking Authority shall at least be able to continue receiving information, analysing it and making it available in accordance with Article 9a(2) of Regulation EU (No) 1093/2010 or in accordance with this Regulation on behalf of the Authority and based on the financing made available by the Authority for this purpose.

2. ***By way of derogation from Articles 12 and 13, paragraph 1b of Article 13 shall not apply during the first selection process. In case more than 40 obliged entities would be selected pursuant to paragraph 1, the Authority shall carry out the tasks listed in article 5(2) in respect of the 40 obliged entities or groups operating in the highest number of Member States either through establishments or under the freedom to provide services. In the case that the criterion referred to in the first subparagraph yields more than 40 obliged entities or groups, the Authority shall select, from the obliged entities or groups that would be selected in accordance with paragraph 1 and that actively operate in the smallest largest number of Member States, those which have the highest ratio of the volume of transactions with third countries to the total volume of transactions measured in the last financial year.***

3. By way of derogation from Article 37a(7), the participation of FIUs in peer reviews shall be voluntary during the first two peer review work plans.

Article 92
Commencement of the Authority's activities

The Commission shall be responsible for the establishment and initial operation of the Authority until the date on which the ***Regulation*** becomes ***fully applicable*** in accordance with Article 93. For that purpose:

(a) the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director until the Authority has the capacity to implement its own budget and the Executive Director has taken up his or her duties following his or her appointment by the Executive Board in accordance with Article 58;

(aa) by derogation from Article 51(1), until the appointment of the Chair of the Authority, the interim Executive Director may convene and chair the meetings of the General Board, without the right to vote;

(b) by derogation from Article 53(4) and until the adoption of a decision as referred to in Article 58, the interim Executive Director shall exercise the appointing authority power;

(c) the Commission may offer assistance to the Authority, in particular by seconding Commission officials to carry out the activities of the Authority under the responsibility of the interim Executive Director or the Executive Director;

(d) the interim Executive Director may authorise all payments covered by appropriations entered in the Authority's budget ▌ and may conclude contracts, including staff contracts, following the adoption of the Authority's establishment plan.

Article 93
Entry into force and application

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

It shall apply from 1 ***July 2025***.

However, Articles 1, 4, 38, 42, 43, 44, 46, 56, 58, 86***, 87 and 92 shall apply from the twentieth day after publication of the Regulation in the Official Journal of the European Union and Article 89*** shall apply from ***31 December 2025***.

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

List of the coefficients linked to aggravating and mitigating factors for the application of Article

List of the coefficients linked to aggravating and mitigating factors for the application of Article 20.

The following coefficients shall be applicable in a cumulative way to the basic amounts referred to in Article 20(6) on the basis of each of the following aggravating and mitigating factors:

I. Adjustment coefficients linked to aggravating factors:

1. If the breach has been committed repeatedly, for every time it has been repeated, an additional coefficient of 1,1 shall apply.

2. If the breach has been committed for more than six months, a coefficient of 1,5 shall apply.

3. If the infringement has revealed systemic weaknesses in the organisation of the selected obliged entity, in particular in its procedures, management systems or internal controls, a coefficient of 2,2 shall apply.

4. If the infringement has been committed intentionally, a coefficient of 3 shall apply.

5. If no remedial action has been taken since the breach has been identified, a coefficient of 1,7 shall apply.

6. If the selected obliged entity's senior management has not cooperated with the Authority in carrying out its investigations, a coefficient of 1,5 shall apply.

II. Adjustment coefficients linked to mitigating factors:

1. If the selected obliged entity's senior management can demonstrate that they have taken all the necessary measures to prevent the breach, a coefficient of 0,7 shall apply.

2. If the selected obliged entity has brought quickly, effectively and completely the breach to Authority's attention, a coefficient of 0,4 shall apply.

3. If the selected obliged entity has voluntarily taken measures to ensure that similar breach cannot be committed in the future, a coefficient of 0,6 shall apply.

ANNEX II

List of directly applicable requirements referred to in Article 21(1) and 21(3)

1. Requirements related to customer due diligence referred to in Article 21(3), points (a) and (b) shall be those in : Articles 15, 16, 17, 18, 19, 20, 21, 27, 28, 30, 31, 32, 34, 36, and 37 of [AMLR].

2. Requirements related to group policies and procedures referred to in Article 21(3), point (a) shall be those in : Articles 13 and 14 of [AMLR].

3. Requirements related to reporting obligations referred to in Article 23(3), points (a) and (b) shall be those in: Articles 50, 51 and 52 of [AMLR] and Articles 9, 13 and 18 of [TFR recast].

4. Requirements related to internal policies, controls and procedures referred to in Article 23(3), point (b) shall be those in : Articles 7, 8, 9, ***14a*** 38, ***and 39*** of the [AMLR***/ and Article 23 of Regulation [TFR***].

5. Other requirements referred to in Article 23(3) points (c) and (d) shall be those in: Articles 54, 56, 57 and 58 of [AMLR] and Articles 7, 8, 10, 11, 12, 14, 16, 17, 19, 21***, 24 and 26*** of [TFR].

2021/0250 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[41],

Having regard to the opinion of the European Economic and Social Committee[42],

Acting in accordance with the ordinary legislative procedure,

Whereas:

[41] OJ C [...], [...], p. [...].
[42] OJ C , , p. .

(1) Directive (EU) 2015/849 of the European Parliament and of the Council[43] constitutes the main legal instrument for the prevention of the use of the Union financial system for the purposes of money laundering and terrorist financing. That Directive sets out a comprehensive legal framework, which Directive (EU) 2018/843 of the European Parliament and the Council[44] further strengthened by addressing emerging risks and increasing transparency of beneficial ownership. Notwithstanding its achievements, experience has shown that Directive (EU) 2015/849 should be further improved to adequately mitigate risks and to effectively detect criminal attempts to misuse the Union financial system for criminal purposes ***and to further the integrity of the internal market***.

(2) Since the entry into force of Directive (EU) 2015/849, a number of areas have been identified where amendments would be needed to ensure the necessary resilience and capacity of the Union financial system to prevent money laundering and terrorist financing.

(3) Significant variations in practices and approaches by competent authorities across the Union, as well as the lack of sufficiently effective arrangements for cross-border cooperation were identified in the implementation of Directive (EU) 2015/849. It is therefore appropriate to define clearer requirements, which should contribute to smooth cooperation across the Union whilst allowing Member States to take into account the specificities of their national systems.

[43] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

[44] Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

(4) This new instrument is part of a comprehensive package aiming at strengthening the Union's AML/CFT framework. Together, this instrument, Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** , ***Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*** and ***Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** will form the legal framework governing the AML/CFT requirements to be met by obliged entities and underpinning the Union's AML/CFT institutional framework, including the establishment of an Authority for anti-money laundering and countering the financing of terrorism ('AMLA').

(5) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted at Union level, without taking into account international coordination and cooperation, would have very limited effect. The measures adopted by the Union in that field should therefore be compatible with, and at least as stringent as, other actions undertaken at international level. Union action should continue to take particular account of the Financial Action Task Force (FATF) Recommendations and instruments of other international bodies active in the fight against money laundering and terrorist financing. With a view to reinforcing the efficacy of the fight against money laundering and terrorist financing, the relevant Union legal acts should, where appropriate, be aligned with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the FATF in February 2012 (the 'revised FATF Recommendations') and the subsequent amendments to those standards.

(6) Specific money laundering and terrorist financing threats, risks and vulnerabilities affecting certain economic sectors at national level diminish in distinct manners Member States ability to contribute to the integrity and soundness of the Union financial system. As such, it is appropriate to allow Member States, upon identification of such sectors and specific risks to decide to apply AML/CFT requirements to additional sectors than those covered by Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation]*** ▌**.** With a view to preserving the effectiveness of the internal market and the Union AML/CFT system, the Commission should be able, with the support of AMLA, to assess whether the intended decisions of the Member States to apply AML/CFT requirements to additional sectors are justified. In cases where the best interests of the Union would be achieved at Union level as regards specific sectors, the Commission should inform that Member State that it intends to take action at Union level instead and the Member State should abstain from taking the intended national measures***, unless those measures are intended to address a urgent risk***.

(6a) Certain categories of obliged entities are subject to licensing or regulatory requirements for the provision of their services, whereas for other categories of operators access to the profession is not regulated. Regardless of the framework that applies to the exercise of the profession or activity, all obliged entities act as gatekeepers of the Union's financial system and must develop specific AML/CFT skills to fulfil this task. Member States should consider providing trainings to person wishing to enter those professions to enable them to perform their duties. Member States could consider, for example, including AML/CFT courses in the academic offer linked to those professions or cooperating with professional associations to train newcomers to the profession.

▌

(7a) Where obliged entities are not subject to specific licensing or registration requirements, Member States should have in place systems that enable the supervisors to know with certainty the scope of their supervisory population in order to ensure adequate supervision of that sector at any given moment. This does not mean that Member States need to impose AML/CFT specific registration requirements where this is not needed for the identification of obliged entities, as is the case for example where VAT registration enables identifying operators that carry out activities falling within the scope of AML/CFT requirements.

(8) Supervisors should ensure that, with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively manage the business of such entities and the beneficial owners of such entities ***are of good repute and*** act with honesty and integrity and possess knowledge and expertise necessary to carry out their functions. The criteria for determining whether or not a person complies with those requirements should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes. ***In order to foster a common approach to the verification by supervisors that the management and beneficial owners of obliged entities satisfy those requirements, AMLA should issue guidelines on the notions of good repute, honesty and integrity and the notions of knowledge and expertise.***

▌

(8b) Investor residence schemes present risks and vulnerabilities, in particular, in relation to money laundering, evasion of EU restrictive measures, corruption and tax evasion which may ultimately give rise to certain risks for the security of the Union. For example, weaknesses in some schemes' operations, including the absence of risk management processes or weak implementation of those processes can create opportunities for corruption, whereas weak or inconsistently applied checks on applicants' source of funds and source of wealth may lead to higher risks that the programmes are exploited by applicants for criminal purposes, aiming to legitimise funds obtained through illicit means. In order to avoid that risks stemming from the operation of such schemes affect the Union's financial system, Member States whose national law enables the granting of residence rights in exchange for any kind of investment should therefore put in place measures to mitigate the associated risks of money laundering, its predicate crimes and terrorist financing. Such measures should include an adequate risk management process, including the effective monitoring of its implementation, checks on the profile of the applicants, including obtaining information on their source of funds and source of wealth and the verification of information on applicants against information held by competent authorities.

(9) For the purposes of assessing the appropriateness of persons holding a management function in, or otherwise controlling, obliged entities, any exchange of information about criminal convictions should be carried out in accordance with Council Framework Decision 2009/315/JHA[45] and Council Decision 2009/316/JHA[46]. ***In addition, supervisors should be able to access all information necessary to verify the knowledge and expertise of the senior management, as well as their honesty and integrity and that of the obliged entity's beneficial owners, including information available through reliable and independent sources.***

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[45] Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 93, 7.4. 2009, p. 33).

[46] Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93, 7.4. 2009, p. 23).

(10) The Commission is well placed to review specific cross-border threats that could affect the internal market and that cannot be identified and effectively combatted by individual Member States. It should therefore be entrusted with the responsibility for coordinating the assessment of risks relating to cross-border activities. Involvement of the relevant experts, such as the Expert Group on Money Laundering and Terrorist Financing and the representatives from the FIUs, as well as, where appropriate, from other Union-level bodies ***including AMLA***, is essential for the effectiveness of the process of the assessment of risks. National risk assessments and experience are also an important source of information for that process. Such assessment of the cross-border risks by the Commission should not involve the processing of personal data. In any event, data should be fully anonymised. National and Union data protection supervisory authorities should be involved only if the assessment of the risk of money laundering and terrorist financing has an impact on the privacy and data protection of individuals. ***To maximise synergies between the assessment of risks at supranational and at national level, the Commission and the Member States should endeavour to apply consistent methodologies.***

(11) The findings of the risk assessment at Union level can assist competent authorities and obliged entities in the identification, understanding, management and mitigation of the risk of money laundering and terrorist financing, as well as of risks of non-application and evasion of targeted financial sanctions. It is therefore important that the findings of the risk assessment are made public.

(12) ▌Member States remain▌ best placed to identify, assess, understand and decide how to mitigate risks of money laundering and terrorist financing affecting them directly. Therefore, each Member State should take the appropriate steps ▌to properly ▌***identify,*** assess and understand its money laundering and terrorist financing risks, as well as risks of non-implementation and evasion of targeted financial sanctions and to define a coherent national strategy to put in place actions to mitigate those risks. Such national risk assessment should ▌include a description of the institutional structure and broad procedures of the Member State's AML/CFT regime, as well as the allocated human and financial resources to the extent that this information is available. ***In order to maintain an ongoing understanding of risks, Member States should regularly update their national risk assessment, and may also supplement it with targeted updates and assessments of risks associated with specific sectors, products or services.***

▌

(12b) Legal entities and legal arrangements may provide a means for criminals to hide behind a veil of legitimacy and may thus be misused to launder illicit proceeds, whether domestically or across borders. To mitigate these risks, it is important that Member States understand the risks associated with the legal entities and legal arrangements that are in their territory, whether because the entities are established there, or because trustees of express trusts or persons holding equivalent positions in similar legal arrangements are established or reside there, or they administer the legal arrangement from there. In the case of legal arrangements, given the settlor's right as to the choice of the law that governs the arrangement, it is equally important that Member States have an understanding of the risks associated with the legal arrangements that can be created under their law, irrespective of whether their laws explicitly regulate them, or their creation finds its source in the freedom of contract of the parties and is recognised by national Courts.

(12c) Given the integrated nature of the international financial system and openness of the Union economy, risks associated with legal entities and legal arrangements expand beyond those in the Union territory. It is thus important that the Union and its Member States have an understanding of the exposure to risks emanating from foreign legal entities and legal arrangements. Such an assessment of risks does not need to address each individual foreign legal entity or legal arrangement that has a sufficient link with the Union, whether by virtue of it acquiring real estate or being awarded public procurements, or because of transactions with obliged entities that allow them to access the Union's financial system and economy. The risk assessment should however enable the Union and its Member States to understand what type of foreign legal entities and legal arrangements enjoy such an access to the Union's financial system and economy, and what types of risks are associated with that access.

(13) The results of risk assessments should, [redacted] be made available to obliged entities in a timely [redacted] manner to enable them to identify, understand, manage and mitigate their own risks. ***Those results can be shared in a summarised form, also made available to the public, and should not include classified information or personal data.***

(14) In addition, to identify, understand, manage and mitigate risks at Union level to an even greater degree, Member States should make available the results of their risk assessments to each other, to the Commission and to AMLA. ***Classified information or personal data should not be included in those transmissions unless deemed strictly necessary for the performance of AML/CFT tasks.***

(14a) In order to effectively mitigate the risks identified in the national risk assessment, Member States should ensure consistent action at national level, whether by appointing an authority to coordinate the national response, or by establishing a mechanism to that end. Irrespective of the approach chosen, Member States should ensure that the authority or mechanism has sufficient powers and resources to perform this task effectively and ensure adequate responses to the identified risks.

(15) To be able to review the effectiveness of their systems for combating money laundering and terrorist financing, Member States should maintain, and improve the quality of, relevant statistics. With a view to enhancing the quality and consistency of the statistical data collected at Union level, the Commission and the AMLA should keep track of the Union-wide situation with respect to the fight against money laundering and terrorist financing and should publish regular overviews.

(16) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the proliferation financing-related targeted financial sanctions, and to take action to mitigate those risks. Those new standards introduced by the FATF do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP[47] and (CFSP) 2016/849[48] as well as Council Regulations (EU) 267/2012[49] and (EU) 2017/1509[50], remain strict rule-based obligations binding on all natural and legal persons within the Union. ***Given the specific risks of non-implementation and evasion of targeted financial sanctions to which the Union is exposed, it is appropriate to expand the assessment of risks to encompass all targeted financial sanctions adopted at Union level. In this case, too, the risk-sensitive measures implemented under the AML/CFT framework do not remove the absolute obligation to freeze and not make available funds or other assets to designated persons or entities incumbent upon all natural or legal persons in the Union***.

[47] 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

[48] Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

[49] Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

[50] Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

(17) In order to reflect the latest developments at international level ***particularly the revised FATF recommendations, and ensure a comprehensive framework for implementing targeted financial sanctions, requirements have*** ▌ been introduced by this Directive to identify, understand, manage and mitigate risks of potential non-implementation or evasion of ▌ targeted financial sanctions at Union level and at Member State level.

(18) Central registers of beneficial ownership information are crucial in combating the misuse of ***corporate and other*** legal entities ***as well as of legal arrangements. Therefore, Member States should ensure that the beneficial ownership information of legal entities and legal arrangements, information on nominee arrangements and information on foreign legal entities and foreign legal arrangements are held in a central register***. To ensure that the registers of beneficial ownership information are easily accessible and contain high-quality data, consistent rules on the collection and storing of this information ***by the registers*** should be introduced. ***Information held in central registers should be accessible in a readily usable and machine readable format.***

(19) With a view to enhancing transparency in order to combat the misuse of ***corporate and other*** legal entities, Member States should ensure that beneficial ownership information is ▌ ***registered*** in a central register located outside the company, in full compliance with Union law. Member States ▌ ***should***, for that purpose, use a central database, which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for ▌ ***providing certain information to*** the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when they take customer due diligence measures.

(20) Beneficial ownership information of ***express*** trusts and similar legal arrangements should be registered where the trustees and persons holding equivalent positions in similar legal arrangements are established or where they reside***, or where the legal arrangement is administered***. In order to ensure the effective monitoring and registration of information on the beneficial ownership of ***express*** trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of ***express*** trusts and similar legal arrangements ▌***should*** make this information accessible, and ▌***should*** also ensure that the multiple registration of the same ***express*** trusts and similar legal arrangements is avoided within the Union.

(21) Timely access to information on beneficial ownership should be ensured in ways, which avoid any risk of tipping off the company concerned.

(22) The accuracy of data included in the beneficial ownership registers is fundamental for all of the relevant authorities and other persons allowed access to that data, and to make valid, lawful decisions based on that data. Therefore, ▌***Member States should ensure that the entities in charge of the central registers verify, within a reasonable time upon submission*** of the beneficial ownership information ▌***and on a regular basis thereafter, that that the information submitted is adequate, accurate and up to date. Member States should ensure that*** entities ▌***in charge of central registers are able to request any*** information ▌***they need to verify beneficial ownership information and nominee information, as well as situations where there is no beneficial owner or where the beneficial owner(s) could not be determined , in which case the information provided to the register should be accompanied by a justification including all relevant supporting documents to enable the register to ascertain whether this is the case. Member States*** should ▌***also ensure that the entities in charge of the registers have at their disposal adequate tools to carry out verifications, including automated verifications in a manner that safeguards fundamental rights and avoids discriminatory outcomes***.

(22a) It is important that Member States entrust the entities in charge of managing the registers with sufficient powers and resources to verify beneficial ownership and the veracity of information provided to them, and to report any suspicion to their FIU. Such powers should extend to the conduct of inspections at the premises of the legal entities and to obliged entities that act as trustees of express trusts or persons holding equivalent positions in similar legal arrangements, whether carried out by the entities in charge of the registers or by other authorities on their behalf. Member States should ensure that adequate safeguards are applied where those trustees or persons holding an equivalent position in a similar legal arrangement are legal professionals, or where their business premises coincide with their private residence. Such powers should extend to representatives of foreign legal entities and foreign legal arrangements in the Union, where those legal entities and arrangements have registered offices or representatives in the Union.

(22b) Where a verification of the beneficial ownership information leads an entity in charge of the register to conclude that there are inconsistencies or errors in that information, or where that information otherwise fails to fulfil the requirements, it should be possible for the entity to withhold or suspend the proof of registration in the beneficial ownership register, until the failures have been corrected.

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(22c) Entities in charge of central registers should carry out their functions free of undue influence, including any undue political or industry influence in relation to the verification of information, the imposition of measures or sanctions and the granting of access to persons with a legitimate interest. To this end, the entities in charge of the registers should have in place policies to prevent and manage conflict of interest.

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(22d) Beneficial ownership registers are well placed to identify, in a rapid and efficient manner, the individuals who ultimately own or control legal entities and arrangements, including individuals designated in relation to targeted financial sanctions. Timely detection of ownership and control structures contributes to improving the understanding of the exposure to risks of non-implementation and evasion of targeted financial sanctions, and to the adoption of mitigating measures to reduce such risks. It is therefore important that such registers be required to screen the beneficial ownership information they hold against designations in relation to targeted financial sanctions, both immediately upon such designation and regularly thereafter, in order to detect whether changes in the ownership or control structure of the legal entity or legal arrangement are conducive to risks of evasion of targeted financial sanctions.

The indication in the registers that legal entities or legal arrangements are associated with persons or entities subject to targeted financial sanctions should contribute to the activities of competent authorities and of the authorities in charge of implementing EU restrictive measures.

(23) Moreover, the reporting of discrepancies between beneficial ownership information held in the central registers and beneficial ownership information available to obliged entities and, where applicable, competent authorities, is an effective mechanism to verify the accuracy of the information. Any such discrepancy should be swiftly identified, reported and corrected***, in line with data protection requirements***.

(25) Where the reporting of discrepancies by the FIUs and other competent authorities would jeopardise an ***analysis of a suspicious transaction or an*** on-going criminal investigation, the FIUs or other competent authorities should delay the reporting of the discrepancy until the moment at which the reasons for not reporting cease to exist. Furthermore, FIUs and competent authorities should not report any discrepancy when this would be contrary to any confidentiality provision of national law or would constitute a tipping-off offence.

(26) To ensure a level playing field in the application of the concept of beneficial owner, it is of utmost importance that, across the Union, legal entities obtain benefit from uniform reporting channels and means. To that end, the format for the submission of beneficial ownership information to the relevant national registers should be uniform and offer guarantees of transparency and legal certainty.

(27) In order to ensure a level playing field among the different types of legal forms, trustees should also be required to obtain and hold beneficial ownership information and to communicate that information to a central register or a central database.

(27a) It is essential that the information on beneficial ownership remains available through the national registers and through the system of interconnection of beneficial ownership registers for a minimum of five years after the grounds for registering beneficial ownership information have ceased to exist. Member States should be able to provide by law additional grounds for the processing of beneficial ownership information for purposes other than AML/CFT, if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.

(27b) FIUs, other competent authorities and self-regulatory bodies should have immediate, unfiltered, direct and free access to information on beneficial ownership for the purposes of preventing, detecting, investigating and prosecuting money laundering, its predicate offences or terrorist financing. Obliged entities should also have access to beneficial ownership registers when carrying out due diligence. Member States may choose to make access by obliged entities subject to the payment of a fee. However, those fees should be strictly limited to what is necessary to cover the costs of ensuring the quality of the information held by the registers and of making the information available, and should not undermine the effective access to beneficial ownership information.

(28) ▌***Direct, timely and unfiltered*** access to beneficial ownership information▌ ***by national public authorities is also crucial to ensure the proper implementation of EU restrictive measures, to prevent the risk of non-implementation and evasion of EU restrictive measures, as well as to investigate breaches. For these reasons, competent authorities identified under the relevant Council Regulations adopted on the basis of Article 215*** of the ▌***Treaty on the Functioning of the European Union should have direct and immediate*** access to ▌***the*** information ▌***held in the interconnected registers.***

(29) ▌ ***It should be possible for Union bodies and agencies that play a role in the Union AML/CFT framework to access beneficial ownership information*** in the ▌ ***performance of their duties***. This is ▌ ***the case for the European Public Prosecutor's Office, but also for the EU Anti-Fraud Office*** in the ▌ ***performance of its investigations, as well as for Europol and Eurojust when supporting investigations by national authorities. As a supervisory authority, AMLA is granted access to beneficial ownership information when performing supervisory activities***.▌ ***In order to ensure that AMLA can effectively support the activities of Financial Intelligence Units, it should also be able to access beneficial ownership information in the context of joint analyses***.

(30) ▌ ***In order to limit interferences with the right to the respect for private life and to the protection of personal data, access to information held in*** beneficial ownership ▌ ***registers by the public should be conditional upon the demonstration of a legitimate interest. Divergent approaches by Member States to the verification that such a legitimate interest exists may hamper the harmonised implementation of the AML/CFT framework and the preventive purpose for which such*** access by the ***members of the*** public▌ ***is allowed. It is therefore necessary to devise a framework for the recognition and verification of legitimate interest at*** Union ***level, in full respect of the Charter of Fundamental Rights. Where a legitimate interest exists, the public should be able to access information on*** ▌ beneficial ▌ ***ownership of legal entities. Such legitimate interest to access beneficial ownership information should be presumed for certain categories of the public. Access on the basis of a legitimate interest should not be conditional upon the*** legal ▌ ***status or form of the person requesting access***.

(31) ▌ ***Persons acting for the purposes of journalism and civil society organisations play a vital role in democratic societies. Non-governmental organisations, academics and investigative journalists have also contributed to the objectives of the Union*** in the ▌ ***fight against*** money laundering***, its predicate offences*** and terrorist financing***. Those entities, when operating in the aforementioned fields, should therefore be found to have a legitimate interest to access beneficial ownership information, which is of vital importance for them to undertake their functions and exert public scrutiny, as appropriate. The ability to access the registers***▌ should ***not be conditional on the medium or platform through which they carry out their activities, or on previous experience in the field. In order to enable these categories to carry out their activities effectively and avoid risks of retaliation, they***▌ should be ▌ ***able to access information on legal entities and legal arrangements without demonstrating a link with those entities or arrangements. As provided for under Union data protection rules, any access by*** beneficial owners▌ ***to information on the processing made of their personal data*** should not ▌ ***adversely affect the rights and freedoms of others, including right to security of the person. Disclosure to the beneficial owner that persons acting for the purposes of journalism or civil society organisations have consulted*** their personal data ▌ ***risks undermining the safety of journalists and of members of civil society organisations who carry out investigations into potential criminal activities. Therefore, in order to reconcile the right*** to the ▌ ***protection of personal data with the freedom of information and expression for journalists in accordance with Article 85 of Regulation (EU) 2016/6679 and in order to ensure civil society organisations' role in the prevention, investigation and detection of money laundering, its predicate offences or terrorist financing in accordance with Article 23(1), point (d) of that Regulation, beneficial ownership registers should not share with beneficial owners information on processing of their data by those categories of the public, but only the fact that persons acting for the purposes of journalism or civil society organisations consulted their data***.

(32) ▌ ***Integrity of business transactions is critical to the well-functioning*** of the ▌ ***internal market and of the Union's financial system. To that end, it is important that*** persons ▌ ***who wish to do business with legal entities or*** legal ▌ ***arrangements in the Union are able to access information on their beneficial owners to verify that their potential business counterparts are not involved in money laundering, its predicate offences or terrorist financing. The ability of criminals to hide their identity behind corporate structures is a common and evidenced typology, and enabling those who could enter into transactions with a*** legal ▌ ***person or legal arrangement to become aware of the identity of the beneficial owners contributes to combating their misuse for criminal purposes. A transaction is not limited to trading activities or the provision or buying of products or services, but may also include, for example, situations where a person is likely to invest funds funds as defined in Article 4, point (25) of Directive (EU) 2015/2366 or crypto-assets in the entity or arrangement, or to acquire the legal entity. Therefore, the requirement of legitimate interest to access beneficial ownership information should not considered met only by persons carrying out economic or commercial activities***.

(33) ▌ ***Given the cross-border nature of money laundering, its predicate offence and terrorist financing, it should be recognised that competent authorities of third countries have a legitimate interest to access*** beneficial ▌ ***ownership information on Union's legal entities and arrangements, where such access is needed in the context of specific investigations to perform their tasks with respect to AML/CFT. Similarly, entities that are subject to AML/CFT requirements in third countries*** should be ▌ ***able to access the beneficial ownership information in the Union registers when they are required to take customer due diligence measures in compliance with AML/CFT requirements in those countries in relation to legal entities and arrangements established in the Union. Any access to information contained in*** the beneficial ▌ ***ownership registers should be compliant with Union law on the protection*** of personal data***, and in particular with Chapter V of Regulation (EU) 2016/769. To this end, beneficial ownership registers should also consider whether requests from persons established outside the Union may fall within the conditions within which a derogation under Article 49 of that Regulation may be availed of. The Court has repeatedly confirmed that the fight against money laundering, its predicate offences and terrorist financing is an objective of general public interest, and the public security objectives connected to it. In order to preserve the integrity of investigations and analyses by third-country Financial Intelligence Units and law enforcement and judicial authorities, beneficial ownership registers***▌ should ▌ ***refrain from disclosing to*** the beneficial ▌ ***owners any processing of their personal data by those authorities in so far as this would adversely affect their rights. However***, in order to ▌ ***preserve the data subject rights,*** the beneficial ownership ▌ ***registers should refrain from disclosing that information until that*** disclosure ▌ ***would no longer jeopardise an investigation or analysis. That time limit should be set to a maximum period of five years, and should be extended only upon a motivated request*** by the ▌ ***authority in the third country***.

(34) ▌ ***In order to ensure an access regime which is sufficiently flexible and able to adapt to emerging new circumstances, Member States should be able to grant access to*** beneficial ownership ▌ ***information, on a case-by-case basis, to any person who can demonstrate a legitimate interest linked to the prevention and combating of ML and TF***.▌ Member States should ▌ ***collect*** information ▌ ***about cases of legitimate*** interest ▌ ***that go beyond the categories identified in this Directive, and notify them to the Commission***.

(34a) Criminals may misuse legal entities at any point of their existence. However, certain phases in the lifecycle of legal entities may be associated with higher risks, such as at the company formation stage, or when there are changes in the company structure, such as conversion, merger or division, which allow criminals to acquire control of the legal entity. The Union framework provides oversight by public authorities over those phases of a legal entity's existence under Directive (EU) 2017/1132. In order to ensure that those public authorities can carry out their activities effectively and contribute to the prevention of the misuse of legal entities for criminal purposes, they should have access the information contained in the interconnected beneficial ownership register.

(34b) With a view to ensuring the legality and regularity of expenditure included in the accounts submitted to the Commission under Union funding programmes, programme authorities have to collect and store in their management and control systems information on the beneficial owners of the recipients of Union funding. It is therefore necessary to ensure that programme authorities in the Member States have access to beneficial ownership information held in the interconnected registers to fulfil their duties to prevent, detect, correct and report on irregularities, including fraud, pursuant to Regulation (EU) 2021/1060 of the European Parliament and the Council[51].

(34c) In order to protect the Union financial interest, the Member States authorities implementing the Facility under Regulation (EU) 2021/241 of the European Parliament and of the Council[52] establishing the Recovery and Resilience Facility should have access the interconnected register to collect the beneficial ownership information on the recipient of Union funds or contractor required under that Regulation.

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[51] ***Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231 30.6.2021, p. 159–706.***

[52] ***Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17–75.***

(34d) Corruption in public procurement harms the public interest, undermines public trust and has a negative impact on the lives of citizens. Given the vulnerability of public procurement procedures to corruption, fraud and other predicate offences, it should be possible for national authorities with competences in public procurement procedures to consult the beneficial ownership registers of Member States to ascertain the identity of the natural persons who ultimately own or control the tenderers, and identify cases where there is a risk that criminals may be involved in the procurement procedure. Timely access to information held in the beneficial ownership register is crucial to ensuring that public procurement authorities can fulfil their functions effectively, including by detecting instances of corruption in public procurement procedures. The notion of public authorities in relation to procurement procedures should encompass the concept of contracting authorities in Union legislation relating to public procurement for goods, services and concessions as well as any public authority designated by the Member States to verify the legality of public procurement procedures, which is not a competent authority for AML/CFT purposes.

(34e) Products such as customer screening offered by third-party providers support obliged entities in the performance of costumer due diligence. Such products provide them with a holistic view over the customer, which enables them to make informed decisions as to their risk classification, mitigating measures to be applied and possible suspicions regarding the customers' activities. These products also contribute to the work of competent authorities in the analysis of suspicious transactions and investigations into potential cases of money laundering, its predicate offences and terrorist financing by complementing information on beneficial ownership with other technical solutions that enable competent authorities to have a broader view of complex criminal schemes, including through the localisation of their perpetrators. These solutions therefore play a critical role in the increasingly complex and fast movements that characterise money laundering schemes. By virtue of their well-established function in the compliance infrastructure, it is justified to consider that they hold a legitimate interest in accessing information held by the registers, provided that the data obtained from the register are offered only to obliged entities and competent authorities in the Union for the performance of tasks related to preventing and fighting money laundering, its predicate offences and terrorist financing.

(34f) In order to avoid divergent approaches towards the implementation of the concept of legitimate interest for the purpose of accessing beneficial ownership information, the procedures for the recognition of such a legitimate interest should be harmonised. This should include common templates for the application and recognition of legitimate interest, which would facilitate mutual recognition by registers across the Union. To that end, the Commission should be empowered to adopt implementing acts setting out harmonised templates and procedures.

(34g) To ensure that the processes for granting access to those with a previously verified legitimate interest are not unduly burdensome, access may be renewed on the basis of simplified procedures through which the entities in charge of the register ensure that information previously obtained for purposes of verification are correct and relevant, and updated where necessary.

(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, ▌ Member States ▌ ***should*** provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access to the information in the register.

However, those fees should be strictly limited to what is necessary to cover the costs of ensuring the quality of the information held by the registers and of making the information available, and should not undermine the effective access to beneficial ownership information.

(35a) Identification of applicants is necessary to ensure that only persons with a legitimate interest can access beneficial ownership information. However, such an identification process should be carried out in a way that it does not lead to discrimination, including based on the applicants' country of residence or nationality. To that end, Member States should provide sufficient identification mechanisms, including but not limited to eIDAS-notified digital identity solutions and relevant qualified trust services, to enable persons with a legitimate interest to effectively access beneficial ownership information.

(36) Directive (EU) 2018/843 achieved the interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council[53]. ***The interconnection has proven to be essential for an effective cross-border access to the beneficial ownership information by competent authorities, obliged entities and persons with a legitimate interest. It will require*** continued ***development to implement the evolved regulatory requirements on time prior to the transposition of the Directive. Therefore, the work on interconnection should continue with*** involvement of Member States in the functioning of the whole system***, which*** should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development.

[53] Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

(37) Through the interconnection of Member States' beneficial ownership registers, both national and cross-border access to information on the beneficial ownership of legal arrangements contained in each Member State's register should be granted based on the definition of legitimate interest, by virtue of a decision taken by the relevant entity of that Member State. To avoid that decisions on limiting access to beneficial ownership information which are not justified cannot be reviewed, appeal mechanisms against such decisions should be established. With a view to ensuring coherent and efficient registration and information exchange, Member States should ensure that their entity in charge of the register cooperates with its counterparts in other Member States, sharing information concerning trusts and similar legal arrangements governed by the law of one Member State and administered in another Member State ***or whose trustee is established or resides in another Member State***.

(38) Regulation (EU) 2016/679 of the European Parliament and of the Council[54] applies to the processing of personal data for the purposes of this Directive. Natural persons whose personal data are held in national registers as beneficial owners should be informed about the applicable data protection rules. Furthermore, only personal data that is up to date and corresponds to the actual beneficial owners should be made available and the ▌***beneficial owners*** should be informed about their rights under the Union legal data protection framework and the procedures applicable for exercising those rights. ▌

[54] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(39) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank***,*** and payment ***accounts, securities*** accounts***, custodial crypto-asset accounts*** ▌ and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to money laundering and terrorist financing. ▌ It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts***, securities accounts, custodial crypto-asset accounts*** ▌ and safe-deposit boxes, their proxy holders, and their beneficial owners. ***Such information should include the historical information on closed customer-account holders, bank, payment, securities, crypto-asset accounts and safe-deposit boxes.*** When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities▌**.**

(39a) Virtual IBANs are virtual numbers issued by credit and financial institutions that allow payments to be routed to physical bank or payment accounts. While virtual IBANs can be used by businesses for legitimate purposes, for example, to streamline the process of collecting and sending payments across borders, they are also associated with increased risks of money laundering, its predicate offences or terrorist financing as they can be used to obscure the identity of the account holder, making it difficult for FIUs to trace the flow of funds, identify the location of the account and impose the necessary measures, including the suspension or monitoring of the account. In order to mitigate those risks and facilitate the tracing and detection of illicit flows by FIUs, the centralised automated mechanisms should include information on virtual IBANs associated with a bank or payment account.

(40) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank***, payment, securities and crypto-asset*** accounts***,*** such as registers or data retrieval systems. It should be possible for Member States to determine which ***additional*** data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms, Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to ***exceptionally*** extend the retention period***, provided good reasons are given*** . The additional retention period should not exceed an additional five years. That period should be without prejudice to national law setting out other data retention requirements allowing case-by-case decisions to facilitate criminal or administrative proceedings. Access to those mechanisms should be on a need-to-know basis.

(41) Through the interconnection of Member States' centralised automated mechanisms, the national FIUs would be able to obtain swiftly cross-border information on the identity of holders of bank***, payment, securities and crypto-asset*** accounts and safe deposit boxes in other Member States, which would reinforce their ability to effectively carry out financial analysis and cooperate with their counterparts from other Member States. Direct cross-border access to information on bank***, payment, securities and crypto-asset*** accounts and safe deposit boxes would enable ***FIUs*** to produce financial analysis within a sufficiently short timeframe to ***trace funds funnelled through various accounts, including by using virtual IBANs,*** detect potential money laundering and terrorist financing cases and guarantee a swift law enforcement action. ***AMLA should also be provided with direct access to the interconnected centralised automated mechanisms in order to provide operational support to FIUs in the framework of joint analysis exercises.***

(42) In order to respect the right to the protection of personal data and the right to privacy, and to limit the impact of cross-border access to the information contained in the national centralised automated mechanisms, the scope of information accessible through the bank account registers (BAR) central access point would be restricted to the minimum necessary in accordance with the principle of data minimisation in order to allow the identification of any natural or legal persons holding or controlling payment ***, bank, securities, and crypto-asset accounts*** and safe-deposit boxes. FIUs ***and AMLA*** should be granted immediate and unfiltered access to the central access point. Member States should ensure that the FIUs' staff maintain high professional standards of confidentiality and data protection, that they are of high integrity and are appropriately skilled. Moreover, Member States should put in place technical and organisational measures guaranteeing the security of the data to high technological standards.

(43) The interconnection of Member States' centralised automated mechanisms (central registries or central electronic data retrieval systems) containing information on bank and payment accounts and safe-deposit boxes through the BAR single access point necessitates the coordination of national systems having varying technical characteristics. For this purpose, technical measures and specifications taking into account the differences between the national centralised automated mechanisms should be developed.

(44) Real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, as it allows obscuring the true source of the funds and the identity of the beneficial owner. Proper and timely identification of ***property as well as of*** natural ***persons, legal entities and*** legal ***arrangements*** owning real estate by FIUs and other competent authorities is important both for detecting money laundering schemes as well as for freezing and confiscation of assets***, as well as for administrative freezing measures implementing targeted financial sanctions***. It is therefore important that Member States provide FIUs and ***other*** competent authorities with ***immediate and direct*** access to information which allows the ***proper conduct of analyses and investigations into potential criminal cases involving real estate. In order to facilitate effective access, that information should be provided free of charge through a single access point, by digital means and where possible in machine-readable format.***

The information should include historical information, including the history of property proprietorship, the prices at which the property has been acquired in the past and related encumbrances over a defined period in the past in order to enable FIUs and other competent authorities in that Member State to analyse and identify any suspicious activities pertaining to land or real estate property transactions which could be indicative of money laundering or other types of criminality. This historical information concerns types of information already collected when carrying out land or real estate ▌ ***property transactions. There are thus no new obligations imposed upon affected persons, ensuring that the legitimate expectations of those concerned are duly respected. Given the cross-border relevance of criminal schemes involving real estate, it is appropriate to identify a minimum set of information that competent authorities should be able to access and share with their counterparts in other Member States***.

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(45) All Member States have, or should, set up operationally independent and autonomous FIUs to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing. The FIU should be the single central national unit responsible for the receipt and analysis of suspicious transaction reports, reports on cross-border physical movements of cash ▌ ***through the Customs Information System, on transactions reported when certain thresholds are exceeded (threshold-based disclosures)*** as well as other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities. Operational independence and autonomy of the FIU should be ensured by granting the FIU the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions as regards analysis, requests and dissemination of specific information. In all cases, the FIU should have the independent right to forward or disseminate information to competent authorities.

The FIU should be provided with adequate financial, human and technical resources, in a manner that secures its autonomy and independence and enables it to exercise its mandate effectively. The FIU should be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence. ***In order to assess the fulfilment of those requirements and identify weaknesses and best practices, AMLA should be empowered to coordinate the organisation of peer reviews of FIUs.***

(45a) FIU staff should be of high integrity and appropriately skilled, and should maintain high professional standards. FIUs should have in place procedures to effectively prevent and manage conflicts of interest. Given the nature of their work, FIUs are recipients of, and have access to, large amounts of sensitive personal and financial information. FIU staff should therefore have appropriate skills when it comes to the ethical use of big data analytical tools. Moreover, FIUs' activities may have implications for individuals' fundamental rights, such as the right to the protection of personal data, right to private life and right to property. FIUs should therefore designate a Fundamental Rights Officer who may be a member of the existing staff of the FIU. The tasks of the Fundamental Rights Officer should include, without impeding or delaying the activities of the FIUs, monitoring and promoting the FIU's compliance with fundamental rights, providing advice and guidance to the FIU on fundamental rights implications of its policies and practices, scrutinising the lawfulness and ethics of the FIU's activities and issuing non-binding opinions. The designation of a Fundamental Rights Officer would help to ensure that in carrying out their tasks, FIUs respect and protect affected individuals' fundamental rights.

(45b) FIUs should be able to disseminate information to competent authorities tasked with combatting money laundering, its predicate offences, and terrorist financing. This should be understood to include authorities with an investigative, prosecutorial or judicial role. Across Member States, other authorities have dedicated roles connected to the fight against money laundering, its predicate offences and terrorist financing, and FIUs should also be able to provide them with the results of their operational or strategic analyses, where they consider this to be relevant to their functions. The results of those analyses provide meaningful intelligence used for the development of leads in the course of investigative and prosecutorial work. The source of the suspicious transaction report should not be disclosed in the dissemination. This, however, should not be seen as precluding FIUs from disseminating relevant information including, for example, information on IBAN numbers, BIC or SWIFT codes In addition, FIUs should be able to share other information in their possession including upon request by competent authorities. In exercising their autonomy and independence, FIUs should consider how a refusal to provide information may impact cooperation and the broader goal of combatting money laundering, its predicate offences and terrorist financing. Such refusals should be limited to exceptional circumstances, for example when the information originates from another FIU that has not granted consent to its further dissemination, or where the FIU has reasons to believe that the information will not be used for the purposes for which it was requested. In such cases the FIU should provide reasons for the refusal. Such reasons could include clarifying, for example, that the information is not in the possession of the FIU, that consent for further dissemination has not been granted , or other generic categories of exceptional circumstances pursuant to Union law.

(45c) Effective cooperation and information exchange between FIUs and supervisors is of crucial importance for the integrity and stability of the financial system. It ensures a comprehensive and consistent approach to preventing and combating money laundering, its predicate offences and terrorist financing, enhances the effectiveness of the Union AML/CFT regime and safeguards the economy from the threats posed by illicit financial activities. Information in the possession of FIUs pertaining to, for example, the quality and quantity of suspicious transaction reports submitted by obliged entities, the quality and timeliness of obliged entities' responses to requests for information by the FIUs and information on ML/TF typologies, trends and methods can help supervisors identify areas where risks are higher or where compliance is weak and, hence, provide them with an insight into whether supervision needs to be strengthened in relation to specific obliged entities or sectors. To this end, FIUs should provide supervisors, either spontaneously or upon request, with certain types of information that may be relevant for the purposes of supervision.

(46) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. FIUs maintain significant differences as regards their functions, competences and powers.

The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, it has become essential to identify the minimum set of data FIUs should have swift access to and be able to exchange without impediments with their counterparts from other Member States. In all cases of suspected money laundering, its predicate offences and in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs.

(47) The powers of FIUs include the right to access directly or indirectly the 'financial', 'administrative' and 'law enforcement' information that they require in order to combat money laundering, its associated predicate offences and terrorist financing. The lack of definition of what types of information these general categories include has resulted in FIUs having been granted with access to considerably diversified sets of information which has an impact on FIUs' analytical functions as well as on their capacity to cooperate effectively with their counterparts from other Member States***, including in the framework of joint analysis exercises***. It is therefore necessary to define the minimum sets of 'financial', 'administrative' and 'law enforcement' information that should be made directly or indirectly available to every FIU across the Union***. FIUs also receive and store in their databases, or have access to, information related to transactions that are reported when specified thresholds are exceeded (threshold-based reports).***

These reports are an important source of information and are widely used by FIUs in the context of domestic and joint analyses. Therefore, threshold-based reports are among the types of information exchanged through the FIU.net. Direct access is an important prerequisite for the operational effectiveness and responsiveness of FIUs. To this end, it should be possible for Member States to provide FIUs with direct access to a broader set of information than those required by this Directive. At the same time, this Directive does not require Member States to set up new databases or registers in the cases where certain types of information, for example, information on procurement, is spread across various repositories or archives. Where a database or register has not been set up, Member States should take other necessary measures to ensure that FIUs can obtain that information in an expeditious manner. Moreover, FIUs should be able to obtain swiftly from any obliged entity all necessary information relating to their functions. An FIU should also be able to obtain such information upon request made by another FIU and to exchange that information with the requesting FIU.

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(47b) Access should be considered direct and immediate when the information is contained in a database, register or an electronic data retrieval system enabling the FIU to obtain it directly, through an automated mechanism, without the involvement of an intermediary. Where the information is held by another entity or authority, direct access entails that those authorities or entities transmit it to the FIU in an expeditious manner without interfering with the content of the requested data or the information to be provided. The information should not undergo any filtering. In some situations, however, the confidentiality requirements attached to the information may not allow the provision of the information in an unfiltered manner. This is the case for example, where tax information can only be provided to FIUs upon agreement of a tax authority in a third country, where direct access to law enforcement information may jeopardise an ongoing investigation, as well as in relation to passenger name record data collected pursuant to Directive (EU) 2016/681. In those cases, Member States should make every effort to ensure effective access to the information by FIUs, including by allowing FIUs to have access under similar conditions to those offered to other authorities at national level to facilitate their analytical activities.

(48) The vast majority of FIUs have been granted the power to take urgent action and suspend or withhold consent to a transaction in order to ▌***perform the analyses*** , confirm the suspicion and disseminate the results of the analytical activities to the competent authorities. However, there are certain variations in relation to the duration of the▌ ***suspension*** powers across the different Member States, with an impact not only on the postponement of activities that have a cross-border nature through FIU-to-FIU cooperation, but also on individuals' fundamental rights.

Furthermore, in order to ensure that FIUs have the capacity to promptly restrain criminal funds or assets and prevent their dissipation, also for seizure purposes, FIUs should be granted the power to suspend the use of a bank or payment account***, crypto-asset account or a business relationship*** in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Given that postponement powers have an impact on the right to property, ***FIUs should be able to suspend transactions, accounts or business relationships for a limited period of time in order to preserve the funds, carry out the necessary analyses and disseminate the results of the analyses to the competent authorities for the possible adoption of appropriate measures. Given the more significant impact on an affected person's fundamental rights, the suspension of an account or business relationship should be imposed for a more limited timeframe, which should be set at five working days. Member States can define a longer period of suspension where, pursuant to national law, the FIU exercises competences in the area of asset recovery and carries out functions of tracing, seizing, freezing or confiscating criminal assets. In such cases,*** the preservation of affected persons' fundamental rights should be guaranteed ***and FIUs should exercise their functions in accordance with the appropriate national safeguards. FIUs should lift the suspension of the transaction, account or business relationship as soon as such suspension is no longer necessary. Where a longer suspension period is defined, affected persons whose transactions, accounts or business relationships have been suspended should have the possibility to challenge the suspension order before a court***.

(48a) In specific circumstances, FIUs should be able to request, also on behalf of another FIU, an obliged entity to monitor, for a defined period of time, transactions or activities carried out through a bank, payment or crypto-asset account or another type of business relationship in relation to persons presenting a significant risk of money laundering, its predicate offences or terrorist financing. Closer monitoring of an account or a business relationship can provide the FIU with additional insights into the account holder's transaction patterns and lead to the timely detection of unusual or suspicious transactions that may warrant further action by the FIU, including the suspension of the account or the business relationship, the analysis of the intelligence gathered and its dissemination to investigative and prosecutorial authorities. FIUs should also be able to alert obliged entities of information relevant for the performance of customer due diligence. Such alerts can help obliged entities to inform their customer due diligence procedures and ensure their consistency with risks, update their risk assessment and risk management systems accordingly and provide them with additional information that may trigger the need for enhanced due diligence on certain customers or transactions that present higher risks.

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(49) For the purposes of greater transparency and accountability and to increase awareness with regard to their activities, FIUs should issue activity reports on an annual basis. These reports should at least provide statistical data in relation to the suspicious transaction reports received ***and the follow-up given***, the number of disseminations made to national competent authorities ***and the follow-up provided to those disseminations***, the number of requests submitted to and received by other FIUs as well as information on trends and typologies identified. This report should be made public except for the elements which contain sensitive and classified information. ▌

(49a) At least once annually, the FIU should provide obliged entities with feedback on the quality of suspicious transaction reports, their timeliness, the description of suspicion and any additional documents provided. Such feedback can be provided to individual obliged entities or groups of obliged entities and should aim to further improve the obliged entities' ability to detect and identify suspicious transactions and activities, improve the quality of suspicious transaction reports, enhance the overall reporting mechanisms and provide obliged entities with important insights into trends, typologies and risks associated with money laundering, its predicate offences and terrorist financing. When determining the type and frequency of the feedback, FIUs should as much as possible take into account areas where improvements in reporting activities may be needed. In order to support a consistent approach across FIUs and adequate feedback to obliged entities, AMLA should issue recommendations to FIUs on best practices and approaches towards providing feedback. Where this would not jeopardize analytical or investigative work, FIUs may consider providing feedback on the use made or outcome of suspicious transaction reports, whether on individual reports or in an aggregated manner. FIUs should also provide customs authorities with feedback, at least once per year, on the effectiveness and follow-up to reports on cross-border physical movements of cash.

(50) The purpose of the FIU is to collect and analyse ▌ information▌ with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. ▌ ***An FIU may impose certain restrictions and limitations with regard to the further use of information it provides to another FIU. The recipient FIU should use the information only for the purposes for which it was sought or provided.*** An FIU should grant its prior consent to another FIU to forward the information to other competent authorities regardless of the type of possible associated predicate offence ***and regardless of whether the predicate offence has been identified at the time of the exchange,*** in order to allow the dissemination function to be carried out effectively.

Such prior consent to further dissemination should be granted promptly and should not be refused unless it would fall beyond the scope of application of the AML/CFT provisions or would not be in accordance with fundamental principles of national law. FIUs should provide an explanation regarding any refusal to grant consent. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences should not hamper the mutual exchange, the dissemination to other competent authorities and the use of that information. FIUs should rapidly, constructively and effectively ensure the widest range of international cooperation with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the applicable data protection rules for data transfers, FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units. ***To this end, FIUs should be encouraged to conclude bilateral agreements and memoranda of understanding with counterparts from third countries, while taking account of any fundamental rights obligations and of the need to protect the rule of law.***

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(51) FIUs should use secure facilities, including protected channels of communication , to cooperate and exchange information amongst each other . In this respect, a ▌ system for the exchange of information between FIUs of the Member States ('FIU.net') should be set up. The system should be managed and hosted by AMLA ***and should provide for the highest level of security and the full encryption of the information exchanged***. The FIU.net should be ▌ used by FIUs to cooperate and exchange information amongst each other and may also be used, where appropriate ***and subject to a decision by AMLA***, to exchange information with FIUs of third countries and with other authorities and Union bodies***, offices and agencies***. The functionalities of the FIU.net should be used by FIUs to their full potential. Those functionalities should allow FIUs to match their data with data of other FIUs in ▌ ***a pseudonymous manner,*** with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, whilst ensuring full protection of personal data. ***In order to identify links between financial information and criminal intelligence, FIUs should also be able to use the functionalities FIU.net to pseudonymously match their data with information held by Union bodies, offices and agencies insofar as such cross-matching falls within the latter's respective legal mandates and in full respect of the applicable data protection rules.***

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(52) It is important that FIUs cooperate and exchange information effectively with one another. In this regard, AMLA should provide the necessary assistance, not only by means of coordinating joint analyses of cross-border suspicious transaction reports, but also by developing draft ***implementing and*** regulatory technical standards concerning the format to be used for the exchange of information between FIUs***, the template for the submission of suspicious transaction reports and the relevance and selection criteria*** to be taken into account when determining if a suspicious transaction report concerns another Member State as well as ***guidelines*** on the nature, features and objectives of operational and of strategic analysis ***and on the procedures to be put in place when forwarding and receiving a suspicious transaction report which concerns another Member State and the follow-up to be given. AMLA should also set up a peer review process in order to strengthen consistency and effectiveness of FIUs' activities and to facilitate the exchange of best practices between FIUs***.

(52a) FIUs are responsible for receiving suspicious transaction reports from obliged entities established in the territory of their Member States. Certain suspicions reported to FIUs may however pertain to activities carried out by obliged entities in other Member States, where they operate without an establishment. In those cases, it is important that FIUs disseminate these reports to the counterpart in the Member State where the suspicion arose, without attaching conditions to the use of those reports. The FIU.net system enables the dissemination of such cross-border reports. In order to enhance this functionality, the system is undergoing upgrades to enable the fast dissemination of such reports and to support significant exchanges of information between FIUs, and therefore effective implementation of this Directive.

(53) Time limits for exchanges of information between FIUs are necessary in order to ensure quick, effective and consistent cooperation. Time limits should be set out in order to ensure effective sharing of information within reasonable time or to meet procedural constraints. Shorter time limits should be provided in exceptional, justified and urgent cases where the requested FIU is able to access directly the databases where the requested information is held. In the cases where the requested FIU is not able to provide the information within the set time limits, it should inform ▌***the requesting FIU thereof***.

(54) The movement of illicit money traverses borders and may affect different Member States. The cross-border cases, involving multiple jurisdictions, are becoming more and more frequent and increasingly significant, also due to the activities carried out by obliged entities on a cross-border basis. In order to deal effectively with cases that concern several Member States, FIUs should be able to go beyond the simple exchange of information for the detection and analysis of suspicious transactions and activities and share the analytical activity itself. FIUs have reported certain important issues which limit or condition the capacity of FIUs to engage in joint analysis. Carrying out joint analysis of suspicious transactions and activities will enable FIUs to exploit potential synergies, to use information from different sources, to obtain a full picture of the anomalous activities and to enrich the analysis. FIUs should be able to conduct joint analyses of suspicious transactions and activities and to set up and participate in joint analysis teams for specific purposes and limited period with the assistance of AMLA. ▌***In this regard, AMLA should be provided with an operational node in the FIU.net system in order to be able to receive information from FIUs and provide operational support to FIUs in the context of the joint analysis of cross-border cases***.

(54a) The participation of third parties, including Union bodies, offices and agencies, may be instrumental for the successful outcome of FIUs' analyses, including joint analyses. Therefore, FIUs may invite third parties to take part in the joint analysis where such participation would fall within the respective mandates of those third parties. Participation by third parties in the analytical process may help identify links between financial intelligence and criminal information and intelligence, enrich the analysis and determine if there are indications that a criminal offence has been committed.

(55) Effective supervision of all obliged entities is essential to protect the integrity of the Union financial system and of the internal market. To this end, Member States should deploy effective and impartial AML/CFT supervision and set forth the conditions for effective, timely and sustained cooperation between supervisors.

(56) Member States should ensure effective, impartial and risk-based supervision of all obliged entities, preferably by public authorities via a separate and independent national supervisor. National supervisors should be able to perform a comprehensive range of tasks in order to exercise effective supervision of all obliged entities.

(57) The Union has witnessed on occasions a lax approach to the supervision of the obliged entities' duties in terms of anti-money laundering and counter-terrorist financing duties. Therefore, it has become of utmost importance that competent national supervisors, as part of the integrated supervisory mechanism put in place by this Directive and Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** , obtain clarity as to their respective rights and obligations.

(58) In order to assess and monitor more effectively and regularly the risks the obliged entities are exposed to and the ***internal policies, procedures and controls they put in place to manage and mitigate those risks, and to*** implement targeted financial sanctions, it is necessary to clarify that national supervisors are both entitled and bound to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries and assessments as they see necessary. ***They should also be able to react without undue delay to any suspicion of non-compliance with applicable requirements and to take appropriate supervisory measures to address allegations of non-compliance.*** This will not only help supervisors decide on those cases where the specific risks inherent in a sector are clear and understood, but also provide them with the tools required to further disseminate relevant information to obliged entities in order to inform their understanding of money laundering and terrorist financing risks.

(59) Outreach activities, including dissemination of information by the supervisors to the obliged entities under their supervision, is essential to guarantee that the private sector has an adequate understanding of the nature and level of money laundering and terrorist financing risks they face. ***As the implementation of AML/CFT requirements by obliged entities involves the processing of personal data, it is important that supervisors are acquainted with guidance and other publications issued by the data protection authorities, either at national level or at Union level through the European Data Protection Board, and that they include this information, as appropriate, in their disseminations to the entities under their supervision.***

(60) Supervisors should adopt a risk-based approach to their work, which should enable them to focus their resources where the risks are the highest, whilst ensuring that no sector or entity is left exposed to criminal attempts to launder money or finance terrorism. ***To that end, supervisors should plan their activities on a yearly basis. In doing so, they should not only ensure risk-based coverage of the sectors under their supervision, but also that they are able to react promptly in the event of objective and significant indications of breaches within an obliged entity, including in particular following public revelations or information submitted by whistleblowers.***

Supervisors should also ensure transparency on the supervisory activities they carried out, such as supervisory colleges they organised and attended, on-site and off-site supervisory actions taken and the pecuniary sanctions or administrative measures imposed. AMLA should play a leading role in fostering a common understanding of risks, and should therefore be entrusted with developing 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 should be reviewed.

(61) The disclosure to FIUs of facts that could be related to money laundering or to terrorist financing by supervisors is one of the cornerstones of efficient and effective supervision of money laundering and terrorist financing risks***, and allows supervisors to address shortcomings in the reporting process of obliged entities. To that effect, supervisors should be able to report to the FIU instances of suspicions that the obliged entity failed to report or to complement reports submitted by the obliged entity with additional information, which they detect in the course of their supervisory activities. Supervisors should also be able to report suspicions of money laundering, its predicate offences or terrorist financing by the employees of obliged entities, or persons in an equivalent position, by its management or its beneficial owners***. It is therefore necessary for Member States to put in place a system that ensures that FIUs are properly and promptly informed. ***The reporting of suspicions to the FIU should not be understood as replacing the obligation for public authorities to report to the relevant competent authorities any criminal activity they uncover or become aware of in the course of performing their tasks. Information covered by the legal privilege should not be collected nor consulted in the context of supervisory tasks, unless the exemptions set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] apply. Should supervisors encounter or come into possession of such information, they should not take it into account for the purposes of their supervisory activities, nor report it to the FIU.***

(62) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible and regardless of the respective nature or status of the supervisors. In addition to traditional cooperation - such as the ability to conduct investigations on behalf of a requesting supervisory authority – it is appropriate to mandate the set-up of AML/CFT supervisory colleges ***in the financial sector*** with respect to obliged entities ***that operate in several Member States through establishments and with respect to obliged entities which are part of a cross-border group . Financial supervisors of third country may be invited to those colleges under certain conditions, including confidentiality requirements equivalent to those incumbent on Union financial supervisors and compliance with Union law regarding the processing and transmission of personal data. The activities of AML/CFT supervisory colleges should be proportionate to the level of risk to*** which ***the credit or financial institution is exposed, and the scale of cross-border activity***.

(62a) Obliged entities operating in the non-financial sector may also carry out activities across borders or be part of groups that carry out cross-border activities. It is therefore appropriate to lay down rules that define the functioning of supervisory colleges for groups carrying out both financial and non-financial activities, and enabling the establishment of colleges in the non-financial sector, taking into account the need to apply additional safeguards in relation to groups or cross-border entities providing legal services. In order to ensure effective cross-border supervision in the non-financial sector, AMLA should provide support to the functioning of such colleges and regularly provide its opinion on the functioning of those colleges as implementation of the enabling framework provided by this Directive progresses.

(63) Where an obliged entity operates establishments in another Member State, including through a network of agents, the supervisor of the home Member State should be responsible for supervising the obliged entity's application of group-wide AML/CFT policies and procedures. This could involve on-site visits in establishments based in another Member State. The supervisor of the home Member State should cooperate closely with the supervisor of the host Member State and should inform the latter of any issues that could affect their assessment of the establishment's compliance with the host AML/CFT rules.

(64) Where an obliged entity operates establishments in another Member State, including through a network of agents, the supervisor of the host Member State ▌ ***should retain*** responsibility for enforcing the establishment's compliance with AML/CFT rules, including, where appropriate, by carrying out onsite inspections and offsite monitoring and by taking appropriate and proportionate measures to address ▌ ***breaches*** of those requirements. The ***same should apply to other types of infrastructure of obliged entities that operate under the freedom to provide services, where that infrastructure is sufficient to require supervision by the supervisor of the host Member State. The*** supervisor of the host Member State should cooperate closely with the supervisor of the home Member State and should inform the latter of any issues that could affect its assessment of the obliged entity's application of▌ AML/CFT policies and procedures▌ ***, and to allow the supervisor of the home Member State to take measures to address any breach identified. However, where*** serious***, repeated or systematic breaches***▌ of AML/CFT rules that require immediate remedies ***are detected***, the supervisor of the host Member State should be able to apply appropriate and proportionate temporary remedial measures, applicable under similar circumstances to obliged entities under their competence, to address such serious***, repeated or systematic breaches***▌ , where appropriate, with the assistance of, or in cooperation with, the supervisor of the home Member State.

(64a) In areas that are not harmonised at Union level, Member States may adopt national measures, even when these measures constitute restrictions to the freedoms of the internal market. This is the case, for example, of measures taken to regulate the provision of gambling services, particularly when those activities are carried out online, without any infrastructure in the Member State. However, to be compatible with Union law, such measures must aim to attain a general interest, be non-discriminatory and suitable for achieving that objective, and must not go beyond what is strictly necessary to achieve it. Where Member States subject the provision of services that are regulated under the Union AML/CFT framework to specific authorisation requirements, such as the obtention of a licence, they should also be responsible for the supervision of those services. The requirement to supervise those services does not prejudge the conclusions that the Court of Justice may draw on the compatibility of national measures with Union law.

(64b) In light of anti-money laundering vulnerabilities related to the electronic money issuing, the payment services and the crypto-assets service providing industry, it should be possible for Member States to require that those providers established on their territory in forms other than a branch or through other types of infrastructure and the head office of which is situated in another Member State appoint a central contact point. Such a central contact point, acting on behalf of the appointing institution, should ensure the establishments' compliance with AML/CFT rules.

(65) To ensure better coordination of efforts and contribute effectively to the needs of the integrated supervisory mechanism, the respective duties of supervisors in relation to those obliged entities should be clarified, and specific, proportionate cooperation mechanisms should be provided for.

(66) Cross-border groups need to have in place far-reaching group-wide policies and procedures. To ensure that cross-border operations are matched by adequate supervision, there is a need to set out detailed supervisory rules, enabling supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status, and with AMLA to assess the risks, monitor developments that could affect the various entities that form part of the group ***,*** coordinate supervisory action ***and settle disputes***. Given its coordinating role, AMLA should be entrusted with the duty to ***develop*** the draft regulatory technical standards defining the detailed respective duties of the home and host supervisors of groups, and the modalities of cooperation between them. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

(67) Directive (EU) 2015/849 included a general requirement for supervisors of home and host Member States to cooperate. Such requirements were subsequently strengthened to prevent that the exchange of information and cooperation between supervisors were prohibited or unreasonably restricted. However, in the absence of a clear legal framework, the set-up of AML/CFT supervisory colleges has been based on non-binding guidelines. It is therefore necessary to establish clear rules for the organisation of AML/CFT colleges and to provide for a coordinated, legally sound approach, recognising the need for structured interaction between supervisors across the Union. In line with its coordinating and oversight role, AMLA should be entrusted with developing the draft regulatory technical standards defining the general conditions that enable the proper functioning of AML/CFT supervisory colleges.

(68) Exchange of information and cooperation between supervisors is essential in the context of increasingly integrated global financial systems. On the one hand, Union supervisors, including AMLA, should inform each other of instances in which the law of a third country does not permit the implementation of the policies and procedures required under Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation]*** . On the other hand, Member States should be enabled to authorise supervisors to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries, in compliance with applicable rules for personal data transfers. Given its oversight role, AMLA should lend assistance as may be necessary to assess the equivalence of professional secrecy requirements applicable to the third country counterpart.

(69) Directive (EU) 2015/849 allowed Member States to entrust the supervision of some obliged entities to self-regulatory bodies. However, the quality and intensity of supervision performed by such self-regulatory bodies has been insufficient, and under no or close to no public scrutiny. Where a Member State decides to entrust supervision to a self-regulatory body, it should also designate a public authority to oversee the activities of the self-regulatory body to ensure that the performance of those activities is in line with the requirements of this Directive. ***That public authority should be a public administration entity and should perform out its functions free of undue influence. The functions to be exercised by the authority overseeing self-regulatory bodies do not imply that the authority should exercise supervisory functions vis-à-vis obliged entities, nor take decisions in individual cases handled by the self-regulatory body. However, this does not prevent Member States from allocating additional tasks to that authority if they deem it necessary to achieve the objectives of this Directive. When doing so, Member States should ensure that additional tasks are in line with fundamental rights, and in particular that those tasks do not interfere with the exercise of the right of defence and the confidentiality of lawyer-client communication.***

(70) The importance of combating money laundering and terrorist financing should result in Member States laying down effective, proportionate and dissuasive ▌***pecuniary*** sanctions and ***administrative*** measures in national law for failure to respect the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. National supervisors should be empowered by Member States to impose such ***administrative*** measures to obliged entities to remedy the situation in the case of breaches and, where the breach so justifies, issue pecuniary sanctions. ***Depending on the organisational systems in place in the Member States, such measures and sanctions may also be applied in cooperation between supervisors and other authorities, by delegation from the supervisors to other authorities or by application by the supervisors to judicial authorities.*** The ▌***pecuniary*** sanctions and ***administrative*** measures should be sufficiently broad to allow Member States and ▌***supervisors*** to take account of the differences between obliged entities, in particular between credit institutions and financial institutions and other obliged entities, as regards their size, characteristics and the nature of the business.

(71) Member States currently have a diverse range of ▌ ***pecuniary*** sanctions and ***administrative*** measures for breaches of the key preventative provisions in place and an inconsistent approach to investigating and sanctioning violations of anti-money laundering requirements, nor is there a common understanding among supervisors as to what should constitute a "serious" violation and thus distinguish when ▌***a pecuniary*** sanction should be imposed. That diversity is detrimental to the efforts made in combating money laundering and terrorist financing and the Union's response is fragmented.

Therefore, common criteria for determining the most appropriate supervisory response to breaches should be laid down and a range of administrative measures that the supervisors could impose ***to remedy breaches, whether in combination with pecuniary sanctions or,*** when the breaches are not sufficiently serious to be punished with ▌ ***a pecuniary*** sanction***, on their own,*** should be provided. In order to incentivise obliged entities to comply with the provisions of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], it is necessary to strengthen the dissuasive nature of ▌ ***pecuniary*** sanctions. Accordingly, the minimum amount of the maximum penalty that can be imposed in case of serious breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] should be raised. In transposing this Directive, Member States should ensure that the imposition of ▌ ***pecuniary*** sanctions and ***administrative*** measures, and of criminal sanctions in accordance with national law, does not breach the principle of ne bis in idem.

(71a) In the case of obliged entities that are legal persons, breaches of AML/CFT requirements occur following action by, or under the responsibility of the natural persons who have the power to direct its activities, including through agents and distributors or other persons acting on behalf of the obliged entity. In order to ensure that supervisory action in response to such breaches is effective, the obliged entity should be held liable also for actions by those natural persons, whether carried out intentionally or negligently. Without prejudice to the liability of legal persons in criminal proceedings, any intent to derive a benefit for the obliged entity from breaches points to wider failures in the internal policies, procedures and controls of the obliged entities to prevent money laundering, its predicate offences and terrorist financing that undermine the obliged entity's role as gatekeeper of the Union's financial system. Any intent to derive benefit from a breach of AML/CFT requirement should therefore count against its gravity.

(71b) Member States have different systems in place for the application of pecuniary sanctions, administrative measures and periodic penalty payments. In addition, certain administrative measures that supervisors are empowered to take, such as for example the withdrawal or suspension of licence, are dependent on the execution of those measures by other authorities. In order to cater for such a diverse range of situations, it is appropriate to allow flexibility as regards the means that supervisors have to impose pecuniary sanctions, remedial measures and periodic penalty payments. Regardless of the means chosen, it is incumbent on the Member States and the authorities involved to ensure that the mechanisms implemented achieve the intended result of restoring compliance and apply effective, dissuasive and proportionate pecuniary sanctions.

(71c) With a view to ensuring that obliged entities comply with AML/CFT requirements and effectively mitigate the risks of money laundering, its predicate offences and terrorist financing to which they are exposed, supervisors should be able to impose administrative measures not only to remedy identified breaches, but also where they identify that weaknesses in the internal policies, procedures and control are likely to result in breaches of AML/CFT requirements, or where those policies, procedures and controls are inadequate to mitigate risks. The scope of administrative measures applied, and the timing granted to obliged entities to implement the requested actions, depend on the specific breaches or weaknesses identified. Where multiple breaches or weaknesses are identified, different deadlines may apply for the implementation of each individual administrative measure imposed. Consistent with the punitive and educational goal of publications, only decisions to impose administrative measures in relation to breaches of AML/CFT requirements should be published, but not administrative measures imposed to prevent such breach.

(71d) Timely compliance by obliged entities with administrative measures applied to them is essential to ensure an adequate and consistent level of protection against money laundering, its predicate offences and terrorist financing across the internal market. Where obliged entities fail to comply with administrative measures within the deadline set, it is necessary that supervisors are able to apply enhanced pressure on the obliged entity to restore compliance without delay. To that end, it should be possible for supervisors to impose periodic penalty payments as of the deadline set for restoring compliance, including with retroactive effect when the decision imposing the periodic penalty payment is taken at a later stage. In calculating the amounts of periodic penalty payments, supervisors should take into account the overall turnover of the obliged entity and the type and gravity of the breach or weakness targeted by the supervisory measure to ensure its effectiveness and proportionality. Given their goal of pressuring an obliged entity into complying with an administrative measure, periodic penalty payments should be limited in time and apply for no longer than six months. While it should be possible for supervisors to renew the imposition of periodic penalty payments for another six months maximum, alternative measures to address an extended situation of non-compliance should be considered, consistent with the wide range of administrative measures that supervisors may apply.

(71e) Where the legal system of the Member State does not allow the imposition of pecuniary sanctions provided for in this Directive by administrative means, the rules on pecuniary sanctions may be applied in such a manner that the penalty is initiated by the supervisor and imposed by judicial authorities. Therefore, it is necessary that those Member States ensure that the application of the rules and pecuniary sanctions has an effect equivalent to the pecuniary sanctions imposed by the supervisors. When imposing such pecuniary sanctions, judicial authorities should take into account the recommendation by the supervisor initiating the penalty. The penalties imposed should be effective, proportionate and dissuasive.

(72) Obliged entities can benefit from the freedom to provide services and to establish across the internal market to offer their products and services across the Union. An effective supervisory system requires that supervisors are aware of the weaknesses in obliged entities' compliance with AML/CFT rules. It is therefore important that supervisors are able to inform one another of ***pecuniary*** sanctions and ***administrative*** measures imposed on obliged entities, when such information would be relevant for other supervisors too.

(73) Publication of ▌ ***a pecuniary*** sanction or ***administrative*** measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] can have a strong dissuasive effect against repetition of such ***a*** breach. It also informs other entities of the money laundering and financing of terrorism risks associated with the sanctioned obliged entity before entering into a business relationship and assists supervisors in other Member States in relation to the risks associated with an obliged entity when it operates in their Member State on a cross-border basis. For those reasons, the requirement to publish decisions on ***pecuniary*** sanctions against which there is no appeal should be confirmed***, and should be extended to the publication of certain administrative measures that are imposed to remedy breaches of AML/CFT requirements and to periodic penalty payments***. However, any such publication should be proportionate and, in the taking of a decision whether to publish an administrative sanction or measure, supervisors should take into account the gravity of the breach and the dissuasive effect that the publication is likely to achieve. ***To this end, Member States may decide to delay publication of administrative measures against which there is an appeal when they are applied to remedy a breach that is not serious, repeated or systematic.***

(74) ▌ ***Directive (EU) 2019/1937 applies to the reporting of breaches of Directive (EU) 2015/849 relating to*** money laundering ▌ ***and terrorist financing and to the protection of persons reporting such breaches, which is referred to under Part II of the Annex of Directive (EU) 2019/1937. Since this Directive repeals Directive (EU) 2015/849, the reference under Annex II of Directive (EU) 2019/1937 to Directive (EU) 2015/849*** should be ▌ ***understood as a reference to this Directive. At the same time, it is necessary to maintain tailored rules on the reporting of breaches of AML/CFT requirements that complement Directive (EU) 2019/1937, in particular, as regards the requirements for obliged entities to establish internal reporting channels and the identification of authorities competent to receive and follow-up on reports relating to breaches of rules relating to the prevention and fight against money laundering and terrorist financing***.

(75) The new fully-integrated and coherent anti-money laundering and counter-terrorist financing policy at Union level, with designated roles for both Union and national competent authorities and with a view to ensure their smooth and constant cooperation. In that regard, cooperation between all national and Union AML/CFT authorities is of the utmost importance and should be clarified and enhanced. Internally, it remains the duty of Member States to provide for the necessary rules to ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate, including through a restrictive approach to the refusal by competent authorities to cooperate and exchange information at the request of another competent authority.

Irrespective of the mechanisms put in place, such national cooperation should result in an effective system to prevent and combat money laundering, its predicate offences and terrorist financing, and to prevent the non-implementation and evasion of targeted financial sanctions.

(76) In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States should be required to communicate to the Commission and AMLA the list of their competent authorities and relevant contact details.

(77) The risk of money laundering and terrorist financing can be detected by all supervisors in charge of credit institutions. Information of a prudential nature relating to credit and financial institutions, such as information relating to the fitness and properness of directors and shareholders, to the internal control mechanisms, to governance or to compliance and risk management, is often indispensable for the adequate AML/CFT supervision of such institutions. Similarly, AML/CFT information is also important for the prudential supervision of such institutions.

Therefore, cooperation and exchange of information with AML/CFT supervisors and FIU should be extended to all competent authorities in charge of the supervision of those obliged entities in accordance with other Union legal instruments, such as Directive (EU) 2013/36[55], Directive (EU) 2014/49[56], Directive (EU) 2014/59[57], Directive (EU) 2014/92[58] and Directive (EU) 2015/2366 of the European Parliament and of the Council[59]. To ensure the effective implementation of this cooperation, Member States should inform the AMLA annually of the exchanges carried out.

(78) Cooperation with other authorities competent for supervising credit institutions under Directive (EU) 2014/92 and Directive (EU) 2015/2366 has the potential to reduce unintended consequences of AML/CFT requirements. Credit institutions may choose to terminate or restrict business relationships with customers or categories of customers in order to avoid, rather than manage, risk. Such de-risking practices may weaken the AML/CFT framework and the detection of suspicious transactions, as they push affected customers to resort to less secure or unregulated payment channels to meet their financial needs.

[55] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

[56] Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

[57] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

[58] Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

[59] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

At the same time, widespread de-risking practices in the banking sector may lead to financial exclusion for certain categories of payment entities or consumers. Financial supervisors are best placed to identify situations where a credit institution has refused to enter into a business relationship despite possibly being obliged to do so on the basis of the national law implementing Directive (EU) 2014/92 or Directive (EU) 2015/2366, and without a justification based on the documented customer due diligence. Financial supervisors should alert the authorities responsible for ensuring compliance by financial institution with Directive (EU) 2014/92 or Directive (EU) 2015/2366 when such cases arise ***or where business relationships are terminated as a result of de-risking practices***.

▌

(79) The cooperation between financial supervisors and the authorities responsible for crisis management of credit institutions and investment firms, such as in particular Deposit Guarantee Scheme***'s*** designated authorities and resolution authorities, is necessary to reconcile the objectives to prevent money laundering under this Directive and to protect financial stability and depositors under the Directives 2014/49/EU and 2014/59/EU.▌ Financial supervisors should ▌ ***inform the designated authorities and resolution authorities under those acts of any instance where they identify an increased likelihood of failure or the unavailability of*** deposits ▌ ***on AML/CFT grounds. Financial supervisors should also inform those authorities*** of any ▌ ***transaction, account or business relationship that has been suspended by the FIU to allow the performance of the tasks of the designated authorities and resolution authorities in cases of increased risk of failure or unavailability of deposits, irrespective of the reason for that increased risk***.

(80) To facilitate such cooperation in relation to credit ***and financial*** institutions, AMLA, in consultation with the European Banking Authority, should issue guidelines specifying the main elements of such cooperation including how information should be exchanged.

(81) Cooperation mechanisms should also extend to the authorities in charge of the supervision and oversight of auditors, as such cooperation can enhance the effectiveness of the Union anti-money laundering framework.

(82) The exchange of information and the provision of assistance between competent authorities of the Members States is essential for the purposes of this Directive. Consequently, Member States should not prohibit or place unreasonable or unduly restrictive conditions on this exchange of information and provision of assistance.

(83) Supervisors should be able to cooperate and exchange confidential information, regardless of their respective nature or status. To this end, they should have an adequate legal basis for exchange of confidential information and for cooperation. Exchange of information and cooperation with other authorities competent for supervising or overseeing obliged entities under other Union acts should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. Clarification of the legal framework is even more important since prudential supervision has, in a number of cases, been entrusted to non-AML/CFT supervisors, such as the European Central Bank (ECB).

(83a) Information in possession of supervisors may be crucial for the performance of activities of other competent authorities. To ensure the effectiveness of the Union AML/CFT framework, Member States should authorise the exchange of information between supervisors and other competent authorities. Strict rules should apply in relation to the use of confidential information exchanged.

(84) The effectiveness of the Union AML/CFT framework relies on the cooperation between a wide array of competent authorities. To facilitate such cooperation, AMLA should be entrusted to develop guidelines in coordination with the ECB, the European Supervisory Authorities, Europol, Eurojust, and the European Public Prosecutor's Office on cooperation between all competent authorities. Such guidelines should also describe how authorities competent for the supervision or oversight of obliged entities under other Union acts should take into account money laundering and terrorist financing concerns in the performance of their duties.

(85) Regulation (EU) 2016/679 applies to the processing of personal data for the purposes of this Directive. Regulation (EU) 2018/1725 of the European Parliament and of the Council[60] applies to the processing of personal data by the Union institutions and bodies for the purposes of this Directive. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. However, competent authorities responsible for investigating or prosecuting money laundering, its predicate offences or terrorist financing, or those which have the function of tracing, seizing or freezing and confiscating criminal assets should respect the rules pertaining to the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, including Directive (EU) 2016/680 of the European Parliament and of the Council[61].

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[60] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

[61] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

(86) It is essential that the alignment of this Directive with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law, including rules on data transfers, as well as the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'). Certain aspects of the implementation of this Directive involve the collection, analysis, storage and sharing of data within the Union and with third countries. Such processing of personal data should be permitted, while fully respecting fundamental rights, only for the purposes laid down in this Directive, and for the activities required under this Directive, such as the exchange of information among competent authorities.

(87) The rights of access to data by the data subject are applicable to the personal data processed for the purpose of this Directive. However, access by the data subject to any information related to a suspicious transaction report would seriously undermine the effectiveness of the fight against money laundering and terrorist financing. Exceptions to and restrictions of that right in accordance with Article 23 of Regulation (EU) 2016/679 and, where relevant, Article 25 of Regulation (EU) 2018/1725, may therefore be justified. The data subject has the right to request that a supervisory authority referred to in Article 51 of Regulation (EU) 2016/679 or, where applicable, the European Data Protection Supervisor, check the lawfulness of the processing and has the right to seek a judicial remedy referred to in Article 79 of that Regulation. The supervisory authority referred to in Article 51 of Regulation (EU) 2016/679 may also act on an ex-officio basis. Without prejudice to the restrictions to the right to access, the supervisory authority should be able to inform the data subject that all necessary verifications by the supervisory authority have taken place, and of the result as regards the lawfulness of the processing in question.

(88) In order to ensure continued exchange of information between FIUs during the period of set-up of AMLA, the Commission should continue to host the FIU.net on a temporary basis. To ensure full involvement of FIUs in the operation of the system, the Commission should regularly exchange with the EU Financial Intelligence Units' Platform (the 'EU FIUs' Platform'), an informal group composed of representatives from FIUs and active since 2006, and used to facilitate cooperation among FIUs and exchange views on cooperation-related issues.

(89) Regulatory technical standards should ensure consistent harmonisation across the Union. As the body with highly specialised expertise in the field of AML/CFT, it is appropriate to entrust AMLA with the elaboration, for submission to the Commission, of draft regulatory technical standards which do not involve policy choices.

(90) In order to ensure consistent approaches among FIUs and among supervisors, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Directive by adopting ***delegated acts to define indicators to classify the gravity of failures to report adequate, accurate and up-to-date information to the beneficial ownership registers as well as the regulatory technical standards specifying the relevance and selection criteria when determining whether a suspicious transaction report concerns another Member State*** , setting out benchmarks and methodology for assessing and classifying the inherent and residual risk profile of obliged entities and the frequency of risk profile reviews ***and the criteria as regards appointment and functions of a central contact point of certain services providers***, laying down details of duties of the home and host supervisors, and the modalities of cooperation between them, specifying the general conditions for the functioning of the AML supervisory colleges and the operational functioning of such colleges, defining indicators to classify the level of gravity of breaches of this Directive and criteria to be taken into account when setting the level of ***pecuniary*** sanctions or taking administrative measures ***and a methodology for the application of periodic penalty payments***.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(91) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in order to lay down a methodology for the collection of statistics, establish the format for the submission of beneficial ownership information ***and for the request and granting of access to beneficial ownership information on the basis of a legitimate interest***, define the technical conditions for the interconnection of beneficial ownership registers and of bank account registers and data retrieval mechanisms***, establish the format for the submission of the information to the bank account registers and data retrieval mechanisms*** as well as to adopt implementing technical standards specifying the format to be used for the exchange of the information among FIUs of the Member States***, common template for cooperation agreements between Union supervisors and third country counterparts***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[62].

[62] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

(92) This Directive respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).

(92a) Equality between women and men and diversity are fundamental values of the Union, which it set out to promote across the whole range of Union actions. While progress has been made in these areas over time, more is needed to achieve balanced representation in decision-making, whether at Union or at national level. Without prejudice to the primary application of merit-based criteria, when appointing the heads of their national supervisory authorities and Financial Intelligence Units, Member States should seek to ensure gender balance, diversity and inclusion, and take into account, to the extent possible, intersections between them. Member States should strive to ensure balanced and inclusive representation also when selecting their representatives to the General Boards of AMLA.

(93) When drawing up a report evaluating the implementation of this Directive, the Commission should give due consideration to the respect of the fundamental rights and principles recognised by the Charter.

(93a) Given the need to urgently implement a harmonised approach to the access to beneficial ownership registers on the basis of the demonstration of a legitimate interest, the relevant provisions should be transposed by Member States by [2 years after the date of entry into force of this Directive]. However, since the initial period of the new regime for access on a legitimate basis will likely see a peak in demands to be processed by the entities in charge of the beneficial ownership registers, the deadlines for the granting of access should not apply for the first four months of application of the new regime. Member States should set up single access points for information on real estate registers by [2 years after the date of transposition of this Directive]. Centralised automated mechanisms allowing the identification of holders of bank, payment, crypto asset and securities accounts and safe-deposit boxes registers should also be interconnected by that date.

(94) Since the objectives of this Directive, namely the establishment of a coordinated and coherent mechanism to prevent money laundering and terrorist financing, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and the effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(95) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[63], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(96) The European Data Protection Supervisor has been consulted in accordance with Article 42 of Regulation (EU) 2018/1725 [and delivered an opinion on ...[64]].

(97) Directive (EU) 2015/849 should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

[63] OJ C 369, 17.12.2011, p. 14.

[64] OJ C , , p. .

CHAPTER I

GENERAL PROVISIONS

Section 1

Subject matter, scope and definitions

Article 1

Subject matter

This Directive lays down rules concerning:

(a) measures applicable to sectors exposed to money laundering and terrorist financing at national level;

(aa) requirements in relation to registration, identification of and checks on senior management and beneficial owners of obliged entities;

(b) the identification of money laundering and terrorist financing risks at Union and Member States level;

(c) the set-up and access to beneficial ownership ***and*** bank account ***registers and access to*** real estate ***information***;

(d) the responsibilities and tasks of Financial Intelligence Units (FIUs);

(e) the responsibilities and tasks of bodies involved in the supervision of obliged entities,

(f) cooperation between competent authorities and cooperation with authorities covered by other Union acts.

Article 2

Definitions

For the purposes of this Directive, the definitions set out in Article 2 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] apply.

The following definitions also apply:

(1) 'financial supervisor' means a supervisor in charge of credit and financial institutions;

(1a) 'non-financial supervisor' means a supervisor in charge of the non-financial sector;

(1b) 'non-financial sector' means the obliged entities listed in Article 3 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], other than credit and financial institutions.

(2) 'obliged entities' means the natural or legal persons listed in Article 3 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] that are not exempted in accordance with article ▌ ***4, 4a, 5, 6*** of that Regulation;

(3) 'home Member State' means the Member State where the registered office of the obliged entity is situated or, if the obliged entity has no registered office, the Member State in which its head office is situated;

(4) ‘host Member State’ means the Member State other than the home Member State in which the obliged entity ▌ ***operates an establishment, such as*** a subsidiary or a branch***, or where the entity operates under the freedom to provide*** ▌ services ▌ ***through an infrastructure.***

(5) ‘customs authorities’ means the customs authorities as defined in Article 5(1) of Regulation (EU) 952/2013 of the European Parliament and of the Council[65] and the competent authorities as defined in Article 2(1), point (g), of Regulation (EU) 2018/1672 of the European Parliament and of the Council[66];

(6) ‘anti-money laundering/counter-terrorist financing supervisory college’ or ‘AML/CFT supervisory college’ means a permanent structure for cooperation and information sharing for the purposes of supervising a group or an entity ▌ ***that operates establishments in another Member State or third country, or that operates in other Member States under the freedom to provide services through an infrastructure***;

▌

[65] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

[66] Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12.11.2018, p. 6).

(8b) 'draft national measure' means the text of an act, whichever its form, which, once enacted, will have legal effect, the text being at a stage of preparation at which substantial amendments can still be made;

(8c) 'securities account' means a securities account as defined in Article 2(1), point (28), of Regulation (EU) No 909/2014 of the European Parliament and of the Council67;

(8d) 'securities' means financial instruments as defined in Article 4(1), point (15), of Directive 2014/65/EU of the European Parliament and of the Council68.

Section 2

National measures in sectors exposed to money laundering and terrorist financing

[67] ***Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (Text with EEA relevance), OJ L 257, 28.8.2014, p. 1–72.***

[68] ***Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (Text with EEA relevance), OJ L 173, 12.6.2014, p. 349–496.***

Article 3

Identification of exposed sectors at national level

1. Where ▌ ***a*** Member ▌ ***State*** identifies that, in addition to obliged entities, entities in other sectors are exposed to money laundering and terrorist financing risks, ▌ ***it*** may decide to apply ***all or part of*** the requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ to those additional entities.

2. For the purposes of paragraph 1, Member States shall notify to the Commission their intention to apply ***all or part*** of requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ to entities in additional sectors, accompanied by:

(a) a justification of the money laundering and terrorist financing risks underpinning such intention;

(b) an assessment of the impact that such extension will have on the provision of services within the internal market;

(ba) a description of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] that the Member State intends to apply to those entities;

(c) the text of the ***draft*** national measures***, including the update thereof provided*** that the Member State ▌ ***has significantly altered the scope, content or implementation of those notified measures***.

3. Member States shall suspend the adoption of national measures referred to in paragraph 2, point (c), for 6 months from the date of the notification referred to in paragraph 2.

The suspension referred to in the first subparagraph shall not apply in cases where the national measure aims at addressing a serious and present money laundering or terrorist financing threat. In this case, the notification referred to in paragraph 2 shall also include a justification as to why the Member State will not suspend the adoption of the national measure in line with the first subparagraph.

4. Before the end of the period referred to in paragraph 3, the Commission, having consulted the Authority for anti-money laundering and countering the financing of terrorism established by Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final] (AMLA), shall issue a detailed opinion regarding whether the measure envisaged:

(a) is adequate to address the risks identified, in particular as regards whether the risks identified by the Member State concern the internal market;

(b) may create obstacles to the free movement of services or capital or to the freedom of establishment of service operators within the internal market which are not proportionate to the money laundering and terrorist financing risks the measure aims to mitigate.

The detailed opinion shall also indicate whether the Commission intends to propose action at Union level.

5. Where the Commission does not consider it appropriate to propose action at Union level, the Member State concerned shall, within two months of receiving the detailed opinion referred to in paragraph 4, report to the Commission on the action it proposes to take on that detailed opinion. The Commission shall comment on the action proposed by the Member State.

6. Where the Commission indicates its intention to propose action at Union level, the Member State concerned shall abstain from adopting the national measures referred to in paragraph 2, point (c)**,** ***unless those national measures aim at addressing a serious and present ML or TF threat***.

7. Where, on ***[please insert the date of entry into force of this Directive]*** , Member States have already applied national provisions transposing Directive (EU) 2015/849 to other sectors than obliged entities, they may apply ***all or part of*** the requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** to those sectors.

By [6 months after the date of transposition of this Directive], Member States shall notify the Commission the sectors identified at national level pursuant to the first sub-paragraph to which the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] shall apply, accompanied by a justification of the exposure of those sectors to money laundering and terrorist financing risks. Within 6 months of such notification, the Commission having consulted AMLA, shall issue a detailed opinion covering paragraph 4, points (a) and (b), and indicating whether it intends to propose action at Union level. Where the Commission does not consider it appropriate to propose action at Union level, paragraph 5 shall apply.

8. By ***[1 year after the date of transposition of this Directive]*** ▌ and every year thereafter, the Commission shall publish a consolidated list of the sectors to which Member States have decided to apply ***all or part of*** the requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ in the ***Official Journal of the European Union*** ▌.

Article 4

Requirements relating to certain service providers

1. Member States shall ensure that currency exchange and cheque cashing offices, and trust or company service providers are either licensed or registered.

2. Member States shall ensure that all providers of gambling services are regulated.

▌

3. Member States shall ensure that other obliged entities are subject to a minimum level of registration that enables their identification by supervisors.

The first subparagraph shall not apply where obliged entities are already subject to licensing or registration requirements under other Union acts, or to national rules regulating access to the profession or subjecting it to licensing or registration requirements which allow the identification of the obliged entities by supervisors.

Article 4a

Requirements relating to the granting of residence rights in exchange for investment

1. Member States whose national law enables the granting of residence rights in exchange for any kind of investment, such as capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget, shall put in place at least the following measures to mitigate the associated risks of money laundering, its predicate offences or terrorist financing:

(a) a risk management process, including the identification, classification and mitigation of risks under the coordination of a national designated authority. Member States shall ensure monitoring of implementation of the risk management process, including by assessing it on an annual basis;

(b) measures providing for the mitigation of risks of money laundering, its predicate offences or terrorist financing associated with applicants for the granting of residence rights in exchange for investment including:

(i) checks on the profile of the applicant by the national designated authority, including obtaining information on the source of funds and source of wealth of the applicant;

(ii) verification of information on applicants against information held by competent authorities referred to in Article 2(31), points (a) and (c) of [reference to the AML Regulation] subject to the respect of the applicable national criminal procedural law and against lists of individuals and entities subject to EU restrictive measures.

(iii) periodic reviews of medium and high-risk applicants.

2. Member States shall adopt and implement the measures referred to in paragraph 1 in a manner consistent with the risks identified under the risk assessment carried out pursuant to Article 8 this Directive.

3. Member States shall publish an annual report on the risks of money laundering, its predicate offences or terrorist financing associated with the granting of residence rights in exchange for investment. Those reports shall be publicly available and shall include at least:

(a) information on the number of received applications and of countries of origin of the applicants;

(b) information on the number of residence permits granted and rejected and the reasons for the rejections;

(c) information on any evolution detected in the risks of money laundering, its predicate offences and terrorist financing associated with the granting of residence rights in exchange for investment.

4. By [4 years after the date of entry into force of this Directive] Member States shall notify to the Commission the measures adopted under paragraph 1. The notification shall include a justification based on the relevant risk assessment carried out by the Member States pursuant to Article 8 of this Directive.

5. The Commission shall publish in the Official Journal of the European Union the measures notified by Member States pursuant to paragraph 4.

6. By [6 years after the entry into force of this Directive], the Commission shall publish a report assessing the measures notified under paragraph 1 in mitigating the risks of money laundering, its predicate offences and terrorist financing and, where necessary, issue recommendations.

▌

Article 6

Checks on the senior management and beneficial owners of certain obliged entities

1. Member States shall require supervisors to verify that the members of the senior management in the obliged entities referred to in Article ▌ ***4(1) and (2)***, and the beneficial owners of such entities▌ ***are of good repute and*** act with honesty and integrity. Senior management of such entities ▌ ***shall*** also possess knowledge and expertise necessary to carry out their functions.

2. With respect to the obliged entities referred to in Article 3, points (3)(a), (b), (d), (e) and (h) to ▌ ***(lc)***, of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***▌ , Member States shall ensure that supervisors take the necessary measures to prevent persons convicted of money laundering, ▌ ***relevant*** predicate offences or terrorist financing or their associates from being professionally accredited, holding a ***senior*** management function in or being the beneficial owners of those obliged entities.

3. Member States shall ensure that supervisors verify▌ on a risk-sensitive basis whether the requirements of paragraphs 1 and 2 continue to be met. In particular, they shall verify whether the senior management ***of obliged entities referred to in paragraph 1 is of good repute,*** acts with honesty and integrity and possesses knowledge and expertise necessary to carry out their functions in cases where there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in an obliged entity▌

4. ▌ ***Member States*** shall ***ensure that supervisors*** have the power to request the removal of any person convicted of money laundering, ▌ ***relevant*** predicate offences or terrorist financing from the ***senior*** management role of the obliged entities referred to in paragraphs 1 and 2. ▌ ***Member States*** shall ***ensure that supervisors*** have the power to remove ***or impose a temporary ban on*** members of the senior management ***of the obliged entities referred to in paragraph 1*** that are not deemed to act with honesty and integrity***, be of good repute*** and possess knowledge and expertise necessary to carry out their functions.

▌

5. Where the person convicted of money laundering, ▌ ***relevant*** predicate offences or terrorist financing is the beneficial owner of an obliged entity referred to in paragraph 2, Member States shall ensure that ▌ ***supervisors have the power to disassociate such persons*** from any obliged entity, including by granting supervisors the power to request the divestment of the holding by the beneficial owner in an obliged entity.

6. For the purposes of this Article, Member States shall ensure that, in accordance with their national law, supervisors or any other authority competent at national level for assessing the ▌ ***requirements applicable to*** persons referred to in paragraphs 1 and 2, check the ***Central AML/CFT database under Article 11 of Regulation [AMLA Regulation] and*** existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Framework Decision 2009/315/JHA and Decision 2009/316/JHA as implemented in national law.

6a. Member States shall ensure that decisions taken by supervisors pursuant to this Article can be subject to effective remedial procedures, including judicial remedy.

6b. By ... [two years after the date of transposition of this Directive], AMLA shall issue guidelines on:

(a) the notions of good repute, honesty and integrity as referred to in paragraph 1;

(b) the notions of knowledge and expertise as referred to in paragraph 1.

(c) the consistent application by supervisors of the power entrusted on them under this Article.

When drawing up the guidelines referred to in the first subparagraph of this paragraph, AMLA shall take into account the specificities of each sector in which the obliged entities operate.

▌

Section 2

Risk assessments

Article 7

Supra-national risk assessment

1. The Commission shall conduct an 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.

1a. The report referred to in the first subparagraph shall be made public, except for those parts which contain classified information.

To that end, the Commission shall, ▌ ***by four*** years after the ▌ ***entry into force*** of this Directive▌ , draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every four years. The Commission may update parts of the report more frequently, if appropriate.

When, in the process of updating the report, the Commission identifies new risks, it may recommend to Member States to consider updating their national risk assessments or carry out sectoral risk assessments pursuant to article 8 in order to assess those risks.

2. The report referred to in paragraph 1 shall cover at least the following:

(a) the areas and sectors of the internal market that are exposed to money laundering and terrorist financing risks;

(b) the nature and level of the risks associated with each area and sector;

(c) the most widespread means used to launder illicit proceeds, including, where available, those particularly used in transactions between Member States and third countries, independently of the identification of a third country pursuant to Section 2 of Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(ca) an assessment of the risks of money laundering and terrorist financing associated with legal persons and legal arrangements, including the exposure to risks deriving from foreign legal persons and legal arrangements;

(d) the risks of non-implementation and evasion of ▌ targeted financial sanctions.

3. The Commission shall make recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply any of the recommendations in their national AML/CFT regimes, they shall notify the Commission thereof and provide a ***detailed*** justification ***stating reasons*** for such a decision.

4. By [3 years after the date of transposition of this Directive], AMLA***, in accordance with article 44 of Regulation [please insert reference to AMLA Regulation - 2021/0240(COD)],*** shall issue an opinion addressed to the Commission on the risks of money laundering and terrorist financing affecting the Union. Thereafter, AMLA shall issue an opinion every two years. ***AMLA may issue opinions or updates of its previous opinions more frequently, where it deems it appropriate to do so. The opinions issued by AMLA shall be made public, except for those parts which contain classified information.***

5. In conducting the assessment referred to in paragraph 1, the Commission shall organise the work at Union level, shall take into account the opinions referred to in paragraph 4 and shall involve the Member States' experts in the area of AML/CFT, representatives from national supervisory authorities and FIUs, ▌ AMLA and other Union level bodies***, and other relevant stakeholders,*** where appropriate ▌ .

6. Within ▌ ***two*** years of the adoption of the report referred to in paragraph 1, and every four years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the actions taken based on the findings of that report ▌ .

Article 8

National risk assessment

1. Each Member State shall carry out a national risk assessment to identify, assess, understand and mitigate the risks of money laundering and terrorist financing***, and the risks of non-implementation and evasion of targeted financial sanctions*** affecting it. It shall▌ keep that risk assessment up to date and review it at least every four years.

Where Member States consider that the risk situation so requires, they may review the risk assessment more frequently or conduct ad hoc sectoral risk assessments.

▌

Each Member State shall also take appropriate steps to identify, assess, understand and mitigate the risks of non-implementation and evasion of ▌ targeted financial sanctions.

2. Each Member State shall designate an authority or establish a mechanism to coordinate the national response to the risks referred to in paragraph 1. The identity of that authority or the description of the mechanism shall be notified to the Commission ▌. ***The Commission shall publish the list of the designated authorities or established mechanism in the Official Journal***.

3. In carrying out the national risk assessments referred to in paragraph 1 of this Article, Member States shall take into account the report referred to in Article 7(1)***, including sectors and products covered and the findings of that report***.

4. Each Member State shall use the national risk assessment to:

(a) improve its AML/CFT regime, in particular by identifying any areas where obliged entities are to apply enhanced measures ***in line with a risk-based approach*** and, where appropriate, specifying the measures to be taken;

(b) identify, where appropriate, sectors or areas of lower or greater risk of money laundering and terrorist financing;

(c) assess the risks of money laundering and terrorist financing associated with each type of legal person ***established in their territory and each type of*** ▌ legal arrangement ***which is governed under their law, or which is administered*** in their territory ***or whose trustees or persons holding equivalent positions in similar legal arrangements reside in their territory,*** and have an understanding of the exposure to risks deriving from foreign legal persons and legal arrangements;

▌

(d) decide on the allocation and prioritisation of resources to combat money laundering and terrorist financing as well as non-implementation and evasion of ▌ targeted financial sanctions;

(e) ensure that appropriate rules are drawn up for each sector or area, in accordance with the risks of money laundering and terrorist financing;

(f) make appropriate information available promptly to competent authorities and to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments as well as the assessment of risks of evasion of ▌ targeted financial sanctions referred to in Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

▌

In the national risk assessment, Member States shall describe the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, ***the mechanisms for cooperation with counterparts within the EU or in third countries,*** as well as the allocated human and financial resources to the extent that this information is available.

4a. Member States shall ensure appropriate participation of competent authorities and relevant stakeholders when carrying out their national risk assessment.

5. Member States shall make the results of their national risk assessments, including their updates ***and reviews***, available to the Commission, to AMLA and to the other Member States. Any Member State may provide relevant additional information, where appropriate, to the Member State carrying out the national risk assessment. A summary of the ***findings of the*** assessment shall be made publicly available. That summary shall not contain classified information. The information contained therein shall not permit the identification of any natural ▌ ***person nor name any*** legal person.

▌

Article 9

Statistics

1. Member States shall maintain comprehensive statistics on matters relevant to the effectiveness of their AML/CFT frameworks in order to review the effectiveness of those frameworks.

2. The statistics referred to in paragraph 1 shall include:

(a) data measuring the size and importance of the different sectors which fall within the scope of this Directive, including the number of natural persons and entities and the economic importance of each sector;

(b) data measuring the reporting, investigation and judicial phases of the national AML/CFT regime, including the number of suspicious transaction reports made to the FIU, the follow-up given to those reports, the information on cross-border physical transfers of cash ▌ ***transmitted*** to the FIU in accordance with Article 9 of Regulation (EU) 2018/1672 together with the follow-up given to the information submitted and, on an annual basis, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences, the types of predicate offences identified in accordance with Article 2 of Directive (EU) 2018/1673 of the European Parliament and of the Council[69] where such information is available, and the value in euro of property that has been frozen, seized or confiscated;

(c) ▌ ***the number and percentage of reports resulting in dissemination to other competent authorities and, if available,*** the number and percentage of reports resulting in further investigation, together with the annual report drawn up by FIUs pursuant to Article 21;

(d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the FIU, broken down by counterpart country;

[69] Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

(e) the number of mutual legal assistance or other international requests for information relating to beneficial ownership and bank account information as referred to in Chapter IV of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and Sections 1 and 2 of Chapter II of this Directive received from or made to counterparts outside the Union, broken down by competent authority and counterpart country;

(f) human resources allocated to supervisors as well as human resources allocated to the FIU to fulfil the tasks specified in Article 17;

(g) the number of on-site and off-site supervisory actions, the number of breaches identified on the basis of supervisory actions and sanctions or administrative measures applied by supervisory authorities and self-regulatory bodies pursuant to Section 4 of Chapter IV;

(h) the number and type of breaches identified in relation to the obligations of Chapter IV of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and sanctions or administrative measures applied in relation to those breaches, ***the number of discrepancies reported to the central register referred to in Article 10,*** as well as the number of inspections carried out by the entity in charge of the central register ***or on its behalf*** pursuant to Article 10(8) of this Directive.

(hb) the following information regarding the implementation of Article 12:

(i) the number of requests to access beneficial ownership on the basis of the categories laid down in Article [12(2)]

(ii) the percentage of requests for access to information which is refused under each category laid down in Article [12(2a)]

(iii) a summary of the categories of persons granted access to beneficial ownership information under Article [12(2a), second subparagraph] ;

(hc) the number of searches of bank account registers or data retrieval mechanisms made by competent authorities, broken down by category of competent authority, and the number of searches of the interconnection of bank account registers made by FIUs;

(hd) the following data regarding implementation of targeted financial sanctions:

(i) the value of funds or other assets frozen, broken down by type;

(ii) human resources allocated to authorities competent for implementation and enforcement of targeted financial sanctions.

3. Member States shall ensure that the statistics referred to in paragraph 2 are collected and transmitted to the Commission on an annual basis. The statistics referred to in paragraph 2, points (a), (c), (d) and (f), shall also be transmitted to AMLA.

AMLA shall store those statistics in its database in accordance with Article 11 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

4. By [▌ ***two*** years after the date of transposition of this Directive], AMLA shall adopt an opinion addressed to the Commission on the methodology for the collection of the statistics referred to in paragraph 2, points (a), (c), (d)***, (f) and (g)*** ▌ .

5. The Commission is empowered to adopt implementing acts laying down the methodology for the collection of the statistics referred to in paragraph 2 and the arrangements for their transmission to the Commission and AMLA. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

6. ***By... [three years after the date of transposition of this directive] and every two years thereafter,*** the Commission shall publish a▌ report summarising and explaining the statistics referred to in paragraph 2, ▌ ***and make it*** available on its website.

CHAPTER II

REGISTERS

Section I

Beneficial ownership registers

Article 10

Beneficial ownership registers

1. Member States shall ensure that beneficial ownership information referred to in Article 44 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***, the statement pursuant to Article 45(3) of that Regulation*** and information on nominee arrangements referred to in Article 47 of that Regulation is held in a central register in the Member State where the legal entity is incorporated or where the trustee ***of an express trust*** or person holding an equivalent position in a similar legal arrangement is established or resides***, or from where the legal arrangement is administered***. Such requirement shall not apply to ▌ ***legal entities or legal arrangements referred to in Article 46a of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].***

The beneficial ownership information contained in the central registers shall be available in machine-readable format and be collected in accordance with the implementing acts referred to in paragraph 4.

1a. By way of derogation from the first subparagraph, Member States shall ensure that beneficial ownership information referred to in Article 44 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] of foreign legal entities and legal arrangements referred to in Article 48 of that Regulation is held in a central register in the Member State in accordance with the conditions of that Article. Member States shall also ensure that the central register contains an indication of which situation listed in paragraph 1 of that Article triggers the registration of the foreign legal entity or foreign legal arrangement.

1b. Where the trustees of an express trust or persons holding equivalent positions in a similar legal arrangement are established or reside in different Member States a certificate of proof of registration or an excerpt of the beneficial ownership information held in a register by one Member State shall be considered as sufficient to consider the registration obligation fulfilled.

▌

2. ▌ ***Member States shall ensure that the entities in charge*** of the ▌ ***central registers are empowered to request from corporate and legal entities, trustees of any express trust and persons holding an equivalent position in a similar*** legal ▌ ***arrangement, and their*** legal ▌ ***and beneficial owners, any information necessary to identify and verify their beneficial owners***, including resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, power of attorney or other contractual agreements and documentation.

▌

3. Where no person is identified as beneficial owner pursuant to Article 45(2) and (3) of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***, the central register shall include:

(a) a statement that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified***, accompanied by a justification pursuant to Article 45(3), point (a) and Article 46(4b), point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***;

(b) the details of ***all*** natural ***persons*** who hold the position of senior managing official(s) in the corporate or ***other*** legal entity equivalent to the information required under Article 44(1), point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Member States shall ensure that the information referred to in the first subparagraph, point (a) is available to competent authorities as well as AMLA when acting in accordance with Article 25 of this Directive and Article 33 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final], self-regulatory bodies and obliged entities. However, obliged entities shall only have access to the statement submitted by the legal entity or legal arrangement, unless they report a discrepancy pursuant to Article 16a of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] or provide proof of the steps they have taken to determine the beneficial owner(s) of the legal entity or legal arrangement, in which case they shall be able to access the justification as well.

4. ***By ... [one year after the date of entry into force of this Directive] the Commission shall*** adopt, by means of implementing acts, the format for the submission of beneficial ownership information ***as referred to in article 44 of Regulation ... [please insert reference to the Anti-Money Laundering Regulation - 2021/0239(COD)]*** to the central register***, including a checklist of minimum requirements for the information to be examined by the registrant***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

5. Member States shall ***ensure*** that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date***, and shall put in place mechanisms to that effect***. For that purpose, Member ***States*** shall apply at least the following requirements:

(a) entities in charge of the central registers shall verify, within a reasonable time upon submission of the beneficial ownership information and on a regular basis thereafter, that such information is adequate, accurate and up to date. The extent and frequency of that verification shall be commensurate to the risks associated with the categories of legal persons and legal arrangements identified pursuant to Articles 7(2), point (ca) and 8(4), point (c).

(b) competent authorities, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, shall report to the entity in charge of the central registers any discrepancies they find between ▌ information available in the central registers and the▌ information available to them.

(ba) Member States shall ensure that the entities in charge of the central registers verify whether beneficial ownership information held in those registers concerns persons or entities designated in relation to targeted financial sanctions. Such verification shall take place immediately upon a designation in relation to targeted financial sanctions and at regular intervals.

Member States shall ensure that the information on beneficial ownership on legal entities and legal arrangements recorded in the central registers includes an indication that the legal entity is associated with persons or entities subject to targeted financial sanctions in any of the following situations:

(a) a legal entity or legal arrangement is subject to targeted financial sanctions;

(b) a legal entity or legal arrangement is controlled by a person or entity subject to targeted financial sanctions;

(c) a beneficial owner of a legal entity or legal arrangement is subject to targeted financial sanctions.

The indication referred to in the first subparagraph shall be visible to any person or entity granted access pursuant to Articles 11 and 12, and shall remain in place until the targeted financial sanctions are lifted.

(bb) By ... [four years after the date of entry into force of this Directive] the Commission shall issue recommendations on the methods and procedures to be used by entities in charge of central registers to verify beneficial ownership information and by obliged entities and competent authorities to identify and report discrepancies regarding beneficial ownership information.

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7. Member States shall ensure that the ▌ ***entities*** in charge of the central registers ▌ ***take, within 30 working days after the reporting of a discrepancy,*** appropriate actions to cease the discrepancies ***reported by competent authorities or by obliged entities pursuant to Article 16a of the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***, including amending the information included in the central registers where the entity is able to identify and verify the beneficial ownership information. A specific mention of the fact that there are discrepancies reported shall be included in the central registers ***until the discrepancy is resolved and be*** ▌ visible ▌ ***to any person or entity granted access under Articles 11 and 12.***

Where the discrepancy is of a complex nature and the entities ***in charge of the registers cannot cease it within 30 working days, they shall record the instance as well as the steps taken, and take any necessary measure to cease the discrepancy as soon as possible***.

8. ▌ Member States shall ensure that the entity in charge of the central beneficial ownership register is empowered***, whether directly or by application to another authority,*** to carry out checks, including on-site investigations at the premises or registered office of ▌ legal ▌ ***entities***, in order to establish the current beneficial ownership of the entity ▌ and to verify that the information submitted to the central register is accurate, adequate and up-to-date. The right of the central register to verify ▌ ***beneficial ownership*** information shall not be restricted, obstructed or precluded***.***

Where the trustee or person holding an equivalent position is an obliged entity referred to in in Article 3, point (a), (b) or (c) of Regulation [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD] Member States shall ensure that the entity in charge of the central beneficial ownership register is also empowered to carry out checks, including on-site investigations, at the business premises or registered office of the trustee or person in an equivalent position. Those inspections shall respect at a minimum the following safeguards:

(a) with respect to natural persons, where the business premises are the same as the natural person's private residence, the on-site inspection shall be subject to prior judicial authorisation;

(b) any procedural safeguard in place in the Member State to protect the legal privilege shall be respected, and in any case no information protected by the legal privilege shall be accessed .

Member States shall ensure that the central registers are empowered to request information from other registers, including in third countries, to to the strict extent that that information is necessary for the performance of their functions.

8a. Member States shall ensure that entities in charge of central registers have at their disposal necessary automated mechanisms to carry out verifications as referred to in paragraphs 5 point (a) and (ba), including against information held by other sources.

8b. Member States shall ensure that where a verification as referred to in paragraph 5 (a) is carried out at the time of submission of beneficial ownership information, and it leads an entity in charge of a central register to conclude that there are inconsistencies or errors in the beneficial ownership information , that entity in charge of a central register is able to withhold or refuse the issuance of a valid certificate of proof of registration.

8c. Member States shall ensure that where a verification as referred to in paragraph 5 (a) is carried out after the submission of beneficial ownership information, and it leads an entity in charge of a central register to conclude that the information is no longer adequate, accurate, and up-to-date, the entity in charge of the register is able to suspend the validity of the certification of proof of registration until the beneficial owner information provided is in order, except where the discrepancies are limited to typographical errors, different ways of transliteration, or minor inaccuracies that do not affect the identification of the beneficial owners or their position.

9. Member States shall ensure that the entity in charge of the central register is empowered to impose***, whether directly or by application to another authority, including judicial authorities,*** effective, proportionate and dissuasive measures or sanctions for failures***, including of a repeated nature,*** to provide the register with accurate, adequate and up-to-date information about their beneficial ownership.

9a. The Commission is empowered to supplement this Directive by adopting a delegated act in accordance with Article 53a to define indicators to classify the level of gravity of failures to report adequate, accurate and up-to-date information to the beneficial ownership registers, including in cases of repeated failures.

10. Member States shall ensure that if, in the course of the checks carried out pursuant to this Article, or in any other way, the entities in charge of the beneficial ownership registers discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU.

10a. Member States shall ensure that, in the performance of their tasks, the entities in charge of central registers carry out their functions free of undue influence and implement standards addressing conflicts of interest and strict confidentiality for their employees.

▌

11. The central registers shall be interconnected via the European Central Platform established by Article 22(1) of Directive (EU) 2017/1132.

11a. Member States shall ensure that the information contained in the registers includes any change to the beneficial ownership of legal persons and legal arrangements and to nominee arrangements following their first recording in the register.

12. The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of central beneficial ownership registers for ▌ five years▌ after the corporate or other legal entity has been struck off from the register. ***Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents in concrete cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established by the authorities competent for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing in accordance with applicable rules.***

Upon expiry of that retention period, Member States shall ensure that the registers delete personal data.

12a. The European Commission shall, within 4 years of the date of application of this Directive, publish a report including the following:

(a) an assessment of the effectiveness of the measures taken by the entities in charge of the registers to ensure that they have adequate, up-to-date and accurate information;

(aa) a description of the main types of discrepancies identified by obliged entities and competent authorities in relation to the beneficial ownership information held in the registers;

(b) best practices and, where appropriate, recommendations with regard to the measures taken by the entities in charge of the registers to ensure that those registers hold adequate, accurate and up-to-date information;

(c) overview of the features of each central register put in place by Member States, including information on mechanisms to ensure that beneficial ownership information held in the registers is kept accurate, adequate and up to date;

(d) an assessment of the proportionality of the fees imposed for accessing information held in the registers.

Article 11

General rules regarding access to beneficial ownership registers by competent authorities, self-regulatory bodies and obliged entities

1. Member States shall ensure that competent authorities have ***immediate, unfiltered, direct*** and free access to the information held in the interconnected central registers referred to in Article 10, without alerting the entity or arrangement concerned.

2. Access ***as described in paragraph 1*** to the central registers referred to in Article 10 shall be granted to***:***

(a) competent authorities;

(b) self-regulatory bodies in the performance of supervisory ***functions pursuant to Article 29;***

(c) tax authorities ***;***

(d) national authorities with designated responsibilities for ***the implementation of EU restrictive measures identified under the relevant Council Regulations adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union;***

(e) AMLA for the purposes of joint analyses pursuant to Article 25 of this Directive and Article 33 of [AMLAR];

(f) the European Public Prosecutor's Office;

(g) the European Anti-Fraud Office (OLAF);

(h) Europol and Eurojust when providing operational support to the ▌ competent authorities of the Member States.

3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation*** ▌], obliged entities have timely access to the information held in the interconnected central registers referred to in Article 10.

3a. Member States may choose to make beneficial ownership information held in their central registers available to obliged entities on the condition of the payment of a fee, which shall be limited to what is strictly necessary to cover the costs of ensuring the quality of the information held by the registers and of making the information available. Those fees shall be established in such a way as not to undermine the effective access to the information held in the registers.

4. By [***3 months after the date of transposition of this Directive***▌], Member States shall notify to the Commission the list of competent authorities and self-regulatory bodies and the categories of obliged entities that were granted access to the registers and the type of information available to obliged entities▌ . Member States shall update such notification when changes to the list of competent authorities or categories of obliged entities or to the extent of access granted to obliged entities▌ occur. The Commission shall make the information on the access by competent authorities and obliged entities, including any change to it, available to the other Member States.

Article 12

Specific access rules to beneficial ownership registers for▌ ***persons with legitimate interest***

1. Member States shall ensure that any▌ ***natural or legal person that can demonstrate a legitimate interest in relation to the prevention and combating of money laundering, its predicate offences and terrorist financing*** has access to the following information ***on beneficial owners of legal entities and legal arrangements*** held in the interconnected central registers referred to in Article 10***, without alerting the entity or arrangement concerned***:

▌ ***(a)*** the name▌ ***;***

(b) the month and year of birth▌ ***;***

(c) the country of residence and nationality ***or nationalities*** of the beneficial owner***;***

(d) for beneficial owners of legal entities, ▌ the nature and extent of the beneficial interest held;

(e) for beneficial owners of express trusts or similar legal arrangements, the nature of their beneficial ownership.

▌

In addition to the information ▌ ***referred to*** in the first subparagraph, ▌ Member States ▌ ***shall ensure that any natural or legal persons referred to in points (a), (b) and (e) of paragraph 2 has also*** access to ▌ ***the following*** information***:***

(a) historical data on the beneficial ownership information ▌ of the ▌ ***legal entity or arrangement, including of legal entities or legal arrangements that have been dissolved or ceased to exist in the preceding five years;***

(b) a description of the control or ownership structure.

Access pursuant to this paragraph shall be granted through electronic means. However, Member States shall ensure that persons who can demonstrate a legitimate interest are also able to access the information in other formats if they are unable to use electronic means.

2. ▌ The following natural or legal persons shall be deemed to have a legitimate interest to access the information listed in paragraph 1:

(a) persons acting for the purpose of journalism, reporting or any other form of expression in the media that are connected with, the prevention or combating of money laundering, its predicate offences or terrorist financing;

(b) civil society organisations, including non-governmental organisations and academia, that are connected with the prevention and combating of money laundering, its predicate offences and terrorist financing;

(c) natural or legal persons likely to enter into a transaction with a legal entity or legal arrangement and who wish to prevent any link between such a transaction and money laundering, its predicate offences and terrorist financing;

(d) entities subject to AML/CFT requirements in third countries, provided they can demonstrate the need to access the information ▌ ***referred to in paragraph 1 in relation to a legal entity or arrangement to perform customer due diligence in respect of a customer or prospective customer pursuant to AML/CFT requirements in those third countries;***

(e) third country counterparts of Union AML/CFT competent authorities provided they can demonstrate the need to access the information referred to in paragraph 1 in relation to a legal entity or arrangement to perform their tasks under the AML/CFT frameworks of those third countries in the context of a specific case;

(f) Member States' authorities in charge of implementing Title I, Chapters II and III of Directive (EU) 2017/1132 of the European Parliament and of the Council[70]***, in particular the authorities in charge of the registration of companies in the register referred to in Article 16 of that Directive, and Member States' authorities responsible for scrutinising the legality of conversions, mergers and divisions of limited liability companies pursuant to Title II of that Directive;***

(g) programme authorities identified by Member States pursuant to Article 71 of Regulation (EU) 2021/1060 of the European Parliament and of the Council, in respect of beneficiaries of Union funds;

(h) public authorities implementing the Recovery and Resilience Facility under Regulation (EU) 2021/241 of the European Parliament and of the Council, in respect of beneficiaries under the Facility;

[70] ***Directive (EU) 2017/1132*** of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73)***14 June 2017 relating to certain aspects of company law (codification) (Text with EEA relevance), OJ L 169 30.6.2017, p. 46***.

(i) Member States' public authorities in the context of public procurement procedures, in respect of the tenderers and operators being awarded the contract under the public procurement procedure;

(j) providers of AML/CFT products, to the strict extent that products developed on the basis of the information referred to in paragraph 1 or containing that information are provided only to customers that are obliged entities or competent authorities provided that those providers can demonstrate the need to access the information referred to in paragraph 1 in the context of a contract with an obliged entity or a competent authority and consistent with the right for those obliged entities and competent authorities to access beneficial ownership information pursuant to Article 11 .

In addition to the categories identified under the first subparagraph, Member States shall also ensure that other persons who are able to demonstrate a legitimate interest with respect to the purpose of preventing and combating money laundering, its predicate offences and terrorist financing, are granted access to beneficial ownership information on a case-by-case basis.

3. By [24 months from the date of entry into force of this Directive], Member States shall notify to the Commission:

(a) the list of public authorities that are entitled to consult beneficial ownership information pursuant to paragraph 2, points (f) to (h), and the public authorities or categories of public authorities that are entitled to consult beneficial ownership information pursuant to paragraph 2, point (i);

(b) any additional category of persons who have been found to have a legitimate interest to access beneficial ownership information identified in accordance with paragraph 2, second subparagraph.

Member States shall notify the Commission of any change or addition to the categories referred to in the first subparagraph without delay, and in any case within one month of its occurrence.

The Commission shall make the information received pursuant to this paragraph available to the other Member States.

▌

5. Member States shall ensure that the central registers keep records of the persons accessing the information pursuant to this Article and are able to disclose them to the beneficial owners when they file a request pursuant to Article 15(1)(c) of Regulation (EU) 2016/679.

However, Member States shall ensure that the information provided by central registers does not lead to the identification of the individual consulting the register where the registers are consulted by:

(a) persons acting for the purpose of journalism, reporting or any other form of expression in the media that are connected with, the prevention or combating of money laundering, its predicate offences or terrorist financing;

(b) civil society organisations that are connected with the prevention and combating of money laundering, its predicate offences and terrorist financing;

In addition, Member States shall ensure that the central registers refrain from disclosing the identity of the entity having consulted the register where the registers are consulted by third country counterparts of Union AML/CFT competent authorities referred to in points (a) and (c) of Article 3, point 31 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], until such time as refraining from disclosure is necessary to protect the analyses or investigations of those authorities.

In relation to the persons referred to in points (a) and (b) of the second subparagraph, Member States shall ensure that where beneficial owners file a request pursuant to Article 15(1)(c) of Regulation (EU) 2016/679, they are provided with information on the function or occupation of the persons having consulted their beneficial ownership information.

For the purposes of the third subparagraph, when requesting access to beneficial ownership information pursuant to this Article, the authorities shall indicate the period for which they request the beneficial ownership registers to refrain from disclosure, which shall not exceed five years, and the reasons for that restriction, including how the provision of the information would jeopardise the purpose of their analysis and investigative activities. Member States shall ensure that, where registers do not disclose the identity of the entity having consulted the beneficial ownership information, any extension of that period shall only be granted on the basis of a motivated request by the authority in the third country, for a period of maximum one year, after which a new motivated request for extension shall be submitted by that authority.

Article 12a

Procedure for the verification and mutual recognition of a legitimate interest to access beneficial ownership information

1. Member States shall ensure that the entities in charge of the registers referred to in Article 10 take measures to verify the existence of the legitimate interest referred to in Article 12 on the basis of documents, information and data obtained from the applicant and, where necessary, information available to them pursuant to Article 12(3).

2. The existence of a legitimate interest to access beneficial ownership information shall be determined by taking into consideration:

(a) the function or occupation of the applicant; and

(b) with the exception of persons referred to in points (a) and (b) of Article 12(2), the connection with the specific legal entities or legal arrangements whose information is being sought.

3. Member states shall ensure that where access to information is requested by a person whose legitimate interest to access beneficial ownership information under one of the categories set out in points (a) to (i) of Article 12(2) has already been verified by the register of another Member State, the verification of the condition in point (a) of the previous paragraph is satisfied by collecting proof of the legitimate interest issued by the register of that other Member State.

Member States may apply the procedure set out in the first subparagraph to the additional categories identified by other Member States pursuant to Article 12(2), second subparagraph.

4. Member States shall ensure that registers verify the identity of the applicant whenever accessing the registers. To that end, Member States shall ensure that sufficient processes are available for the verification of the identity of the applicant, including by allowing the use of electronic identification means and relevant qualified trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council.

5. For the purposes of Paragraph 2, point (a), Member states shall ensure that registers have mechanisms in place to allow repeated access to persons with a legitimate interest to access beneficial ownership information without the need to assess their function or occupation whenever accessing the information.

6. Member states shall ensure that the registers conduct the assessment in paragraph 1 and provide a response to the applicant within twelve working days.

By way of derogation from the first subparagraph, in the case of a sudden high number of requests for accessing beneficial ownership information pursuant to this Article, the deadline for providing a response to the applicant may be extended by twelve working days. If, after the extension has lapsed, the number of incoming requests continues to be high, that deadline may be extended by an additional 12 working days.

Member States shall notify the Commission of any situation covered in the previous subparagraph in a timely manner.

Where registers decide to grant access to beneficial ownership information, they shall issue a certificate granting access for 3 years. Any subsequent requests to access information by the same person shall be addressed within no later than seven working days.

7. Member states shall ensure that registers may only refuse a request to access information on one of the following grounds:

> ***(a) the applicant has not provided the necessary information or documents pursuant to paragraph 1;***
>
> ***(b) the legitimate interest to access beneficial ownership information has not been demonstrated;***
>
> ***(c) where on the basis of information in its possession, the register has a reasonable concern that the information will not be used for the purposes for which it was requested or that the information will be used for purposes that are not connected to the prevention of money laundering or terrorism financing ;***

(d) in any of the situations referred to in Article 13;

(e) in the cases referred to in paragraph 3, the legitimate interest to access beneficial ownership information granted by the register of another Member State does not extend to the purposes for which information is sought;

(f) where the applicant is in a third country and responding to the request to access information would not comply with the provisions of Chapter V of Regulation (EU) 2016/679.

Member States shall ensure that registers consider requesting additional information or documents from the applicant prior to refusing a request for access on the grounds listed in points (a) to (c) and (e) of this paragraph. Where registers request additional information, the timeframe for providing a response shall be extended by seven days.

8. Where registers refuse to provide access to information pursuant to paragraph 7, Member States shall require that they inform the applicant of the reasons for refusal and of their right of redress. The register shall document the steps taken to assess the request and to obtain more information pursuant to the previous paragraph.

Member States shall ensure that registers are able to revoke access where any of the grounds listed in paragraph 7 arise or become known to the register after such access has been granted, including, where relevant, on the basis of revocation by a register in another Member State.

9. Member States shall ensure that there are judicial or administrative remedies for challenging the refusal or revocation of access pursuant to this paragraph.

10. Member States shall ensure that registers are able to repeat the verification of the function or occupation identified under paragraph 2, point (a) from time-to-time and in any case not earlier than 12 months after granting access, unless the authority in charge of the register has reasonable grounds to believe that the legitimate interest no longer exists in the case of persons referred to in point (a), (b) and (e).

11. Member States shall require persons who have been granted access pursuant to this Article to notify the entity in charge of the register of changes that may trigger the cessation of a validated legitimate interest, including changes concerning their function or occupation.

12. Member States may choose to make beneficial ownership information held in their central registers available to the applicants on the condition of the payment of a fee, which shall be limited to what is strictly necessary to cover the costs of ensuring the quality of the information held in the registers and of making the information available. Those fees shall be established in such a way as not to undermine the effective access to the information held in the registers.

Article 12b

Templates and procedures

1. The Commission shall adopt by means of implementing acts, technical specifications and procedures necessary for the implementation of access on the basis of a legitimate interest by the registers referred to in Article 10, including:

(a) standardised templates for requesting access to the register and for requesting access to information on legal entities and legal arrangements;

(b) standardised templates to be used by registers to confirm or refuse a request to access the register or to access information;

(c) the duration of the access to be granted to the categories of the public having a legitimate interest to access beneficial ownership information;

(d) procedures to facilitate the mutual recognition of legitimate interest to access beneficial ownership information by the registers in Member States other than the one where the request for access was first made and accepted, including procedures to ensure the secure transfer of information on an applicant;

(e) Procedures for beneficial ownership registers to notify each other of revocations of legitimate interest to access beneficial ownership information pursuant to Article 12a (8).

2. The implementing acts referred to in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 61(2).

▌

Article 13

Exceptions to the access rules to beneficial ownership registers

In exceptional circumstances to be laid down in national law, where the access referred to in Articles 11(3) and 12(1) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States ▌ ***shall*** provide for an exemption from such access to all or part of the personal information on the beneficial owner▌ . Member States shall ensure that those exemptions are granted upon a detailed evaluation***, on a case by case basis,*** of the exceptional nature of the circumstances ***and confirmation that those disproportionate risks exist***. Rights to an administrative review of the decision granting an exemption and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Exemptions granted pursuant to this Article shall not apply to the obliged entities referred to in Article 3, point (3)(b), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] that are public officials.

Section 2

Bank account ***and custodial crypto-asset account*** information

Article 14

Bank account registers and electronic data retrieval systems

1. Member States shall put in place centralised automated mechanisms, such as a central registers or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts***, or*** ▌ bank accounts identified by IBAN***, including virtual IBANs, securities accounts, custodial crypto-asset accounts***▌ and safe-deposit boxes held by a credit ***or financial*** institution within their territory.

Member States shall notify the Commission of the characteristics of those national mechanisms as well as the criteria pursuant to which information is included in those national mechanisms.

2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible in an immediate and unfiltered manner to ▌ ***FIUs, as well as to AMLA for the purposes of joint analyses pursuant to Article 25 of this Directive and Article 33 of [AMLAR]***. The information shall also be accessible ▌ ***in a timely manner to supervisory*** authorities for fulfilling their obligations under this Directive.

▌

3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:

(a) for the customer-account holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] ***or a*** unique identification number ***as well as the date when the person, if any, purporting to act on behalf of the customer, started and ceased to have the power to act on behalf of the customer. In case of virtual IBAN the customer account holder shall be the holder of the account to which payments addressed to the virtual IBAN are automatically rerouted***;

(b) for the beneficial owner of the customer-account holder: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] or a unique identification number ***as well as the date when the person became beneficial owner of the holder and the date when this person ceased to be beneficial owner of the holder***;

(c) for the bank or payment account: the IBAN number***, or where the payment account is not identified by an IBAN number, the unique account identifier,*** and the date of account opening and closing;

(d) for the safe-deposit box: ▌ name of the lessee complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]**,** or a unique identification number and the ▌ ***start date and, where the service has been terminated, the end date*** of the lease▌ .

(da) for the securities account: the unique identifier of the account, and the date of account opening and closing;

(db) for the crypto-asset account: the unique identifier of the account, and the date of account opening and closing.

(dc) for a virtual IBAN issued by a credit or a financial institution: the virtual IBAN number, the unique account identifier of the account to which payments addressed to the virtual IBAN are automatically rerouted, and the date of account opening and closing.

For the purposes of points (a) and (b) of the first subparagraph, the name shall encompass:

(a) for natural persons, the full legal name;

(b) for legal persons, legal arrangements or other organisations with legal capacity, the name under which the legal person, legal arrangement or other organisation is registered.

3a. The Commission is empowered to adopt, by means of implementing acts, the format for the submission of the information to the centralised automated mechanisms.

4. Member States may require other information deemed essential for ***FIUs, as well as AMLA for the purposes of joint analyses pursuant to Article 25 of this Directive and Article 33 of [AMLAR] and supervisory*** ▌ authorities for fulfilling their obligations under this Directive to be accessible and searchable through the centralised mechanisms.

5. The centralised automated mechanisms referred to in paragraph 1 shall be interconnected via the bank account registers (BAR) single access point to be developed and operated by the Commission.

The Commission is empowered to adopt, by means of implementing acts, the technical specifications and procedures for the connection of the Member States' centralised automated mechanisms to the single access point. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

6. Member States shall ensure that the information referred to in paragraph 3 is available through the single access point interconnecting the centralised automated mechanisms. Member States shall take adequate measures to ensure that only the information referred to in paragraph 3 that is up to date and corresponds to the actual bank ***and payment account, including virtual IBAN, securities account, crypto-asset account and safe-deposit box*** ▌ is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph. The access to that information shall be granted in accordance with data protection rules.

The other information that Member States consider essential for FIUs and other competent authorities pursuant to paragraph 4 shall not be accessible and searchable through the single access point interconnecting the centralised automated mechanisms.

6a. Member States shall ensure that information on holders of bank or payment accounts, including virtual IBANs, securities accounts, crypto-asset accounts and safe-deposit boxes is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms for a period of five years after the closure of the account .

Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents in specific cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing.

7. ▌***FIUs and, for the purposes of joint analyses pursuant to Article 25 of this Directive and Article 33 of [AMLAR], AMLA*** shall be granted immediate and unfiltered access to the information on payment and bank accounts***, safe-deposit boxes, crypto-asset accounts and securities accounts***▌ in other Member States available through the single access point interconnecting the centralised automated mechanisms. ***Supervisory authorities shall be granted access in a timely manner to the information available through the single access point.*** Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Member States shall ensure that the staff of the national FIUs and supervisory authorities that have access to the interconnection referred to in this paragraph maintain high professional standards of confidentiality and data protection, are of high integrity and are appropriately skilled. The same requirements shall apply to AMLA staff in the context of joint analyses and when performing the tasks entrusted on it pursuant to article 5 (2) of AMLA regulation.

Member States shall ensure that the staff of the national FIUs ***and supervisory authorities that have access to the interconnection referred to in the first subparagraph*** maintain high professional standards of confidentiality and data protection, are of high integrity and are appropriately skilled. ***The same requirements shall apply to AMLA staff in the context of joint analyses and when performing the tasks entrusted on it pursuant to article 5 (2) of AMLA regulation.***

8. Member States shall ensure that technical and organisational measures are put in place to ensure the security of the data to high technological standards for the purposes of the exercise by FIUs ***and supervisory authorities*** of the power to access and search the information available through the single access point interconnecting the centralised automated mechanisms in accordance with paragraphs 5 and 6. ***The same requirements shall apply to AMLA in the context of joint analyses and when performing the tasks entrusted on it pursuant to article 5 (2) of AMLA regulation.***

Article 15

Implementing acts for the interconnection of registers

1. Where necessary, the Commission is empowered to adopt, by means of implementing acts, technical specifications and procedures necessary to provide for the interconnection of Member States' central registers in accordance with Article 10(11) with regard to:

(a) the technical specification defining the set of the technical data necessary for the platform to perform its functions as well as the method of storage, use and protection of such data;

(b) the common criteria according to which beneficial ownership information is available through the system of interconnection of registers, depending on the level of access granted by Member States;

(c) the technical details on how the information on beneficial owners is to be made available;

(d) the technical conditions of availability of services provided by the system of interconnection of registers;

(e) the technical modalities to implement the different types of access to information on beneficial ownership in accordance with Articles 11 and 12 of this Directive, including the authentication of users through the use of electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014;

(f) the payment modalities where access to beneficial ownership information is subject to the payment of a fee according to Article 12(2) taking into account available payment facilities such as remote payment transactions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

2. Where necessary, the Commission is empowered to adopt, by means of implementing acts, technical specifications and procedures necessary to provide for the interconnection of Member States' centralised mechanisms as referred to in Article 14(5), with regard to:

(a) the technical specification defining the methods of communication by electronic means for the purposes of the bank account registers (BAR) single access point;

(b) the technical specification of the communication protocols;

(c) the technical specifications defining the data security, data protection safeguards, use and protection of the information which is searchable and accessible by means of the bank account registers (BAR) single access point interconnecting the centralised automated mechanisms;

(d) the common criteria according to which bank account information is searchable through the single access point interconnecting the centralised automated mechanisms;

(e) the technical details on how the information is made available by means of the single access point interconnecting the centralised automated mechanisms, including the authentication of users through the use of electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014;

(f) the technical conditions of availability of services provided by the single access point interconnecting the centralised automated mechanisms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

3. When adopting the implementing acts referred to in paragraphs 1 and 2, the Commission shall take into account proven technology and existing practices. The Commission shall ensure that the single access point to be developed and operated does not incur costs above what is absolutely necessary in order to implement this Directive.

Section 3

Real estate registers

Article 16

Single access point to real estate ▌ ***information***

1. Member States shall ▌ ***ensure that*** competent authorities ▌ ***have immediate and direct*** access ***free of charge*** to information which allows the identification in a timely manner of any ▌ ***land or*** real estate▌ ***property and of the natural persons or legal entities or legal arrangements owning that property, as well as*** to information allowing the identification and analysis of transactions involving real estate▌ ***. That access shall be provided via a single access point to be established in each Member State which allows competent authorities to access, via electronic means, information in digital format, which shall be, where possible machine-readable***.

▌ ***Access to the single access points in the Member States*** shall ***also*** be granted ▌ ***to AMLA when acting in accordance with Article 25 of this Directive and Article 33 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***.

1a. Member States shall ensure that at least the following information, as well as any relevant document, is made available through the single access point:

(a) information on the property:

(i) cadastre parcel and cadastre reference;

(ii) geographical location, including address of the property;

(iii) area/size of the property;

(iv) type of property, including whether built or non-built property and destination of use;

(b) information on proprietorship:

(i) legal owner and any person purporting to act on behalf of the owner;

(ii) where the legal owner is a legal entity, the name and legal form of the legal entity, as well as the company unique identification number and the tax identification number;

(iii) where the legal owner is a legal arrangement, the name of the legal arrangement and the tax identification number;

(iv) price of the property at which it has been acquired;

(v) where applicable, any entitlements or restrictions;

(c) encumbrances:

(i) mortgages,

(ii) judicial restrictions;

(iii) property rights;

(iv) other guarantees, if any;

(d) history of property proprietorship, price and related encumbrances.

Member States shall ensure that, where a cadastre parcel includes multiple properties, the information referred to in the first subparagraph is provided in relation to each property at that cadastre parcel.

Member States shall ensure that historical information pursuant to the first subparagraph, point (d) covers at least the period since [five years prior to the date of entry into force of this Directive].

1b. Member States shall put in place mechanisms to ensure that the information provided through the single access point is up-to-date and accurate.

1c. Member states shall have measures in place to ensure that information held electronically is provided immediately to the requesting competent authority. Where that information is not held electronically, Member States shall ensure that it is provided in a timely manner and in such a way as not to undermine the activities of the requesting competent authority

2. By [***2 years and 3 months after the date of transposition of this Directive***▌], Member States shall notify to the Commission***:***

(a) the characteristics of the single access point established at national level, including the web address at which it can be accessed;

(b) the list of competent authorities▌ granted access to the ▌ ***single access point;***

(c) any data made available to competent authorities in addition to those listed in paragraph 1a. ▌

Member States shall update such notification when changes to the list of competent authorities or to the extent of access to information granted occurs. The Commission shall make that information, including any change to it, available to the other Member States.

2a. By [5 years after the date of transposition of this Directive], the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring secure and efficient interconnection of the single access points. Where appropriate, that report shall be accompanied by a legislative proposal.

▌

CHAPTER III

FIUs

Article 17

Establishment of ***the FIU***

1. Each Member State shall establish an FIU in order to prevent, detect and effectively combat money laundering and terrorist financing.

2. The FIU shall be the single central national unit responsible for receiving and analysing ***reports submitted by obliged entities in accordance with Article 50 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final],*** or reports submitted by obliged entities in accordance with ***Articles [54a] and*** 59(4), point (b)***of that Regulation, and any other information relevant to money*** laundering***, its predicate offences or terrorist financing, including information transmitted*** by customs authorities pursuant to Article 9 of Regulation (EU) 2018/1672 ***as well as information submitted by supervisory authorities or by other authorities***.

3. The FIU shall be responsible for disseminating the results of its analyses and any additional ▌ information to ▌ ***relevant*** competent authorities where there are grounds to suspect money laundering, its predicate offences or terrorist financing. It shall be able to obtain additional information from obliged entities.

The FIU's financial analysis function shall consist of the following:

(a) an operational analysis which focuses on individual cases and specific targets or on appropriate selected information, ▌ ***prioritized on the basis of risk,*** the type and volume of the disclosures received and the expected use of the information after dissemination;

(b) a strategic analysis addressing money laundering and terrorist financing trends and patterns ***and evolutions thereof***.

▌

4. Each FIU shall be operationally independent and autonomous, which means that it shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and***, in accordance with paragraph 3,*** disseminate specific information. It shall be free from any undue political, government or industry influence or interference.

When a FIU is located within the existing structure of another authority, the FIU's core functions shall be independent and operationally separated from the other functions of the host authority.

5. Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks. FIUs shall be able to obtain and deploy the resources needed to carry out their functions. ▌

5a. Member States shall ensure that the staff of their FIUs are bound by professional secrecy requirements equivalent to those laid out in Article 50, and that they maintain high professional standards, including high standards of data protection, and are of high integrity and appropriately skilled in relation to the ethical handling of big data sets. Member States shall ensure that FIUs have in place procedures to prevent and manage conflicts of interest.

6. Member States shall ensure that FIUs have rules in place governing the security and confidentiality of information.

6a. Member States shall ensure that FIUs have in place secure and protected channels for communicating and exchanging information by electronic means with competent authorities and obliged entities.

7. Each Member ▌ ***State*** shall ensure that its FIU is able to make arrangements or engage independently with other domestic competent authorities pursuant to Article 45 on the exchange of information.

▌

7b. By [1 year after the date of transposition of this Directive], AMLA shall issue guidelines addressed to FIUs on:

(a) the measures to be put in place to preserve the operational autonomy and independence of the FIU, including measures to prevent that conflicts of interest affect its operational autonomy and independence, and

(b) the nature, features and objectives of operational and of strategic analysis.

(c) tools and methods for use and cross-check of financial, administrative and law enforcement information to which FIUs have access.

(d) practices and procedures for the exercise of the suspension or the withholding of consent to a transaction and suspension or monitoring of an account or business relationship pursuant to Article 20.

Article 17a

Fundamental Rights Officer

1. 1. Member States shall ensure that FIUs designate a Fundamental Rights Officer. The Fundamental Rights Officer may be a member of the existing staff of the FIU.

2. The Fundamental Rights Officer shall perform the following tasks:

(a) advise the staff of the FIU on any activity carried out by the FIU where he or she deems it necessary, or where requested by the staff without impeding or delaying those activities;

(b) promote and monitor the FIU's compliance with fundamental rights;

(c) provide non-binding opinions on the compliance of FIU's activities with fundamental rights;

(d) inform the Head of FIU about possible violations of fundamental rights in the course of the FIU's activities.

3. The FIU shall ensure that the Fundamental Rights Officer does not receive any instructions regarding the exercise of his or her tasks.

Article 18

Access to information

1. ***Member States shall ensure that FIUs, regardless of their organisational status, have access to the information that they require to fulfil their tasks properly, including financial, administrative and law enforcement information.*** Member States shall ensure that their FIUs have ***at least***:

(a) immediate and ▌ direct access to ▌ the following financial information:

(i) information contained in the national centralised automated mechanisms in accordance with Article 14;

▌

(iii) information from obliged entities***, including information on transfers of funds as defined in Article 3, point (9) of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]and transfers of crypto-assets as defined in Article 3, point (10) of that Regulation***;

(iv) information on mortgages and loans;

(v) information contained in the national currency and currency exchange databases;

(vi) information on securities;

(b) immediate and direct access to the following administrative information:

(i) fiscal data, including data held by tax and revenue authorities ***as well as data obtained pursuant to article 8(3a) of Council Directive 2011/16/EU***[71]***.***

(ib) information on public procurements for goods, services or concessions;

(ii) ***the information from the single access point as referred to in article 16, as well as to*** national real estate registers or electronic data retrieval systems and land and cadastral registers;

(iii) national citizenship and population registers of natural persons;

(iv) national passports and visas registers;

(v) cross-border travel databases;

(vi) commercial databases, including business and company registers and PEP databases;

(vii) national motor vehicles, aircraft and watercraft registers;

[71] ***Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 064 11.3.2011, p. 1).***

(viii) national social security registers;

(ix) customs data, including cross-border physical transfers of cash;

(x) national weapons and arms registers;

(xi) national beneficial ownership registers;

(xii) data available through the interconnection of beneficial ownership registers in accordance with Article 10(11).

(xiii) registers on non-profit organisations;

(xiv) information held by national financial supervisors and regulators, in accordance with Article 45 and Article 50(2);

(xv) databases storing data on CO_2 emission trading established pursuant to Commission Regulation (EU) 389/2013[72].

(xvi) information on annual financial statements by companies;

(xvii) national migration/immigration registers;

(xviii) information held by commercial courts;

(xix) information held in insolvency databases and by insolvency practitioners;

▌

[72] Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 3.5.2013, p.1-59).

(xixb) information on funds and other assets frozen or immobilized pursuant to targeted financial sanctions.

(c) direct or indirect access to the following law enforcement information:

(i) any type of information or data which is already held by competent authorities in the context of preventing, detecting, investigating or prosecuting criminal offences;

(ii) any type of information or data which is held by public authorities or by private entities in the context of preventing, detecting, investigating or prosecuting criminal offences and which is available to competent authorities without the taking of coercive measures under national law.

The information referred to in point (c) ▌***shall*** include criminal records, information on investigations, information on the freezing or seizure of assets**,** or on other investigative or provisional measures and information on convictions and on confiscations.

Member States may allow the restriction of access to the law enforcement information referred to in point (c) on a case-by-case basis, where the provision of such information is likely to jeopardise an ongoing investigation.

1a. Access to the information listed in paragraph 1 shall be considered direct and immediate where the information is contained in an IT database, register or data retrieval system from which the FIU can retrieve the information without any intermediate steps, or where the following conditions are met:

(a) the entities or authorities holding the information transmit it expeditiously to FIUs and

(b) no entity, authority or third party is able to interfere with the requested data or the information to be provided.

▌

3. ***Member States shall ensure that, whenever possible, the FIU is granted direct access to the information listed in paragraph 1, first subparagraph, point (c).*** In the cases where ▌ ***FIU is*** provided with indirect access to information, the requested authority shall ▌ ***provide the requested information*** in a timely manner.

4. In the context of its functions, each FIU shall be able to request, obtain and use information from any obliged entity to perform its functions pursuant to Article 17(3), even if no prior report is filed pursuant to Article 50(1), point (a), or Article 51(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. Obliged entities shall not be obliged to comply with requests for information made pursuant to this paragraph when they concern information obtained in the situations referred to in Article 51(2) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Article 19

Responses to requests for information

1. Member States shall ensure that ▌ ***their FIU is able to*** respond in a timely manner to reasoned requests for information ***motivated by concerns relating to money laundering, its predicate offences or terrorist financing by the competent authorities referred to in Article 2 (31) (c) and (d) [please insert the reference to AMLR] in their respective Member State where that*** ▌ information is ▌ ***already held by the FIU and is necessary on a case-by-case basis***. The decision on conducting the dissemination of information shall remain with the FIU.

Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU shall be under no obligation to comply with the request for information.

In such case, the FIU shall provide the reasons in writing to the requesting authority.

2. Competent authorities shall provide feedback to the FIU about the use made of***, and the usefulness of,*** the information provided in accordance with this Article ***and article 17(3), and about the outcome of actions taken and of the investigations performed on the basis of that information***. Such feedback shall be provided as soon as possible and in any case, ***in an aggregated form,*** at least on an annual basis, in such a way as to ▌ allow the FIU to ▌ ***improve*** its operational analysis function.

Article 19a

Provision of information to supervisors

1. Member States shall ensure that FIUs provide supervisors, spontaneously or upon request, information that may be relevant for the purposes of supervision pursuant to Chapter IV of this Directive, including at least information on:

(a) the quality and quantity of suspicious transaction reports submitted by obliged entities;

(b) the quality and timeliness of responses provided by obliged entities to FIU requests pursuant to Article 50(1), point (b) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation – COM/2021/420 final];

(c) relevant results of strategic analyses carried out pursuant to Article 17(3), point (b), as well as any relevant information on ML/TF trends and methods, including geographical, cross-border and emerging risks.

2. Member States shall ensure that FIUs notify supervisors whenever information in their possession indicates potential breaches by obliged entities of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation – COM/2021/420 final] and of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final].

3. Except where strictly necessary for the purposes of paragraph 2, Member States shall ensure that information provided by FIUs pursuant to this Article does not contain any information on specific natural or legal persons nor cases including natural or legal persons subject to an ongoing analysis or investigation or which may lead to the identification of natural or legal persons.

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Article 20

Suspension or withholding of consent ▌

1. Member States shall ensure that FIUs are empowered to take urgent action ▌ directly or indirectly, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or withhold consent to ▌ ***that*** transaction***.***

Member States shall ensure that where the need to suspend or withhold consent to a transaction is established on the basis of a suspicion reported pursuant to Article 50 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation – COM/2021/420 final], the ▌ suspension ▌ ***or withholding of consent is*** imposed on the obliged entity within ▌ ***the period referred to in Article 52 of that Regulation. Where the need to suspend a*** transaction ***is based on the analytical work of the FIU, regardless of whether a prior*** report ***has been filed by the obliged entity, the suspension shall be imposed as soon as possible by the FIU.***

The suspension or withholding of consent to the transaction shall be imposed by the FIU in order to ▌ ***preserve the funds, to perform its analyses, including the analysis of*** the transaction, ▌ ***to assess whether*** the suspicion ***is confirmed and if so, to***▌ disseminate the results of the ▌ ***analyses*** to the ***relevant*** competent authorities ***to allow for the adoption of appropriate measures.***

Member States shall define the period of suspension applicable for the FIUs analytical work which shall not exceed 10 working days. Member States ***may define a longer period where, pursuant to national law, FIUs perform the function of tracing, seizing, freezing or confiscating criminal assets. In case a longer period of suspension is defined, Member States*** shall ensure that ***FIUs exercise their function*** subject to ***appropriate*** national ▌ ***safeguards such as the possibility for the person whose*** transaction is suspended ▌ ***to challenge this suspension before a court.***

Member States shall ensure that the FIUs are empowered to lift the suspension at any time where the FIU concludes that the conditions set out in the third subparagraph are no longer met.

▌

The FIU shall be empowered to impose such suspension ▌ ***or withholding of consent*** at the request of an FIU from another Member State ▌**.**

2. Where there is a suspicion that ▌ a bank or payment account***, a crypto-asset account or a business relationship is*** ▌ related to money laundering or terrorist financing, Member States shall ensure that the FIU is empowered to take urgent action, directly or indirectly, to suspend the use of ▌ ***that account or to suspend the business relationship*** in order to ▌ ***preserve the funds, to perform its analyses, to assess whether*** the suspicion ***is confirmed and if so, to*** ▌ disseminate the results of the ▌ ***analyses*** to the ***relevant*** competent authorities ***to allow for the adoption of appropriate measures***.

▌ ***Member States*** shall ▌ ***define the period of suspension applicable for the FIUs analytical work which shall not exceed 5 working days. Member States may define a longer period where, pursuant to national law, FIUs perform the function of tracing, seizing, freezing or confiscating criminal assets. In case a longer period of suspension is defined,*** Member States shall ensure that ***FIUs exercise their function subject to appropriate national safeguards such as the possibility for the person whose***▌ bank or payment account***, crypto-asset account or business relationship*** is suspended ▌ ***to challenge this suspension before a court.***

Member States shall ensure that the FIUs are empowered to lift the suspension▌ ***at any time where the FIU concludes that the conditions set out in the first subparagraph are no longer met***.

2a. The FIU shall be empowered to impose such suspension of an account or business relationship at the request of an FIU from another Member State.

▌

3a. Member States shall ensure that the FIU is empowered to instruct obliged entities to monitor for a period of time to be specified by the FIU, the transactions or activities that are being carried out through one or more bank, payment or crypto-asset accounts or other business relationships managed by the obliged entity for persons who present a significant risk of money laundering or terrorist financing. Member States shall also ensure that the FIU is empowered to instruct the obliged entity to report on the results of the monitoring.

3b. The FIU shall be empowered to impose such monitoring measures at the request of an FIU from another Member Staten during a specified period.

▌

4b. Application of the suspension or withholding of consent in accordance with this Article shall not involve the FIU or its directors or employees in liability of any kind.

Article 21

▌ ***FIU annual report***

1. Each Member State shall ensure that its FIU ▌***publishes*** a yearly report on its activities. The report shall contain statistics on:

(-a) follow up given by the FIU to suspicious transactions reports it has received;

(a) suspicious transaction reports submitted by obliged entities;

(b) disclosures by supervisors and beneficial ownership registers;

▌

(c) disseminations to competent authorities ***and follow-up given to those disseminations***;

(d) requests submitted to and received from other FIUs;

(ea) requests submitted to and received from competent authorities referred to in Article 2, point (31)(c) of regulation [please insert reference to AMLR];

(eb) human resources allocated.

(e) data on cross-border physical transfers of cash ▌***transmitted*** by customs authorities ***pursuant to Article 9 of Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005***.

The report referred to in the first subparagraph shall also contain information on the trends and typologies identified in the files disseminated to other competent authorities. ***The information contained in the report shall not permit the identification of any natural or legal person.***

▌

Article 21a

Feedback by FIU

1. Member States shall ensure that the FIU provides obliged entities with feedback on the reporting of suspected money laundering, its predicate offences or terrorist financing. Such feedback shall cover at least the quality of the information provided, the timeliness of reporting, the description of the suspicion and the documentation provided at submission stage.

Feedback pursuant to this Article shall not be understood as encompassing each report submitted by obliged entities.

The FIU shall provide such feedback at least once per year, whether provided to the individual obliged entity or to groups or categories of obliged entities, taking into consideration the overall number of suspicious transactions reported by the obliged entities.

Such feedback shall also be made available to supervisors to allow them to perform risk-based supervision in accordance with Article 31.

FIUs shall report on a yearly basis to AMLA on the provision of feedback to obliged entities pursuant to this Article, and shall provide statistics on the number of suspicious transaction reports submitted by the categories of obliged entities.

By [1 year after the date of transposition of this Directive], AMLA shall issue recommendations to FIUs on best practices and approaches towards the provision of feedback, including on the type and frequency of feedback.

The obligation to provide feedback shall not jeopardise any ongoing analytical work carried out by the FIU or any investigation or administrative action subsequent to the dissemination by the FIU, and shall not affect the applicability of data protection and confidentiality requirements.

2. Member States shall ensure that FIUs provide customs authorities with feedback, at least on an annual basis, on the effectiveness of and follow-up to the information transmitted pursuant to Article 9 of Regulation (EU) 2018/1672.

Article 21b

Alerts to obliged entities

1. Member states shall ensure that FIUs are able to alert obliged entities of information relevant for the performance of customer due diligence pursuant to Chapter 3 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. That information shall include:

(a) types of transactions or activities that present a significant risk of ML/TF;

(b) specific persons that present a significant risk of ML/TF;

(c) specific geographic areas that present a significant risk of ML/TF.

2. The measure referred in paragraph 1 shall be applied for a period of time defined in national law, which shall not exceed 6 months.

▌

3. FIUs shall provide obliged entities with strategic information about typologies, risk indicators and trends in money laundering and terrorist financing on an annual basis.

Article 22

Cooperation between FIUs

Member States shall ensure that FIUs cooperate with each other ▌ to the greatest extent possible, regardless of their organisational status.

▌

Article 23

Protected channels of communication

1. A system for the exchange of information between FIUs of the Member States shall be set up (▌ ***FIU.net***). The system shall ensure ▌ ***a*** secure communication and ***exchange of information and*** shall be capable of producing a written record under conditions that allow ascertaining authenticity. That system may also be used for communications with FIUs counterparts in third countries and with other authorities and ***with*** Union bodies***, offices and agencies***. FIU.net shall be managed by AMLA.

The FIU.net shall be used for the exchange of information between FIUs and AMLA pursuant to Article 25 of this Directive and Article 33 of Regulation [please insert reference to AMLA Regulation - 2021/0240 (COD).

2. Member States shall ensure that ▌ ***FIUs*** exchange▌ information pursuant to Article 24 ▌ ***and 25*** using the FIU.net. In the event of technical failure of the FIU.net, the information shall be ***exceptionally*** transmitted by any other appropriate means ensuring a high level of data security ***and data protection***.

Exchanges of information between FIUs and their counterparts in third countries ▌ ***that are not connected to the FIU.net shall*** take place through protected channels of communication.

3. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive, their FIUs cooperate ***to the greatest extent possible*** in the application of state-of-the-art technologies in accordance with their national law.

Member States shall also ensure that FIUs cooperate to the greatest extent possible in the application of solutions developed and managed by AMLA in accordance with Article 5(5), point (e), Article 36 (1), point (d) and Article 37 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)].

3a. Member States shall ensure that FIUs are able to use the functionalities of the FIU.net to cross-match, on a hit/no-hit basis, the data they make available on the FIU.net, with the data made available on that system by other FIUs and Union bodies, offices and agencies insofar as such cross-matching falls within the respective mandates of those Union bodies, offices and agencies.

3c. AMLA may suspend the access of an FIU or counterpart in a third country or Union body, office or agency to the FIU.net where it has grounds to believe that such an access would jeopardise the implementation of this Chapter and the security and confidentiality of the information held by FIUs and exchanged through the FIU.net system, including where there are concerns in relation to an FIU's lack of independence and autonomy.

Article 24

Exchange of information between FIUs

1. Member States shall ensure that FIUs exchange, spontaneously or upon request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering, its predicate offences, or terrorist financing, and the natural or legal person involved, ***regardless of the type of predicate offences that may be involved, and*** even if the type of predicate offences that may be involved is not identified at the time of the exchange.

A request shall contain the relevant facts, background information, reasons for the request***, links with the country of the requested FIU*** and how the information sought will be used.

When an FIU receives a report pursuant to Article 50(1), the first subparagraph, point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] which concerns another Member State, it shall promptly forward the report, or all the relevant information obtained from it, to the FIU of that Member State.

2. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraph 1.

3. The Commission is empowered to adopt the implementing technical standards referred to in paragraph 2 of this Article in accordance with Article 42 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

3a. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the relevance and selection criteria when determining whether a report pursuant to Article 50(1), first subparagraph, point (a), of Regulation [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] concerns another Member State as referred to in the third subparagraph of paragraph 1.

3b. The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in paragraph 3a of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for Regulation establishing the Anti-money Laundering Authority].

4. By ***[1 year after the date of transposition of this Directive]*** , AMLA shall issue guidelines addressed to FIUs on the ***procedures*** to be ***put in place when forwarding and receiving*** a report pursuant to Article 50(1), the first subparagraph, point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] ***which*** concerns another Member State, ***and the follow-up*** to be ***given to*** that report .

5. Member States shall ensure that the FIU to whom the request is made is required to use the whole range of its available powers which it would normally use domestically for receiving and analysing information when it replies to a request for information referred to in paragraph 1 from another FIU.

When an FIU seeks to obtain additional information from an obliged entity established in another Member State which operates on the territory of its Member State, the request shall be addressed to the FIU of the Member State in whose territory the obliged entity is established. That FIU shall obtain information in accordance with Article 50(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and transfer the answers promptly.

6. Member States shall ensure that where an FIU is requested to provide information pursuant to paragraph 1, it shall respond to the request as soon as possible and in any case no later than ▌ ***five working*** days after the receipt of the request ***if the FIU is either in possession of the requested information or the requested information is held in a database or register which is directly accessible by the requested FIU***. In exceptional, duly justified cases, this time limit may be extended to a maximum of ▌ ***10 working*** days. Where the requested FIU is unable to obtain the requested information, it shall inform the requesting FIU thereof.

7. Member States shall ensure that in exceptional, justified and urgent cases and, by way of derogation from paragraph 6, where pursuant to paragraph 1 an FIU is requested to provide information which is either held in a database or registry directly accessible by the requested FIU or which is already in its possession, the requested FIU shall provide that information no later than ▌ ***one working day*** after the receipt of the request.

If the requested FIU is unable to respond within ▌ ***one working day*** or cannot access the information directly, it shall provide a justification. Where the provision of the information requested within the period of ▌ ***one working day*** would put a disproportionate burden on the requested FIU, it may postpone the provision of the information. In that case the requested FIU shall immediately inform the requesting FIU of this postponement***. The requested FIU may extend to a maximum of three working days the deadline to reply to a request for information*** ▌ .

8. An FIU may refuse to exchange information only in exceptional circumstances where the exchange could be contrary to fundamental principles of its national law. Those exceptional circumstances shall be specified in a way which prevents misuse of, and undue limitations on, the free exchange of information for analytical purposes.

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By [1 year after the date of transposition of this Directive], Member States shall notify to the Commission the exceptional circumstances referred to in the first subparagraph. Member States shall update such notifications where changes to the exceptional circumstances identified at national level occur.

The Commission shall publish the consolidated list of such notifications.

By ... [24 months after the date of transposition of this Directive], the Commission shall submit a report to the European Parliament and Council assessing whether the exceptional circumstances notified pursuant to the second subparagraph are justified.

Article 25

Joint analyses

1. Member States shall ensure that their FIUs are able to carry out joint analyses of suspicious transactions and activities.

2. For the purpose of paragraph 1, the relevant FIUs, assisted by AMLA in accordance with Article 33 of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** , shall set up a joint analysis team for a specific purpose and limited period, which may be extended by mutual consent, to carry out operational analyses of suspicious transactions or activities involving one or more of the FIUs setting up the team.

3. A joint analysis team may be set up where:

(a) an FIU's operational analyses require difficult and demanding analyses having links with other Member States;

(b) a number of FIUs are conducting operational analyses in which the circumstances of the case ***justify***, concerted action in the Member States involved.

A request for the setting up of a joint analysis team may be made by any of the FIUs concerned ***or AMLA pursuant to Article 33a***.

4. Member States shall ensure that the member of their FIU allocated to the joint analysis team is able, in accordance with his or her national law and within the limits of his or her competence, to provide the team with information available to its FIU for the purpose of the analysis conducted by the team.

5. Where the joint analysis team needs assistance from an FIU other than those which are part of the team, it might request that other FIU to:

(a) join the joint analysis team;

(b) submit financial intelligence and financial information to the joint analysis team.

5a. Member States shall ensure that FIUs are able to invite third parties, including where relevant Union bodies, offices and agencies, to take part in the joint analyses where relevant for the purposes of the joint analyses and where such participation falls within the respective mandates of those third parties.

Member States shall ensure that the FIUs participating in the joint analysis determine the conditions that apply in relation to the participation of third parties and put in place measures guaranteeing the confidentiality and security of the information exchanged. Member States shall ensure that the information exchanged is used solely for the purposes for which that joint analysis was set up.

Article 26

Use by FIUs of information exchanged between them

Information and documents received pursuant to Articles 22***, 24 and 25*** shall be used for the accomplishment of the FIU's tasks as laid down in this Directive. When exchanging information and documents pursuant to Articles 22 and 24, the transmitting FIU may impose restrictions and conditions for the use of that information ***, except where the transmission consists of a report submitted by an obliged entity pursuant to Article 50(1), or information derived therefrom, which concerns another Member State where the obliged entity operates through the freedom to provide services and which includes no link to the Member State of the transmitting FIU***. The receiving FIU shall comply with those restrictions and conditions.

Member States shall ensure that FIUs designate at least one contact person or point to be responsible for receiving requests for information from FIUs in other Member States.

Article 27

Consent to further dissemination of information exchanged between FIUs

1. Member States shall ensure that the information exchanged pursuant to Articles 22***, 24 and 25*** is used only for the purpose for which it was sought or provided and that any dissemination of that information by the receiving FIU to any other authority, agency or department, or any use of this information for purposes beyond those originally approved, is made subject to the prior consent by the FIU providing the information.

The requirements of the first subparagraph shall not apply where the information provided by the transmitting FIU consists of a report submitted by an obliged entity pursuant to Article 50(1), which concerns another Member State where the obliged entity operates through the freedom to provide services and which includes no link to the Member State of the FIU providing the information.

2. Member States shall ensure that the requested FIU's prior consent to disseminate the information to competent authorities is granted promptly and to the largest extent possible, regardless of the type of predicate offences ***and whether or not the predicate offence has been identified***. The requested FIU shall not refuse its consent to such dissemination unless this would fall beyond the scope of application of its AML/CFT provisions or could lead to impairment of an investigation, or would otherwise not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained. The cases where FIUs may refuse to grant consent shall be specified in a way which prevents misuse of, and undue limitations to, the dissemination of information to competent authorities.

2a. By [1 year after the date of transposition of this Directive], Member States shall notify to the Commission the exceptional circumstances in which dissemination would not be in accordance with fundamental principles of national law referred to in paragraph 2.

Member States shall update such notifications where changes to the exceptional circumstances identified at national level occur.

The Commission shall publish the consolidated list of such notifications.

2b. By ... [[24 months] after the date of transposition of this Directive], the Commission shall submit a report to the European Parliament and Council assessing whether the exceptional circumstances notified pursuant to the this paragraph are justified.

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Article 28

Effect of criminal law provisions

Differences between national law definitions of predicate offences shall not impede the ability of FIUs to provide assistance to another FIU and shall not limit the exchange, dissemination and use of information pursuant to Articles 24, ***25,*** 26 and 27.

Article 28a

Confidentiality of reporting

1. Member States shall ensure that FIUs have in place mechanisms to protect the identity of the obliged entities and their employees or persons in an equivalent position, including agents and distributors, who report suspicions pursuant to Article 50(1), point (a) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

2. Member States shall ensure that FIUs do not disclose the source of the report referred to in the first paragraph, when responding to requests for information by competent authorities pursuant to Article 19 or when disseminating the results of their analyses pursuant to Article 17. This paragraph is without prejudice to the applicable national criminal procedural law.

CHAPTER IV

ANTI-MONEY LAUNDERING SUPERVISION

Section 1

General provisions

Article 29

Powers and resources of national supervisors

▌

1. ***Each*** Member ▌ ***State*** shall ensure that all obliged entities ***established in its territory, and except for the circumstances covered in Article 29a,*** are subject to adequate ***and effective*** supervision. To that end, ***each*** Member States shall appoint ***one or more*** supervisors to monitor effectively, and to take the measures necessary to ensure, compliance by the obliged entities with the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]***, Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)],*** and with the ▌ ***national rules adopted by that Member State for the implementation of those regulations.***

Where, for reasons of overriding general interest, Member States have introduced specific authorisations requirements for obliged entities to operate in their territory under the freedom to provide services, they shall ensure that the activities of those obliged entities provided in their territory are subject to supervision by their national supervisors, regardless of whether the activities are carried out through an infrastructure in their territory or remotely. Member States shall also ensure that supervision under this subparagraph is notified to the supervisors of the Member State where the head office of the obliged entity is established.

The provisions of this paragraph shall not apply where AMLA exercises supervisory functions in accordance with Article 5(2) of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

2. Member States shall ensure that supervisors have adequate financial, human and technical resources to perform their tasks as listed in paragraph 4. Member States shall ensure that staff of those authorities are of high integrity and appropriately skilled, and maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

3. In the case of the obliged entities referred to in Article 3, points (3)(a)[redacted] ***and (b)***, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States may allow the function referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies have the powers referred to in paragraph 5 of this Article and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those bodies are of high integrity and appropriately skilled, and that they maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

3a. Where a Member State entrusted supervision of a category of obliged entities to more than one supervisor, it shall ensure that supervision under this Article is performed in a consistent and efficient manner across the sector. To that end, that Member State shall appoint a leading supervisor or establish a coordination mechanism among those supervisors.

Where Member States have entrusted supervision of all obliged entities to more than one supervisor, they shall ensure that a coordination mechanism is set up to ensure effective supervision of the highest standards. Such coordination mechanism shall include all supervisors, except where:

(a) supervision is entrusted to a self-regulatory body, in which case the Authority referred to in Article 38 shall participate in the mechanism;

(b) supervision of a category of obliged entity is entrusted to several supervisors, in which case the lead supervisor shall participate in the mechanism. Where no lead supervisor has been appointed, supervisors shall designate a representative among them.

4. For the purposes of paragraph 1, Member States shall ensure that the national supervisors perform the following tasks:

(a) to disseminate relevant information to obliged entities pursuant to Article 30;

(b) to decide of those cases where the specific risks inherent in a sector are clear and understood and individual documented risk assessments pursuant to Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] are not required.

(c) to verify the adequacy and implementation of the internal policies, controls and procedures of obliged entities pursuant to Chapter II of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and of the human resources allocated to the performance of the tasks required under that Regulation***, as well as, for supervisors of collective investment funds, to decide on those cases where the fund may outsource the reporting of suspicious activities pursuant to Article 14a(2), second subparagraph of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to a service provider***;

(d) to regularly assess and monitor the money laundering and terrorist financing risks ***as well as the risks of evasion and non-implementation of targeted financial sanctions*** the obliged entities are exposed to;

(e) to monitor compliance by obliged entities with regard to their obligations in relation to targeted financial sanctions;

(f) to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries, assessments and analyses necessary to verify that obliged entities comply with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], and with any administrative measures taken pursuant to Article 41;

(g) to take appropriate supervisory measures to address any breaches of applicable requirements by the obliged entities identified in the process of supervisory assessments and follow up on the implementation of such measures.

5. Member States shall ensure that supervisors have adequate powers to perform their tasks as provided in paragraph 4, including the power to:

(a) compel the production of any information from obliged entities which is relevant for monitoring and verifying compliance with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and to perform checks, including from ▌ service providers to whom the obliged entity has outsourced part of its tasks to meet the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(b) impose appropriate and proportionate administrative measures to remedy the situation in the case of breaches, including through the imposition of ▌ ***pecuniary*** sanctions in accordance with Section 4 of this Chapter.

6. Member States shall ensure that financial supervisors and supervisors in charge of gambling operators have powers additional to those referred to in paragraph 5, including the power to investigate the business premises of the obliged entity without prior announcement where the proper conduct and efficiency of inspection so require, and that they have all the necessary means to carry out such investigation.

For the purposes of the first subparagraph, the supervisors shall at least be able to:

(a) examine the books and records of the obliged entity and take copies or extracts from such books and records;

(b) obtain access to any software, databases, IT tools or other electronic means of recording information used by the obliged entity;

(c) obtain written or oral explanations from any person responsible for AML/CFT internal policies and controls or their representatives or staff, as well as any representative or staff of entities to which the obliged entity has outsourced tasks pursuant to Article ***14a*** of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], and interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation.

Article 29a

Supervision of forms of infrastructure of certain intermediaries operating under the freedom to provide services

1. Member States shall ensure that the activities of the following obliged entities that are carried out in their territory under the freedom to provide services through agents, distributors, or through other types of infrastructure are subject to supervision by their national supervisors, including when those activities are carried out under an authorisation obtained under Directive (EU) 2013/36:

(a) electronic money issuers as defined in Article 2(3) of Directive 2009/110/EC73;

(b) payment service providers as defined in Article 4(11) of Directive (EU) 2015/2366, and

(c) crypto-asset service providers.

For the purposes of the first subparagraph, the supervisors of the Member State where the activities are carried out shall monitor effectively and ensure compliance with the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)], and with the rules adopted by that Member State for the implementation of those Regulations.

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[73] ***Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).***

2. By way of derogation from the first paragraph, supervision of those agents, distributors or other types of infrastructure shall be carried out by the supervisor of the Member State where the head office of the obliged entity is established provided that:

(a) the criteria set out in the regulatory technical standard referred to in Article 31a(2) are not met, and

(b) the supervisor of the Member State where those agents, distributors or other types of infrastructure are located notifies the supervisor of the Member State where the head office of the obliged entity is established that considering the limited infrastructure of the entity in its territory, supervision of those activities shall be carried out by the supervisor of the Member State where the obliged entity has its head office.

3. For the purposes of this Article, the supervisor of the Member State where the head office of the obliged entity is established and the supervisor of the Member State where the obliged entity operates under the freedom to provide services through agents, distributors or other types of infrastructure shall provide each other any information necessary to assess whether the criteria of the paragraph 2, point (a) are met, including on any change in the circumstances of the obliged entity that may have an impact on the satisfaction of those criteria.

4. Member States shall ensure that the supervisor of the Member State where the obliged entity has its head office informs the obliged entity within two weeks of receiving the notification under paragraph 2, point (b) that it will supervise the activities of the agents, distributors or other types of infrastructure through which the obliged entities operates under the freedom to provide services in another Member State, and of any subsequent change to their supervision.

5. The provisions of this Article shall not apply where AMLA exercises supervisory functions in accordance with Article 5(2) of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Article 30

Provision of information to obliged entities

1. Member States shall ensure that supervisors make information on money laundering and terrorist financing available to the obliged entities under their supervision.

2. The information referred to in paragraph 1 shall include the following:

(a) the supra-national risk assessment drawn up by the Commission pursuant to Article 7 and any relevant recommendation by the Commission on the basis of that Article;

(b) national or sectoral risk assessments drawn up pursuant to Article 8;

(c) relevant guidelines, recommendations and opinions issued by AMLA in accordance with Articles 43 and 44 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final];

(d) information on third countries identified pursuant to Section 2 of Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(e) any guidance and report produced by AMLA**,** other supervisors and, where relevant, the public authority overseeing self-regulatory bodies, the FIU or any other competent authority or international organisations and standard setters regarding money laundering and terrorist financing methods which might apply to a sector and indications which may facilitate the identification of transactions or activities at risk of being linked to money laundering and terrorist financing in that sector, as well as on obliged entities' obligations in relation to targeted financial sanctions.

2a. Member States shall ensure that supervisors carry out outreach activities, as appropriate, to inform the obliged entities under their supervision of their obligations.

3. Member States shall ensure that supervisors make information on persons or entities designated in relation to targeted financial sanctions available to the obliged entities under their supervision immediately.

Article 31

Risk-based supervision

1. Member States shall ensure that supervisors apply a risk-based approach to supervision. To that end, Member States shall ensure that they:

(a) have a clear understanding of the risks of money laundering and terrorist financing present in their Member State;

(b) assess all relevant information on the specific domestic and international risks associated with customers, products and services of the obliged entities;

(c) base the frequency and intensity of on-site, off-site and thematic supervision on the risk profile of obliged entities, and on the risks of money laundering and terrorist financing in that Member State. To that end, supervisors shall draw up annual supervisory programmes ***, which shall also take into account the timing and resources needed to react promptly in the event of objective and significant indications of breaches of the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)]***

2. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards 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. 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.

3. The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in paragraph 2 of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

4. By [1 year after the date of transposition of this Directive], AMLA shall issue guidelines addressed to supervisors on***:***

(a) the characteristics of a risk-based approach to supervision***;***

(b) the measures to be put in place within supervisors to ensure adequate and effective supervision, including to train their staff;

(c) ▌ the steps to be taken when conducting supervision on a risk-sensitive basis.

Where relevant, the Guidelines referred to in the first subparagraph shall take into account the outcomes of the assessments carried out pursuant to Articles 28 and 31 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

5. Member States shall ensure that supervisors take into account the degree of discretion allowed to the obliged entity, and appropriately review the risk assessments underlying this discretion, and the adequacy of its policies, internal controls and procedures.

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6a. Member States shall ensure that supervisors, prepare a detailed annual activity report and that a summary of that report is made publicly available. That summary shall not contain confidential information and shall include:

(a) the categories of obliged entities under the supervision and the number of obliged entities per category;

(b) a description of the powers the supervisors are entrusted with and tasks assigned to them as well as, where relevant, of the participation in the mechanisms referred to in Article 29(3a) and, for the lead supervisor, a summary of the coordination activities carried out;

(c) an overview of the supervisory activities carried out.

Article 31a

Contact points

1. For the purposes of Article 29(1) and of Article 29a(1), Member States may require electronic money issuers , payment service providers and crypto-assets service providers operating establishments in their territory other than a subsidiary or a branch, or operating in their territory through agents, distributors or other types of infrastructure under the freedom to provide services , to appoint a central contact point in their territory. That central contact point shall ensure, on behalf of the obliged entity , compliance with AML/CFT rules and shall facilitate supervision by supervisors, including by providing supervisors with documents and information on request.

2. By [two years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall set out the criteria for determining the circumstances in which the appointment of a central contact point pursuant to paragraph 1 is appropriate, and the functions of the central contact points.

3. The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in paragraph 2 of this Article in accordance with Articles 38 to 41 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

▌

Article 32

Disclosure to FIUs

1. Member States shall ensure that if, in the course of the checks carried out on the obliged entities, or in any other way, supervisors discover facts that could be related to money laundering***, its predicate offences*** or to terrorist financing, they shall promptly inform the FIU.

2. Member States shall ensure that supervisors empowered to oversee the stock, foreign exchange and financial derivatives markets, inform the FIU if they discover facts that could be related to money laundering or terrorist financing.

2a. Member States shall ensure that compliance with the requirements set out in the first and second paragraph of this Article does not replace any obligation for supervisory authorities to report to the relevant competent authorities any criminal activity they uncover or become aware of in the context of their supervisory activities.

Article 32a

Provision of information to FIUs

Member States shall ensure that supervisors communicate to the FIU at least the following information:

(a) the list of establishments operating in that Member State and of infrastructure under their supervision pursuant to Article 29a(1) of this Directive, and of any changes to those lists;

(b) any relevant findings indicating serious weaknesses of the reporting systems of obliged entities;

(c) the results of the risk assessments performed pursuant to Article 31, in aggregated form.

Article 33

General principles regarding supervisory cooperation

1. Member States shall ensure that supervisors cooperate with each other to the greatest extent possible, regardless of their respective nature or status. Such cooperation may include conducting, within the powers of the requested supervisor, inquiries on behalf of a requesting supervisor, and the subsequent exchange of the information obtained through such inquiries***, or facilitating the conduct of such enquiries by the requesting supervisor***.

Article 33a

Provision of information on cross-border activities

1. Member States shall ensure that the supervisors of the home Member State inform the supervisors of the host Member State as soon as possible, and in any case within three months of receiving a notification pursuant to Article 6a(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] of the activities that the obliged entity intends to carry out in the host Member State.

Any subsequent change notified to the supervisors of the home Member State pursuant to Article 6a(2) of that Regulation shall be notified to the supervisors of the host Member State as soon as possible and in any case within one month of receiving it.

2. Supervisors of the home Member State shall also share with the supervisors of the host Member State information on the activities effectively carried out by the obliged entity in the territory of the host Member State that they receive in the context of their supervisory activities, including information submitted by the obliged entities in response to supervisory questionnaires, and any relevant information connected to it.

The information referred to in the first subparagraph shall be exchanged at least annually. Where that information is provided in an aggregated form, Member States shall ensure that the supervisors of the home Member State respond promptly to any request for additional information by the supervisors of the host Member State.

By way of derogation from the second subparagraph, Member States shall ensure that supervisors of the home Member State inform the supervisors of the host Member State immediately upon receiving notification by obliged entities pursuant to Article 6a(1), first subparagraph, third sentence, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] that activities in the host Member State have commenced.

Article 34

Provisions related to cooperation in the context of group supervision

1. In the case of credit and financial institutions that are part of a group, Member States shall ensure that, for the purposes laid down in Article 29(1), financial supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status. They shall also cooperate with AMLA when it exercises supervisory functions in accordance with Article 5(2) of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** ▌.

2. Except where AMLA exercises supervisory functions in accordance with Article 5(2) of Regulation [***please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final***▌], Member States shall ensure that the financial supervisors of the home Member State supervise the effective implementation of the group-wide policies, ▌***procedures and controls*** referred to in ▌***Chapter II, Section 2*** of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final***▌]. Member States shall also ensure that financial supervisors of the host Member State supervise the compliance of the establishments located in the territory of ▌***their*** Member State with the requirements of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final***▌]***, Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)], and with the national rules adopted by that Member State for the implementation of those regulations***.

3. For the purposes of this Article, and except in cases where AML/CFT supervisory colleges are established in accordance with Article 36, Member States shall ensure that financial supervisors provide one another with any information they require for the exercise of their supervisory tasks, whether on request or on their own initiative. In particular, financial supervisors shall exchange any information that could significantly influence the assessment of the inherent or residual risk exposure of a credit or financial institution in another Member State, including:

(a) identification of the group's legal, governance and organisational structure, covering all subsidiaries and branches;

(aa) relevant information on the beneficial owners and senior management, including outcomes of fit and proper checks, whether carried out under this Directive or under other Union acts;

(b) ▌***policies***, ***procedures and internal controls*** ▌ in place within the group;

(ba) customer due diligence information, including customer files and records of transactions;

(c) adverse developments in relation to the parent undertaking, subsidiaries or branches, which could seriously affect other parts of the group;

(d) ▌***pecuniary sanctions that financial supervisors intend to impose and administrative measures that*** financial supervisors ***intend to take*** in accordance with Section 4 of this Chapter ▌.

Member States shall also ensure that financial supervisors are able to conduct, within their powers, inquiries on behalf of a requesting supervisor, and to share the information obtained through such inquiries***, or to facilitate the conduct of such enquiries by the requesting supervisor***.

4. By ***[2 years after the date of entry into force of this Directive]*** ▌, AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall detail the respective duties of the home and host supervisors, and the modalities of cooperation between them.

The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in the first sub-paragraph in accordance with Articles 38 to 41 of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** ▌.

5. Financial supervisors may refer to AMLA any of the following situations:

(a) where a financial supervisor has not communicated the information referred to in paragraph 3;

(b) where a request for cooperation has been rejected or has not been acted upon within a reasonable time.

(ba) where there is a disagreement on the basis of objective reasons on breaches identified and on the pecuniary sanctions or administrative measures to be imposed on the entity or group to remedy breaches identified.

AMLA may act in accordance with the powers conferred on it under ▌ ***Article 30b*** of Regulation [***please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final*** ▌]. When doing so, AMLA shall provide its opinion on the subject-matter of the request within one month.

6. Member States shall ensure that the provisions of this Article also apply to the supervision of***:***

(a) groups of obliged entities ▌ ***in the non-financial sector;***

(b) obliged entities operating under the freedom to provide services without any infrastructure in another Member States than the Member State where they are established, where the supervision of activities in that other Member State is carried out by the supervisors of that other Member State pursuant to Article 29(1), second subparagraph.

Where the situations referred to in paragraph 5 arise in relation to non-financial supervisors, AMLA may act in accordance with the powers conferred on it under Article 32a of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

▌ Member States shall also ensure that in cases where obliged entities ▌ ***in the non-financial sector*** are part of structures which share common ownership, management or compliance control, including networks or partnerships, ▌ ***non-financial supervisors cooperate*** and exchange ▌ information▌ .

▌

Article 34b

Supervisory cooperation regarding obliged entities carrying out cross-border activities

1. Where obliged entities that are not part of a group carry out cross-border activities as referred to in Article 39a(1) and supervision is shared between the supervisors of the home and host Member States pursuant to Articles 29(1) and 29a(1), Member States shall ensure that those supervisors cooperate with each other to the greatest extent possible and assist each other in the performance of supervision pursuant to Articles 29(1) and 29a(1).

For the purposes of the first subparagraph, and except in cases where AML/CFT supervisory colleges are established in accordance with Article 36, Member States shall ensure that supervisors:

(a) provide one another with any information they require for the exercise of their supervisory tasks, whether on request or on their own initiative, including the information referred to in Article 34(2), points (a), (b) and (d), where that information is necessary for the performance of supervisory tasks;

(b) inform one another of any adverse development in relation to the obliged entity, its establishments or types of infrastructure, which could seriously affect the entity's compliance with applicable requirements, and pecuniary sanctions or administrative measures they intend to take in accordance with Section 4 of this Chapter;

(c) are able to conduct, within their powers, inquiries on behalf of a requesting supervisor, and to share the information obtained through such inquiries, or to facilitate the conduct of such enquiries by the requesting supervisor.

The provisions of this paragraph shall also apply in the case of obliged entities that are established in a single Member State and operate under the freedom to provide services in another Member State without any infrastructure there, where the supervision of activities in that other Member State is carried out by the supervisors of that Member State pursuant to Article 29(1), second subparagraph.

2. Where supervision of the obliged entity and any of its types of infrastructure in other Member States is entrusted to the supervisors of the home Member State pursuant to Article 29a(2), Member States shall ensure that the supervisors of the home Member State inform regularly the supervisors of the host Member State of the measures in place within the obliged entity, and compliance of that entity with applicable requirements, including those in place in the host Member State. Where serious, repeated or systematic breaches are identified, the supervisors of the home Member State shall promptly inform the supervisors of the host Member State of those breaches and of any pecuniary sanctions it intends to impose and administrative measures it intends to take to remedy them.

Member States shall ensure that supervisors of the host Member State lend assistance to the supervisors of the home Member State to ensure the verification of compliance by the obliged entity with legal requirements. In particular, Member States shall ensure that supervisors of the host Member State inform the supervisors of the home Member State of any serious doubts that they have regarding compliance of the obliged entity with applicable requirements, and that they share any information they hold in this regard with the supervisors of the home Member State.

The provisions of this paragraph shall also apply in the case of obliged entities that are established in a single Member State and operate under the freedom to provide services in another Member State without any infrastructure, except for cases where the supervision of activities in that other Member State is carried out by the supervisors of that other Member State pursuant to Article 29(1), second subparagraph.

3. Supervisors may refer to AMLA any of the following situations:

(a) where a supervisor has not communicated the information referred to in paragraph 1, second subparagraph, points (a) and (b) or paragraph 2, first and second subparagraph;

(b) where a request for cooperation has been rejected or has not been acted upon within a reasonable time;

(c) where there is a disagreement on the basis of objective reasons on breaches identified and on the pecuniary sanctions or administrative measures to be imposed on the entity to remedy breaches identified.

AMLA may act in accordance with the powers conferred on it under Article 30b and 32a of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. When doing so, AMLA shall provide its opinion on the subject-matter of the request within one month.

Article 35

Exchange of information in relation to implementation of group policies in third countries

Supervisors, including AMLA, shall inform each other of instances in which the law of a third country does not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final*** ▌]. In such cases, coordinated actions may be taken by supervisors to pursue a solution. In assessing which third countries do not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final*** ▌], supervisors shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including professional secrecy, an insufficient level of data protection and other constraints limiting the exchange of information that may be relevant for that purpose.

Section 2

Cooperation within AML/CFT supervisory colleges and with counterparts in third countries

Article 36

AML/CFT supervisory colleges ***in the financial sector***

1. Member States shall ensure that dedicated AML/CFT supervisory colleges are established ***by the financial supervisor in charge of the parent undertaking of a group of credit or financial institutions or of the head office of a credit or financial institution*** in any of the following situations:

(a) where a credit or financial institution***, including groups thereof,*** has set up establishments in at least two different Member States other than the Member State where its head office is situated;

(b) where a third-country credit or financial institution has set up establishments in at least three Member States.

1a. The permanent members of the college shall be:

(a) the financial supervisor in charge of the parent undertaking or of the head office;

(b) the financial supervisors in charge of establishments in host Member States;

(c) the financial supervisors in charge of infrastructure in host Member States pursuant to Article 29a.

▌

1b. The provisions of this Article shall not apply where AMLA exercises supervisory functions in accordance with Article 5(2) of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

1c. The activities of the AML/CFT supervisory colleges shall be proportionate to the level of the money laundering and terrorist financing risks to which the credit or financial institution or the group is exposed, and to the scale of its cross-border activities.

2. For the purposes of paragraph 1, Member States shall ensure that financial supervisors identify:

(a) all credit ▌ ***or*** financial institutions ▌ ***that have been authorised in their Member State and*** that have ▌ ***establishments in other*** Member ▌ ***States or third countries***;

(b) all establishments set up by those institutions in other ▌ ***Member States or third countries***;

(c) establishments set up in their territory by credit ▌ ***or*** financial institutions from other Member States or third countries.

2a. In situations other than those covered by Article 29a, where credit or financial institutions carry out activities in other Member States under the freedom to provide services, the financial supervisor of the home Member State may invite the financial supervisors of those Member States to participate in the college as observers.

2b. Where a group of credit or financial institutions includes any of the obliged entities under Article 3(3) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], the financial supervisor setting up the college shall invite the supervisors of those obliged entities to participate in the college.

3. Members States may allow the establishment of AML/CFT supervisory colleges when a credit or financial institution established in the Union has set up establishments in at least two third countries. Financial supervisors may invite their counterparts in those third countries to set up such college. The financial supervisors participating in the college shall establish a written agreement detailing the conditions and procedures of the cooperation and exchange of information.

4. ▌ ***Member States shall ensure that colleges are used, among others,*** for exchanging information, providing mutual assistance or coordinating the supervisory approach to the ***group or*** institution, including, where relevant, the taking of appropriate and proportionate measures to address serious breaches of the requirements of Regulation [***please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final***▌]***, Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)], and of national rules adopted by the Member States for the implementation of those regulations*** that are detected ***at the level of the group or of the credit or financial institution or*** across the establishments set up by the ***group or*** institution in the jurisdiction of a supervisor participating in the college.

5. AMLA ▌ ***may*** attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 29 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]***. Where AMLA decides to participate in the meetings of an AML/CFT supervisory college, it shall have the status of an observer.***

5a. Financial supervisors may allow their counterparts in third countries to participate as observers in AML/CFT supervisory colleges in the case referred to in paragraph 1, point (b) or where Union groups or credit or financial institutions operate branches and subsidiaries in those third countries, provided that:

(a) the third-country counterparts submit a request for participation and the members of the college agree with their participation, or the members of the college agree to invite those third-country counterparts;

(b) Union data protection rules concerning data transfers are complied with;

(c) the third-country counterparts sign the written agreement referred to in paragraph 3, third sentence, and share within the college the relevant information they possess for the supervision of the credit or financial institutions or of the group;

(d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1) and is used solely for the purposes of performing the supervisory tasks of the participating financial supervisors or of the counterparts in third countries.

Member States shall ensure that financial supervisors setting up the colleges carry out an assessment of whether the conditions of the first subparagraph are met and submit it to the permanent members of the college. That assessment shall be carried out prior to the third-country counterpart being allowed to join the college and may be repeated as necessary thereafter. The financial supervisors of the home Members may seek the support of AMLA for the performance of that assessment.

5b. Where deemed necessary by the permanent Members of the college, additional observers may be invited, provided that confidentiality requirements are complied with. Observers may include prudential supervisors, including the European Central Bank acting in accordance with Regulation (EU) 1024/2013, as well as the European Supervisory Authorities and FIUs.

5c. Where the members of a college disagree on the measures to be taken in relation to an obliged entity, they may refer the matter to AMLA and request its assistance in accordance with Article 30b of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

6. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify***:***

(a) the general conditions for the functioning***, on a risk-sensitive basis,*** of the AML/CFT supervisory colleges, including the terms of cooperation between ▌***permanent members and with observers***, and the operational functioning of such colleges***;***

(b) the template for the written agreement to be signed by financial supervisors pursuant to paragraph 3, third sentence of this Article;

(c) any additional measure to be implemented by the colleges when groups include obliged entities covered under Article 3(3) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(d) conditions for the participation of financial supervisors in third countries.

The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 38 to 41 of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** ▌.

Article 36a

AML/CFT supervisory colleges in the non-financial sector

1. Member States shall ensure that the non-financial supervisors in charge of the parent undertaking of a group of obliged entities in the non-financial sector or of the head office of an obliged entity in the non-financial sector are able to set up dedicated AML/CFT supervisory colleges in any of the following situations:

(a) where an obliged entity in the non-financial sector, or a group thereof, has set up establishments in at least two different Member States other than the Member State where its head office is situated;

(b) where a third-country entity subject to AML/CFT requirements other than a credit or financial institution has set up establishments in at least three Member States.

The provisions of this paragraph shall also apply to structures which share common ownership, management or compliance control, including networks or partnerships to which group-wide requirements apply pursuant to Article 13 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

The permanent members of the college shall be:

(a) the non-financial supervisor in charge of the parent undertaking or of the head office;

(b) the non-financial supervisors in charge of establishments in host Member States or of supervision of that obliged entity in other Member States in the cases covered by Article 29(1), second subparagraph.

2. Member States shall ensure that where the non-financial supervisor in charge of the parent undertaking of a group or of the office of an obliged entity does not set up a college, non-financial supervisors referred to in paragraph 1, second subparagraph, point (b) can submit an opinion that, having regard to the money laundering and terrorist financing risks to which the obliged entity or group is exposed and the scale of its cross-border activities, a college should be set up. That opinion shall be submitted by at least two non-financial supervisors and addressed to:

(a) the non-financial supervisor in charge of the parent undertaking of a group or of the office of an obliged entity;

(b) AMLA;

(c) all other non-financial supervisors;

(d) where the non-financial supervisor referred to under point (a) is a self-regulatory body, the public authority in charge of overseeing that self-regulatory body pursuant to Article 38.

3. Where, after an opinion is submitted pursuant to paragraph 2, the non-financial supervisor in charge of the parent undertaking of a group or of the office of an obliged entity still considers that it is not necessary to set up a college, Member States shall ensure that the other non-financial supervisors are able to set up the college, provided that it is composed of at least two members. In those cases, those non-financial supervisors shall decide among them who is the supervisor in charge of the college. The non-financial supervisor in charge of the parent undertaking of a group or of the office of an obliged entity shall be informed of the activities of the college and be able to join the college at any time.

4. For the purposes of paragraph 1, Member States shall ensure that non-financial supervisors identify:

(a) all obliged entities in the non-financial sector that have their head office in their Member State and that have establishments in other Member States or third countries;

(b) all establishments set up by those obliged entities in other Member States or third countries;

(c) establishments set up in their territory by obliged entities in the non-financial sector from other Member States or third countries.

5. Where obliged entities in the non-financial sector carry out activities in other Member States under the freedom to provide services, the non-financial supervisor of the home Member State may invite the non-financial supervisors of those Member States to participate in the college as observers.

6. Where a group in the non-financial sector includes any credit or financial institution, but their presence in the group does not meet the threshold for setting up a college pursuant to Article 36, the supervisor setting up the college shall invite the financial supervisors of those credit or financial institutions to participate in the college.

7. Members States may allow the establishment of AML/CFT supervisory colleges when an obliged entity in the non-financial sector established in the Union has set up establishments in at least two third countries. Non-financial supervisors may invite their counterparts in those third countries to set up such college. The non-financial supervisors participating in the college shall establish a written agreement detailing the conditions and procedures of the cooperation and exchange of information.

Where the college is set up in relation to obliged entities referred to in Article 3(3), points (a) and (b) or groups thereof, the written agreement referred to in the first subparagraph shall also include procedures to ensure that no information collected pursuant to Article 17(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] is shared, unless the third subparagraph of that paragraph applies.

8. Member States shall ensure that colleges are used, among others, for exchanging information, providing mutual assistance or coordinating the supervisory approach to the group or obliged entity, including, where relevant, the taking of appropriate and proportionate measures to address serious breaches of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Regulation [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)], and of national rules adopted by the Member States for the implementation of those regulations that are detected at the level of the group or of the obliged entity, or across the establishments set up by the group or obliged entity in the jurisdiction of a supervisor participating in the college.

9. AMLA may attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 31a of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. Where AMLA decides to participate in the meetings of an AML/CFT supervisory college, it shall have the status of an observer.

10. Non-financial supervisors may allow their counterparts in third countries to participate in AML/CFT supervisory colleges as observers in the case referred to in paragraph 1, point (b) or where Union obliged entities in the non-financial sector or groups thereof operate branches and subsidiaries in those third countries, provided that:

> ***(a) the third-country counterparts submit a request for participation and the members of the college agree with their participation, or the members of the college agree to invite those third-country counterparts;***
>
> ***(b) Union data protection rules concerning data transfers are complied with;***
>
> ***(c) the third-country counterparts sign the written agreement referred to in paragraph 6, third sentence, and share within the college the relevant information they possess for the supervision of the obiged entity or of the group;***

(d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1) and is used solely for the purposes of performing the supervisory tasks of the participating non-financial supervisors or of the counterparts in third countries.

Member States shall ensure that non- financial supervisors in charge of the parent undertaking of a group or of the head office of an obliged entity or, in the cases covered by paragraph 3, of the college carry out an assessment of whether the conditions of the first subparagraph are met and submit it to the permanent members of the college. That assessment shall be carried out prior to the third-country counterpart being allowed to join the college and may be repeated as necessary thereafter.

The non-financial supervisors in charge of the assessment may seek the support of AMLA for its performance.

11. Where deemed necessary by the permanent Members of the college, additional observers may be invited, provided that confidentiality requirements are complied with. Observers may include FIUs.

12. Where the members of a college disagree on the measures to be taken in relation to an obliged entity, they may refer the matter to AMLA and request its assistance in accordance with Article 32a of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide its opinion on the matter of disagreement within two months.

13. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify:

(a) the general conditions for the functioning of the AML/CFT supervisory colleges in the non-financial sector, including the

terms of cooperation between permanent members and with observers, and the operational functioning of such colleges;

(b) the template for the written agreement to be signed by non-financial supervisors pursuant to paragraph 3, third sentence of

this Article;

(c) conditions for the participation of non-financial supervisors in third countries;

(d) any additional measure to be implemented by the colleges when groups include credit or financial institutions.

14. By [2 years after the date of transposition of this Directive] and every two years thereafter, AMLA shall issue an opinion on the functioning of AML/CFT supervisory colleges in the non-financial sector. That opinion shall include:

(a) an overview of the colleges set up by non-financial supervisors;

(b) an assessment of the actions taken by those colleges and the level of cooperation attained, including difficulties faced in the functioning of the colleges.

Article 37

Cooperation with ▌ supervisors in third countries

1. Member States ▌ ***shall ensure that*** supervisors ***are able*** to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries. Such cooperation agreements shall comply with applicable data protection rules ▌ and be concluded on the basis of reciprocity and ▌ subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1). Confidential information exchanged in accordance with those cooperation agreements shall be used for the purpose of performing the supervisory tasks of those authorities only.

Where the information exchanged originates in another Member State, it shall only be disclosed with the explicit consent of the ▌ supervisor which shared it and, where appropriate, solely for the purposes for which that supervisor gave its consent.

2. For the purposes of paragraph 1, AMLA ▌ ***shall*** lend such assistance as ▌ necessary to assess the equivalence of professional secrecy requirements applicable to the third country counterpart.

3. Member States shall ensure that ▌ supervisors notify any agreement signed pursuant to this Article to AMLA within one month of its signature.

3a. By [5 years after the entry into force of this directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the template to be used for the conclusion of cooperation agreements referred to in paragraph 1.

3b. The Commission is empowered to adopt the implementing technical standards referred to in paragraph 4 of this Article in accordance with Article 42 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD).

Section 3

Specific provisions relating to self-regulatory bodies

Article 38

Oversight of self-regulatory bodies

1. Where Member States decide, pursuant to Article 29(3), to allow self-regulatory bodies to perform supervision of the entities referred to in Article 3, points (3)(a), ▌ ***and (b)***, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.

▌

2. The authority overseeing self-regulatory bodies shall be responsible for ***ensuring an adequate and effective supervisory system for the obliged entities referred to in the first paragraph, including by***:

(a) verifying that any self-regulatory body performing the functions or aspiring to perform the functions referred to in Article 29(1) satisfies the requirements of paragraph 3 of that Article;

(b) issuing guidance as regards the performance of the functions referred to in Article 29(1);

(c) ensuring that self-regulatory bodies perform their functions under Section 1 of this Chapter ▌ ***adequately and effectively***;

(d) reviewing the exemptions granted by self-regulatory bodies from the obligation to draw up an individual documented risk assessment pursuant to Article 29(4), point (b).

(da) regularly informing self-regulatory bodies of any activity planned or task carried out by AMLA that is relevant for the performance of their supervisory function, and in particular the planning of peer reviews in accordance with Article 31 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]

3. Member States shall ensure that the authority overseeing self-regulatory bodies is granted adequate powers to discharge its responsibilities under paragraph 2. As a minimum, Member States shall ensure that the authority has the power to:

(a) compel the production of any information that is relevant to monitoring compliance and performing checks, except for any information collected by obliged entities referred to in Article 3, points (3)(a), ▌ ***and (b)***, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] in the course of ascertaining the legal position of their client***, subject to the conditions of article 17(1a) of that Regulation***, or for performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings; whether such information was collected before, during or after such proceedings;

(b) issue instructions to a self-regulatory body for the purpose of remedying a failure to perform its functions under Article 29(1) or to comply with the requirements of paragraph ▌ ***5*** of that Article, or to prevent any such failures. When issuing such instructions, the authority shall consider any relevant guidance it provided or that has been provided by AMLA.

3a. Member States shall ensure that the authorities overseeing self-regulatory bodies perform their functions free of undue influence.

Member States shall also ensure that the staff of the authorities overseeing self-regulatory bodies are bound by professional secrecy requirements equivalent to those laid out in Article 50, and that they maintain high professional standards, including high professional standards of confidentiality and data protection, and are of high integrity. Member States shall ensure that the authorities overseeing self-regulatory bodies have in place procedures to prevent and manage conflicts of interest.

3b. Member States may provide for effective, proportionate and dissuasive measures or sanctions for failures by self-regulatory bodies to comply with any request or instruction or other measure taken by the authority pursuant to paragraphs 2 or 3.

4. Member States shall ensure that the authority overseeing self-regulatory bodies informs the authorities competent for investigating and prosecuting criminal activities timely, directly or through the FIU, of any breaches which are subject to criminal sanctions that it detects in the performance of its tasks.

5. The authority overseeing self-regulatory bodies shall publish an annual report containing information about:

(a) the number and nature of breaches detected by each self-regulatory body and the administrative measures or sanctions imposed on obliged entities;

(b) the number of suspicious transactions reported by the entities subject to supervision by each self-regulatory body to the FIU, whether submitted directly pursuant to Article 50(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], or forwarded by each self-regulatory body to the FIU pursuant to Article 51(1) of that Regulation;

(c) the number and description of measures taken under Article 40 by each self-regulatory body to monitor compliance by obliged entities with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] referred to in Article 40(1);

(d) the number and description of measures taken by the authority overseeing self-regulatory bodies under this Article and the number of instructions issued to self-regulatory bodies.

Such report shall be made available on the website of the authority overseeing self-regulatory bodies and submitted to the Commission and AMLA.

Section 4 ▌

Pecuniary sanctions and ***administrative*** measures

Article 39

General provisions

1. Member States shall ensure that obliged entities can be held liable for breaches of the Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ in accordance with this Section.

2. Without prejudice to the right of Member States to provide for and impose criminal sanctions, Member States shall lay down rules on ▌ ***pecuniary*** sanctions and ***administrative*** measures and ensure that supervisors may impose such ***pecuniary*** sanctions and ***administrative*** measures with respect to breaches of ▌ ***Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] or [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*** and shall ensure that they are applied. Any resulting sanction or measure imposed pursuant to this Section shall be effective, proportionate and dissuasive.

2a. By way of derogation from paragraph 2, where the legal system of the Member State does not provide for administrative sanctions, this Article may be applied in such a manner that the pecuniary sanction is initiated by the supervisor and imposed by judicial authorities, while ensuring that those legal remedies are effective and have an equivalent effect to the pecuniary sanctions imposed by supervisors. In any event, the pecuniary sanctions imposed shall be effective, proportionate and dissuasive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [please insert date - date of transposition of this Directive] and, without delay, any subsequent amendment law or amendment affecting them.

3. In the event of a breach of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** , Member States shall ensure that where obligations apply to legal persons, ***pecuniary*** sanctions and ***administrative*** measures can be applied ***not only to the legal person, but also*** to the senior management and to other natural persons who under national law are responsible for the breach.

Member States shall ensure that where supervisors identify breaches which are subject to criminal sanctions, they inform the authorities competent for investigating and prosecuting criminal activities in a timely manner.

4. ▌ ***Pecuniary sanctions and*** administrative ▌ measures in accordance with this Directive and with national law▌ ***shall be imposed*** in any of the following ways:

(a) directly ***by the supervisors***;

(b) in collaboration ▌ ***between the supervisors and*** other authorities;

(c) under ▌ ***the*** responsibility ***of the supervisors*** by delegation to such other authorities;

(d) by application ***by the supervisors*** to the competent judicial authorities.

By ***[3 months after the deadline for transposition of this Directive]***▌ , Member States shall notify to the Commission and AMLA the information as regards the arrangements relating to the imposition of ▌ ***pecuniary*** sanctions or ***administrative*** measures pursuant to this paragraph, including, where relevant, information whether certain sanctions or measures require the recourse to a specific procedure.

5. Member States shall ensure that, when determining the type and level of ▌ ***pecuniary*** sanctions or ***administrative*** measures, supervisors take into account all relevant circumstances, including where applicable:

(a) the gravity and the duration of the breach;

(aa) the number of instances of the same breach;

(b) the degree of responsibility of the natural or legal person held responsible;

(c) the financial strength of the natural or legal person held responsible, including in light of its total turnover or annual income;

(d) the benefit derived from the breach by the natural or legal person held responsible, insofar as it can be determined;

(e) the losses to third parties caused by the breach, insofar as they can be determined;

(f) the level of cooperation of the natural or legal person held responsible with the competent authority;

(g) previous breaches by the natural or legal person held responsible.

5a. Member States shall ensure that legal persons can be held liable for the breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] or [proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] committed on their behalf or for their benefit by any person, acting individually or as part of a body of that legal person and having a leading position within the legal person, based on any of the following:

(a) a power to represent the legal person;

(b) an authority to take decisions on behalf of the legal person;

(c) an authority to exercise control within the legal person.

5b. Member States shall ensure that legal persons can be held liable where the lack of supervision or control by the persons referred to in paragraph 5 of this Article has made possible the commission of the breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] or [proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] committed on their behalf or for their benefit by a person under its authority.

6. In the exercise of their powers to impose ▌ ***pecuniary*** sanctions and ***administrative*** measures, supervisors shall cooperate closely ***and, where relevant, coordinate their actions with other authorities as appropriate,*** in order to ensure that those ▌ ***pecuniary*** sanctions or ***administrative*** measures produce the desired results and coordinate their action when dealing with cross-border cases.

7. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define***:***

(a) indicators to classify the level of gravity of breaches▌***;***

(b) criteria to be taken into account when setting the level of ▌ ***pecuniary*** sanctions or taking administrative measures pursuant to this Section***;***

(c) a methodology for the application of periodic penalty payments pursuant to Article 41a, including their frequency.

The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 38 to 41 of Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** ▌ .

8. By [2 years after the date of entry into force of this Directive], AMLA shall issue guidelines on the base amounts for the imposing of pecuniary sanctions relative to turnover, broken down per type of breach and category of obliged entities.

Article 39a

Supervisory measures towards establishments of obliged entities and certain activities carried out under the freedom to provide services

1. In the case of establishments of obliged entities that do not as such qualify as credit or financial institutions pursuant to Article 2, points (5) and (6) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]or of types of infrastructure of obliged entities over which the supervisor of the host Member State exercises supervision pursuant to Article 29a(1), the provisions of paragraphs 2 to 5 shall apply.

2. Where the supervisors of the host Member State identify breaches of requirements, they shall request the obliged entities operating through the establishments or types of infrastructure as referred to in paragraph 1 to comply with the applicable requirements and inform the supervisors of the home Member State of the breaches identified within that obliged entity and of the request to comply.

3. Where the obliged entities fail to take the necessary action, the supervisors of the host Member State shall inform the supervisors of the home Member State accordingly.

The supervisors of the home Member State shall act promptly and take all appropriate measures to ensure that the obliged entity concerned remedies the breaches detected in its establishments or types of infrastructure in the host Member State. The supervisors of the home Member State shall inform the supervisors of the host Member State of any actions taken pursuant to this paragraph.

4. By way of derogation from paragraph 3 and in addition to paragraph 2, in situations of serious, repeated or systematic breaches by obliged entities operating through establishments or other types of infrastructure in their territory as referred to in paragraph 1 that require immediate remedies, supervisors of the host Member State shall be allowed at their own initiative to take appropriate and proportionate measures to address those serious breaches. Those measures shall be temporary and be terminated when the breaches identified are addressed, including with the assistance of or in cooperation with the supervisors of the home Member State of the obliged entity.

Member States shall ensure that the supervisors of the host Member State inform the supervisor of the home Member State of the obliged entity immediately upon identification of the serious, repeated or systematic breaches and upon the imposition of any measure pursuant to the first subparagraph of this paragraph, unless measures are imposed in cooperation with the supervisors of the home Member State.

5. Where the supervisors of the home and host Member States disagree on the measures to be taken in relation to an obliged entity, they may refer the matter to AMLA and request its assistance in accordance with Article 30b and 32a of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide its opinion on the matter of disagreement within one month.

Article 40

▌***Pecuniary*** sanctions

1. Member States shall ensure that ▌***pecuniary*** sanctions are ▌***imposed*** to obliged entities for serious, repeated or systematic breaches***, whether committed intentionally or negligently,*** ▌of the requirements laid down in the following provisions of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]:***▌

(a) Chapter ▌***II (internal policies, procedures and controls of obliged entities***);

(b) Chapter ▌***III (customer due diligence***);

(c) ▌***Chapter V (reporting obligations***);

(d) ▌***Article 56 (record-retention***).

(da) Member States shall also ensure that pecuniary sanctions can be imposed where obliged entities do not comply with administrative measures applied to them pursuant to Article 41 or for breaches that are not serious, repeated or systematic.

2. Member States shall ensure that in the cases referred to in paragraph 1, ***first subparagraph,*** the maximum▌ pecuniary sanctions that can be ▌***imposed*** amount at least to twice the amount of the benefit derived from the breach where that benefit can be determined, or at least EUR 1 000 000***, whichever is higher.***

For Member States whose currency is not the euro, the value referred to in the first subparagraph shall be the corresponding value in the national currency on [please insert date of entry into force of this Directive].

3. Member States shall ensure that, by way of derogation from paragraph 2, where the obliged entity concerned is a credit institution or financial institution, the following sanctions can also be applied:

(a) in the case of a legal person, maximum pecuniary sanctions of at least EUR 10 000 000 or***, in the Member States whose currency is not the euro, the corresponding value in the national currency on [please insert date of entry into force of this Directive], or 10%*** of the total annual turnover according to the latest available accounts approved by the management body***, whichever is higher***; where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and of the Council[74], the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

[74] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(b) in the case of a natural person, maximum ▌ pecuniary sanctions of at least EUR 5 000 000 or, in the Member States whose currency is not the euro, the corresponding value in the national currency on ***[please insert the date of entry into force of this Directive]*** ▌ .

4. Member States may empower competent authorities to impose ▌ pecuniary sanctions exceeding the amounts referred to in paragraphs 2 and 3.

▌

5. Member States shall ensure that, when determining the amount of the pecuniary sanction, the ability of the entity to pay the sanction is taken into account and that, where the pecuniary sanction may affect compliance with prudential regulation, supervisors consult the authorities competent to supervise compliance by the obliged entities with relevant Union acts.

Article 41

Administrative measures

1. ***Member States shall ensure that*** supervisors ***are able to impose administrative measures on an obliged entity where they*** identify***:***

(a) breaches of requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] or Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final], either in combination with pecuniary sanctions for*** serious***, repeated and systematic breaches, or on their own;***

(b) weaknesses in the internal policies, procedures and controls of the obliged entity that are likely to result in breaches of the requirements referred to in point (a) and administrative measures ***can prevent the occurrence of those breaches or reduce the risk thereof;***

(c) that the ***internal policies, procedures and controls in place in the obliged entity are not commensurate to the risks of money laundering, its predicate offences or terrorist financing to which the entity is exposed.***

Member States shall ensure that the supervisors are able at least to:

(a) issue recommendations;

(b) order obliged entities to comply, including to implement specific corrective measures;

(c) issue a public statement which identifies the natural or legal person and the nature of the breach;

(d) issue an order requiring the natural or legal person to cease the conduct and to desist from repetition of that conduct;

(da) restrict or limit the business, operations or network of institutions comprising the obliged entity, or to require the divestment of activities

(e) where an obliged entity is subject to an authorisation, withdraw or suspend the authorisation;

(f) ▌***require changes in the governance structure***.

2. When taking the administrative measures referred to in paragraph 1, supervisors shall be able to:

(a) ▌ ***require the provision*** of any ▌ ***data or information*** necessary for the ▌ ***fulfilment*** of their tasks ***pursuant to this Chapter without undue delay, to require submission of any document, or impose additional or more frequent reporting requirements***▌ ;

(b) require the reinforcement of the ▌ ***internal policies, procedures and controls***;

(c) require the obliged entity to apply a specific policy or requirements relating to ***categories of or*** individual clients, transactions***, activities or delivery channels*** ▌ that pose high risks;

(d) require the implementation of measures to bring about the reduction of the money laundering or terrorist financing risks inherent in the activities and products of the obliged entity.

(da) impose a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities.

3. The administrative measures referred to in paragraph 1 shall be accompanied***, where relevant, by*** ▌ binding ▌ ***deadlines*** for their ▌ implementation. Member States shall ensure that supervisors follow up and assess the ▌ implementation by the obliged entity of the actions requested.

4. Member States may empower supervisors to impose additional types of administrative measures to those referred to in paragraph 1.

Article 41a

Periodic penalty payments

1. Member States shall ensure that, where obliged entities fail to comply with administrative measures applied by the supervisor pursuant to points (b), (d), (da) and (f) of Article 41(1) within the deadlines set, supervisors are able to impose periodic penalty payments in order to compel compliance with those administrative measures.

2. The periodic penalty payments shall be effective and proportionate. The periodic penalty payments shall be imposed until the obliged entity or person concerned complies with the relevant administrative measures.

3. Notwithstanding paragraph 2, the amount of a periodic penalty payment shall not exceed 3 % of the average daily turnover in the preceding business year or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year.

4. Periodic penalty payments may be imposed for a period of no more than six months following the supervisor's decision. Where, upon expiry of that period, the obliged entity has not yet complied with the administrative measure, Member States shall ensure that supervisors can apply periodic penalty payments for an additional period of no more than six months.

5. Member States shall ensure that a decision imposing a periodic penalty payment may be taken as of the date of the date of the application of the administrative measure.

The periodic penalty payment shall apply as of the date when that decision is imposed.

Article 42

Publication of ***pecuniary sanctions,*** ▌ administrative ▌ ***measures and periodic penalty payments***

1. Member States shall ensure that ▌ supervisors ***publish*** on their official website▌ ***, in an accessible format, decisions imposing pecuniary sanctions, administrative measures referred to under Article 41(1), second subparagraph, points (c) to (f) taken pursuant to Article 41(1), first subparagraph point (a) or periodic penalty payments***.

1a. Member States shall ensure that the decision referred to in paragraph 1 is published by the supervisor immediately after the person sanctioned is informed of that decision.

By way of derogation from the first subparagraph, where the publication concerns administrative measures against which there is an appeal and that do not aim to remedy serious, repeated and systematic breaches, Member States may allow deferring the publication of those administrative measures until expiry of the deadline for lodging an appeal.

Where the publication refers to of decisions against which there is an appeal, supervisors shall also publish, immediately, on their official website such information and any subsequent information on an appeal, and the outcome of such appeal. Any decision annulling a previous decision to impose a pecuniary sanction, an administrative measure, or a periodic penalty payment, shall also be published.

1b. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible, as well as, for pecuniary sanctions and periodic penalty payments, their amounts. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature, or which are taken pursuant to Article 41(1), points (a) and (c).

Where the publication of the identity of the persons responsible as referred to in the first ▌***paragraph*** or the personal data of such persons is considered by the supervisors to be disproportionate following a case-by-case assessment, or where publication jeopardises the stability of financial markets or an on-going investigation, supervisors shall▌:

(a) delay the publication of the decision ▌ until the moment at which the reasons for not publishing it cease to exist;

(b) publish the decision ▌ on an anonymous basis in a manner in accordance with national law, if such anonymous publication ensures an effective protection of the personal data concerned; in that case, the publication of the relevant data may be postponed for a reasonable period of time if it is provided that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision ▌ at all in the event that the options set out in points (a) and (b) are considered insufficient to ensure one of the following:

(i) that the stability of financial markets would not be put in jeopardy;

(ii) the proportionality of the publication of the decision with regard to ***pecuniary sanctions and administrative*** measures ***for breaches*** which are deemed to be of a minor nature.

2. ▌ Member States ▌ ***shall ensure that any*** publication ***in accordance with this Article remains on the official website of the supervisors for a period of five years after its publication. However, personal data contained in the publication shall only be kept*** ▌ on the ▌ ***official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules and in any case for no more than 5 years***.

▌

Article 43

Reporting of breaches and protection ***of reporting persons***

1. Directive (EU) 2019/1937 applies to the reporting of breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final],Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847] and of this Directive, and to the protection of persons reporting such breaches and of the persons concerned by those reports .

2. Supervisory authorities shall be authorities competent to establish external reporting channels and to follow-up on reports insofar as requirements applicable to obliged entities are concerned, in accordance with Directive (EU) 2019/1937.

2a. The oversight bodies referred to in ***article 38*** shall ***be authorities competent to establish external reporting channels and to follow up on reports by self-regulatory bodies and their staff insofar as requirements applicable to self-regulatory bodies in the exercise of supervisory functions are concerned.***

2a. Member States shall ensure that supervisory authorities in the non-financial sector report, on an annual basis, to AMLA:

(a) the number of reports received pursuant to paragraph 1 and information on the share of reports that have been or are in the process of being followed-up, including whether they have been closed or are still open, and of the reports that have been dismissed;

(b) the types of irregularities reported;

(c) where reports have been followed-up, a description of the actions taken by the supervisor and, for reports that are still open, that the supervisor plans to take;

(d) where reports have been dismissed, the reasons for such a dismissal to such reports.

The report referred to in the first subparagraph shall not contain any information on the identity or occupation of the reporting persons, or any other information that may lead to their identification.

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Article 44

Exchange of information on sanctions

1. Member States shall ensure that their supervisors and, where relevant, the national authority overseeing self-regulatory bodies in their performance of supervisory functions inform AMLA of all ▌***pecuniary*** sanctions and ***administrative*** measures imposed in accordance with this Section, including of any appeal in relation thereto and the outcome thereof. Such information shall also be shared with other supervisors when the administrative sanction or measure concerns an entity operating in two or more Member States.

2. AMLA shall maintain on its website links to each supervisor's publication of ▌***pecuniary*** sanctions and ***administrative*** measures imposed in accordance with Article 42, and shall show the time period for which each Member State publishes administrative sanctions and measures.

CHAPTER V

COOPERATION

Section 1

AML/CFT cooperation

Article 45

General provisions

1. Member States shall ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities, as well as tax authorities have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of ▌ targeted financial sanctions, including with a view to fulfilling their obligations under Article 8.

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2. With regard to beneficial ownership information obtained by competent authorities pursuant to Chapter IV of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ and Section I of Chapter II of this Directive, Member States shall ensure that competent authorities are able to provide such information to the ***counterpart*** competent authorities of other Member States or third countries in a timely manner and free of charge.

3. Member States shall not prohibit or place unreasonable or unduly restrictive conditions on the exchange of information or assistance between competent authorities ***and their counterparts*** for the purposes of this Directive. Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:

(a) the request is also considered to involve tax matters;

(b) national law requires obliged entities to maintain secrecy or confidentiality, except in those cases where the relevant information that is sought is protected by legal privilege or where legal professional secrecy applies, as provided for in Article 51(2) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(c) there is an inquiry, investigation***, proceeding or FIU analysis*** underway in the requested Member State, unless the assistance would impede that inquiry, investigation***, proceeding or FIU analysis*** ;

(d) the nature or status of the requesting counterpart competent authority is different from that of requested competent authority.

Article 46

Communication of the list of the competent authorities

1. In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States shall communicate to the Commission and AMLA:

(a) the list of supervisors responsible for overseeing the compliance of the obliged entities with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], as well as, where relevant, name of the public authority overseeing self-regulatory bodies in their performance of supervisory functions under this Directive, and their contact details;

(b) the contact details of their FIU;

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(c) the list of other competent national authorities.

2. For the purposes of paragraph 1, the following contact details shall be provided:

(a) ***a contact point or, failing that,*** the name and role of the contact person;

(b) ***the email and phone number of the contact point or, failing that,*** the professional email address and phone number of the contact person.

3. Member States shall ensure that the information provided to the Commission and AMLA pursuant to paragraph 1 is updated as soon as a change takes place.

4. AMLA shall publish a register of the authorities referred to in paragraph 1 on its website and facilitate the exchange of information referred to in paragraph 2 between competent authorities. The authorities in the register shall, within the scope of their powers, serve as a contact point for the counterpart competent authorities. FIUs and supervisory authorities shall also serve as a contact point for AMLA.

Article 47

Cooperation with AMLA

FIU and supervisory authorities shall cooperate with AMLA and shall provide it with all the information necessary to allow it to carry out its duties under this Directive, under Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌ and under Regulation ***[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*** ▌ .

Section 2

Cooperation with other authorities and exchange of confidential information

Article 48

Cooperation in relation to credit ***or financial*** institutions

1. Member States shall ensure that financial supervisors, FIUs and authorities competent for the supervision of credit ***or financial*** institutions under other legal acts cooperate closely with each other within their respective competences and provide each other with information relevant for the performance of their respective tasks. Such cooperation and information exchange shall not impinge on an ongoing inquiry, ***FIU's analysis,*** investigation or proceedings in accordance with the criminal or administrative law of the Member State where the financial supervisor or authority entrusted with competences for the supervision of credit ***or financial*** institutions under other legal acts is located and shall not affect obligations of professional secrecy as provided in Article 50(1).

2. Member States shall ensure that, where financial supervisors identify weaknesses in the AML/CFT internal control system and application of the requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** of a credit institution which materially increase the risks to which the institution is or might be exposed, the financial supervisor immediately notifies the European Banking Authority (EBA) and the authority or body that supervises the credit institution in accordance with Directive (EU) 2013/36, including the ECB acting in accordance with Council Regulation (EU) 1024/2013[75].

[75] Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

In the event of potential increased risk, financial supervisors shall be able to ▌ ***cooperate and share information*** with the authorities supervising the institution in accordance with Directive (EU) 2013/36 and draw up a common assessment to be notified to EBA ***by the supervisor who first sent the notification***. AMLA shall be kept informed of any such notifications.

3. Member States shall ensure that, where financial supervisors find that a credit institution has refused to enter into ***or decided to terminate*** a business relationship but the documented customer due diligence pursuant to Article 17(2) does not justify such refusal, they shall inform the authority responsible for ensuring compliance by that institution with Directive (EU) 2014/92 or Directive (EU) 2015/2366.

4. Member States shall ensure that financial supervisors cooperate with resolution authorities as defined in Article ▌ ***2(1)***(18) of Directive 2014/59/EU or designated authorities as defined in Article 2(1)(18) of Directive 2014/49/EU. ▌

Financial supervisors shall inform ▌ ***the*** authorities ***referred to in the first paragraph where, in the exercise of their supervisory activities, they identify, on AML/CFT grounds, any*** of the ▌ ***following situations:***

(a) an increased likelihood, of deposits becoming unavailable;

(b) a risk that a credit or financial institution be deemed to be failing or likely to fail in accordance with Article 32(4) of Directive 2014/59/EU.

Upon request by the authorities referred to in the first paragraph, where there is an increased likelihood of deposits becoming unavailable or a risk that a credit or financial institution be deemed to be failing or likely to fail in accordance with Article 32(4) of Directive 2014/59/EU, financial supervisors shall inform those authorities of any ***transaction,*** account ***or business relationship under management by that credit or financial institution*** that has been suspended by the FIU pursuant to Article 20.

5. Financial supervisors ▌ shall report on a yearly basis to AMLA on their cooperation with other authorities pursuant to this Article ***including involvement of FIUs in that cooperation***.

6. By ***[2 years after the date of transposition of this Directive]*** ▌, AMLA shall, in consultation with EBA, issue guidelines on cooperation between financial supervisors and the authorities referred to in paragraphs 2, 3 and 4, including on the level of involvement of FIUs in such cooperation.

Article 49

Cooperation in relation to auditors

1. Member States shall ensure that supervisors in charge of auditors and, where relevant, public authorities overseeing self-regulatory bodies pursuant to Chapter IV of this Directive, their FIU and the public authorities competent for overseeing statutory auditors and audit firms pursuant to Article 32 of Directive 2006/43/EC of the European Parliament and of the Council[76] and Article 20 of Regulation (EU) 537/2014 of the European Parliament and of the Council[77] cooperate closely with each other within their respective competences and provide each other with information relevant for the performance of their respective tasks.

Confidential information exchanged pursuant to this Article shall be used by the authorities referred to in the first subparagraph solely for the exercise of their functions within the scope of this Directive or the other Union acts referred to in the first subparagraph and in the context of administrative or judicial proceedings specifically related to the exercise of those functions.

2. Member States may prohibit the authorities referred to in paragraph 1 from cooperating when such cooperation, including the exchange of information, would impinge on an ongoing inquiry, ***FIU's analysis,*** investigation or proceedings in accordance with the criminal or administrative law of the Member State where the authorities are located.

[76] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87–107).

[77] Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p. 77).

Article 49a

Cooperation with authorities in charge of implementing targeted financial sanctions

1. Member States shall ensure that supervisors, their FIU and the authorities in charge of implementing targeted financial sanctions cooperate closely with each other within their respective competences and provide each other with information relevant for the performance of their respective tasks.

Confidential information exchanged pursuant to this Article shall be used by the authorities referred to in the first subparagraph solely for the exercise of their functions within the scope of this Directive or other Union acts and in the context of administrative or judicial proceedings specifically related to the exercise of those functions.

2. Member States may prohibit the authorities referred to in paragraph 1 from cooperating when such cooperation, including the exchange of information, would impinge on an ongoing inquiry, investigation or proceedings in accordance with the criminal or administrative law of the Member State where the authorities are located.

Article 50

▌ Professional secrecy ***requirements***

1. Member States shall require that all persons working for or who have worked for ***supervisors and the public authorities referred to in Article 38, as well as***▌ auditors or experts acting on behalf of ▌ ***those*** supervisors ***or authorities*** be bound by the obligation of professional secrecy.

Without prejudice to cases covered by criminal investigations and prosecutions under Member States and Union law and information provided to the FIU pursuant to ▌ ***Articles 32 and 32a***, confidential information which the persons referred to in the first subparagraph receive in the course of their duties under this Directive may be disclosed only in summary or aggregate form, in such a way that individual ▌ ***obliged entities*** cannot be identified.

2. Paragraph 1 shall not prevent the exchange of information between:

(a) ▌ supervisors, whether within a Member State or in different Member States, including AMLA when acting in accordance with Article 5(2) of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final] ***or public authorities referred to in Article 38***;

(b) ▌ ***supervisors as well as the public authorities referred to in Article 38*** and FIUs;

(ba) supervisors as well as the public authorities referred to in Article 38 and competent authorities referred to in Article 2, point (31)(c) and (d) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

(c) financial supervisors and ▌ authorities in charge of ***supervising*** credit and financial institutions in accordance with other legislative acts relating to the supervision of credit and financial institutions, including the ECB acting in accordance with Regulation (EU) 1024/2013, whether within a Member State or in different Member States. ▌

▌

For the purposes of the first subparagraph, point (c), the exchange of information shall be subject to the professional secrecy requirements provided for in paragraph 1.

3. Any authority ***or self-regulatory body*** that receives confidential information pursuant to paragraph 2 shall only use this information:

(a) in the discharge of its duties under this Directive or under other legislative acts in the field of AML/CFT, of prudential regulation and supervision of credit and financial institutions, including sanctioning;

(b) in an appeal against a decision of the authority ***or self-regulatory body***, including court proceedings;

(c) in court proceedings initiated pursuant to special provisions provided for in Union law adopted in the field of this Directive or in the field of prudential regulation and supervision of credit and financial institutions.

Article 51

Exchange of information among supervisors and with other authorities

1. With the exception of cases covered by Article 51(2) of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** ▌, Member States shall authorise the exchange of information between:

(a) supervisors and the public authorities overseeing self-regulatory bodies pursuant to Chapter IV of this Directive, whether in the same Member State or in different Member States;

(b) supervisors and the authorities responsible by law for the supervision of financial markets in the discharge of their respective supervisory functions;

(c) supervisors in charge of auditors and, where relevant, public authorities overseeing self-regulatory bodies pursuant to Chapter IV of this Directive, and the public authorities competent for overseeing statutory auditors and audit firms pursuant to Article 32 of Directive 2006/43/EC and Article 20 of Regulation (EU) 537/2014, including authorities in different Member States.

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The professional secrecy requirements laid down in Article 50(1) and (3) shall not prevent such exchange of information.

Confidential information exchanged pursuant to this paragraph shall only be used in the discharge of the duties of the authorities concerned, and in the context of administrative or judicial proceedings specifically related to the exercise of those functions. The information received shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in Article 50(1).

2. Member States may authorise the disclosure of certain information to other national authorities responsible by law for the supervision of the financial markets, or with designated responsibilities in the field of combating or investigating money laundering, its predicate offences or terrorist financing. The professional secrecy requirements laid down Article 50(1) and (3) shall not prevent such disclosure.

However, confidential information exchanged pursuant to this paragraph shall only be used for the purpose of performing the legal tasks of the authorities concerned. Persons having access to such information shall be subject to professional secrecy requirements at least equivalent to those referred to in Article 50(1).

3. Member States may authorise the disclosure of certain information relating to the supervision of obliged entities for compliance with the requirements of Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]*** to parliamentary inquiry committees, courts of auditors and other entities in charge of enquiries in their Member State, under the following conditions:

(a) the entities have a precise mandate under national law to investigate or scrutinise the actions of supervisors or authorities responsible for laws on such supervision;

(b) the information is strictly necessary for fulfilling the mandate referred to in point (a);

(c) the persons with access to the information are subject to professional secrecy requirements under national law at least equivalent to those referred to in paragraph 1;

(d) where the information originates in another Member State, it shall not be disclosed without the express consent of the supervisor which disclosed it and solely for the purposes for which that supervisor gave its consent.

Member States may also authorise the disclosure of information pursuant to the first subparagraph to temporary committees of inquiry set up by the European Parliament in accordance with Article 226 of the Treaty on the Functioning of the European Union and Article 2 of Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission[78], where that disclosure is necessary for the performance of the activities of those committees.

Section 3

Guidelines on cooperation

Article 52

AML/CFT cooperation guidelines

By ***[2 years after the date of transposition of this Directive]*** ▌, AMLA shall, in cooperation with the ECB, the European Supervisory Authorities, Europol, Eurojust, and the European Public Prosecutor's Office, issue guidelines on:

(a) the cooperation between competent authorities under Section 1 of this Chapter, as well as with the authorities referred to under Section 2 of this Chapter and the authorities in charge of the registers referred to in Section 1 of Chapter II of this Directive, to prevent money laundering and terrorist financing;

▌

[78] ***Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry (OJ L 113, 19.5.1995, p. 1.).***

(b) the procedures to be used by authorities competent for the supervision or oversight of obliged entities under other Union acts to take into account money laundering and terrorist financing concerns in the performance of their duties under their respective Union acts.

CHAPTER VI

DATA PROTECTION

Article 53

Processing of certain categories of personal data

1. To the extent that it is strictly necessary for the purposes of this Directive, competent authorities may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to appropriate safeguards for the rights and freedoms of the data subject***, in addition to*** ▌ the following▌ safeguards:

(a) processing of such data shall be performed only on a case-by-case basis by the staff of each competent authority that have been specifically designated and authorised to perform those tasks;

(b) staff of the competent authorities shall maintain high professional standards of confidentiality and data protection, they shall be of high integrity and are appropriately skilled***, including in relation to the ethical handling of big data sets***;

(c) technical and organisational measures shall be in place to ensure the security of the data to high technological standards.

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2. The safeguards referred to in paragraph 1 shall also apply to the processing for the purposes of this Directive of special categories of data referred to in Article 10(1) of Regulation (EU) 2018/1725 and personal data relating to criminal convictions and offences referred to in Article 11 of that regulation by Union institutions, agencies or bodies.

CHAPTER VII

FINAL PROVISIONS

Article 53a

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 10 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Directive].

3. The power to adopt delegated acts referred to in Article 10 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 54

Committee

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing established by Article 28 of Regulation ***[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*** ▌**.** That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 55

Transitional management of FIU.net

At the latest by ***[3 years after the date of entry into force of this Directive]*** ▌**,** the Commission shall transfer to AMLA the management of FIU.net.

Until such transfer is completed, the Commission shall lend the necessary assistance for the operation of FIU.net and the exchange of information between FIUs within the Union. To this end, the Commission shall regularly convene meetings of the EU FIU's Platform composed of representatives from Member States' FIUs in order to oversee the functioning of FIU.net.

Article 55a

Amendments to Directive (EU) 2015/849

In Article 31, paragraph (4) is replaced by the following:

'4. Member States shall ensure that the information on the beneficial ownership of a trust or a similar legal arrangement is accessible in all cases to:

(a) competent authorities and FIUs, without any restriction;

(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;

(c) any natural or legal person that can demonstrate a legitimate interest to access beneficial ownership information.'

Article 56

Review

By ***[5 years from the date of transposition of this Directive]*** ▌**,** and every three years thereafter, the Commission shall present a report to the European Parliament and to the Council on the implementation of this Directive.

Article 56a

Amendment to Directive (EU) No 2019/1937

In Point 2 of Part II of the Annex to Directive (EU) No 2019/1937, the following point is added:

'(iii) Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]'

▌

Article 57

Repeal

Directive (EU) 2015/849 is repealed with effect from ***[date of transposition]*** .

References to the repealed Directive shall be construed as references to this Directive and to Regulation ***[please insert reference – proposal for Anti-Money Laundering Regulation]*** in accordance with the correlation table set out in the Annex.

Article 58

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ***Articles 11 to 13 and 55a of this Directive by [please insert date – 2 years after the date of entry into force]. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the remaining Articles of*** this Directive by [please insert date - 3 years after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

By way of derogation from the first subparagraph, Member States shall adopt and publish, by [please insert date – 2 years after the date of entry into force], the laws regulations and administrative provisions necessary to comply with Article 12a(6) of this Directive. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those provisions from [28 months after the date of entry into force].

Member States shall set up the single access point referred to in Article 16 by [2 years after the date of transposition of this Directive].

The Commission shall ensure the interconnection of registers referred to in Article 14 in cooperation with the Member States by [2 years after the date of transposition of this Directive].

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 59

Entry into force

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

Article 60

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	For the Council
The President	The President

Annex

Correlation table

Directive (EU) 2015/849	This Directive	Regulation (EU) XXXX/XX [please insert reference to proposal for anti-money laundering Regulation]
Article 1(1)	-	-
Article 1(2)	-	-
Article 1(3)		Article 2, point (1)
Article 1(4)		Article 2, point (1)
Article 1(5)		Article 2, point (2)
Article 1(6)		Article 2, points (1) and (2)
Article 2(1)		Article 3
Article 2(2)		Article 4
Article 2(3)		Article 5(1)
Article 2(4)		Article 5(2)
Article 2(5)		Article 5(3)
Article 2(6)		Article 5(4)
Article 2(7)		Article 5(5)

Article 2(8)		Article 6
Article 2(9)		Article 4(3) and Article 5(6)
Article 3, point (1)		Article 2, point (5)
Article 3, point (2)		Article 2, point (6)
Article 3, point (3)		Article 2, point (4)
Article 3, point (4)		Article 2, point (3)
Article 3, point (5)		Article 2, point (35)
Article 3, point (6)		Article 2, point (22)
Article 3, point (6) (a)		Article 42(1)
Article 3, point (6) (b)		Article 43
Article 3, point (6) (c)		Article 42(2)
Article 3, point (7)		Article 2, point (7)
Article 3, point (8)		Article 2, point (19)
Article 3, point (9)		Article 2, point (25)
Article 3, point (10)		Article 2, point (26)
Article 3, point (11)		Article 2, point (27)
Article 3, point (12)		Article 2, point (28)
Article 3, point (13)		Article 2, point (16)
Article 3, point (14)		Article 2, point (8)

Article 3, point (15)		Article 2, point (29)
Article 3, point (16)		Article 2, point (15)
Article 3, point (17)		Article 2, point (20)
Article 3, point (18)		Article 2, point (13)
Article 3, point (19)	-	-
Article 4	Article 3	
Article 5	-	-
Article 6	Article 7	
Article 7	Article 8	
Article 8(1)		Article 8(1)
Article 8(2)		Article 8(2) and (3)
Article 8(3)		Article 7(1)
Article 8(4)		Article 7(2)
Article 8(5)		Article 7(2) and (3)
Article 9		Article 23
Article 10		Article 58
Article 11		Article 15
Article 12	-	-
Article 13(1)		Article 16(1)
Article 13(2)		Article 16(2)

Article 13(3)		Article 16(2)
Article 13(4)		Article 16(4)
Article 13(5)		Article 37
Article 13(6)		Article 18(3)
Article 14(1)		Article 19(1)
Article 14(2)		Article 19(2)
Article 14(3)		Article 19(3)
Article 14(4)		Article 17
Article 14(5)		Article 21(2) and (3)
Article 15		Article 27
Article 16		Article 27(1)
Article 17	-	-
Article 18(1)		Article 28(1)
Article 18(2)		Article 28(2)
Article 18(3)	-	Article 28(3)
Article 18(4)	-	-
Article 18a(1)		Articles 23(4) and 28(4)
Article 18a(2)	-	Article 23(5) and Article 29, point (a)
Article 18a(3)		Article 23(5) and

		Article 29, point (b)
Article 18a(4)	-	-
Article 18a(5)		Article 29(3)
Article 19		Article 30
Article 20		Article 32
Article 20a		Article 33
Article 21		Article 34
Article 22		Article 35
Article 23		Article 36
Article 24		Article 31
Article 25		Article 38(1)
Article 26		Article 38
Article 27		Article 39
Article 28		Article 38(3)
Article 29	-	-
Article 30(1)		Article 45(1) and (3) and Article 49
Article 30(2)		Article 45(4)
Article 30(3)	Article 10(1)	
Article 30(4)	Article 10(5)	

Article 30(5)	Article 11 and Article 12(1)	
Article 30(5)a	Article 12(2)	
Article 30(6)	Article 11(1), (2) and (3)	
Article 30(7)	Article 45(2)	
Article 30(8)		Article 18(4)
Article 30(9)	Article 13	
Article 30(10)		
Article 31(1)		Articles 43(1) and 46(1) and Article 49
Article 31(2)		Article 46(2)
Article 31(3)		Article 46(3)
Article 31(3a)	Article 10(1)	Article 48
Article 31(4)	Article 11 and Article 12(1)	
Article 31(4a)	Article 12(2)	
Article 31(5)	Article 10(5)	
Article 31(6)		Article 18(4)
Article 31(7)	Article 45(2)	
Article 31(7a)	Article 13	
Article 31(9)	Article 10(11) and (12)	

Article 31(10)		Article 43(2)
Article 31a	Article 15(1)	
Article 32(1)	Article 17(1)	
Article 32(2)	Article 46(1)	
Article 32(3)	Article 17(2), (4) and (5)	
Article 32(4)	Articles 18(1) and 19(1)	
Article 32(5)	Article 19(1)	
Article 32(6)	Article 19(2)	
Article 32(7)	Article 20(1)	
Article 32(8)	Article 17(3)	
Article 32(9)	Article 18(4)	
Article 32a(1)	Article 14(1)	
Article 32a(2)	Article 14(2)	
Article 32a(3)	Article 14(3)	
Article 32a(4)	Article 14(4)	
Article 32b	Article 16	
Article 33(1)		Article 50(1)
Article 33(2)		Article 50(6)
Article 34(1)		Article 51(1)

Article 34(2)		Article 51(2)
Article 34(3)	-	-
Article 35		Article 52
Article 36	Article 32	
Article 37		Article 53
Article 38	Article 43(3)	Article 11(3)
Article 39		Article 54
Article 40		Article 56
Article 41		Article 55
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Article 43	-	-
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