

Public consultation on an action plan for a comprehensive Union policy on preventing money laundering and terrorist financing

Fields marked with * are mandatory.

Introduction

This consultation is now available in 23 European Union official languages.

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As highlighted in President's von der Leyen guidelines for the new Commission, the complexity and sophistication of the Union's financial system has opened the door to new risks of money laundering and terrorist financing. The European Union needs to step up its regulatory framework and preventive architecture to ensure that no loopholes or weak links in the internal market allow criminals to use the EU to launder the proceeds of their illicit activities.

The Action Plan adopted on 7 May 2020 by the Commission sets out the steps to be taken to deliver on this ambitious agenda, from better enforcement of existing rules to revision of the anti-money laundering /countering the financing of terrorism rules, to an overhaul of the EU's supervisory and enforcement architecture.

While recent money laundering scandals have created a sense of urgency to act, the Commission is determined to ensure that such action is comprehensive and delivers a future-proof framework that will effectively protect the Union's financial and economic system from criminal money and that will strengthen the EU's role as a world leader in the fight against money laundering and terrorist financing.

This public consultation aims to gather stakeholder views on the actions that the Commission has identified as priority in its action plan and in view of preparing potential future initiatives to strengthen the EU's anti-money laundering / countering the financing of terrorism framework.

About this consultation

In line with Better Regulation principles, the Commission has decided to launch a public consultation to gather stakeholder views on the possible enhancements to the EU anti-money laundering/countering the financing of terrorism framework. This consultation contains separate sections. You can choose to answer only one, several or all sections, depending on your interest and knowledge.

The first section aims to collect stakeholder views regarding actions already undertaken at EU level to strengthen the application and enforcement of the EU anti-money laundering / countering the financing of terrorism framework, and how each of them could be strengthened.

The second section seeks views regarding the current EU legal framework, what areas should be further harmonised and what should be left to Member States to regulate. Feedback is also sought on the need to improve consistency with other related legislation is also raised for feedback.

The third section aims to capture views from all stakeholders on a revised supervisory architecture. Stakeholders are invited to react on scope, structure and powers that should be granted to an EU-level supervisor and how it should interact with national supervisors.

The fourth section looks for input from stakeholders on the actions that can help to strengthen the provision and relevance of financial intelligence, and in particular on the possibility to set up a support and coordination mechanism for financial intelligence units across the EU.

The fifth section seeks stakeholder views with regard to the enforcement actions and the development of partnerships between public authorities and the private sector to ensure that, when money laundering has not been prevented, it can at least be detected and suppressed.

The sixth section aims to receive views from the stakeholders on the actions that the EU should take at international level and with regard to non-EU countries to strengthen its global role in the fight against money laundering and terrorism financing.

Responding to the full questionnaire should take 25 minutes.

Important notice

Contributions received are intended for publication "as submitted" on the Commission's websites. In the next section, you have the possibility to indicate whether you agree to the publication of your individual responses under your name or anonymously. In addition to answering the questions, you may upload a brief document (e.g. a position paper) at the end of the questionnaire. The document can be in any official EU language.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-financial-crime@ec.europa.eu.

More information:

- [on this consultation](#)

- [on the consultation document](#)
- [on the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution

- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Cedric

* Surname

Perruchot

* Email (this won't be published)

cedric.perruchot@bnpparibas.com

* Organisation name

255 character(s) maximum

BNP PARIBAS

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

78787381113-69

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|---|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input checked="" type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |
| <input type="radio"/> Bangladesh | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova | <input type="radio"/> South Georgia and the South Sandwich Islands |
| <input type="radio"/> Barbados | <input type="radio"/> Gabon | <input type="radio"/> Monaco | <input type="radio"/> South Korea |
| <input type="radio"/> Belarus | <input type="radio"/> Georgia | <input type="radio"/> Mongolia | <input type="radio"/> South Sudan |

- Belgium
- Belize
- Benin
- Bermuda
- Bhutan

- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Cambodia

- Cameroon

- Canada
- Cape Verde
- Cayman Islands

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- Germany
- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

- Haiti
- Heard Island and McDonald Islands

- Honduras
- Hong Kong

- Hungary

- Iceland

- India
- Indonesia
- Iran

- Iraq

- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue

- Norfolk Island
- Northern Mariana Islands
- North Korea

- North Macedonia

- Norway
- Oman
- Pakistan

- Palau

- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Trinidad and Tobago
- Tunisia

- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu

Central African
Republic

- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* Field of activity or sector (if applicable):

at least 1 choice(s)

- Accounting
- Art dealing
- Auditing
- Banking
- Company and trust creation and management
- Consulting
- Gambling
- Insurance
- Investment management (e.g. assets, securities)
- Other company and trust services
- Other financial services
- Notary services
- Legal services
- Pension provision
- Real estate
- Tax advice
- Think tank
- Trading in goods
- Virtual assets
- Other
- Not applicable

* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

- I agree with the [personal data protection provisions](#)

Ensuring effective implementation of the existing rules

Ensuring correct transposition and application of the EU anti-money laundering / countering the financing of terrorism rules is a priority for the Commission. The Commission adopted a tough approach in relation to the transposition of both the 4th and 5th Anti-Money Laundering Directives and launched or will soon launch infringement proceedings against Member States for failure to fully transpose these provisions.

The Commission monitors the effectiveness of Member States' anti-money laundering / countering the financing of terrorism frameworks in the context of the European Semester cycle. In 2020, 11 countries have seen their frameworks assessed.

The European Banking Authority has seen its mandate recently strengthened, and is now responsible to lead, coordinate and monitor AML/CFT efforts in the financial sector. Among its new powers are the performance of risk assessments on competent authorities, the right to request national authorities to investigate individual institutions and adopt measures when breaches are detected. These new powers complement existing powers to investigate potential breaches of Union law.

This section aims to collect stakeholder views regarding the effectiveness of these measures and on whether other measures could contribute to strengthening the enforcement of anti-money laundering / countering the financing of terrorism rules.

How effective are the following existing EU tools to ensure application and enforcement of anti-money laundering / countering the financing of terrorism rules?

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Infringement proceedings for failure to transpose EU law or incomplete /incorrect transposition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Country-specific recommendations in the context of the European Semester	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Action following complaint by the public	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Breach of Union law investigations by the European Banking Authority	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
New powers granted to the European Banking Authority	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

How effective would more action at each of the following levels be to fight money laundering and terrorist financing?

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
At national level only	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
At national level with financial support and guidance from the European Union	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
At the level of the European Union (oversight and coordination of national action)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At international level	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No additional action at any level	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Should other tools be used by the EU to ensure effective implementation of the rules?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Much has been done to better ensure the correct transposition of the EU AML/CFT rules into national regulations among which the infringement proceedings, the assessment through the Semester process and more recently the new powers granted to the EBA. However, the fact is that discrepancies across national AML/CFT frameworks still exist, that they impair the strength of the EU's overall framework and that consequently further efforts are necessary.

We believe that an effective implementation of the EU AML/CFT rules at national levels can be achieved through self-assessments by the Member States and deep independent AML/CFT reviews of their frameworks. It is essential that the discrepancies of these frameworks against EU requirements and the follow-up of remediation actions be published so that obliged entities can adapt their own internal framework when deemed necessary. As of today, AML/CFT information is not always easy to find on the EU Commission Website: a dedicated folder consolidating all the AML/CFT information would ease the communication.

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We consider that the infringement proceedings take too long as highlighted by the still on-going procedures on the implementation of the Fourth AML Directive with some Member States. Moreover, obliged entities do not have a clear view of when recommendations are closed.

The European Semester addresses the economic challenges faced by the EU following a detailed analysis

of countries' plans for budget, macroeconomic and structural reforms. While we welcome the recent inclusion of AML/CFT recommendations for certain Member States in the context of the European Semester cycle, we consider that a dedicated AML/CFT assessment and reporting process would allow more in-depth investigations into national supervisors and thus give a clearer picture of each national AML/CFT framework.

We agree with the Commission statement reported in its Action Plan communication document noting that the EBA's governance and decision-making processes need to be significantly reviewed to guarantee that supervisory decisions are always taken independently in the sole interest of the EU. Therefore, we do consider that investigations on breach of Union law are rather ineffective.

Finally, we consider that more action cannot come from the national level given the weaknesses of some national frameworks compared to others. Consequently, only the EU or the FATF (for the international level), can help with harmonizing the rules across Member States.

Delivering a reinforced rulebook

While the current EU legal framework is far-reaching, its minimum harmonisation approach results in diverging implementation among Member States and the imposition of additional rules at national level (e.g. list of entities subject to anti-money laundering obligations, ceilings for large cash payments). This fragmented legislative landscape affects the provision of cross-border services and limits cooperation among competent authorities. To remedy these weaknesses, some parts of the existing legal framework might be further harmonised and become part of a future Regulation. Other Union rules might also need to be amended or clarified to create better synergies with the AML/CFT framework.

As criminals continuously look for new channels to launder the proceeds of their illicit activities, new businesses might become exposed to money laundering / terrorist financing risks. In order to align with international standards, virtual asset service providers might need to be added among the entities subject to anti-money laundering / countering the financing of terrorism rules (the 'obliged entities'). Other sectors might also need to be included among the obliged entities to ensure that they take adequate preventive measures against money laundering and terrorism financing (e.g. crowdfunding platforms).

This section aims to gather stakeholder views regarding a) what provisions would need to be further harmonised, b) what other EU rules would need to be reviewed or clarified and c) whether the list of entities subject to preventive obligations should be expanded.

The Commission has identified a number of provisions that could be further harmonised through a future Regulation. Do you agree with the selection?

	Yes	No	Don't know
List of obliged entities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Structure and tasks of supervision	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tasks of financial intelligence units	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Customer due diligence	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Electronic identification and verification	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Record keeping	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Internal controls	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Reporting obligations	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Beneficial ownership registers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Central bank account registers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ceiling for large cash payments	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Freezing powers for financial intelligence units	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sanctions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

What other provisions should be harmonised through a Regulation?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Except for a few provisions that should remain national or in the Directive, we consider that all AML/CFT areas should be harmonized through a Regulation. The Commission has identified the large majority of the relevant provisions but we would like to highlight the following:

KYC: this is one of the largest and most difficult provisions to work on. We consider that under this provision, the important topics to be harmonized are:

- The beneficial ownership identification rules and the information to be obtained on beneficial owners. We strongly support the development of an EU-wide company register that provides data firms can rely upon. With such a register, firms would be spared a considerable workload and thus save human resources on the identification and verification of information that fall under corporate and legal entities' responsibility.
- Digital identity verification: the COVID-19 crisis has proven that non-face-to-face on-boardings and relationships work well and both the FATF (in its guidance on Digital Identity) and the AMLD5 state that non-face-to-face relationships can be considered as low risk if safeguards are in place. Further regulation should be provided to facilitate the use of digital identity verification.
- Senior managing officials (SMOs) who have to approve a relationship with a Correspondent bank in a non-EEA country or a PEP relationship. A harmonised definition of the positions that have to be considered would be helpful. We suggest using the definition given by the French regulation, which states that a SMO must be a member of the Executive Committee or a person/function empowered by the Executive Committee.
- Rules on the PEPs' screening for legal entities: we suggest the addendum of guidelines on the screening of names against the lists of PEPs considering the various practices across Member States stemming from different interpretations of the existing guidelines. In our opinion, the screening should be limited to the persons identified as exercising a control over the customer, e.g. the customer's beneficial owner and the person(s) designated as SMO(s). We consider that, save for a few exceptions directors do not individually have sufficient power to exercise such a control and consequently do not have to be screened against the PEP lists.

Asset freezes: the current framework based on national lists of people involved in terrorist acts does not allow an efficient screening process for a group with entities based in various Member States. Moreover, it does not make sense to have asset freeze obligations (among which the reporting to national authorities) on a person having an account in a bank based in a Member State and no obligation if his/her account is

opened in another entity of the same bank in a neighbouring Member State.

List of third countries with equivalent AML and supervisory standards: currently, each bank has to set up a list of “equivalent third countries”, which leads to inconsistencies among banks and duplication of a heavy task.

Information sharing within and between financial institutions: legal frameworks for data protection, management of SAR-type information, privacy and bank secrecy can prevent the sharing of relevant information across borders within a financial institution with branches and/or subsidiaries based in various Member States or between separate financial institutions. New AML/CFT rules in the EU should address challenges to operative sharing of AML/CFT information.

What provisions should remain in the Directive due to EU Treaty provisions?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Provisions related to tax evasion, criminal offenses and sanctions could be difficult to harmonise in a first step. It would be preferable to keep them in the Directive with the objective of a later harmonisation.

What areas where Member States have adopted additional rules should continue to be regulated at national level?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We consider that the number of rules that should continue to be regulated at national level should be minimal. It should concern rules linked to national particularities (cultural, administrative set-up, infrastructure developments...). Examples of areas for which regulation should remain national are:

- Ceiling for large cash payments: we are of the opinion that this will be very difficult to define at EU level given the current heterogeneity of practices and revenues' levels from one Member State to another.
- Identity documentation to be provided for the identification and verification of clients.
- Products and services like cheques, specific deposit schemes (PEA in France...).
- List of PEPs functions.

Should new economic operators (e.g. crowdfunding platforms) be added to the list of obliged entities?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We agree that crowdfunding platforms should be added to the list of obliged entities as well as crypto-assets exchange platforms and other operators active in this business segment.

The rapidly evolving world of FinTechs can expose financial institutions and their customers to increased financial crime risks. In line with the EU Parliament motion on a comprehensive Union policy on preventing money laundering and terrorist financing validated on July 10th, we consider that new and disruptive market sectors as well as technological innovation and development should be included in the scope of obliged entities.

As new technologies constantly evolve and new operators emerge, the obliged entities' list may not always keep up to date with these trends. Therefore, we think that rather than having a list of specific listed Fintech

entities the approach should be principles-based, and that all the entities authorized to engage in financial transactions should be covered by AML/CFT rules (unless specifically exempted).

In your opinion, are there any FinTech activities that currently pose money laundering / terrorism financing risks and are not captured by the existing EU framework? Please explain

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not identify any FinTech activities not captured by the existing EU framework. However, on a risk-based approach, attention should be paid on activities allowing the circumvention of payment transparency principles as for instance funds transfers based on crowdfunding scheme or on cryptocurrencies exchange with unregulated countries or schemes between non-bank Payment Service Providers.

The Commission has identified that the consistency of a number of other EU rules with anti-money laundering / countering the financing of terrorism rules might need to be further enhanced or clarified through guidance or legislative changes. Do you agree?

	Yes	No	Don't know
Obligation for prudential supervisors to share information with anti-money laundering supervisors	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bank Recovery and Resolution Directive (Directive 2014/59/EU) or normal insolvency proceedings: whether and under what circumstances anti-money laundering grounds can provide valid grounds to trigger the resolution or winding up of a credit institution	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Deposit Guarantee Schemes Directive (Directive 2014/49/EU): customer assessment prior to pay-out	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Payment Accounts Directive (Directive 2014/92/EU): need to ensure the general right to basic account without weakening anti-money laundering rules in suspicious cases	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Categories of payment service providers subject to anti-money laundering rules	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Integration of strict anti-money laundering requirements in fit&proper tests	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Are there other EU rules that should be aligned with anti-money laundering / countering the financing of terrorism rules?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Both the KYC and the AML transaction monitoring processes request banks to collect and process a huge amount of personal data and new IA solutions currently tested or deployed to gain efficiency in the

identification of unusual transactions are reinforcing this trend. Supervisors are regularly challenging banks on the quality of their transaction monitoring process in accordance with AMLD provisions and there is a consensus that information sharing between obliged entities and between obliged entities and law enforcement authorities is key to ensuring the strengthening of the EU AML/CFT framework. Aligning these needs with the GDPR regulation may prove to be difficult and clarification would be welcome.

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Regarding internal controls we are of the opinion that while the level of maturity of the AML/CFT controls is well advanced in countries like France it is not the case in all Member States. Moreover, these AML/CFT controls are embedded in larger scale internal control mechanisms covering several functions. For these reasons we consider the harmonization of these controls necessary but would advise to do this harmonization in a second step.

Bringing about EU-level supervision

Supervision is the cornerstone of an effective anti-money laundering / countering the financing of terrorism framework. Recent money laundering cases in the EU point to significant shortcomings in the supervision of both financial and non-financial entities. A clear weakness is the current design of the supervisory framework, which is Member-State based. However, supervisory quality and effectiveness are uneven across the EU, and no effective mechanisms exist to deal with cross-border situations.

A more integrated supervisory system would continue to build on the work of national supervisors, which could be complement, coordinated and supervised by an EU-level supervisor. The definition of such integrated system will require addressing issues linked to the scope and powers of such EU-level supervisor, and to the body that should be entrusted with such supervisory powers.

Effective EU level-supervision should include all obliged entities (both financial and non-financial ones), either gradually or from the outset. Other options would rest on the current level of harmonisation and provide for a narrower scope, i.e. oversight of the financial sector or of credit institutions only. These options would however leave weak links in the EU supervisory system.

Linked to the issue of the scope is that of the powers that such EU-level supervisor would have. These may range from direct powers (e.g. inspection of obliged entities) to indirect powers (e.g. review of national supervisors' activities) only, either on all or some entities. Alternatively, the EU-level supervisor could be granted both direct and indirect supervisory powers. The entities to be directly supervised by the EU-level supervisor could be predefined or regularly reviewed, based on risk criteria.

Finally, these supervisory tasks might be exercised by the European Banking Authority or by a new centralised agency. A third option might be to set-up a hybrid structure with decisions taken at the central level and applied by EU inspectors present in the Member States.

What entities/sectors should fall within the scope of EU supervision for compliance with anti-money laundering / countering the financing of terrorism rules?

- All obliged entities/sectors
- All obliged entities/sectors, but through a gradual process
- Financial institutions
- Credit institutions

What powers should the EU supervisor have?

at most 1 choice(s)

- Indirect powers over all obliged entities, with the possibility to directly intervene in justified cases
- Indirect powers over some obliged entities, with the possibility to directly intervene in justified cases
- Direct powers over all obliged entities
- Direct powers only over some obliged entities
- A mix of direct and indirect powers, depending on the sector/entities

Which body should exercise these supervisory powers?

at most 1 choice(s)

- The European Banking Authority
- A new EU centralised agency
- A body with a hybrid structure (central decision-making and decentralised implementation)
- Other

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Whatever the body that will exercise the supervisory powers on obliged entities, a clear division of the respective powers of the EU and national supervisors as well as clarity on the conditions for direct supervision by the EU-level AML/CFT supervisor is the cornerstone of a strong EU AML/CFT framework.

BNP Paribas believes that the supervision should not be limited to financial institutions but should cover all obliged entities considering that not only Financial Institutions present AML/CFT risks. The fact that these non-financial obliged entities operate in various sectors with national specificities and different statuses calls

for a progressive implementation of their integration under the EU AML/CFT supervisory body as these national specificities cannot be harmonised nor properly assessed by a European body in a short timeframe. Priority should be given to non-financial obliged entities that operate cross-border from a country with generally less demanding regulation. Moreover, given the variety of obliged entities and of the sectors where they operate, specialized supervision teams will have to be set-up.

We do not see as realistic and desirable that the EU AML/CFT authority have direct powers over all obliged entities. Consequently, national authorities will remain a key element of the AML/CFT framework and the EU AML/CFT supervisor will need to have very clear powers to oversee and instruct national authorities to carry out AML/CFT related tasks with the same high standard level whatever the country. Direct supervision should be exercised in priority on entities that operate on a cross-border basis and/or for which the sector is deemed particularly risky and/or in the case of national supervisor failure. New actors on the market, for which the regulatory environment is not as mature as for Banks, should be also prioritized e.g. actors operating in the Crypto-assets sector. It is important to bear in mind that large-scale AML issues are not limited to large obliged entities.

Establishing a coordination and support mechanism for financial intelligence units

Financial intelligence units (FIUs) play a key role in the detection of money laundering and identification of new trends. They receive and analyse suspicious transaction and activities reports submitted by obliged entities, produce analyses and disseminate them to competent authorities.

While financial intelligence units generally function well, recent analyses have shown several weaknesses. Feedback to obliged entities remains limited, particularly in cross-border cases, which leaves the private sector without indications on the quality of their reporting system. The cross-border nature of much money laundering cases also calls for closer information exchanges, joint analyses and for a revamping of the FIU net – the EU system for information exchange among financial intelligence units. Concerns regarding data protection issues also prevent Europol, under its current mandate, to continue hosting this system.

An FIU coordination and support mechanism at EU level would remedy the above weaknesses. Currently, the only forum available at EU level to coordinate the work of FIUs is an informal Commission expert group, the **F I U P l a t f o r m**.

This section aims to obtain stakeholder feedback on a) what activities could be entrusted to such EU coordination and support mechanism and b) which body should be responsible for providing such coordination and support mechanism.

Which of the following tasks should be given to the coordination and support mechanism?

- Developing draft common templates to report suspicious transactions
- Issuing guidance
- Developing manuals
-

Assessing trends in money laundering and terrorist financing across the EU and identify common elements

- Facilitating joint analyses of cross-border cases
- Building capacity through new IT tools
- Hosting the FIU.net

Which body should host this coordination and support mechanism?

at most 1 choice(s)

- The FIU Platform, turned into a formal committee involved in adopting Commission binding acts
- Europol, based on a revised mandate
- A new dedicated EU body
- The future EU AML/CFT supervisor
- A formal Network of financial intelligence units

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Considering the limited feedback given by some FIUs to obliged entities on their reporting and the limited information exchange between FIUs and other competent authorities (as highlighted by the report from the Commission to the European Parliament and the Council assessing the framework for cooperation between FIUs), a change of governance, culture and processes appears necessary. The FIU coordination and support mechanism at EU level should take a leading role to coordinate the work of national FIUs (as described in the Commission's communication on the Action Plan).

The identification of suspicious transactions with a cross-border nature and joint-analysis of cross-border cases should be one of the cornerstones of the FIU coordination and support mechanism. It should be able to identify and investigate such cases with the support of the national FIUs (we consider it preferable that national FIUs remain the contact point of obliged entities and national law enforcement authorities).

The development of exchanges of information across borders will be achieved if operational processes are facilitated and if the FIU coordination and support mechanism can force national FIUs to change their mindsets and cultures. In this field, this mechanism should be empowered to define standards for cooperation between FIUs and to promote training, capacity building and lessons sharing for FIUs. The issuance of a draft common template to report suspicious transactions and the set-up of new IT tools as well as the hosting of the FIU.net would be a great support to the exchange of information between a) national FIUs and the FIU coordination and support mechanism, b) national FIUs and c) national FIUs and obliged entities for feedback on the SARs filed.

In parallel, the single rulebook should bring more consistency in the definition of predicate offenses.

Enforcement of EU criminal law provisions and information exchange

Recent actions have increased the tools available to law enforcement authorities to investigate and prosecute money laundering and terrorist financing. Common definitions and sanctioning of money laundering facilitate judicial and police cooperation, while direct access to central bank account mechanisms and closer cooperation between law enforcement authorities, financial intelligence units and Europol speed up criminal investigations and make fighting cross-border crime more effective. Structures set up within Europol such as the Anti-Money Laundering Operational Network and the upcoming European Financial and Economic Crime Centre are also expected to facilitate operational cooperation and cross-border investigations.

Public-private partnerships are also gaining momentum as a means to make better use of financial intelligence. The current EU framework already requires financial intelligence units to provide feedback on typologies and trends in money laundering and terrorist financing to the private sector. Other forms of partnerships involving the exchange of operational information on intelligence suspects have proven effective but raise concerns as regards the application of EU fundamental rights and data protection rules.

This section aims to gather feedback from stakeholder on what actions are needed to help public-private partnership develop within the boundaries of EU fundamental rights.

What actions are needed to facilitate the development of public-private partnerships?

- Put in place more specific rules on the obligation for financial intelligence units to provide feedback to obliged entities
- Regulate the functioning of public-private partnerships
- Issue guidance on the application of rules with respect to public-private partnerships (e.g. antitrust)
- Promote sharing of good practices

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The set-up of Financial Intelligence Public-Private-Partnerships (PPPs) should aim at and enable the pooling of strategic information available to each of the public and private stakeholders participating in the PPP. Therefore, such partnerships should be designed in a way that would ensure both the flexibility and responsiveness required to understand and master emerging ML/TF threats. In this respect, the regulation of PPPs should remain minimal to avoid hampering their drive, creativity and adaptability.

However, the definition/provision of a minimal framework of intervention, which would direct the exchange of information within PPPs, is a prerequisite for the active participation of the different stakeholders by ensuring

their trust in the proposed exchange of information mechanism.

- It is firstly necessary that PPPs be based on and follow a collaborative approach between each stakeholder with no threat of sanctions should some weaknesses be observed on the processing of a file by one of the participant banks.
- Secondly, the set-up of PPPs would require the removal of several obstacles, among which:
 - Professional confidentiality: Obligated entities (and most particularly banks) are today required to respect /ensure professional confidentiality, which could prevent/hamper the exchange of information between obliged entities and competent authorities within the framework of a PPP. For instance, in France, bank confidentiality can be lifted only if banks send a report of suspicious transaction(s) to their FIU. Therefore, the exchange of operational information within the framework of a PPP must be framed in such a way that banks can communicate without acting in breach of banking secrecy. The issue of professional secrecy also arises for public authorities participating in PPPs, particularly as regards the confidentiality of judicial inquiries and classified defense information. The respect of such confidentiality requirements could be framed by the provision that the exchanges of information occurring within the framework of PPPs would be covered by secrecy rules preventing the disclosure of any information outside a (limited) exchange circle.
 - Protection of personal data: the EU Action Plan should be more specific regarding the protection of personal data. The EU must answer the need to articulate at best the obligations to ensure the protection of personal data in respect of the GDPR; and to develop an effective AML/CTF framework.
 - Attention should also be paid to the fact that personal data exchanged within the PPP should not be communicated outside the EU.

Finally, the European Union Fourth Anti-Money Laundering Directive provides through its Article 38 protections for persons reporting a suspicion of money laundering or terrorism financing, whether internally or to the FIU. Such protection should be extended to Public-Private Partnerships' different participants, should operational information be divulged/provided by means other than suspicious transactions reports. Likewise, the use in good faith and internally by the obliged entities of the information shared within the framework of a Public-Private Partnership should not trigger any liability.

The issuance of guidance on the application of rules with respect to public-private partnerships and the promotion of the sharing of good practices would not appear as particularly necessary should such a PPP framework of intervention be specified at the EU level. The same applies to the proposition to put in place more specific rules on the obligation for FIUs to provide feedback on obliged entities as this obligation is already specified in the Fourth AMLD.

Strengthening the EU's global role

Money laundering and terrorism financing are global threats. The Commission and EU Member States actively contribute to the development of international standards to prevent these crimes through the Financial Action Task Force (FATF), an international cooperation mechanism that aims to fight money laundering and terrorism financing. To strengthen the EU's role globally, and given the fact that the EU generally translates FATF standards into binding provisions, it is necessary that the Commission and Member States speak with one voice and that the supranational nature of the EU is adequately taken into account when Member States undergo assessment of their national frameworks.

While FATF remains the international reference as regards the identification of high-risk jurisdictions, the Union also needs to strengthen its autonomous policy towards third countries that might pose a specific threat to the EU financial system. This policy involves early dialogue with these countries, close cooperation with Member States throughout the process and the identification of remedial actions to be implemented. Technical assistance might be provided to help these countries overcome their weaknesses and contribute to raising global standards.

This section seeks stakeholder views on what actions are needed to secure a stronger role for the EU globally.

How effective are the following actions to raise the EU's global role in fighting money laundering and terrorist financing?

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Give the Commission the task of representing the European Union in the FATF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Push for FATF standards to align to EU ones whenever the EU is more advanced (e.g. information on beneficial ownership)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support the fact that EU AML/CFT standards may become international references but we consider that it is not for obliged entities to define how the Commission should handle the subject.

We note that the European Parliament, through the resolution on a comprehensive policy on preventing ML/FT adopted on July 10th “calls on the Commission and the Member States to ensure that the EU speaks with one voice at the global level of the AML/CFT framework, in particular by enabling the Commission to represent the EU at the FATF, in line with the Treaty provisions and as is the case for other policy areas.”

Additional information

Should you wish to provide additional information (for example a position paper) or raise specific points not covered by the questionnaire, you can upload your additional document here.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

[More on this consultation \(https://ec.europa.eu/info/publications/finance-consultations-2020-anti-money-laundering-action-plan_en\)](https://ec.europa.eu/info/publications/finance-consultations-2020-anti-money-laundering-action-plan_en)

[Consultation document \(https://ec.europa.eu/info/files/2020-anti-money-laundering-action-plan-consultation-document_en\)](https://ec.europa.eu/info/files/2020-anti-money-laundering-action-plan-consultation-document_en)

[Specific privacy statement \(https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en\)](https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en)

[More on anti-money-laundering \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing_en)

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

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