

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.

Please use the language selector at the top of this page to choose your language for this consultation.

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

Judith

* Surname

Crawford

* Email (this won't be published)

Judith.Crawford@e-ma.org

* Organisation name

255 character(s) maximum

Electronic Money Association

* 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.

84308599569-14

* Country of origin

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

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

- 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Action following complaint by the public	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
At international level	<input checked="" type="radio"/>	<input 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.

Monitoring of AML Supervision through reporting returns:

Ensuring effective implementation of the rules requires adequate monitoring of the application of those rules. A possible mechanism that could be used to monitor the effectiveness of each member state's AML/CFT framework could be the annual submission of key metrics relating to supervision and enforcement.

Possible data points could include:

- numbers of firm visits and assessments conducted,
- use by supervisors of enforcement powers or fines.
- staff resources dedicated to AML/CTF
- strategic approach taken by each member state to manage their ML and TF risks.
- Numbers of SARs submitted sector by sector and the outcomes in terms of investigations, arrests, prosecutions and forfeitures of criminal proceeds.

By collecting data from across all EU supervisors, some comparative analysis could be conducted and where necessary follow up requests and further investigation to understand any perceived weaknesses or lack of supervisory activity.

This type of information and data is often sought by FATF when they conduct country assessments and would also be useful to the EU for the purpose of monitoring AML and CFT effectiveness.

Additional comments

5000 character(s) maximum

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

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 type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Customer due diligence	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Electronic identification and verification	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Record keeping	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Internal controls	<input checked="" type="radio"/>	<input 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Freezing powers for financial intelligence units	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sanctions	<input type="radio"/>	<input checked="" 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.

Please see below the reasons why we do NOT support the harmonisation of provisions on CDD or electronic ID.

Customer Due Diligence and Electronic ID

Whilst harmonisation of CDD and eID are supported by industry in principle, in practice different tiers of CDD are required for different types of financial service products. It would not be appropriate for example to require the same level of CDD on the opening of a bank account as for subscription to an insurance policy or the purchase of a prepaid card. A tiered approach is therefore necessary in order to maintain the risk-based approach.

Similarly the harmonisation of eID requirements that match the different tiers of CDD would be an attractive proposition. However the availability of data and infrastructure is not in place in most Member States and this needs to precede a harmonisation of eID requirements so as not to lead to the financial exclusion of even more citizens of EU MS.

Where these two concerns are addressed, we are supportive of harmonisation.

Please see below areas where further harmonisation would be beneficial.

The initial meeting of the FATF Supervisors' Forum in November 2019 identified three key areas where common challenges exist amongst AML/CFT Supervisors where further action is required:

1. Risk-Based Supervision:

A risk-based approach means that supervisors understand the ML/TF risks, and take the appropriate action to mitigate them. This flexibility allows for a more efficient use of resources, and a dynamic approach to changing threats.

The EBA has reported on its findings in February 2020 from reviewing the AML and CFT frameworks of seven competent authorities within the EEA. It was noted that very few member states assessed had an effective risk-based approach where supervisory resources are focused in an aligned way where the highest ML and TF risks exist. It was common theme that competent authorities found it difficult to translate theoretical risk profiles into practical supervisory plans and greater direction in this regard could be useful.

In the report the EBA indicated it was planning to initiate training for competent authorities to improve understanding of risk and effectiveness of supervision measures but it is not clear if this solution will work.

The EMA feels the establishment of an effective risk-based approach to Supervision in all member states that is consistently applied is key to preventing and detecting ML and TF within the EEA. Resources should be focused on obliged entities within each member state that present the highest risk.

2. International Cooperation amongst Supervisors:

Cooperation between national supervisors plays a key role in mitigating cross-border ML/TF risks. Again, in its report of 2020 They were also not always cooperating effectively with domestic and international stakeholders in terms of their supervisory approach where they should have been in circumstances where an obliged entity operated across more than one competent authority.

The EMA believes cooperation amongst regulators is key to target ML and TF risks effectively where the criminal activities are cross border in nature. Supervisory plans should be risk based and focus resources where they are needed most. The type of supervisory engagement should be fitted to the risk rather than to a default position involving an onsite visit in all circumstances.

3. New technology:

The increasing use of new technologies to enhance AML/CFT compliance in the private sector, such as advanced analytic tools, brings new challenges for supervisors but also could be of great benefit. AML Supervisors need to exercise effective oversight over how these new technologies are used. There are also new technologies available for supervision, in particular transforming supervisory data to sharpen risk assessment, as well as improving the supervision process.

The EMA supports the use of technology to identify and target financial crime particularly in transaction monitoring where it can be used to complement and enhance traditional systems. Having a framework from supervisors in to how new technologies are used and developed would increase take up potentially by obliged entities and encourage member states to adopt the new technology and infrastructure required to make its use more effective.

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.

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.

The EMA has not identified any areas in this category.

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.

The EMA feels the list of obliged entities is comprehensive and should not added to further.

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.

As before, the list of entities in scope is comprehensive and the EMA does have any further categories which it feels should be added.

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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deposit Guarantee Schemes Directive (Directive 2014/49/EU): customer assessment prior to pay-out	<input checked="" type="radio"/>	<input type="radio"/>	<input 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 checked="" type="radio"/>	<input type="radio"/>	<input 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.

No, we do not have any further examples where EU rules need greater alignment.

Additional comments

5000 character(s) maximum

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

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

How should the entities subject to direct supervision by the EU supervisor be identified?

- They should be predetermined
- They should be identified based on inherent characteristics of their business (e.g. riskiness, cross-border nature)
- They should be proposed by national supervisors

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.

Supervision of AML/CFT at national level is becoming less and less effective in dealing with the cross-border nature of the financial sector, and in providing a robust AML/CFT framework. The variance in the quality of national supervision also creates the risk that through regulatory arbitrage certain states with perceived weaknesses become more attractive to criminals and give greater opportunity for establishing ML and TF networks.

The establishment of a central European AML/CFT-supervisor should be a priority. This will ensure consistency across all member states and any weaknesses or specific cases can be followed up in a unified approach. If created, the new agency could work with member states to raise Supervisory standards where needed and co-ordinate efforts to detect and prevent ML and TF across Europe.

The supervisor should be established as a new European agency, as a new agency is more likely to

undertake the significant level of work required and approach it in a systematic fashion. As a newly formed body it will be able to start with a blank page and recruit staff from across Europe and beyond to ensure it has the necessary expertise to set up and manage a strategically focused macro regulator of EC member states.

Its only focus will be AML/CFT regulation, which will allow it to be more effective than is the case with current governance arrangements where the EBA conducts AML/CFT supervision in addition to its other responsibilities.

The advantage to establishing a new body is that it will have greater scope for innovation and new ways of working when setting up a governance structure and creating internal procedures.

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 FIU Platform.

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.

From the perspective of industry participants, it is clear that greater co-operation between FIUs and obliged entities is required to improve operational efficiency within the SARs regime and to provide feedback to firms on the outcome when SARs are used successfully to investigate and prosecute ML and TF.

A common theme for the EMA's membership is a lack of a common template and structure across the EEA for reporting of SARs and also the lack in some circumstances of mandatory electronic filing of SARs. Also, the predicate offences that fall to be reported under the SAR/STR regime vary across member states increasing the regulatory burden on firms to ensure they are meeting local requirements.

Many firms within the EMA use technology proactively and successfully to monitor transactions and identify suspicious activity. It would therefore be beneficial to use electronic filing of SARs to make the process as efficient as possible.

Individual FIUs within member states will need to maintain their autonomy and ability to function as independent units but also adopt best practice and use data analysis to investigate ML and TF and prosecute offenders. The best vehicle for this is potentially a forum to coordinate and instil best practice and key objectives across all FIUs.

Where FIUs fail to cooperate and share intelligence effectively and in a timely fashion the FIU coordination body needs to have the ability to take action to remedy the situation.

Greater use of data sharing and profiling should be encouraged within member states and in the wider pan-European context as this will be a key weapon in the fight against TF and ML in the future. The establishment of a suitable technological platform to allow for this sharing of data and intelligence analysis should also be a matter of priority.

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.

Public-private partnerships have the possibility of producing tangible results. Within the UK for example the Joint Money Laundering Intelligence Taskforce (JMLIT) and its various sub groups have created a forum for intelligence to be shared amongst obliged entities and law enforcement bodies and regulators in real time.

Intelligence is shared on an operational basis in real time and also to identify and target trends and typologies in trade-based money laundering and terrorist financing to ensure both private and public sector have an accurate picture of current ML and FT risks.

The forum has also been used to select subject matter experts from the private sector to work closely with counterpart from law enforcement authorities to produce national risk assessments for ML and TF in better informed way.

The use of SARs alone cannot produce the same results as those seen in the development of Public/Private

partnerships. These can serve to improve the identification of suspicious activity, encourage greater transparency, and provide an effective feedback loop.

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 checked="" 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 checked="" 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 EU Commission having a representative voice at the FATF, in addition to those of other member states that are represented.

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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