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Position Paper

EU AML package: EBA response to Call for Advice on six AMLA mandates

December 2025

AFME welcomes the EBA's revised draft regulatory technical standards prepared in response to the European Commission's Call for Advice on six AMLA mandates. We particularly welcome the movement toward a more proportionate, risk-based approach, and the EBA's constructive engagement with stakeholders throughout the consultation process. We recognise and appreciate the EBA's efforts to refine key concepts, introduce greater flexibility in several areas, and align the framework more closely with operational realities in wholesale banking.

There are however several significant issues which remain outstanding. This paper sets out our key remaining areas of concern on the revised draft RTS prepared under Article 28 AMLR and our suggested proposals to ensure that the final framework can be implemented effectively, consistently, and in a genuinely risk-based manner across the EU.

We look forward to discussing these issues, and our proposed solutions, with AMLA, the Commission, and national competent authorities.

Outstanding issues in the revised draft RTS prepared under Article 28 AMLR

1. No definition of '*person purporting to act*'

The revised RTS make repeated reference to obligations applying to a '*person purporting to act*' on behalf of a customer. However, neither the AML Regulation nor the RTS provide any definition of this term. This absence of a clear and common definition is problematic, given that extensive CDD, screening and verification requirements are triggered in respect of such persons, with significant operational and cost implications for wholesale banks. Without legal and supervisory clarity, institutions may adopt differing and overly conservative interpretations to mitigate regulatory risk, leading to unnecessary duplication of CDD, inefficient allocation of resources, and a material increase in compliance burden with negligible incremental risk mitigation benefit.

AFME members strongly suggest that the RTS should define this term in a risk-based and targeted manner. The definition should not capture employees of a counterparty acting in the ordinary course of their employment (for example, treasury, operations or relationship management staff of a corporate customer). In such cases, institutions should be able to rely on their interaction with those employees as interaction with the counterparty itself, rather than being required to treat an individual employee as a separate subject of CDD.

We therefore request that a clear, proportionate definition of '*person purporting to act*' be introduced through the RTS or subsequently through AMLA guidance, supported by practical examples, to ensure consistent application across Member States and avoid unnecessary cost and friction in wholesale business. We have previously proposed the following risk-based and proportionate definition of a '*person purporting to act*':

'legal representative(s) (e.g., legal guardians) of a natural person customer; any natural person, other than an employee or senior manager of a legal person authorised to act on behalf of a legal person customer pursuant to a mandate (e.g. an agent), or any natural person authorised to act on behalf of a legal person customer pursuant to a bilateral proxy agreement'.

2. Need for a clear and proportionate interpretation of '*senior managing official*'

AFME members remain concerned about the scope and practical interpretation of '*senior managing official*' (SMO) under Article 63 AMLR. Although the Level 1 text defines an SMO by reference to members of the management body in its management function, it also extends the definition to '*natural persons who exercise executive functions […] and are responsible, and accountable to the management body, for the day-to-day management*' of the entity. In practice, this supplementary clause is insufficiently precise and risks being interpreted too broadly, potentially capturing multiple layers of senior employees below management body level. For wholesale institutions operating complex group structures, such an interpretation would significantly expand the number of individuals treated as SMOs, thereby triggering unnecessary identification, verification, and ongoing CDD obligations that go beyond the intended purpose of the framework, while delivering little incremental ML/TF risk mitigation.

AFME therefore recommends that AMLA provide clear, EU-wide guidance limiting the scope of '*senior managing official*' to those individuals who formally constitute the management body in its management function, or, in cases where such a body does not exist, to the single natural person who actually performs an equivalent top-level managerial role. This should explicitly exclude ordinary executives, divisional managers, senior employees, or anyone who is merely involved in operational management but does not have ultimate responsibility for the overall management of the legal entity. Such clarification would align with the risk-based approach, ensure consistent interpretation across Member States, and prevent disproportionate expansion of CDD obligations for obliged entities without corresponding risk benefit.

3. EU-level guidance on beneficial owner identification and calculation

AFME members highlight the need for EU-level guidance on the identification and calculation of beneficial ownership, particularly in multi-layered or economically complex structures. In the absence of consistent rules, methodologies continue to differ across Member States, creating uncertainty for cross-border institutions and increasing the risk of inconsistent supervisory expectations. Although the AML Regulation does not explicitly mandate such guidance, Recital 105 envisages that the Commission may issue guidelines on rules to identify beneficial owners in different scenarios. AFME members consider this an essential next step to support harmonisation and operational clarity.

AFME requests that the Commission, in coordination with AMLA, issue practical guidance including case-based examples covering the most challenging and commonly encountered scenarios. This should include illustrations of beneficial ownership determination under Article 54 of the AML Regulation (multi-layered ownership structures), clarification that nominees are not beneficial owners for the purposes of Article 61 (in line with the FATF standard), and worked examples for private equity funds, limited partnerships and other collective investment undertakings. Such guidance would materially enhance consistency across the EU, reduce interpretive divergence, and ensure that the identification of beneficial owners remains risk-based, proportionate, and aligned with international standards.

4. Definition of new term '*close relationships*' introduced by draft RTS

AFME members note that the revised RTS introduce a new concept of '*close relationships*' in Article 25, without providing any definition of this new term. The term does not appear in the AML Regulation and has no established meaning in EU AML legislation, yet obliged entities are required to identify and assess ML/TF risks associated with such relationships as part of the additional customer information process. In the absence of a definition, firms risk implementing divergent or overly cautious approaches, potentially leading to the unnecessary collection of personal data about individuals whose connection to the customer may be remote, incidental, or irrelevant to risk. This would undermine proportionality, complicate implementation, and reduce harmonisation across Member States, while offering limited additional risk insight.

AFME requests that AMLA provide a clear and narrowly framed definition of '*close relationships'* (noting and taking into account any intended crossover with the definition of '*person known to be a close associate*' provided in Article 2 (1) (36) AMLR) that is aligned with the risk-based approach and limited to connections that are genuinely relevant to ML/TF risk. We also request that AMLA provide examples to ensure supervisory consistency and to avoid disproportionate data collection on individuals who pose no discernible financial crime relevance.

5. No definition of '*up to date'*

The revised RTS make repeated use of the concept that information, documentation and CDD records must be '*up to date*', yet this term is not defined in either the AML Regulation or draft RTS. In practice, the absence of a common and objective definition creates legal and supervisory uncertainty for obliged entities, particularly in the context of audit and assurance, where firms can expect divergent and increasingly conservative interpretations of what '*up to date*' should mean.

While AFME members generally favour risk-based flexibility over prescriptive rules, this is one area where a clear and common definition would be both helpful and proportionate. AFME therefore requests that a practical, risk-based definition of '*up to date*' be introduced via AMLA supervisory guidance, setting out how the concept should be applied in a risk-based manner by reference to customer risk, material change and review triggers.

Such guidance (which could simply require the use of '*latest available*' across various documentary typologies) would promote a harmonised supervisory and audit understanding across the EU, provide firms with greater legal certainty, and reduce unnecessary friction, while preserving the flexibility needed to tailor approaches to different business models and risk profiles

6. Proportionate treatment of multi-layered corporate structures

AFME members welcome the improvements made to what is now Article 12, and in particular the introduction of a clearer and more proportionate test for identifying a complex corporate structure. However, members remain concerned that criterion 1 (b) results in the capture of too many structures involving entities registered in jurisdictions outside the EU, even where those jurisdictions are well regulated and demonstrably low risk. Many large industrial, commercial and retail groups headquartered in the EU naturally operate through multi-jurisdictional structures for legitimate commercial reasons, and may have legitimate nominees or legal arrangements within the structure. These structures often involve intermediate holding companies or business units in countries that pose no elevated ML/TF risk. Treating the presence of non-EU entities as a relevant complexity factor risks misclassifying a wide

range of ordinary corporate groups and generating unnecessary CDD activity without improving risk management.

AFME therefore requests that AMLA clarify that the presence of non-EU entities should only be relevant where those jurisdictions present heightened ML/TF risk. Criterion 1 (b) should refer to high-risk third countries as defined in the AML Regulation, rather than all non-EU jurisdictions. AFME also requests that AMLA make clear that meeting the Article 12 test does not, on its own, imply a higher customer risk rating and does not equate to the '*excessively complex*' risk factor in Annex III. This clarification would ensure that ordinary global corporate groups are not inadvertently treated as higher risk and would support proportionate and consistent implementation across the EU.

7. Use of central registers for beneficial owner verification in simplified due diligence

AFME members are concerned that Article 21 of the revised RTS significantly limits the practical ability to rely on central registers, including Transparency Registers and commercial registers, when applying simplified due diligence. As drafted, obliged entities may use these registers only for identification, but must verify the information using a different source, often by requesting confirmation from the customer.

In many Member States, company and commercial registers carry legal effect and are widely recognised as independent, reliable sources of corporate information. Requiring firms to disregard such registers for verification purposes introduces unnecessary bureaucracy, undermines the purpose of simplified due diligence, and provides no additional assurance. Members also question the logic of requiring customers to confirm information they themselves provided to a public register, which adds process burden without improving the quality or reliability of the data.

AFME requests that AMLA revise Article 21 to permit obliged entities to use central registers as both identification and verification sources in low-risk scenarios, where those registers carry legal reliability in the relevant jurisdiction. AFME also requests reconsideration of the restrictions created by Article 21 (2), which narrow the available verification channels in a way that is inconsistent with a genuinely simplified approach. Allowing reliance on central registers for both identification and verification would maintain proportionality, reflect Member State legal realities, and avoid unnecessary customer outreach and friction.

8. Proportionate source of funds checks for beneficial owners

AFME members are concerned that Article 27 of the revised RTS may be interpreted as requiring systematic verification of source of funds or source of wealth at the level of each beneficial owner whenever a customer is deemed high risk. While enhanced measures are appropriate in genuinely high-risk situations, obliging institutions to obtain personal tax returns or wealth evidence from every beneficial owner of a corporate customer is often impractical, disproportionate, and unnecessary. For most operating companies, the customer's source of funds can be clearly understood from audited financial statements, operating income and business activity. Requiring parallel personal documentation from beneficial owners, particularly where ownership sits with family foundations or multi-generational structures, adds significant burden without materially improving ML/TF risk understanding.

AFME requests that AMLA clarify that source of funds or source of wealth verification at the beneficial owner level should only be applied where it is genuinely necessary to understand the customer's own source of funds, and not automatically as a consequence of high-risk classification. Where the customer's funds clearly derive from legitimate commercial

operations, verification at the corporate level should ordinarily suffice. This clarification would reinforce proportionality, support consistent supervisory practice, and avoid unnecessary friction for both institutions and customers.

9. Clarifying the use of certified and simple copies for identity verification

AFME members remain concerned that the revised RTS may still be interpreted as requiring certified copies for non-face to face verification in all cases where electronic methods are not used. While we recognise that certified documentation is appropriate for certain higher risk situations, a blanket expectation would be disproportionate and would undermine the risk-based approach set out in the AML Regulation. In many lower risk corporate relationships, it is entirely appropriate to rely on high quality simple copies provided directly by the customer, particularly where these are issued or verified by trusted corporate functions such as company secretaries or in-house legal counsel. Similarly, for individual customers or persons purporting to act, requiring originals or certified copies in all non-digital circumstances would create unnecessary friction, cost, and delays without materially improving assurance.

AFME requests that AMLA clarify that obliged entities may accept simple copies of identity documents where justified on a risk-based basis, and that certification should only be required in higher risk cases. We also request that AMLA explicitly confirm that certification performed by a customer's own authorised company secretaries or legal counsel is acceptable where the customer is itself a regulated or well-supervised entity. Clear and harmonised guidance is essential to avoid divergent national interpretations and the imposition of unnecessary procedural burdens across Member States.