AFME response to AMLA Consultation on draft Regulatory Technical Standards under Article 28(1) of Regulation (EU) 2024/1624 (Customer Due Diligence)

8 May 2026

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the AMLA Consultation Paper on draft Regulatory Technical Standards (RTS) under Article 28 (1) of Regulation (EU) 2024/1624. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate for stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA), a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

AFME members continue to support the European Union's objective of a harmonised, risk-based, and effective AML/CFT framework, while emphasising the need for practical and proportionate implementation. In our previous submission to the EBA consultation in June 2025, we set out detailed operational and technical concerns regarding scope, definitions, beneficial ownership, and ongoing monitoring, reflecting the practical realities faced by wholesale banks. This response builds on those positions. It acknowledges areas where AMLA's draft RTS provide useful clarification or simplification, while also highlighting where further refinement is needed to ensure the framework remains workable, consistent, and appropriately risk-based for the EU financial sector.

Question 1

Do you agree with the proposals set out in these draft RTS? If you do not agree, please specify:
(i) the provision(s) concerned; and
(ii) the rationale for your position.

Please provide concrete drafting proposals to resolve the issue and explain why the measure you propose would be more appropriate.

Proportionality and risk-based approach

AFME welcomed the EBA's earlier introduction of Article 1, which clearly establishes the risk-based approach as the overarching principle of the RTS and its implementation. In this context, AFME understands that all provisions of the RTS are intended to be applied in a manner that is proportionate to the level of ML/TF risk, and that obliged entities should be permitted to exercise appropriate judgement in calibrating their controls accordingly. Supervisory expectations and practices should likewise reflect this principle, with assessments of compliance taking into account the risk profile of the customer, product and activity in question. The comments below are therefore intended to support the consistent and effective operationalisation of the risk-based approach across the RTS.

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AFME members note that, across multiple provisions of the draft RTS, Member States currently apply inconsistent supervisory expectations, including in relation to what constitutes '*equivalent'* documentation and acceptable verification methods. This fragmentation risks undermining the risk-based and proportionate application of the RTS and creates operational complexity for cross-border groups. AFME therefore supports AMLA in facilitating a harmonised approach across the Union and urges AMLA to work closely with National Competent Authorities to ensure consistent supervisory expectations and outcomes in the application of these RTS.

We set out below our thoughts on amendments to Recitals and Articles proposed by AMLA, as well as further amendments suggested by AFME members for AMLA to consider.

RECITALS

Recital 10

AFME notes that Recital 10 clarifies that the identification of senior managing officials (SMOs) under Regulation (EU) 2024/1624 (AMLR) should occur only where the obliged entity has exhausted all possible means of identifying the beneficial owner, or where there are doubts that the persons identified are the beneficial owners.

AFME members support the intention to ensure that the identification of SMOs remains a measure of last resort. AFME members continue however to face significant uncertainty regarding the practical interpretation of the SMO concept itself.

The Level 1 text defines SMOs as follows: '*[f]or the purpose of this paragraph, 'senior managing officials' means the natural persons who are the executive members of the management body, as well as the natural persons who exercise executive functions within a legal entity and are responsible, and accountable to the management body, for the day-to-day management of the entity*.'

This formulation, in particular the conjunctive *'as well as'* and the broad reference to natural persons exercising executive functions, risks an overly expansive interpretation. In practice, this could extend identification and verification obligations beyond members of the formal management body to multiple layers of senior employees involved in operational management, particularly within complex wholesale structures. This would significantly increase Customer Due Diligence (CDD) requirements without delivering a commensurate improvement in Money Laundering or Terrorist Financing (ML/TF) risk mitigation.

It should also be noted that Article 2 (1) (sub-paragraphs 37 to 40) AMLR defines several forms of 'management body', but does not provide a precise indication of the composition of the management body for legal entity customers subject to CDD. In AFME's view, the appropriate definition most closely aligns with the management body acting in its supervisory function under Article 2 (1) (39) AMLR. The absence of clear alignment between these provisions creates interpretative uncertainty for obliged entities.

AFME notes that the interaction between the beneficial ownership threshold and the SMO fallback mechanism may result in the measure intended as a last resort becoming instead a routine outcome in a wide range of legitimate structures. Under Article 52 (1) AMLR, beneficial ownership is generally determined by reference to a 25% ownership threshold. In practice, many wholesale structures are intentionally organised such that no individual investor meets this threshold. This is common, for example, in listed companies with widely dispersed shareholdings, in private equity or fund structures where investors typically hold smaller participation interests, and in special purpose vehicles where ownership may be structured through orphan arrangements or trusts. In such cases, the identification of SMOs would arise systematically rather than exceptionally.

As a result, a measure that is intended to operate as a safeguard of last resort may in practice become the default outcome for a significant number of legal entities encountered in wholesale financial markets. This significantly increases the operational relevance of the SMO concept and reinforces the need for a clear and proportionate interpretation.

Members also note that Article 13 of the draft RTS requires obliged entities to collect and verify substantially the same personal information for SMOs as for beneficial owners. Where an expansive interpretation of '*day-to-day management*' is applied, this could lead to the identification and verification of multiple layers of senior personnel within a single legal entity. For large corporate groups this could create a very substantial identification and verification workload, without necessarily producing a commensurate improvement in ML/TF risk mitigation.

AFME recognises that the definition of SMO is established at Level 1 and that any substantive amendment would therefore need to be addressed by the co-legislators. However, the absence of further interpretative clarity in the interim presents a material challenge for obliged entities seeking to implement the framework consistently across jurisdictions.

In the absence of legislative amendment – which could take several years – AFME requests that AMLA provide supervisory clarification on the practical interpretation of the SMO concept through Level 3 guidance. Such guidance could help to promote a consistent and proportionate approach across Member States until such time as the co-legislators may revisit the issue in the Level 1 framework.

AFME notes that Article 22 (2) AMLR introduces a safeguard requiring obliged entities to abstain from verifying an SMO where doing so could risk tipping off the customer about doubts regarding beneficial ownership. The interaction between this safeguard, the obligation to record SMOs where no beneficial owner can be identified, and the operational realities described above may create additional complexity for obliged entities. Clear supervisory guidance would therefore be valuable in ensuring a consistent and workable approach.

We also note the concept of '*doubts'* referenced in Recital 10 is not defined in the Regulation, which may lead to divergent supervisory expectations and market practices regarding when recourse to SMO identification is appropriate. It would be helpful if AMLA could provide guidance on this concept, the better to ensure shared understanding and consistent practice from obliged entities.

Recital 12

AFME notes the introduction of new Recital 12, which clarifies that obliged entities should obtain information enabling them to verify the existence and scope of any power of representation, including documentation evidencing a power of attorney or statutory representation, such as proof of legal or parental representation.

AFME welcomes this clarification, which appropriately focuses the concept of persons purporting to act (PPTAs) on persons exercising a formal power of representation on behalf of the customer, rather than employees acting in the ordinary course of their professional duties. This distinction is critical for wholesale banking models, where operational staff frequently interact with obliged entities but do not hold formal authority. Capturing such persons would create a disproportionate identification and verification burden without corresponding ML/TF risk mitigation.

Recital 12 also has important implications for reporting in systems such as the Bank Account Register Interconnection System (BARIS). Where PPTAs are captured, identification and representation information must be recorded. Without confirmation that only persons with a legally conferred power of representation are included, obliged entities risk excessive and unnecessary BARIS entries, undermining operational efficiency and the usefulness of the system as a regulatory tool.

AFME requests confirmation that this Recital reflects AMLA's intended interpretation of relevant AMLR requirements, and that the PPTA concept applies solely to persons exercising a legally conferred authority (*we refer AMLA to the suggested PPTA definition we have previously submitted in our consultation response to the EBA, and in later direct interaction with AMLA*). Persons who merely act in the course of their professional duties for the customer should not be captured, ensuring consistent implementation across Member States and avoiding a disproportionate expansion of CDD obligations.

If AMLA cannot provide this clarity at Level 2, AFME requests that AMLA provide Level 3 supervisory guidance to harmonise interpretation and support proportionate implementation.

Recital 14

AFME welcomes the addition of two new sentences to Recital 14, which clarify the circumstances under which collective investment undertakings (CIUs) may rely on intermediary institutions for the identification and verification of final investors. Members note that this clarification is particularly helpful for buy-side operations, where CIUs distribute through regulated intermediaries.

AFME members have also highlighted that, from a sell-side perspective, brokers or other regulated intermediaries providing services to CIUs may face similar operational challenges. While AFME recognises that the CIU framework in Recital 14 is sector-specific and that detailed guidance on multi-partite brokerage relationships may be more appropriate at Level 3 or in other sectoral guidance, members consider it useful to signal that a proportionate, risk-based approach could also be applied in the sell-side context. In particular, a regulated broker interacting with a CIU or its designated agent could, where the relationship is assessed as low or standard risk, rely on information from the relevant intermediary without systematically obtaining investor details, provided strict conditions are met and information can be obtained without undue delay.

This approach is supported by existing regulatory precedent, notably the BaFin Interpretation and Application Guidance (June 2021), which allows credit institutions to rely on information provided by a management company (KVG - a German investment management company / fund management company under German investment fund law) regarding the fund and investor structure, provided there is no reasonable doubt as to its accuracy. The guidance also permits assumptions of no beneficial owners for open-ended retail investment funds or funds with a large number of investors, recognising the practical challenges in identifying final investors in complex fund structures. Furthermore, the guidance underscores that reliance on EU/EEA-regulated management companies is consistent with a risk-based, proportionate assessment of ML/TF risk, and it provides precedent for third-party reliance, such as lead managers in syndicated loan arrangements, which can conceptually support broker reliance on CIU agents.

At the same time, AFME recognises that AMLA does not intend to issue detailed, sector-specific guidance within this RTS and that the treatment of brokers in relation to CIUs may also depend on whether the CIU is deemed a customer under the business relationships RTS. AFME therefore does not propose a specific sell-side recital at this stage, but highlights that signalling a consistent, risk-based approach between buy-side and sell-side intermediaries, in line with established EU practice, would be beneficial in practice. Clarifying this principle at a high level would support consistent implementation across Member States, reduce operational uncertainty, and avoid premature or overly prescriptive guidance on complex multi-party arrangements.

Recital 21

AFME welcomes newly-inserted Recital 21, which highlights that information already held by an obliged entity, or available from other entities within the group, may contribute to meeting AML/CFT requirements and reduce unnecessary duplication. AFME members consider this principle particularly important in the context of cross-border financial groups, where relevant information may already have been collected by another group entity, including in a third country.

AFME members note that AMLA has now published its consultation on draft RTS on group-wide requirements under Article 16 (4) AMLR and additional measures for branches and subsidiaries in third countries under Article 17 (3) AMLR. AFME welcomes the fact that those draft RTS address information sharing within groups, including in relation to branches and subsidiaries in third countries.

AFME members note that obliged entities would need to operate within applicable data protection requirements, including GDPR, and ensure that appropriate safeguards are in place for the sharing of information across jurisdictions.

In light of the publication of the draft group-wide requirements RTS, AFME no longer considers it necessary to request clarification in this response on whether 'group' may include subsidiaries and branches in third countries. However, AFME members emphasise the importance of ensuring that the CDD RTS and the group-wide requirements RTS are aligned, so that information already collected within a group can be used effectively for AML/CFT purposes, while respecting applicable legal, confidentiality and data protection constraints.

AFME members note that the recital refers to understanding *'for instance, the purpose and intended nature of the beneficial ownership or occasional transaction'*. Members query whether the reference to beneficial ownership is intended, or whether the recital should instead refer more broadly to the *'business relationship'*, which would be more consistent with the context of ongoing due diligence obligations. Given that the recital explicitly introduces this wording with *'for instance'*, clarification on the intended scope would help ensure consistent interpretation.

Finally, the recital mentions information obtained '*as part of the audit acceptance process*.' AFME members have not identified a clear interpretation of this reference and would welcome clarification of its intended meaning in practice.

Overall, AFME members support the principle that existing information should be leveraged wherever possible to avoid duplication. They would welcome the principles reflected in this recital being carried through to the subsequent operative articles, and applied consistently alongside the group-wide requirements RTS, the better to ensure information is used effectively to meet AML/CFT requirements while minimising unnecessary administrative burden.

ARTICLES

Article 3 - Information to be obtained in relation to addresses

Article 22 (1) (a) (ii) AMLR requires obliged entities to obtain the '*place and full date of birth*' for relevant natural persons.

In its discussion of the changes made following consultation on its first draft of the RTS, the EBA recognised there is limited utility in interpreting '*place'* to include '*city'* when recording details of the birth of certain classes of persons, and the costs of doing so would likely outweigh any benefits obtained. As such, it clarified that '*place'* should be interpreted to include '*at least* the country of birth' (emphasis in the EBA original), and need not include '*city'*.

For beneficial owners, current due diligence practice is to collect the country of residence but not the city. While the jurisdiction in which a beneficial owner is resident is recognised as a legitimate indicator of potential ML/TF risk, the individual city of residence within a particular country is unlikely to affect in any material way the ML/TF risk posed. Consequently, the value added by collecting the city of residence for due diligence assessment of beneficial owners is limited.

Given this limited value added, and the analogous recognition by the EBA that the interpretation of '*place'* to include city for other classes of persons is a cost without a benefit, we request that the obligation to collect '*city, or its nearest alternative*' in Article 3 (b) be removed for beneficial owners, or, if AMLA does not wish to delete entirely, that the reference to *'city*' be moved to and combined with (c), such that it would be collected '*where available*'.

Article 6 – Documents for the verification of identity

AFME members note that the addition of the word *'act'* in Article 6 (5) does not in itself raise significant concerns. We note the practical efficiency benefit in permitting non-face-to-face measures (like eID or EUDI Wallets) to be used in face-to-face contexts to complete verification within seconds. We welcome measures which promote the adoption of digital solutions in all verification scenarios.

Members have however identified operational uncertainty arising from the interaction between Article 6 (3) and the practical processes used to obtain and verify identity documents.

In practice, institutions are exploring a range of solutions to address these challenges, including the use of digital verification technologies or external service providers capable of validating machine-readable identity documents. However, members emphasise that clear and consistent supervisory expectations are necessary to ensure that such approaches are recognised across the EU as fulfilling the requirements of Article 6.

AFME members would welcome clarification that the verification requirement is limited to confirming the identity of the relevant natural person, and therefore only extends to those data points necessary for that purpose, and does not extend to additional information that is not required to establish identity. AFME members consider that this reflects the intent of the co-legislators, as set out in Recital 4.

To this end, we suggest the addition of the following paragraphs:

> *8. Verification pursuant to this paragraph shall be limited to the data necessary to verify the identity of the natural person concerned, and therefore only extends to those data points necessary for that purpose (i.e., full name, date of birth, country of residence). Verification does not extend to the verification of additional data that is that is not required to establish identity.*
>
> *9. Obliged entities shall not be required to re-verify data that has already been verified (including in accordance with the applicable legal framework in force prior to entry into force of this RTS)* unless there is a specific reason to doubt the accuracy of the original information. *This applies to Articles 6 and 7.*

Article 7 – verification measures conducted on a non-face-to-face basis

AFME members note AMLA's editing of what is now Article 7 (3) (e) inserts '*valid and*…' immediately before '*up-to-date*'. It is not clear what this insertion is intended to signify, or whether AMLA intends there to be a distinction between the two (which the use of both may imply). AFME members would welcome clarification that the verification requirement focuses on confirming the identity of the relevant natural person in non-face-to-face situations and does not impose any requirement (such as a requirement to re-verify any previously collected data where no substantive change has occurred) beyond this purpose.

Furthermore, AFME members note that currently, Members States apply an inconsistent approach to their expectations in this area, specifically in respect of 'equivalent' documentation, and we support AMLA in facilitating a harmonised, proportionate and risk-based approach across the Union. We urge AMLA to work with National Competent Authorities to ensure consistent application of supervisory expectations.

Article 11 – Understanding the ownership and control structure of the customer

AFME members welcome the adoption of a risk-sensitive approach, recognising the importance of proportionate measures when assessing ownership and control structures. Members note that the wording is technology neutral, allowing obliged entities to apply manual, automated, or AI-supported processes in carrying out such assessments. Members would welcome confirmation that the term *'assess'* is intended in the context of proportionality and risk-based principles, permitting firms to utilise technology-supported assessment solutions, provided that outcomes are appropriate and satisfy supervisory expectations.

Article 12 – Understanding the ownership and control structure of the customer in the case of complex corporate structures

AFME members note the overarching principles of proportionality and following a risk-based approach now set out in Article 1. With these in mind, AFME members request AMLA to 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 to all non-EU jurisdictions.

Article 13 – Information on Senior Managing Officials

AFME members reiterate their concern regarding the current scope and practical interpretation of '*senior managing official*' (SMO) under Article 63 AMLR.

The Level 1 definition extends beyond members of the management body in its management function 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 remains insufficiently precise and risks being interpreted too broadly, potentially capturing multiple layers of senior employees below the formal management body. AFME understands this clause to operate as a fallback, for example where there is no clearly identifiable management body, which would be consistent with a proportionate, risk-based approach.

Members note that, as a result, the collection of SMO data under Article 13 may become disproportionate, particularly for wholesale institutions operating complex group structures. Overly broad interpretations would significantly increase the number of individuals subject to identification, verification, and ongoing CDD obligations, without delivering a commensurate improvement in ML/TF risk mitigation.

AFME recognises that AMLA's mandate under the RTS is limited and that substantive amendments to the Level 1 definition would need to be addressed by the co-legislators. Nevertheless, members consider it important to emphasise the operational challenges and risks of inconsistent interpretation across Member States.

In the absence of legislative amendment, AFME encourages AMLA to issue Level 3 guidance to provide supervisory clarity on the practical scope of the SMO concept. Such guidance could help ensure a proportionate and harmonised approach until the Level 1 framework is revisited, reducing the risk of inconsistent reporting to transparency registers and avoiding undue operational burden for obliged entities.

Article 17 - Identification and verification obligations for collective investment undertakings

AFME has significant concerns regarding the proposed drafting of Article 17 and Recital 14, in particular as regards their interaction with established fund distribution models in the Union and their consistency with the risk-based approach set out in the AMLR.

Established distribution models and Level 1 framework
The RTS appear to insufficiently distinguish between the principal fund distribution models operating within the EU.

In particular:

- under the **register model**, the CIU maintains a direct relationship with the investor and performs CDD accordingly.
- under the **intermediated (CSD) model**, the CIU maintains a business relationship with a financial intermediary (distributor), while the distributor maintains the business relationship with the underlying investors.

In the latter case, consistent with Article 2(19) AMLR, the CIU does not have a *business relationship* with the underlying investors. Accordingly, the AMLR framework does not require the CIU to identify and verify those investors directly, provided that appropriate reliance is placed on the intermediary.

Article 17, read together with Recital 14, risks blurring this distinction by implicitly extending identification expectations to underlying investors even in the absence of a direct business relationship. This would constitute a material departure from the Level 1 framework.

Overly restrictive conditions for reliance
Article 17 conditions reliance on the intermediary on a number of cumulative criteria, including that the relationship is assessed as '*low or standard risk*'.

AFME considers that this condition is unduly restrictive and not aligned with a genuinely risk-based approach. In particular, a 'high risk' classification may arise from a range of factors – including product features, distribution channels or jurisdictional elements – that do not, in themselves, indicate deficiencies in the intermediary's AML/CFT framework. As currently drafted, the provision risks creating a binary outcome whereby reliance is effectively precluded in a wide range of legitimate scenarios, irrespective of the robustness of the intermediary's CDD processes. This would, in turn, undermine reliance frameworks that are well-established, contractually governed, and subject to supervisory oversight.

Operational and proportionality concerns
Where the conditions for reliance are not met, Article 17 would require CIUs to identify and verify underlying investors.

AFME considers that this would raise significant operational and proportionality concerns. In many cases, CIUs would be required to perform CDD on a potentially very large number of underlying investors who have already been subject to full CDD by the intermediary. This would result in duplication of controls, contrary to the principle of proportionality in Article 1 of the draft RTS and the broader risk-based approach underpinning the AMLR. In practice, CIUs may not have access to the necessary information, particularly where intermediaries are located outside the EU or where commercial considerations limit information sharing between competing entities.

Even where reliance is permitted, the requirement to obtain information on underlying investors '*without undue delay*' would necessitate the establishment of complex legal and technical frameworks for data sharing, with associated cost and feasibility implications.

Market impact
Taken together, these elements risk:

- disrupting well-functioning and widely used distribution models in the Union;
- reducing the attractiveness of certain distribution channels;
- and creating unintended competitive distortions between market participants.

These effects would not be justified by a corresponding enhancement in AML/CFT effectiveness, given that underlying investors are already subject to CDD at the level of the intermediary.

Proposed approach
AFME considers that the current drafting should be reconsidered to ensure alignment with the Level 1 framework and to preserve the effectiveness of existing distribution models.

Two alternative approaches could be considered:

- ***Option 1 – Deletion***
  Delete Article 17 and Recital 14 in their entirety.

  The AMLR already provides a clear framework for the identification of customers and reliance on third parties. In the absence of a direct business relationship between the CIU and underlying investors, extending identification requirements to those investors is not supported by Article 20(1)(h) AMLR.

- ***Option 2 – Targeted revision***
  If Article 17 is retained, AFME recommends limiting the conditions for reliance to those necessary to ensure the robustness of the intermediary's AML/CFT framework.

  In particular:
  - the condition relating to the risk classification of the relationship ('*low or standard risk*') should be removed.
  - greater emphasis should be placed on whether the intermediary:
    - is subject to AML/CFT obligations equivalent to those in the AMLR; and
    - applies effective, risk-sensitive CDD measures to its own customers.

  This would better reflect existing market practices and ensure that reliance is assessed on the basis of the quality of the intermediary's AML framework, rather than the CIU's overall risk rating of the relationship.

We believe these suggestions would foster a more pragmatic and operationally feasible regulatory framework, supporting financial system integrity without unduly disrupting established and efficient fund distribution models within the EU.

Article 20 – Minimum requirement for customer identification in situations of low risk

AFME members note that, in practice, the application of simplified due diligence (SDD) can be challenging, as the processes, assessments, and documentation required to justify its use to auditors and supervisors are often more onerous than continuing to apply standard CDD. This creates a disincentive for obliged entities to apply SDD, even in lower-risk scenarios, and may lead to an erosion of the risk-based approach envisaged by the AMLR.

AFME therefore requests that AMLA clarify that the proportionate use of SDD is consistent with supervisory expectations, facilitates the effective and proportionate application of a risk-based approach, and should not require such a level of justification that proves to be more burdensome than the use of standard CDD in lower-risk situations.

Article 22 - Sectoral simplified measures with respect to pooled accounts

AFME members note that Article 22 (a) requires account holders to be obliged entities in order to fall within scope of this provision. This may have the unintended consequence that certain types of pooled accounts – such as rent deposit accounts or school class accounts – which are currently subject to SDD would fall outside of scope. Members consider that this would not support an efficient and effective allocation of resource and is unlikely to reflect the intention of the co-legislators.

AFME has noted elsewhere that the measures set out in Article 33 (1) AMLR and in Section 5 of the draft RTS should be understood as illustrative rather than exhaustive. Given that no regulatory framework can anticipate all possible customer types, account structures, or risk scenarios, it is important that obliged entities retain the ability to apply appropriate, risk-based measures according to the circumstances of the situation at hand.

With this in mind, AFME requests that AMLA clarify this point to ensure that low-risk account types currently subject to SDD may continue to be treated as such, and that a proportionate, risk-based approach can be applied to analogous accounts and situations that may arise in future.

With regard to the requirement that credit institutions must be satisfied that the account holder will provide funds '*immediately'* – we have also noted previously that if taken literally, this provision would be close to impossible to fulfil. We therefore suggest that it be amended to '*promptly'* or '*without undue delay*' to ensure a shared understanding of the limits of practical applicability.

Article 33 – Entry into force

AFME members strongly support EU and AMLA efforts to design and implement an effective and efficient EU AML/CFT regime.

Members welcome the efforts of the EBA and AMLA to clarify the timelines for the treatment of customers and business relationships entered into prior to the entry into force of the AML Regulation and associated technical

standards. However, industry is concerned that delays in finalising the RTS, without corresponding adjustments to their entry into force, may result in rules being developed under compressed timelines, without sufficient opportunity to fully assess their implications, and may leave insufficient time for obliged entities to implement the necessary systems and controls.

Several authorities have referred to the need for '*proportionate'* and '*appropriate'* supervision in the initial years of application. While this is welcome, it may give rise to differing interpretations across Member States, particularly for entities subject primarily to national supervision and only indirectly to AMLA oversight.

In this context, AFME requests that AMLA recognise the limited timeframe available to industry to develop and implement systems and controls, and that supervisors across Member States adopt both high standards and a proportionate, pragmatic approach during the implementation phase as obliged entities work to meet the new requirements.

The public and private sectors are partners in the fight against financial crime. By working together in a spirit of ambition and good faith, we can maximise the effectiveness of the EU AML package and strengthen the prevention of money laundering and terrorist financing, both within Europe, and beyond.

Lastly, AFME notes that Article 33 still refers in the second paragraph to '*publication date*' rather than '*application date*' as the starting point. We assume AMLA means '*application date*' (as mentioned in the Recital 25) and would be grateful if this could be confirmed in Article 33.

GENERAL COMMENTS

Clarification of the certification requirements for a document

Throughout the RTS, there are multiple references to the '*certification'* of documents. AFME members would welcome clarification on whether the same requirements apply to all documents and whether the same persons may perform the certification, or if different requirements apply depending on the type of document or the category of persons to be identified.

We note that:

- Recital 5 states that, for documents relating to non-natural persons, these can be '*certified'* by an '*independent professional or a public authority*.'
- Article 6 refers to a '*certified copy*' of an identity document, passport, or equivalent for the purpose of identifying a natural person.
- Article 10 (b) (iv) requires that documents confirming the identity of the beneficial owner be '*certified by persons that are authorised for document certification purposes*.'

If the three cases are intended to have different requirements for certification, AFME members would welcome confirmation of which '*professionals'* are in scope, how obliged entities should determine whether they are sufficiently '*independent'* or '*authorised for document certification purposes*,' and whether there are any specific requirements for the certification of copies of identity documents. We also propose that other obliged entities are considered persons authorised for document certification purposes.

Furthermore, we note that, for certification purposes, a '*professional'* may be either external or internal to an organisation. This could include an external individual, such as a notary, or an internal individual who is able to certify independently, such as in-house legal counsel. In recognition of our member firms' global operating models, this may also extend to roles such as a company or corporate secretary.

The '*number of the identity document*' collected for beneficial ownership information

While the AMLR requires collecting a broad range of customer data as detailed in Articles 22 (1), 22 (2) and 62 (1) (a) AMLR, the core purpose of the verification framework (Articles 20, 22 (6), 22 (7) AMLR) is to establish and confirm the identity of the customer and, when necessary, the beneficial owner. This means using reliable independent sources to verify the key identity details and truly understand the ownership structure. Therefore, our verification efforts should concentrate primarily on essential identity elements, such as name, date of birth, and place or country of residence. Collecting many data points is necessary, but requiring each one to be verified with the same rigorous standard as core identity details would be excessive and inconsistent with a risk-based approach.

Question 2

Do you agree that the proposals set out in these draft RTS can be applied across the range of products and services provided by your obliged entity? If you do not agree, please:
(i) explain your rationale for why the current proposals do not provide sufficient flexibility; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

This question is not applicable to AFME as a trade association.

Question 3

Do you agree that the proposals set out in these draft RTS allow for the effective application of a risk-based approach towards compliance with AML/CFT requirements? If you do not agree, please:
(i) specify the provisions concerned; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

Please see our approach to question 1, and our article-by-article comments in our submission using the AMLA webform.

Question 4

Considering the nature of your business, including its size, risks, and complexity, are there any situations where the information to be collected for the purposes of customer due diligence as proposed in these draft RTS is routinely unavailable and the proposals in these draft RTS do not provide an alternative solution?

If so, please provide concrete examples of such situations and your proposals for alternative solutions.

This question is not applicable to AFME as a trade association.

Question 5

Considering AMLA's legal mandate in Article 28(1) of Regulation (EU) 2024/1624, and taking into account your obliged entities' products offered and service provided, what other simplified due diligence measures should be included in the draft RTS, for example because of the associated lower ML/TF risks of these products and services?

Please provide concrete drafting proposals and rationale for the specific measures you would propose.

Simplified Due Diligence

Non-exhaustive nature of Article 33
Article 33 AMLR permits obliged entities to apply simplified due diligence (SDD) where a business relationship or transaction presents a lower degree of risk, based on the factors set out in Annexes II and III. Members welcome SDD as an important tool to enable a more efficient allocation of resources, allowing greater focus on higher-risk situations while applying proportionate measures in lower-risk cases.

In practice, obliged entities should be able to apply a simplified approach across all lower-risk business relationships or transactions. AFME therefore requests confirmation that Article 33 AMLR is not exhaustive in its prescribed measures, and that obliged entities may, in addition to those set out by AMLA, apply measures that are proportionate to the nature and size of the counterparty and to the risks identified. Such an approach would support the effective operation of a risk-based framework and enable resources to be directed where they are most needed.

Challenge of making use of simplified due diligence in practice

The application of simplified due diligence (SDD) can be challenging, as the processes, assessments, and documentation required to justify its use to auditors and supervisors are often more onerous than continuing to apply standard CDD. This creates a disincentive for obliged entities to apply SDD, even in lower-risk scenarios, and may lead to an erosion of the risk-based approach envisaged by the AMLR.

AFME therefore requests that AMLA clarify that the proportionate use of SDD is consistent with supervisory expectations, would support the effective and proportionate application of a risk-based approach, and should not require such a level of justification that proves to be more burdensome than the use of standard CDD in lower-risk situations.

The following table sets out SDD scenarios which we propose should be included. They reflect approaches currently taken in national law (in the examples given, in Germany) and should remain possible also under AMLR.

Current SDD possibilities to continue under the AMLR

Current German SDD cases / other regulatory reliefs and / or established market practices	**Current German SDD measures**	**Suggested AMLR approach**
Public companies listed on a stock exchange		
Public companies listed on a stock exchange and subject to disclosure requirements, as well as majority-owned subsidiaries of such companies (Chapter 6.1; BaFin AuA AT; Sec 3 (2) GwG). **Legal entities governed by public law (e.g. public authorities).**	No BO identification required. [Please note this measure currently is **not** limited to SDD but applies in general].	Due to existing high transparency standards following disclosure requirements from the stock exchange, the obligations arising from Article 20 (1) (b) AMLR should be seen as fulfilled: • identifying the beneficial owners and taking reasonable measures to verify their identity so that the obliged entity is satisfied that it knows who the beneficial owner is; • **at least**: understanding the ownership and control structure of the customer (obligations further specified within Article 13 draft RTS on CDD). • **If no BO can be determined with the publicly available information from the stock exchange, direct identification of the SMOs.** For legal entities governed by public law, clarify in the RTS that there is usually no true BO in the case of those client categories. The obliged entity may rely directly on the identification of the SMO.
Escrow Accounts		
Escrow accounts for lawyers that are not obliged entities; individual escrow accounts (BaFin circular letter dated 30 March 2022, GW 11-GW 2002-2022/0003).	No identification required of the Trustors (persons on behalf of or for the benefit of whom the lawyer holds the (pooled) escrow account). Certain transactions, such as cash or real estate transactions, are not allowed on the pooled escrow account.	Extension of application of SDD measures as outlined in Article 22 draft RTS on CDD to: • All notaries, lawyers and other legal professions, irrespective of the performance of activities as listed within Article 3 (3) (b) AMLR: o Segregation of transactions in a pooled account into activities where the notary, lawyer, or other legal profession performs an activity as listed in Article 3 (3) (b) AMLR, and those in which this is not the case is **not operationally feasible**. o high professional legal duties of notaries, lawyers and other

		legal professions significantly limit ML/ TF risks. o Additional proposed measure to mitigate any risks deriving from non-obliged entities account holders could be the obligation to ensure that the account holder provides information and documents necessary for ID&V of the Trustor upon request. • Individual escrow accounts of above listed notaries, lawyers and other legal professions: o no factual reason for the disadvantage of individual accounts compared to pooled accounts.
Escrow accounts where Trustor has legally no authority to dispose of the funds that are administered in the escrow account, as insolvency cases, compulsory administration, execution of a will (7. 2.2; BaFin AuA BT).	No identification required of the Trustors (persons on behalf of or for the benefit of whom the escrow account is held).	Extension of application of SDD measures as outlined in Art 22 draft RTS on CDD to cases where the Trustor has legally no authority to dispose of the funds that are administered in the escrow account, as insolvency cases, compulsory administration, execution of a will: • Administered Funds are not available to the Trustor in these cases. • CDD is executed when and as soon as assets are returned to the Trustor. • Additional proposed measure to mitigate any risks deriving from non-obliged entity account holders could be the obligation to ensure that the account holder provides information and documents necessary for ID&V of the Trustor upon request.
Escrow accounts in further low risk cases where the account holder is not an obliged entity, such as collective rent deposit accounts, debt collection, escrow accounts, accounts for school classes, etc. (7. 2.1; BaFin AuA BT).	No identification required of the Trustors (persons on behalf of or for the benefit of whom the escrow account is hold).	Extension of application of SDD measures as outlined in Art 22 RTS on CDD to cases where ML/ TF risks are very low: • Reduction of bureaucratic burden without contribution to the fight of ML/ TF risks. • Upfront ID&V of Trustors in such cases is (also from Client's view) operationally impractical and offering such accounts will likely no longer be possible. • Additional proposed measure to mitigate any risks deriving from non-obliged entity account holders could be the obligation to ensure that the account holder provides information and documents necessary for ID&V of the Trustor upon request.

Syndicated loans		
Syndicated loans (4; BaFin AuA BT).	• The lead bank may generally use SDD when identifying the consortium members/participants. • If the loan is purely a collateral arrangement for financing where there is only a low risk of money laundering or terrorist financing, such identification may be waived.	Introduction of sectoral SDD outlining reduced measures for syndicated loans. • Syndicated loans require timely cooperation with other international banks, which may not be subject to EU AMLR obligations. • Adaptation to international standards is necessary, otherwise the participation in syndicated loans by EU banks will be significantly hampered without making a clear contribution to the fight against ML/TF risks.

We also call for extending SDD to pension products.

We advocate for the judicious application of sectoral simplified measures to pension products, consistent with the treatment of pooled accounts as per our request above. This would extend to employer-sponsored/financed pension schemes, including those originating from jurisdictions not specified in Articles 29-31 AMLR, and all company pension schemes, regardless of their sponsorship. The rationale for this lies in the inherent low ML/TF risk associated with these offerings, coupled with their existing comprehensive national regulatory oversight.