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Koninklijke Nederlandse
Beroepsorganisatie
van Accountants

Consultation on the draft Guidelines on business-wide risk assessment
On draft Guidelines under Article 10(4) of Regulation (EU) 2024/1624

[Consultation on the draft Guidelines on business-wide risk assessment - Authority for Anti-Money Laundering and Countering the Financing of Terrorism (europa.eu)]

Question 1: Do you agree that the proposals set out in these draft GLs can be applied across all obliged entities and allow for an effective application of a risk-based and proportionate approach towards compliance with AML/CFT requirements?

1) Introduction and timing concern

Thank you for the opportunity to respond to this draft GLs. We appreciate AMLA's efforts to establish new Guidelines (GLs). At the same time, we have concerns regarding its practical implementation. The limited scope within the GLs for adopting a pragmatic and proportionate approach does not support ongoing efforts, both in the Netherlands and across Europe, to reduce regulatory burden. Instead, the requirements risk increasing compliance costs and administrative complexity without a corresponding improvement in AML/CFT effectiveness.

It is essential to maintain focus on the overarching objective of preventing ML, TF and the evasion of TFS. It is also essential that the GLs are appropriately tailored to the business activities of the obliged entities (OEs) for which the GLs are relevant. Accountants and auditors have a very different role than banks, which should be reflected in their risk-assessments.

We also remain concerned about the timing of the GLs adoption and the implementation deadline of 10 July 2027. Where compliance requires structural or organisational changes, it is not realistic to expect OEs to meet these requirements within the proposed timeframe. We therefore encourage AMLA to re-evaluate the requirements, ensuring a proportionate and risk-based approach, and to introduce a transitional period that allows OEs sufficient time to implement necessary adjustments and achieve effective, sustainable compliance.

2) Unclear practical effect of proportionality paragraph

While proportionality is referenced, its practical effect on reducing administrative burden remains unclear. Paragraphs 8, 8a, and 8b lack clarity on scope and implementation—particularly due to the absence of a definition of non-complex entities and uncertainty around supervisory initiatives—limiting their effectiveness.

Paragraph 5a appears overly prescriptive in requiring OEs to establish policies, procedures, and controls specifically to ensure that the BWRA is documented, maintained, and regularly reviewed. Requiring a detailed framework of policies, procedures, and controls for this purpose may not be needed for the purpose of AML/CFT and therefore create unnecessary administrative burden and may not be proportionate for all OEs.

In our view, it would be more appropriate to require that the BWRA be documented, kept up to date, and periodically evaluated as part of the OE's existing internal governance and risk management framework. OEs should retain flexibility to determine how these requirements are implemented within their own organisational structure and internal control environment, taking into account their size, nature, and risk profile.

Proposed wording:
"*OEs shall ensure that the BWRA is documented, kept up to date, and periodically reviewed to remain accurate and aligned with the entity's risk exposure. The manner in which these requirements are implemented should be determined by the obliged entity as part of its overall governance, risk management, and internal control framework."*
This approach would achieve the same regulatory objective while allowing OEs to implement proportionate and risk-based arrangements that fit their organisational context.
Paragraph 5d further raises feasibility and proportionality concerns, as the requirement for ongoing training, including for agents and distributors, may impose obligations that are not aligned with their roles or risk exposure.

3) Limited clarity on risk-based approach

The GLs refer to a risk-based approach but provide limited clarity on its practical application, particularly regarding the consequences of identifying low risks. As currently formulated, requirements appear not to be dependent on the assessed risks, which undermines the added value of a risk-based approach.
A proportionate approach should ensure that the depth of analysis, level of scrutiny, and extent of documentation are commensurate with the risks identified.
In practice, this implies focusing on effective risk mitigation rather than procedural completeness, requiring more robust assessment and documentation where risks are higher, while permitting simplified methodologies and lighter documentation requirements in lower-risk situations.
For example, where an OE identifies a low risk of exposure to money laundering or terrorist financing, a concise assessment supported by limited documentation should be sufficient. Conversely, activities with clients in higher-risk sectors or jurisdictions should require a more detailed analysis and more extensive documentation. This flexibility is essential to ensure that the framework remains risk-based and does not create unnecessary administrative burdens, particularly for smaller OEs.
Overall, a risk based approach enables differentiated treatment of risks, ensuring that lower-risk scenarios result in reduced scope, depth, and frequency of measures, while higher-risk situations require enhanced scrutiny and evidence.

4) Practical implementation challenge methodology

In our view, paragraph 15 may prove challenging to implement in practice, particularly for smaller OEs. The provision appears to have a strong theoretical focus, making its translation into practical application difficult.
For example, the paragraph requires that:

1. OEs apply a risk-based weighting of relevant risk factors;
2. OEs document the rationale behind any weighting decisions, ensuring clarity on how the significance of each factor was determined; and
3. OEs make informed, evidence-based judgements regarding the relevance of each risk factor in the context of their business model.

To illustrate, the reference in point 3 to “evidence-based judgments” may be overly stringent. Risk assessments often rely on informed and well-reasoned estimates rather than direct evidence in all cases. The term “evidence-based” raises questions as to what would qualify as sufficient evidence and may inadvertently create a higher burden than intended in practice.
We therefore suggest replacing “evidence-based judgments” with “substantiated” or “reasoned estimates”, which would better reflect the practical nature of the assessment process while still ensuring that conclusions are adequately supported.
Suggested wording:
"*OEs should make substantiated judgments based on the information available to them and, where necessary, apply reasoned estimates to assess their risk exposure.*"

This would maintain the objective of ensuring a robust assessment while avoiding ambiguity regarding the evidential threshold expected from OEs.
In general, paragraph 15 raises the question of what is concretely expected from OEs in practice.
In its current form, the provision appears to impose a particularly high documentation standard. We do not believe that the additional documentation required would materially contribute to the detection or prevention of money laundering and terrorist financing, while it would increase administrative and compliance burdens, particularly for smaller OEs. We urge AMLA to more clearly and consistently reflect the principle of proportionality, and its practical application, throughout these GLs.
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By way of illustration, a small accountancy firm with a relatively limited and stable client base may be required to formally document detailed risk weightings and provide extensive written justifications for each risk factor, even where the underlying risk profile is straightforward and well understood. In such cases, the effort required to meet these documentation standards outweighs the added value of this documentation from a risk management perspective.
Against this background, it would be advisable to apply the principle of proportionality more explicitly for smaller OEs, allowing in the GLs for simplified methodologies and more concise documentation where the risk profile is demonstrably low and less complex.

5) Risk of tick-box exercise

Paragraph 16 carries a risk that this approach leads to a tick-box exercise, rather than fostering genuinely considered and substantiated risk assessments, as it requires OEs to document any deviations from the annexes. In our view, this is undesirable, as the focus should instead be on conducting a thoughtful and well-reasoned risk assessment tailored to each individual OE.
Moreover, from a proportionality perspective, this approach may not be appropriate. The requirement to explicitly document deviations is likely to generate a significant amount of additional administrative work, without necessarily contributing to a more effective mitigation of ML/TF or TFS evasion risks.
To mitigate the risk of a checklist exercise, it would be advisable to clarify that the annexes are intended as guidance rather than prescriptive templates, and that documentation of deviations should be proportionate and focused on material differences. This would help ensure that OEs prioritise substantive, risk-based judgement over formalistic compliance, while limiting unnecessary administrative burden.

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6) Proposals are oriented on financial sector:

In our view, the GLs do not provide sufficient guidance on how its requirements should be implemented within the non-financial sector. We note that Annexes II and III of the AMLR appear primarily tailored to the financial sector and do not include examples of high- and low-risk factors relevant to non-financial activities. This further complicates the practical application of paragraph 16.
To address this, we would recommend making sector-specific examples of high- and low-risk factors available for the non-financial sector, for example as supporting guidance. This would provide OEs in this sector with a more practical and proportionate basis for applying the requirements in their specific context while reducing the risk of overly formalistic or checklist-driven approaches.
In particular, providing illustrative, non-exhaustive examples aligned with common activities in the non-financial sector would help OEs better interpret and apply the risk-based approach in practice.

7) Additional sources of information to be taken into account not effective

Requiring OEs to consider a non-exhaustive list of additional information sources (par 19) when preparing a BWRA appears disproportionate. The sources are not clearly defined and may not be relevant for all entities. As a result, this requirement is neither effective nor risk-based and is likely to create significant compliance costs without contributing meaningfully to the prevention of ML/TF/evasion of TFS.

Question 2: Do you agree with the proposed minimum requirements for the content of the BWRA set out in these draft GLs?

1) **Repositioning of detailed elaboration of four core requirements as non-binding guidance**

Paragraph 10(1) of the AMLR requires that the GLs set out minimum requirements for the content of the BWRA. Paragraph 2.3 to 2.6 of the GLs define four core requirements. However, paragraphs 2.3 to 2.6 provide a highly detailed elaboration of these requirements, which in practice makes it difficult to apply the four core elements in a proportionate and genuinely risk-based manner.

The level of detail is highly likely to transform a risk-based framework into a prescriptive set of implementation requirements, reducing flexibility for OEs to tailor their measures to their specific risk profile and organisational context.

We urge to introduce greater flexibility in the GLs by clearly distinguishing between mandatory core requirements and non-binding examples. We therefore recommend that the GLs focus on setting out the key principles—namely the four core requirements—while moving the detailed guidance currently included in paragraphs 2.3 to 2.6 to the AMLA website as non-binding guidance or examples.

This approach would provide OEs with greater flexibility allowing obliged entities (OEs) proportionate and effective implementation in how these are implemented in practice, taking into account their size, nature, and risk profile. More detailed expectations should be positioned as guidance rather than binding requirements.

Below we have include illustrative, non-exhaustive examples of risk factors tailored for the non-financial sector. We would be happy to cooperate further with our sector knowledge if necessary.

High-risk factors in the non-financial sector typically relate to clients with complex or opaque ownership structures, links to high-risk or sanctioned jurisdictions, unusual or inconsistent transactions, or services that may facilitate the movement or concealment of assets. By contrast, low-risk factors generally include transparent client structures, activities limited to low-risk jurisdictions, stable and predictable business relationships, and services with limited exposure to financial flows. The relevance of these factors depends on the nature of the services provided, the client base, and the level of cross-border exposure, and should therefore be assessed in a proportionate and risk-based manner.

2) **The principle of proportionality appears difficult to apply in practice**

Although the GLs refer to proportionality, it remains unclear how this translates into application, therefore creating unnecessary administrative burden in practice.

First, the exemptions under par 8 apply only to non-complex entities. However, for the non-financial sector these entities have not yet been defined, making it difficult to assess which organisations would fall within the scope of this provision.

Second, par 8a allows non-complex entities to adopt a more descriptive form of the BWRA. Nevertheless, it appears that they are still required to comply with all underlying requirements. This raises the question as to what tangible burden reduction is actually achieved through this proportionality provision.

Third, par 8b applies only where a supervisory authority has developed a sectoral BWRA. It remains uncertain whether supervisors intend to do so and, if so, which authorities will take this initiative.

Another example of disproportionality is par 5d which requires that OEs take steps, including ongoing training, to ensure that their employees—or persons in comparable positions whose roles require it, including agents and distributors—are aware of and understand the BWRA and its implications for their day-to-day activities, in line with Art 12 AMLR.

The current drafting remains highly unclear how this requirement is expected to be implemented in practice. It would be advisable to apply the principle of proportionality in a way that does not require agents and distributors to undergo full training aimed at understanding the accountancy firm's BWRA, particularly where their role and risk exposure do not justify such an extensive obligation.

We also consider the requirement in par 26 for an *"evidence-based view"* disproportionate, as it may create significant administrative and compliance burdens, particularly for smaller OEs. We suggest allowing OEs to rely on substantiated judgments based on available information.

Finally, par 28 states that "OEs should refer to relevant control quality indicators, such as findings from compliance testing, internal or external audits, and supervisory actions." However, it remains unclear how this requirement is expected to be implemented in practice for smaller OEs, where such processes are often less formal or structured. For smaller OEs, relevant control quality indicators may, for example, include:

- periodic file reviews or peer reviews conducted by senior staff;
- findings from internal quality checks or second-line monitoring activities;
- observations arising from client onboarding or ongoing client monitoring processes;
- feedback or findings from external accountants, consultants, or limited-scope reviews;
- informal escalation logs or documented discussions on compliance issues.

Clarifying that such alternative, proportionate forms of evidence are acceptable would enhance the practical applicability of this requirement for smaller OEs.

3) Limited clarity on risk-based approach in practice

Although the GLs consistently refer to a risk-based approach, it provides limited clarity on how this is to be operationalised in practice. In particular, it remains unclear what the practical consequences are when a low-risk situation is identified. As currently formulated, it appears that all requirements continue to apply in full and must be completed, regardless of the risk level identified. This raises the question of the added value of the risk-based approach, and what objective it serves in effectively mitigating ML/TF and TFS risks.

A proportionate risk-based approach can be applied in practice by linking the depth, intensity, and documentation of measures directly to the level of identified risk, rather than applying all requirements in a uniform manner. This could be operationalised as follows:

- Focus on substance over form
  The emphasis should be on demonstrating that risks are properly identified and mitigated, rather than on completing all procedural steps. This helps avoid a checklist-driven approach and supports more meaningful risk assessments.
- Differentiation in depth of analysis
  For higher-risk areas, OEs should apply more granular analysis, detailed risk factor weighting, and extensive documentation. For lower-risk areas, a more concise assessment—based on standard assumptions and limited justification—should be sufficient.
- Scaling of documentation requirements
  The level of documentation should reflect materiality and risk. For low-risk activities, brief and standardised explanations should suffice, whereas high-risk scenarios justify more elaborate reasoning and evidence.
- Tailoring of methodologies
  OEs should be able to apply simplified methodologies (e.g. fewer risk factors or simplified scoring models) where the business model and risk exposure are limited and well understood.
- Clear consequences of risk classification
  A risk-based approach should result in differentiated outcomes. For example, identifying a low-risk profile should lead to reduced frequency of reviews, simplified assessments, and lower documentation expectations—rather than requiring full application of all measures.

In essence, proportionality requires that the GLs allow OEs to do less where risks are demonstrably lower, and do more where risks are higher, with flexibility in how this is evidenced.

Further, the practical application of paragraph 31 remains unclear. Group-wide risk assessments are not binary, making consistent interpretation and aggregation of residual risk scores challenging. This is particularly problematic in merged or loosely integrated organisations, where methodologies and risk classifications differ. Without guidance on harmonisation and consolidation, results risk being inconsistent and non-comparable. This raises concerns about the practical value of this requirement in effectively combating money laundering.

Question 3: Do you agree with the proposals for additional sources of information to be taken into account when carrying out the BWRA set out in these draft GLs?
It does not appear reasonable to require (art 17) OEs to be responsible for keeping the sources they use up to date. This is particularly impractical in the case of external sources, over which OEs have no control.
A more proportionate approach would be to require OEs to periodically verify that the sources they rely on are still current and appropriate.
Second, paragraph 19 prescribes that a non-exhaustive list of additional sources of information must be taken into account when preparing the BWRA. The relevant sources to be used are not clearly identified; it is unclear both which sources are intended and where they can be accessed. In our view, this requirement is neither proportionate nor practical.
We would therefore recommend reconsidering this provision and clarifying that the use of these information sources is optional, to be applied where appropriate and depending on the specific circumstances and risk profile of the obliged entity.

Question 4: Do you foresee any operational challenges in implementing these GLs?
Yes, we do as explained in our previous answers.
We have significant concerns regarding the practical challenges. Organisations require sufficient time to implement compliance with these requirements. Given the timeline between consultation and finalisation of the level 2 and 3 legislation, the remaining time to adapt to the final requirements is too limited. Without sufficient implementation time following finalisation, effective compliance cannot be achieved. Such a period is essential to allow OEs to adequately adapt their policies, systems, and procedures to the final requirements and to ensure effective and consistent compliance in practice.

Question 5: Within the boundaries of the mandate as defined in Article 10(4) AMLR, do you identify any need to introduce additional provisions?
Yes, we do. As previously noted, we recommend removing the prescriptive requirements in sections 2.3 to 2.6 of the GLs and instead including them as non-binding guidance on the AMLA website.
In addition, we propose including the following wording to enable an effective, proportionate, and risk-based approach:
"Obliged entities shall apply a risk-based approach when conducting their business-wide risk assessment (BWRA), ensuring that the scope, level of detail, and frequency of the assessment, as well as the extent of the related documentation, are commensurate with the nature and size of the obliged entity and with the level of money laundering, terrorist financing and targeted financial sanctions risks identified.
For the purposes of this GLs, obliged entities may, where lower risks are identified, apply simplified methodologies, rely on standardised assumptions and provide concise documentation, provided that the rationale for such an approach is adequately substantiated.
Where higher risks are identified, obliged entities shall ensure that the assessment is sufficiently granular, supported by appropriate evidence, and accompanied by enhanced measures and more detailed documentation, commensurate with the risks identified.
The application of the risk-based approach shall result in differentiated treatment of risks, including, where justified, a reduction in the scope, depth and frequency of measures and documentation in low-risk situations."

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