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Substantive comments on the draft RTS BR

[Consultation on the draft RTS on criteria for identifying business relationships, occasional and linked transactions and lower thresholds - Authority for Anti-Money Laundering and Countering the Financing of Terrorism \(europa.eu\)](#)

1. Do you find the criteria listed in Article 2 of the draft RTS effective to identify business relationships properly?

If not, could you please indicate why, where possible substantiated by relevant data?

Article 2 promotes a substance-over-form approach by focusing on duration and repetition rather than contractual form, which supports harmonisation and better reflects professional services.. However the draft RTS appears primarily tailored to the financial sector with ongoing transactions and is less suited to the professional services sector, particularly SMEs.. In our view, the draft RTS would benefit from incorporating sectoral differentiation and proportionality. This would result in standards that are practical, effective and aligned with the realities of entities in the non-financial sector.

From an auditor and accountant perspective, further clarification or sector-specific guidance is needed to ensure consistent and audit-proof application.

Proposal to define occasional transactions in the context of accountant/auditor services as occasional service

Accountants and auditors provide services. In distinguishing between a business relationship and an occasional transaction, two elements have to be taken into account:

- Duration
- Repetition

There are criteria in Art. 2 RTS to be taken into account when considering the element of repetition:

- Provision of services at different intervals, and
- Provision of different services.

It remains unclear whether incidental services, such as incidental audit services at the request of the foreign group auditor for a Dutch subsidiary of an international

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van Accountants



group company, can be treated as occasional transactions. We recommend designating such cases as 'occasional services' and providing practical examples to clarify when audit or accountancy services qualify as occasional transactions. While AMLR requires an expected element of duration, this cannot always be determined at onboarding for non-financial obliged entities due to the nature of their services, limiting the ability to assess whether a relationship will be ongoing. In practice, for non-financial obliged entities:

- the expectation of duration may only evolve after the initial engagement, once further mandates are agreed, services are expanded, or a recurring advisory role is established;
- the relationship may transition from an occasional transaction to a business relationship as the factual circumstances evolve;
- with the classification of a business relationship or occasional transaction therefore needing to be dynamic, reflecting actual risk indicators and the developing nature of the engagement.

We therefore suggest adding the following text to this article. This ensures compliance with AMLR while recognising the operational realities of non-financial professional services, avoiding both premature classification and unnecessary administrative burden, and maintaining alignment with the principles of proportionality and effectiveness:

"Following a risk based approach, the obliged entity should periodically assess whether a business relationship comes into existence, considering for example the following factors:

- the evolution of the services provided;
- the recurrence or expansion of engagements;
- contractual amendments or new mandates;
- indicators of long term cooperation.

Where such indicators subsequently arise, the obliged entity should treat the engagement as a business relationship from that point forward and apply the corresponding measures in a timely and proportionate manner."



Application of the threshold for occasional transactions

Recital 6 links CDD thresholds to transaction value, or—where services are provided—the value of the underlying transaction (excluding fees). In audit and accountancy practice, this may lead to significant practical difficulties.

In some cases, no underlying transaction exists and there is no clear expectation of repetition, for example:

- audit services relating to inventory counts;
- providing advice to a foreign group company on the Dutch tax system to assess whether to establish Dutch subsidiaries; or
- providing factual information on Dutch subsidiaries to a foreign parent company.
- providing (one-off tax) advices by (smaller) audit firms who primarily compile financial statements

In other situations, the service may be connected to multiple underlying transactions.

In light of the above, we suggest that the € 10.000 threshold should also be assessed with reference to the fee charged for the service itself. This adjustment would enhance legal certainty and ensure a workable and proportionate application of the threshold for professional service providers.

Therefore, we propose that the RTS include the option for classifying a service as an 'occasional service', with the € 10.000 threshold applicable to the fee related to the service.

2. Do you find the criteria listed in Article 3 of the draft RTS effective to identify linked transactions properly?

If not, could you please indicate why, where possible substantiated by relevant data?

The current language of this article, including Recital 11 to 16, does not adequately accommodate non-financial institutions, which may not engage directly in transactions but rather provide services related to transactions.

Paragraph one only where relevant for the type of business

Because not all criteria are relevant for each obliged entity, we recommend incorporating greater flexibility in the wording to better reflect sectoral differences (see proposed text at the end of this answer):

For example, paragraph c is not applicable for our audit/accountant sector:

“(c) when considering the element of identical or similar purpose included in the definition of linked transactions, based on information available to the obliged entity, transactions pertaining to the same purchase.”

Based on information available for the obliged entity

In our view, the criteria for identifying linked transactions are very extensive. Moreover, to be able to identify linked transactions with these criteria, obliged entities would have to gather information they would also gather when performing a CDD. Finally, in several articles it is stated that obliged entities would have to evaluate 'based on information available to the obliged entity'.

Therefore, we foresee practical problems:

- What information should be available for the obliged entity? There could be differences in application across different obliged entities or countries, leading to potential discussions with regulators about the expected information available at the obliged entity.
- Obligated entities will need to record different types of information to foresee whether a transaction may become a linked transaction in the future.
- In addition, some criteria mentioned are challenging for an obliged entity to know up front, such as whether two customers use the same digital infrastructure (paragraph 3.1 b.v), use the same intermediaries (3.1 b.vi) or service providers (3.1 b.vii). Moreover, we believe these criteria do not necessarily indicate a linked transaction. For example, if two customers use the same bank or payment service provider, this does not mean their transactions are linked.

Based on the above, we suggest allowing more opportunities for a risk-based and client-specific assessment by adjusting paragraph one (a) to read:

“Obligated entities shall, for the purpose of identifying linked transactions, conduct a risk-based and client-specific assessment. The following criteria can be considered, where relevant for the type of business:”

3. Do you consider it necessary to add additional criteria that should at least be taken into account when considering the different elements of the definition of a **business relationship** to ensure the proper identification of business relationships? If so, could you please indicate which criteria and for which sector(s)?

As indicated above, we believe it would be valuable if AMLA provides examples of situations in which audit or accountancy services are classified as occasional transactions.



4. Do you consider it necessary to add additional criteria that should at least be taken into account when considering the different elements of the definition of **linked transactions** to ensure the proper identification of linked transactions? If so, could you please indicate which criteria and for which sector(s)?

No, we think the list of criteria is already extensive. We recommend offering more opportunities for risk-based and client-specific assessments. For more information, please refer to our response to question 2.

5. Do you consider the criteria for identifying **business relationships** and **linked transactions** listed in Article 2(3) and Article 3(2) of this draft RTS proportionate? If not, could you please indicate why, where possible substantiated by relevant data, and which alternative criterion you would find more proportionate?

In our view, the provisions are primarily drafted for financial institutions and are not suitable for other professions within the non-financial sector. For explanation and alternative text suggestions, we refer to our previous answers.

6. Do you foresee any **operational challenges** in implementing this draft RTS? If so, could you please indicate which, where possible substantiated by relevant data? Do you have any suggestions that would make the criteria better suited operationally?

Timing

We are concerned about the timelines. The Regulation comes into force on 10 July 2027, yet many level 2 and 3 regulations have not been published (for consultation). This delay poses a risk to proper implementation. Without these level 2 and 3 regulation, obliged entities cannot prepare properly for the implementation. However, obliged entities do need time to be able to prepare their organisations for the implementation. It is therefore essential that level 2 and 3 regulations are made available on short notice, or that a grace period is granted to allow obliged entities to adjust to the new legislation.

- We refer to the Accountancy Europe publication on the 7 principles for AML RTS development, which states: “RTS should be published well before they take effect to give obliged entities and supervisors sufficient time to prepare for compliance. A structured transitional framework defining the timeline, sequence, and duration of implementation steps should be established by AMLA and the European Commission.”

Provisions not fit for non-financial sector

The suggested provisions seem to be drafted for financial institutions, whose core business is much more related to transactions. These provisions are hardly suitable for other institutions, like the accountant and audit profession providing services. Moreover, when including these excessive lists of criteria, we foresee the risk that complying with this standard will become a compliance exercise instead of effectively preventing money laundering and terrorist financing.

It is particularly important the draft RTS will provide more flexibility to enable effective application by other sectors than the financial sectors that primarily perform transactions. For text suggestions, see previous answers.



Article 1 Definitions

“Transactions” play an important role in this draft RTS and also in other EU legislation relating to anti-money laundering. However, “transactions” are not defined in Regulation (EU) 2024/1624 nor in this draft RTS. We suggest to include a definition of “transactions” in the draft RTS to achieve a common understanding of this important element in the EU legislation on anti-money laundering.

7. Do you see a need for the introduction of an **additional lower threshold** for a specific obliged entity, sector or transaction? If so, could you please indicate why, where possible substantiated by data, and at which value the threshold should be set?

We do not see a need for the introduction of an additional lower threshold for specific obliged entities, sectors or transactions.

Additional observations:

Do you have any additional comments relevant to the draft RTS that have not been covered above?

Please ensure that comments refer to a specific article, are precise, and, where possible, supported by evidence. Where necessary, comments should also include a proposed solution.

We do not have any additional comments.

