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Draft Guidelines on ongoing monitoring of a business relationship under Article 26(5) of AMLR

Consultation on the draft Guidelines on ongoing monitoring of a business relationship - Authority for Anti-Money Laundering and Countering the Financing of Terrorism

Question 1: Do you consider that Guideline 1 supports a risk-based approach and clearly sets out the core principles that obliged entities should apply to keep customer information up to date?

Koninklijke Nederlandse Beroepsorganisatie van Accountants

NBA

If you see scope for further clarification, please:
(i)specify the paragraph concerned;
(ii)explain your rationale; and
(iii)consider submitting an amendment proposal

Comment 1.1 – par 9:
Rationale:
We would like to express our appreciation for AMLA's efforts in developing these Guidelines. We are pleased to see that specific attention has been given to the principle of proportionality and that the Guideline 2 acknowledges the specific business models of obliged entities (OEs) that are not in the financial sector.
We would, however, like to share a number of observations which, in our view, could further enhance the practical applicability of the Guidelines for OEs and strengthen their overall effectiveness.

Comment 1.2 – par 7 :
Rationale:
Paragraph 7 addresses staff training, whereas the primary focus of these Guidelines is ongoing monitoring. We believe that the Guidelines would benefit from a clearer focus and structure by limiting their scope to matters directly related to ongoing monitoring.
While staff training is undoubtedly an important element of an effective AML/CFT framework, training requirements are more appropriately addressed in guidance specifically dedicated to AML/CFT training and awareness. Including such requirements in these Guidelines risks creating overlap with other regulatory provisions and may detract from the core objective of the document.

Proposed amendment:
We recommend removing Paragraph 7 from these Guidelines or, alternatively, relocating its content to the relevant section or guidance dealing with staff training requirements. The

staff training requirements extend beyond the scope of ongoing monitoring and also cover broader AML/CFT topics, such as customer due diligence (CDD) and the reporting of suspicious transactions. We therefore recommend addressing training requirements in a more overarching and cross-cutting manner, rather than within the context of ongoing monitoring alone. This would help avoid duplication and provide a more coherent framework for AML/CFT training obligations. Also would this improve the clarity, coherence, and usability of the Guidelines.

Comment 1.3 – par 14 :

Rationale:

Article14 provides that, where a customer provides a written statement containing new information or confirming previously collected information, documents, or data, obliged entities should, depending on the level and nature of the risk, *consider whether the reliability of that statement needs to be verified using independent and reliable sources*.

We would welcome further clarification on how this requirement is intended to be applied in practice. In particular, it is not clear in which circumstances obliged entities would be expected to verify such statements using independent and reliable sources, nor what sources would be considered appropriate for this purpose.

Proposed amendment:

We therefore recommend providing practical examples to illustrate the situations in which additional verification would be expected. We also recommend to make a distinction between the confirmation of previously collected information and the submission of new information. In our view, these situations may warrant different levels of scrutiny and verification, reflecting the differing risk profiles and likelihood of changes affecting the customer risk assessment.

We further suggest clarifying that such verification should only be required where the relevant risk indicators give rise to a reasonable need for further verification.

This would help ensure a risk-based and proportionate application of the requirement and avoid unnecessary verification measures where there is no indication that the information provided is unreliable or inaccurate.

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Comment 1.4 – par 15:

Rationale:

Further to our previous comment, Paragraph 15 appears to reiterate existing obligations relating to the reporting of suspicious transactions or activities. While we recognise the importance of these obligations, we question whether their inclusion in these Guidelines on ongoing monitoring is necessary.

To maintain a clear focus on the subject of ongoing monitoring and to avoid unnecessary duplication of requirements already addressed elsewhere in the AML/CFT framework, we recommend removing this paragraph. Repetition of existing obligations may create a risk of inconsistencies in interpretation over time and can reduce the overall clarity and usability of the Guidelines.

Proposed amendment:

We suggest deleting Paragraph 15 or, alternatively, replacing it with a concise cross-reference to the relevant provisions governing suspicious transaction reporting. This would help ensure a more focused, coherent, and streamlined set of Guidelines.

Comment 1.5 – par 16:

Rationale:

We do not fully understand the rationale for including the reference to *"a new UBO or person purporting to act on behalf of the customer that needs to be identified and verified"* in Paragraph 16: "*or **where a new or additional beneficial owner/s of a legal entity or a new person** purporting to act on behalf of the customer that needs to be identified and verified"*.

This requirement does not appear to be directly related to the issue of expired identification documents. Rather, the identification and verification of a new person acting on behalf of a customer is an existing customer due diligence obligation that applies irrespective of whether documents have expired. We note that this topic is already addressed in Section 2 of the CDD RTS. We recommend ensuring consistency between the two instruments and avoiding unnecessary duplication of requirements.

Proposed amendment:
To maintain a clear focus on the specific subject matter addressed in this paragraph and to avoid unnecessary duplication of existing CDD requirements, we recommend removing this reference. This would improve the clarity and coherence of the Guidelines and reduce the risk of creating confusion regarding the circumstances in which identification and verification obligations arise.

Comment 1.6 – par 17:
Rationale:
With regard to Paragraph 17, in our view, the question of replacing an expired identity document is primarily relevant where there are doubts regarding the accuracy of the previously established identity of the customer. In other circumstances, the key elements relating to the customer's identity have already been assessed during the initial identification and verification process.
Against this background, it is not clear to us why obliged entities are expected to assess a relatively extensive set of factors when determining whether an expired identity document should be replaced (amongst others whether the security features of the document are up to date). We are unclear as to which specific ML/TF risk is mitigated by assessing all of these factors.

Proposed amendment:
As currently drafted, the requirement appears to introduce additional administrative burden without a commensurate risk mitigation benefit. We therefore recommend adopting a more risk-based approach, whereby the replacement of expired identity documents is required only where there are reasonable grounds to doubt the customer's identity, the authenticity of the document, or the accuracy of the information previously obtained. This would better reflect the principle of proportionality and help avoid unnecessary compliance obligations that do not contribute meaningfully to AML/CFT objectives.
" Obliged entities should update an expired identity document, passport or equivalent where there are reasonable grounds to doubt the customer's identity, the authenticity or validity of the document previously relied upon, or the accuracy and currency of the information obtained for customer due diligence purposes. In applying this requirement, obliged entities should take a risk-based and proportionate approach, taking into account the customer's risk profile, the nature of the business relationship, and any other relevant risk indicators."

Comment 1.7 – par 20:
Rationale:
We strongly support the possibility to tailor the depth and intensity of periodic reviews to the circumstances of the customer relationship. In particular, we welcome the clarification that a less extensive review may be appropriate where no new activity has occurred and no additional products or services have been provided. This is consistent with the principle of proportionality and a risk-based approach.
One aspect that would benefit from further clarification relates to Paragraph 20(b) and (e). It appears that points (b) and (e) may partially address the same circumstance, namely the occurrence of a new activity or transaction. As currently drafted, the distinction between these factors when deciding whether and how to adjust the depth and intensity of a periodic review is not entirely clear.

Proposed amendment:
To improve clarity and avoid potential overlap, we recommend either merging these points or clarifying more explicitly the different situations they are intended to address. This would

help obliged entities better understand the circumstances in which each trigger applies and promote more consistent implementation of the Guidelines.

Question 2:
Do you foresee any challenges in applying Guideline 1, taking into consideration the differences in obliged entities' nature, risks and complexity of their business, as well as their size?

If you see scope for further clarification, please:
(i)specify the paragraph concerned;
(ii)explain your rationale; and
(iii)consider submitting an amendment proposal

Comment 2.1 – par 1
Rationale:
While Guideline 2 acknowledges that monitoring may differ for OEs that are not financial institutions, we believe this distinction should be reflected more clearly in the General Guidelines. For non-financial OEs, the scope, nature, and timing of monitoring are largely determined by their specific business model, the services they provide, and the information that is reasonably available to them. We therefore recommend clarifying that monitoring should always be assessed in light of these factors. Such clarification would strengthen the proportionality of the Guidelines and improve their practical applicability for non-financial obliged entities.
In practice, non-financial OEs often have access to a different set of information than financial institutions. An accountant, for example, is, instead of a bank, not able to observe all transactions carried out by a client. Consequently, the scope of monitoring is inherently limited to the information and activities that become visible in the course of providing professional services.
In addition, the timing of monitoring may differ significantly between sectors. Within the accountancy profession, monitoring is frequently carried out retrospectively, as transactions generally become visible only after they have already taken place and are reflected in accounting records, financial statements, or other documentation reviewed during the engagement. This differs fundamentally from the position of financial institutions, which may be able to monitor transactions as they occur.

Proposed amendment :
"The scope and timing of ongoing monitoring should be proportionate to the obliged entity's business model, the services it provides, and the information reasonably available to it. For obliged entities that are not financial institutions, monitoring may be limited to activities and transactions that are visible within the context of the professional services provided and may often be conducted retrospectively rather than in real time."

Comment 2.2 – par 8:
Rationale:
Paragraph 8 appears difficult to apply in a proportionate manner for smaller obliged entities (OEs) and does not seem to sufficiently reflect the nature of the services provided by many non-financial OEs.
In our view, the primary objective of ongoing monitoring is to ensure that ML/TF risks are identified and addressed appropriately. However, Paragraph 8 sets out extensive documentation requirements relating to the governance of the ongoing monitoring framework, decision-making processes, limitations arising from the nature of the business, mitigating measures, and other related elements.
While such requirements may be feasible for large and complex organisations, it is unclear how they could be implemented in a proportionate manner by smaller OEs, such as sole practitioners or small accountancy firms. Requiring a detailed compliance and governance framework of this nature risks creating a disproportionate administrative burden without necessarily contributing to more effective risk detection and mitigation.

We therefore recommend adopting a more outcome-based approach. Rather than prescribing extensive governance and documentation arrangements, the Guidelines should focus on ensuring that OEs are able to demonstrate that they have effective processes in place to identify, assess, and address ML/TF risks, taking into account their size, business model, and the nature of the services they provide. This would better reflect the principle of proportionality and enhance the practical applicability of the Guidelines for non-financial OEs.

Proposed amendment:
"OEs are expected to implement governance or compliance frameworks that reflect their size, organisational structure, or risk profile.They should be able to demonstrate that they have effective processes in place to identify, assess, escalate, and address relevant ML/TF risks, and that any limitations arising from the nature of their business are understood and appropriately managed.
The documentation supporting these arrangements may take different forms depending on the characteristics of the obliged entity, provided that it enables the entity and competent authorities to understand how ongoing monitoring activities are conducted and how identified risks are addressed."

Comment 2.3 – par 24:
Rationale:
Paragraph 24 may be difficult to implement in a proportionate manner for smaller obliged entities (OEs), particularly those operating in the non-financial sector. The examples and expectations set out in this paragraph do not always align with the business models, organisational structures, or risk profiles of such entities. As a result, the provision risks creating uncertainty regarding its application and may not adequately reflect the principle of proportionality that underpins the Guidelines.
In our view, paragraph 24 appears to be drafted from the perspective of a large organisation operating within the financial sector and seems to assume the existence of a comprehensive compliance and governance framework. We recommend clarifying that the measures described in Paragraph 24 should be applied **where appropriate and relevant to the nature, size, and business model of the obliged entity and the AML risk profile**. Adding wording such as *"where appropriate"* or *"where relevant for the type of business of the obliged entity"* would help ensure that the paragraph can be implemented effectively across the diverse range of sectors and entities subject to AML/CFT obligations, while maintaining a risk-based and proportionate approach.

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Proposed amendment:
We propose to amend paragraph 24 as follows:
"Obliged entities should have effective and proportionate monitoring arrangements in place to identify and respond to trigger events that may indicate a change in a customer's ML/TF risk profile. These arrangements should be appropriate to the nature, size, complexity, and business model of the obliged entity and, where relevant, the services it provides.
Trigger events may arise from information obtained through monitoring activities, changes in customer behaviour that are visible to the obliged entity, information obtained in the course of providing services, or other relevant internal or external information. The scope of monitoring and the trigger events considered should reflect the information reasonably available to the obliged entity and the nature of its relationship with the customer.
The policies, procedures, processes, and controls established for this purpose should be proportionate to the risks identified and should not require the implementation of complex governance or compliance frameworks where these would not be appropriate to the size, structure, or activities of the obliged entity."

Question 3a: Compared to your current ongoing monitoring process, what impact would Guideline 1: *Keeping customer documents, data or information up to date* have on your compliance costs and operational processes? Please provide the estimated percentage increase or reduction in annual compliance costs:

Answer
Increase of compliance costs and operational processes
Reduction of compliance costs and operational processes
No effect

Sub question 3b - Increase

- **Below 25%**
- 25-50%
- 50-75%
- more than 75%

* Please explain the basis for your assessment, including the methodology used and any supporting evidence
We expect Guideline 1 to result in an increase in annual compliance costs in the upper range of 0-25% for audit firms. While maintaining customer information up to date is not a new obligation, the Guidelines introduce additional governance, documentation and monitoring requirements that will require some adjustments to existing processes and procedures.
At the same time, we welcome that the Guidelines contain several references to proportionality and explicitly recognise that the depth and intensity of reviews and monitoring measures may be adjusted based on the risk profile, the nature of the business relationship, and the specific circumstances of the customer. These flexibilities are particularly important for smaller audit firms and other non-financial obliged entities, as they allow firms to tailor their approach to the risks identified and avoid unnecessary compliance activities where AML/CFT risks are limited.
Nevertheless, implementation will require investments in updating policies, procedures, staff guidance and documentation practices. On balance, we therefore expect a moderate increase in annual compliance costs, towards the upper end of the **0-25% range**, while recognising that the risk-based and proportionate elements of the Guidelines help mitigate what could otherwise have been a significantly higher compliance burden.

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Question 3b: Please rate the expected impact (very positive; positive; neutral; negative; very negative) on the following operational processes:

	Very positive	Positive	Neutral	Negative	Very negative
periodic customer information review including document re-collection				X	
event-driven reviews;				X	
implications for staff;				X	
other (please specify) Engagement performance				X	

- If you selected “negative” or “very negative” for any of the above under 3(b), please explain the basis for your assessment, including the methodology used and any supporting evidence, and indicate the distinction between one-off investment costs and recurring costs.

We assess the operational impact of Guideline 1 as negative for audit firms. Although maintaining customer information up to date is an existing AML/CFT obligation, the draft Guidelines expand the expectations regarding governance, documentation, trigger identification, escalation processes and internal controls. These requirements appear to be modelled on monitoring frameworks commonly found in the financial sector and are not always aligned with the nature of the accountancy profession.
In particular, the Guidelines risk reducing the role of professional judgement exercised by accountants and auditors who interact directly with clients and are best placed to identify relevant changes in customer circumstances. Instead, the assessment process would increasingly need to be embedded in predefined procedures, controls, governance arrangements and documentation frameworks. This may lead to a more procedural and compliance-driven approach without a commensurate improvement in the identification and mitigation of ML/TF risks.
This approach also appears difficult to reconcile with the risk-based principles reflected in the FATF Guidance for the Accounting Profession, which recognises that accountants should apply professional judgement, taking into account the nature of the services provided, the risks identified and the information reasonably available to them. Unlike financial institutions, accountants are not expected to monitor every transaction or implement automated transaction monitoring systems [par 63 FATF guidance]. A framework that places excessive emphasis on formal controls and documentation may inadvertently encourage a "tick-box" approach, rather than supporting the effective exercise of professional judgement that is central to risk-based AML/CFT compliance in the accountancy sector.
We therefore encourage AMLA to place greater emphasis on effective outcomes and risk mitigation, rather than on detailed procedural, governance and documentation requirements. This would better reflect the realities of the accountancy profession and the principles of proportionality and risk-based supervision that underpin both the AMLR and FATF standards.

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Question 4: Do you foresee any challenges in applying Guideline 2? In your view, does the guideline provide sufficient clarity, remain proportionate, and ensure applicability across your products and services to support effective, risk-based monitoring of unusual or suspicious transactions and activities?
If you see scope for further clarification, please:
(i)specify the paragraph concerned;
(ii)explain your rationale; and
(iii)consider submitting an amendment proposal

Comment 4.1 – par 34:
Rationale:
As currently worded, par. 34 may be difficult for many non-financial obliged entities to apply in practice, as it seems to assume a level of access to transaction flows and customer activity data that these entities often do not possess.
For example, Paragraph 34(d) states that obliged entities should ensure that their monitoring framework is capable of identifying transactions and activities that materially deviate from expected behaviour. While this may be feasible for entities that have direct access to customer transactions and ongoing activity data, many non-financial obliged entities have a more limited view. Their ability to monitor transactions and activities is constrained by the nature of the services they provide and the information that becomes available to them in the course of those services. Accountants and auditors, for instance, generally do not observe all transactions carried out by a client and often become aware of transactions only after they have already taken place. As a result, their ability to identify deviations from expected behaviour is limited to those transactions, activities, and circumstances that are visible within the context of their professional engagement.

We therefore recommend clarifying that the monitoring expectations set out in Paragraph 34, including the expectation to identify deviations from expected behaviour, should be applied in a manner that is proportionate to the business model of the obliged entity, the services it provides, and the information that is reasonably available to it. This would improve the practical applicability of the Guidelines for non-financial obliged entities while maintaining a risk-based approach.

Proposed amendment:
We therefore recommend clarifying Paragraph 34 by adding wording such as:
"where relevant and feasible, taking into account the AML risk profile, the nature of the services provided by the obliged entity and the information reasonably available to it in the course of its business activities."
This would help ensure that the requirement is applied in a proportionate and risk-based manner across different sectors and business models, in line with AMLA's stated objective of cross-sectoral applicability and proportionality.

Comment 4.2 – par 36:
Rationale:
We are concerned that the requirement to document limitations, constraints, the reasons underlying those constraints, and the mitigating measures applied may create a significant administrative burden without a corresponding benefit for the effectiveness of AML/CFT measures. In particular, it is unclear how documenting these factors would contribute to the identification or mitigation of ML/TF risks where the nature of the monitoring approach is already determined by the services provided and cannot realistically be changed.
In our view, this concern arises because Paragraph 36 appears to be based on the assumption that certain obliged entities are subject to *limitations* or *constraints* in their ability to perform monitoring. However, this does not accurately reflect the position of many non-financial obliged entities.
For non-financial OEs, the issue is often not one of limitations or constraints, but rather that the nature of the services provided is differently which results in different monitoring . The scope, timing and methods of monitoring are inherently determined by the business model of the OE, the AML risk profile and the information that becomes available in the course of providing professional services. This should not be regarded as a deficiency or limitation, but as a natural characteristic of the sector.

Proposed amendment:
We therefore recommend revising Paragraph 36 to recognise that different monitoring approaches may legitimately arise from different business models and types of services. Rather than requiring obliged entities to document perceived limitations and constraints, the Guidelines should focus on whether the monitoring arrangements are appropriate and effective in light of the OE's role, business model, and access to information. This would better reflect the principles of proportionality and risk-based supervision and would avoid imposing unnecessary compliance burdens that do not materially enhance AML/CFT effectiveness. A concrete proposal is:
" Where obliged entities structurally have limited or no ongoing access to transaction or activity data due to the nature of their business model or the services provided, such circumstances should not be considered deficiencies of the monitoring framework. In such cases, obliged entities should be able to explain how their monitoring approach is adapted to their role, business model and access to information and remains capable of identifying and escalating relevant ML/TF risks. Additional documentation of limitations, constraints and the reasons underlying those limitations should not be required beyond what is necessary to demonstrate the effectiveness of the monitoring arrangements."

Comment 4.3 – par 43:
Rationale:
Paragraph 43 appears to set an expectation that may be difficult to achieve in practice for many obliged entities.

The paragraph requires obliged entities to ensure that their monitoring framework is capable of identifying and assessing, *without undue delay*, new ML/TF methods, trends and typologies, including those related to the non-implementation or evasion of targeted financial sanctions (TFS), based on information published by supervisory authorities, FIUs and other reliable public sources.
In practice, it is unclear how obliged entities can reasonably be expected to meet this requirement. Information on ML/TF typologies, emerging risks, sanctions evasion patterns and other relevant developments is often fragmented across multiple sources, published at different moments, and presented in varying formats. Many obliged entities, particularly smaller firms, lack the resources and infrastructure needed to continuously monitor, assess and integrate all relevant information sources in a timely manner.
We therefore consider that this requirement may create unrealistic expectations and significant compliance burdens. The ability of obliged entities to identify and assess new ML/TF methods and typologies in a timely manner is highly dependent on the availability, accessibility and consistency of information provided by public authorities.

Proposed amendment:
We recommend clarifying that this expectation applies on a reasonable and risk-based basis and that obliged entities should be able to rely on information that is centrally communicated and made readily accessible by AMLA, national competent authorities, FIUs or other designated public bodies. Consideration could be given to establishing a centralised mechanism through which relevant ML/TF typologies, emerging risks, sanctions evasion indicators and red flags are regularly communicated to obliged entities.
Without such coordinated and centralised information provision, it may not be realistic to expect obliged entities to systematically identify and assess all new ML/TF methods, trends and typologies without undue delay. A concrete suggestion for paragraph 43:
"Obliged entities should consider relevant ML/TF methods, trends, typologies and risk indicators communicated by AMLA, competent authorities and FIUs and assess, on a risk-based basis, whether these require amendments to their monitoring framework. The obligation are limited to information that is reasonably accessible to the obliged entity. AMLA and competent authorities ensure that relevant typologies, red flags and emerging risks are made available through centralised and accessible communication channels."

NBA

Comment 4.4 – par 53:
Rationale:
It is not clear to us what is meant by *customer profiles* and on what legal or regulatory basis obliged entities would be required to establish and maintain customer profiles. We would welcome clarification as to where this requirement is anchored in the AMLR or other relevant legislative or regulatory provisions.
We are also unclear as to how the concept of *customer profiles* is intended to apply to non-financial obliged entities, where ongoing monitoring is generally performed in a different manner than in the financial sector.
Although Paragraph 53 acknowledges that some obliged entities may have structurally limited or no access to transaction and activity data, it remains unclear how, in practice, such obliged entities are expected to establish customer profiles based on *"other risk-relevant information"*. The Guidelines do not specify what information could reasonably be used for this purpose, nor how obliged entities should translate such information into a meaningful customer profile for monitoring purposes.
We are also unclear how obliged entities in the non-financial sector are expected to operationalise the requirement that *"monitoring should be calibrated to this baseline so that deviations from the customer's known or expected transaction, activity, behaviour or risk profile can be identified in a reliable manner and without undue delay."* For many non-financial obliged entities, including accountants, transaction and activity information is only available to a limited extent and often only after the relevant transactions have already taken place. As a result, it is difficult to define expected behavioural baselines and systematically identify deviations from them in the manner contemplated by this provision.
In our view, this paragraph appears to be more readily applicable to obliged entities in the financial sector, which generally have access to comprehensive customer, transaction and

behavioural data and are able to conduct continuous transaction monitoring. The practical application of these concepts to non-financial obliged entities is considerably less clear.

Proposed amendment:
We recommend that the customer profiling requirements set out in Paragraph 53 should not apply to obliged entities that structurally have limited or no access to transaction and activity data.
As recognised elsewhere in the Guidelines, certain obliged entities, particularly in the non-financial sector, do not have access to the type of transaction and behavioural data that would enable them to establish, maintain and calibrate customer profiles in the same manner as financial institutions. For these entities, the concepts of expected transaction profiles, behavioural baselines and ongoing identification of deviations from such profiles are often not practically applicable.
Requiring such obliged entities to develop and maintain customer profiles, and to calibrate monitoring against those profiles, would create significant implementation challenges and additional compliance costs without a corresponding improvement in the identification and mitigation of ML/TF risks. In practice, monitoring by these obliged entities is primarily based on professional judgement, customer due diligence measures, ongoing client interactions, event-driven reviews and information obtained in the course of providing services, rather than on continuous analysis of transaction and behavioural patterns.
We therefore recommend clarifying that Paragraph 53 does not apply to obliged entities that structurally have limited or no access to transaction and activity data. Alternatively, the Guidelines could specify that such obliged entities may rely on risk-based customer due diligence, periodic and event-driven reviews, and information obtained through their professional engagement as an alternative to customer profiling requirements.
Proposed addition to Paragraph 53
"The customer profiling requirements set out in this paragraph should not apply to obliged entities that structurally have limited or no access to transaction and activity data due to the nature of their business model or the services they provide. In such cases, obliged entities may rely on customer due diligence information, periodic and event-driven reviews, professional judgement and other risk-relevant information obtained in the course of their activities to identify and assess ML/TF risks."

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Comment 4.5 – par 70:
Rationale:
In our view, Paragraph 70 goes beyond what can reasonably be expected from obliged entities in the accountancy profession.
As currently drafted, the paragraph could be interpreted as requiring obliged entities to analyse transactions and activities on an aggregated or behavioural basis in order to identify unusual patterns, linkages or cumulative risk indicators. For accountants and audit firms, this would imply carrying out more extensive reviews and analyses under the AMLR than would otherwise be required under the professional standards governing their audit, assurance or accounting engagements.
In practice, the provision creates the impression that comprehensive data analysis across all available client information could become an expected component of ongoing monitoring. We consider this undesirable and disproportionate. The AMLR should not, in our view, require accountants to perform additional investigative or analytical procedures beyond those that arise from the nature and scope of the professional services they provide.
This approach also appears difficult to reconcile with the FATF Risk-Based Approach Guidance for the Accounting Profession, which recognises that accountants should apply AML/CFT measures in a manner that is proportionate to the services provided, the risks identified, and the information obtained in the course of their professional activities. The FATF guidance does not envisage a requirement for accountants to undertake comprehensive transaction monitoring or data analytics comparable to those carried out by financial institutions. Rather, the identification of suspicious circumstances is expected to arise from the work performed as part of the accountant's professional engagement and from the information that becomes available within that context.

Proposed amendment:
We therefore recommend clarifying that the identification of unusual patterns, linkages or cumulative risk indicators should be based on information obtained in the course of providing professional services and should be limited to transactions, activities and information that are reasonably available to the obliged entity. The Guidelines should make clear that Paragraph 70 does not create an obligation for non-financial obliged entities to perform extensive data analysis or monitoring activities beyond the scope of their professional engagement and access to information.

Suggested amendment
"Where obliged entities have the ability, within their role, business model and access to relevant information, to analyse transactions and activities after they have been carried out, including, where relevant, on an aggregated or behavioural basis, they should consider whether such information indicates unusual patterns, linkages or cumulative risk indicators. For obliged entities in the non-financial sector, this assessment should be limited to information obtained in the course of providing professional services and should not require the systematic analysis of transactions, activities or data beyond the information reasonably available to them."

Comment 4.7 – par 82:
Rationale:
The requirement in paragraph 82 for obliged entities to implement *robust data quality controls, data validation processes and regular data cleansing* appears to be based on the assumption that obliged entities maintain large datasets and sophisticated monitoring systems. This is not the case for many smaller OEs, which makes the requirement difficult to apply in a proportionate manner.
For smaller accountancy firms with limited datasets, compliance with these requirements may necessitate the implementation of extensive governance, control and documentation processes that are disproportionate to the scale of their monitoring activities. The resulting operational effort and costs may be significant, while the added value for effective ML/TF risk mitigation is less evident.
We are concerned that this provision may go beyond what is necessary to achieve the objectives of effective ongoing monitoring and may not adequately reflect the principle of proportionality that underpins both the AMLR and these Guidelines. In particular, it is unclear why smaller obliged entities with limited volumes of customer data and relatively simple monitoring arrangements should be expected to implement the same level of data governance controls as larger institutions with complex and highly automated monitoring frameworks.

Proposed amendment:
A more proportionate formulation would ensure that AMLA's objective of effective monitoring is achieved while avoiding unnecessary administrative burdens for smaller obliged entities whose monitoring arrangements are primarily manual and based on professional judgement and customer due diligence activities. We recommend revising Paragraph 82 to better reflect the principle of proportionality and the diversity of obliged entities covered by the Guidelines.
"Obliged entities should implement data quality controls and validation measures that are appropriate and proportionate to the nature, size and complexity of their business, the volume and type of data processed, and the monitoring methods used. Where automated or semi-automated monitoring systems are used, obliged entities should ensure that the data used by those systems is sufficiently accurate and reliable to support effective monitoring outcomes.
For obliged entities with limited data volumes, manual monitoring processes or less complex business models, proportionate measures may include periodic checks of data accuracy and completeness rather than the implementation of formal data governance frameworks, regular data cleansing programmes or extensive validation processes."

Comment 4.8 – par 83:
Rationale:
It is not clear to us what is meant by the requirement in Paragraph 83 that *"obliged entities should define the outcomes of their monitoring framework and periodically reassess whether those outcomes remain appropriate in light of their business-wide risk assessment and, where relevant, publicly available national or Union-level priorities."*
In particular, the Guidelines do not explain what constitutes the *outcomes* of a monitoring framework, how such outcomes should be defined, or against which criteria obliged entities are expected to assess their appropriateness. This lack of clarity may lead to divergent interpretations and create uncertainty for obliged entities when implementing and demonstrating compliance with this requirement.
For non-financial obliged entities, including audit firms, the concept of predefined monitoring outcomes is particularly difficult to apply. Monitoring activities are often closely linked to professional judgement exercised during the provision of services and are based on the information that becomes available in the course of those engagements. Consequently, the effectiveness of monitoring cannot easily be measured against predefined outcomes in the same way as may be possible for financial institutions operating transaction monitoring systems.
Furthermore, the requirement appears difficult to reconcile with the FATF Risk-Based Approach Guidance for the Accounting Profession, which emphasises that accountants should apply a risk-based approach that relies on professional judgement, taking into account the nature of the services provided, the risks identified, and the information reasonably available to them. The FATF guidance focuses on the effective identification, assessment and escalation of ML/TF risks within the scope of the professional engagement, rather than on achieving predefined monitoring outcomes or performance targets.

Proposed amendment:
We therefore recommend clarifying what is meant by *"outcomes of the monitoring framework"* and how obliged entities are expected to assess whether those outcomes remain appropriate. In addition, the Guidelines should recognise that, for non-financial obliged entities, the effectiveness of monitoring is often demonstrated through the appropriate application of professional judgement, risk-based customer due diligence measures, and the timely identification and escalation of relevant risk indicators, rather than through predefined monitoring outcomes.

NBA

Suggested amendment
"Obliged entities should periodically assess whether their monitoring arrangements remain appropriate and effective in identifying, assessing and escalating ML/TF risks in light of their business-wide risk assessment and, where relevant, publicly available national or Union-level priorities. Such assessment should take into account the nature of the services provided, the business model of the obliged entity, the AML risk profile of its customers and the information reasonably available to it."
This wording would place the emphasis on the effectiveness of risk identification and mitigation, rather than on the definition and measurement of potentially unclear monitoring outcomes.

Question 5: Do you consider that the provisions on the use of automated or advanced analytical tools are sufficiently flexible and do not favour specific technologies?
If you see scope for further clarification, please:
(i)specify the paragraph concerned;
(ii)explain your rationale; and
(iii)consider submitting an amendment proposal

Rationale
We appreciate that the Guidelines explicitly embrace the principle of technological neutrality and confirm that automated or advanced analytical tools, including AI, are not mandatory. We also welcome the recognition that monitoring may be performed through manual, automated or semi-automated processes, depending on the nature, size and risk profile of the obliged entity.

However, several provisions appear to assume a level of data availability, monitoring capability and analytical maturity that may be more readily achievable through automated monitoring systems and advanced analytical tools. In practice, concepts such as customer profiling, behavioural baselines, detection of deviations from expected behaviour, identification of network relationships, monitoring of aggregated transaction and activity patterns, and ongoing assessment of emerging ML/TF typologies may be difficult to implement without significant technological support.
This is particularly relevant for non-financial obliged entities, such as audit firms, which often have limited access to transaction and activity data and whose monitoring activities are primarily based on customer due diligence measures, event-driven reviews, professional judgement and information obtained in the course of providing services. Several provisions therefore appear to be more readily applicable to financial institutions than to non-financial obliged entities.
We are concerned that, despite the stated principle of technological neutrality, the cumulative effect of these requirements could create an implicit expectation that obliged entities deploy increasingly sophisticated monitoring and analytical tools in order to demonstrate compliance. This may result in disproportionate implementation costs, particularly for smaller firms and non-financial obliged entities.

Proposed amendment:
We therefore recommend further clarifying throughout the Guidelines that:

- the use of automated and advanced analytical tools for monitoring remains optional;
- manual monitoring processes and professional judgement can be equally effective where appropriate to the business model and risk profile of the obliged entity;
- requirements relating to customer profiling, behavioural analysis, monitoring outputs, trend analysis and data validation should only apply where relevant and feasible given the nature of the services provided and the information reasonably available to the obliged entity; and
- compliance should be assessed primarily on the basis of effective risk identification and mitigation outcomes, rather than on the sophistication of the technologies employed.

In our view, these clarifications would further strengthen the principles of proportionality, technological neutrality and cross-sectoral applicability that AMLA has identified as key objectives of the Guidelines.

Question 6a: What impact would the design and implementation of the transaction and activity monitoring framework described in Guideline 2 have on your compliance costs?

Answer
Increase of compliance costs and operational processes
Reduction of compliance costs and operational processes
No effect

Sub question 6b - Increase

- Below 25%
- **25-50%**
- 50-75%
- more than 75%

* Please explain the basis for your assessment, including the methodology used and any supporting evidence
Estimated increase in annual compliance costs: 25% to 50% (potentially higher for smaller firms)

We expect the design and implementation of the transaction and activity monitoring framework as currently described in Guideline 2 to result in an increase in annual compliance costs of **25% to 50%** for audit firms. The main cost drivers are not the monitoring activities themselves, but the governance, documentation, testing, validation, escalation and control requirements associated with the monitoring framework.
While the Guidelines repeatedly refer to proportionality and technological neutrality, a number of provisions appear to be based on assumptions that are more characteristic of financial institutions than of audit firms and other non-financial obliged entities. Requirements relating to customer profiling, behavioural baselines, detection of deviations from expected behaviour, identification of linked activities and patterns, monitoring outputs, framework testing, data quality management, validation processes and ongoing reassessment of monitoring effectiveness appear to presume access to transaction data and monitoring capabilities that may not be available in the accountancy profession.
For many audit firms, compliance with these requirements would necessitate the development of additional policies, procedures, governance arrangements, documentation frameworks, escalation mechanisms and internal controls. In practice, this would represent a significant shift from a monitoring approach based primarily on professional judgement and information obtained in the course of providing professional services towards a more formalised compliance framework.
We are particularly concerned that several provisions may effectively require firms to perform analyses of transactions, activities, behavioural patterns and customer profiles that go beyond what is reasonably required in the context of accountancy services and beyond the information normally available during professional engagements. As a result, the Guidelines risk creating substantial recurring operational and compliance costs without a corresponding increase in AML/CFT effectiveness.
Consequently, we assess the overall impact on compliance costs as **25% to 50%**, with the most significant effects arising from:

- additional governance and documentation requirements;
- development and maintenance of monitoring frameworks and escalation processes;
- staff training and awareness requirements;
- testing, validation and periodic review obligations;
- data quality, control and record-keeping expectations; and
- the need to evidence supervisory compliance with the framework

Question 6b: Please rate the expected impact (very positive; positive; neutral; negative; very negative) on the following operational processes:

	Very positive	Positive	Neutral	Negative	Very negative
processes and controls;			X		
implications for staff;				X	
other: Governance, documentation and monitoring framework requirements:				X	

* If you selected “negative” or “very negative” for any of the above under 6(b), please explain the basis for your assessment, including the methodology used and any supporting

evidence, and indicate the distinction between one-off investment costs and recurring costs.
Also refer to the answer at question 6a. Our assessment is negative with regard to implications for staff and other, because the main impact is not the monitoring itself, but the need to establish and maintain extensive governance, documentation, controls, escalation procedures, testing and review mechanisms. This is likely to increase compliance costs and administrative burdens significantly, particularly for small and medium-sized firms.
Our assessment of the impact on processes and controls is neutral overall, as both positive and negative effects can be identified. On the one hand, the increased number of prescribed requirements and rule-based data points to be collected may have a negative impact on CDD processes (initial, periodic and event-driven), staff workloads and potentially engagement performance, as the focus may shift away from substantive risk assessment towards a more compliance-driven and 'tick-box' approach.
On the other hand, from a processes and controls perspective, the collection of additional data may, in theory, enhance the ability of firms to structure and evidence their risk management frameworks. However, this primarily reflects a compliance-oriented perspective. It remains unclear whether the additional requirements will lead to a corresponding improvement in the substantive quality and effectiveness of AML/CFT risk identification and mitigation.
A particular concern is that the Guidelines shift the emphasis from professional judgement towards predefined monitoring frameworks and compliance processes. This appears inconsistent with the FATF Risk-Based Approach for the Accounting Profession, which recognises that AML/CFT obligations should be applied in a manner proportionate to the services provided and the information available to the accountant. In our view, risk identification should primarily arise from the professional services performed and the information obtained during those engagements, rather than from extensive monitoring frameworks modelled on the financial sector.

Question 7: Do you identify any further opportunities for simplification or measures that could further support proportionality across the guidelines?

(i) If so, please provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

We refer to our previous answers. In addition, we have two additional opportunities for simplification:
1. Introduce a dedicated section or annex for professional services sectors
We recommend adding a dedicated section or annex explaining how the Guidelines should be applied by obliged entities that do not execute transactions and have limited access to transaction and activity data, including accountants, tax advisers, lawyers and notaries.
Such guidance could clarify:

- how ongoing monitoring should be performed where monitoring is primarily based on professional judgement, customer due diligence and information obtained during the provision of services;
- how concepts such as customer profiles, behavioural baselines, monitoring outputs and transaction monitoring should be interpreted in these sectors; and
- that expectations should be calibrated to the information reasonably available to the obliged entity and the nature of the services provided.

This would significantly improve legal certainty and practical applicability while preserving the horizontal nature of the Guidelines.
2. Include explicit references to existing professional standards
We recommend including explicit cross-references to relevant professional standards applicable to the accountancy profession, including ISA 240, ISA 250 and ISA 315.
This would help avoid duplication of requirements and support integrated implementation of AML/CFT obligations within existing professional frameworks. Accountants already perform risk assessments, identify irregularities, assess compliance with laws and regulations, and

obtain an understanding of clients and their business environments as part of their professional responsibilities. Explicit recognition of these existing processes would reduce unnecessary compliance burdens and encourage a more risk-based and effective approach.