Anti-money laundering and countering the financing of terrorism (AML/CFT)

Why does it matter to intermediaries?

The current EU rules on anti-money laundering and countering the financing of terrorism (AML/CFT) apply to insurance intermediaries where they act with respect to life insurance and other investment-related services and to investment firms. The scope of the revised EU rules, which Member States have to implement by July 2027, in relation to insurance intermediaries remains the same. Only the intermediaries who are subject to the AML/CFT requirements under the current framework will have to comply with the new AML/CFT requirements. The revised rules have also introduced (new) AML/CFT requirements for some consumer and mortgage credit intermediaries.

State of play

AML/CFT package

The EU's new legislative package, aimed at strengthening the EU framework on AML/CFT, was published in the EU's Official Journal on 19 June 2024. The legislative package comprises[14]:

- the **6th AML/CFT Directive (AMLD6)** deals with organisational and institutional aspects of the AML/CFT framework;
- the **Single Rulebook Regulation (SRR)** sets out the substantive AML/CFT rules and requirements which economic operators must apply to prevent AML/CFT; and
- the **AMLA Regulation** establishes the EU's Authority for Anti-Money Laundering and Countering the Financing of Terrorism.

The adoption of the SRR marks an important change to the EU's AML/CFT framework. Under the current EU regime, Member States have a degree of flexibility to decide how to implement the requirements of the AML Directives in their national legal systems. In contrast, the SRR contains a single set of substantive AML/CFT rules which will directly apply in all Member States and do not have to be implemented into national laws.

The substantive AML/CFT rules in the SRR build on the current EU AML/CFT legislation (AMLD5). However, the SRR goes beyond mere reiteration of the current requirements. It clarifies and adapts the existing AML/CFT obligations and, at the same time, establishes more detailed rules and procedures in several key areas.

The SRR and the AMLD6 are so-called level 1 legal texts which set out the principles and core provisions of the new EU AML/CFT framework. The provisions of the SRR and the AMLD6 will be further detailed in level 2 (delegated acts, regulatory/implementing technical standards) and level 3 (guidelines) texts. In-scope intermediaries will need to carefully review their existing AML/CFT policies and procedures against the provisions of the SRR in order to identify the necessary changes.

BIPAR/Steptoe handbook

The revised EU AML/CFT framework will require in-scope insurance, financial and credit intermediaries to take additional actions to maintain effective compliance. BIPAR commissioned the Brussels office of Steptoe LLP to draw up a handbook which aims to help associations of in-scope intermediaries and the intermediaries themselves to navigate the requirements of the new AML/CFT framework. The handbook will be sent to BIPAR members in early June and will be presented during the BIPAR 2025 annual meeting. This handbook is up to date as per March 2025 and does not yet cover the level 2 or level 3 more detailed rules.

EBA's consultation on draft RTS regarding the AML/CFT package

On 6 March 2025, the European Banking Authority (EBA) launched a public consultation on 4 draft Regulatory Technical Standards (RTS) regarding the AML/CFT package. The draft RTS that EBA developed is part of EBA's response to the Commission's provisional call for advice, where the latter asked for RTS and guidelines under the future AML/CFT framework. BIPAR will respond to the consultation by 6 June.

The call for advice was provisional, and the Commission reserved its right to revise or supplement the mandate, since AMLA should actually be developing this level 2. Indeed, in the call for advice, the Commission added that EBA's advice should not prejudge the decision of AMLA as to the draft RTS that it will develop and submit to the Commission for adoption, neither to the guidelines that it will issue nor on the Commission's final decision on those RTS.

[14] The legislative package also includes the so-called Transfer of Funds Regulation.

What do these draft RTS deal with?

1) **Draft RTS on the risk assessment for the purpose of selection for direct supervision**. This concerns the way in which AMLA will decide which institutions will be subject to direct supervision. EBA proposes that AMLA first determines which institutions are eligible for direct supervision taking into account their cross-border activities. In a second step, AMLA would consider the outcomes of the harmonised money-laundering/terrorist financing (ML/TF) risk assessment methodology.
Depending on their activities and final criteria, intermediaries may be subject to direct supervision.

2) **Draft RTS on the assessment and classification of the inherent and residual risk profile of obliged entities and the frequency at which such profile must be reviewed**. This concerns the determination of the ML/TF risk associated with each institution. EBA proposes putting in place a harmonised methodology that all NCAs will apply when assessing an institution's inherent risks, the quality of controls and the residual risks that remain after the controls have been applied. The proposed approach should ensure that supervisors' entity-level risk assessments are consistent with comparable outcomes across Member States.
BIPAR believes that some of the proposed requirements – for example, those regarding the frequency at which profiles must be reviewed - are too burdensome, in particular for SME intermediaries.

3) **Draft RTS on customer due diligence.** This concerns the extent and quality of information institutions will have to obtain as part of the customer due diligence process under the new AML/CFT regime. To achieve effective outcomes, and to limit the cost of compliance, EBA proposes a framework within which institutions can choose the most appropriate approach to the extent that it is in compliance with the new AML Regulation.
BIPAR believes that some of the proposed requirements are not realistic and too heavy, in particular for SME intermediaries.

4) **Draft RTS on pecuniary sanctions, administrative measures and periodic penalty payments**. This concerns the indicators and criteria to be taken into account when setting the level of pecuniary sanctions or taking administrative measures including developing a methodology on how to impose periodic penalty payments. The aim is to ensure that AML/CFT breaches are assessed in the same way by all supervisors across the EU and that the enforcement action is proportionate, dissuasive and effective.

BIPAR's position / key messages

All throughout the process of adopting new AML/CFT rules, BIPAR informed the EU legislators of its views on the proposals for a Single Rulebook Regulation and the 6th AML/CFT Directive. Some of them were taken into account.

- **Proportionality:** BIPAR emphasised the need to adopt a risk-based approach to the implementation of AML/CFT requirements and to supervision.
- **Threshold for identification of beneficial owners:** BIPAR opposed the low thresholds proposed by the co-legislators to characterise beneficial owners of corporate structures.
- **Compliance functions**: BIPAR suggested that these functions should be outsourceable. It also suggested that they should not be required in all structures but that their necessity should be assessed on a case-by-case basis.
- **Outsourcing**: BIPAR insisted on the need for certain obliged entities to outsource some of the tasks required under the AML/CFT framework.

Next steps

The AMLD6, the SRR and the AMLA Regulation entered into force on 9 July 2024. Member States have to adopt national laws implementing the AMLD6 by 10 July 2027[15]. Similarly, the substantive AML/CFT requirements of the SRR will apply from 10 July 2027[16].

Links

- 6th AML/CFT Directive (AMLD6)
- Single Rulebook Regulation (SRR)
- AMLA Regulation
- AMLD5
- Regulation on the transfers of funds
- EBA's consultation on 4 draft RTS regarding the AML/CFT package
- Commission's call for advice on RTS and guidelines under the AML/CFT framework

[15] The AMLD6 provisions on access to beneficial ownership registers have to be implemented by 10 July 2026 and the rules on single access point to real estate information by 10 July 2029.
[16] The new framework will apply to football agents and professional football clubs from 10 July 2029.