Consultation Paper

Draft Regulatory Technical Standards on pecuniary sanctions, administrative measures and periodic penalty payments under Article 53(10) of Directive (EU) 2024/1640

Contents

1 Responding to this consultation

The Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('AMLA') invites comments on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the questions stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/rationale proposed; and
- describe any alternative regulatory choices AMLA should consider.

1.1 Submission of responses

To submit your comments, click on the "send your comments" button on the consultation page by 9 March 2026. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

1.2 Publication of responses

Contributions will always be published. The name of organisations submitting their contribution will also always be published. The name of the natural person providing a contribution will be published unless they object to said publication.

1.3 Data protection

The protection of individuals with regard to the processing of personal data by AMLA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the AMLA website.

1.4 Who should read this paper?

This consultation invites feedback from the non-financial sector. All interested stakeholders are invited to respond to this Consultation Paper.

2 Executive Summary

Article 53(10) of Directive (EU) 2024/1640 (AMLD) requires AMLA to issue a draft RTS to specify indicators to classify the level of gravity of breaches, establish criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and develop a methodology for the imposition of periodic penalty payments, including their frequency.

This draft RTS aims to ensure that the same AML/CFT breach is assessed in the same way by all supervisors in all Member States and that the resulting enforcement measures are proportionate, effective and dissuasive.

The approach proposed in this draft RTS consists of several consecutive steps:

1) As a first step, supervisors will assess the level of gravity of a breach. To ensure a consistent approach, the draft RTS sets out a list of indicators that all supervisors will take into account.
2) In a second step, supervisors will classify the level of gravity of a breach in one of four categories by order of severity. The RTS set out how breaches should be classified into each of those categories.
3) In a third step, supervisors determine the level of pecuniary sanctions or administrative measures. The RTS lists the criteria supervisors will apply to this effect.

Supervisors will apply supervisory judgement to determine whether and to what extent different indicators and criteria are met.

The proposed draft RTS also contains specific provisions for natural persons who are not themselves obliged entities, including senior management and members of the management body in its supervisory function, and procedural aspects for the imposition of periodic penalty payments, such as the right to be heard, a limitation period for the collection of PePPs, and the minimum content of the decision by which a PePP is imposed.

The European Banking Authority (EBA) publicly consulted on a version of this proposed draft RTS and invited feedback from all stakeholders. Nevertheless, since the EBA's competence in AML/CFT extended to the financial sector only, stakeholders from the non-financial sectors may have been unaware of the EBA's consultation process. AMLA is conducting this public consultation on the proposed draft RTS to ensure that the non-financial sector's views are fully captured, and if necessary and duly justified by objective criteria, reflected in the final draft RTS.

Next steps

This Consultation Paper is published for a one-month period. AMLA will consider feedback to this consultation when preparing its submission to the European Commission.

3 Background and rationale

Article 53(10) of the AMLD requires AMLA to issue draft Regulatory Technical Standards (RTS) on enforcement. These draft RTS cover three aspects:

a) indicators to classify the level of gravity of breaches (Section 1 of the draft RTS)

b) criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures pursuant to this Section (Section 2 of the draft RTS)

c) a methodology for the imposition of periodic penalty payments pursuant to Article 57, including their frequency (Section 3 of the draft RTS)

In March 2024, the European Commission asked the EBA to advise it on this mandate. The EBA conduced an open public consultation on a version of the draft RTS between 6 March and 6 June 2025. It submitted its advice to the European Commission in October 2025. This advice contained the EBA's proposals for a draft RTS under Article 53(3) of the AMLD. In its advice, the EBA suggested that, based on the feedback it received, its proposed draft RTS applied to the financial sector as it did to the non-financial sector.

AMLA assessed the EBA's proposals and considers that the proposed draft RTS are proportionate and conducive to effective enforcement outcomes. However, since the rate of responses by non-financial sector stakeholders to the EBA's public consultation was low, AMLA decided to consult on it again specifically to obtain feedback from the non-financial sector.

3.1 General Considerations

One of AMLA's key objectives is to prevent the use of the Union's financial system for ML/TF purposes by ensuring high quality AML/CFT supervision and contributing to supervisory convergence across the internal market. This proposed draft RTS plays a central role in achieving that objective. Once applied, it will ensure that the same breach of AML/CFT requirements is assessed in the same way by all supervisors in all Member States and that the resulting enforcement measure is proportionate, effective, and dissuasive.

General considerations underpinning the proposed draft RTS were the following:

- The introduction of a robust, harmonised approach to enforcement is important because the Financial Action Task Force (FATFs) and Moneyval mutual evaluation reports[1] suggest that EU Member States' non-financial sector supervision framework is fragmented and largely ineffective. This undermines the integrity of the EU's financial system.

[1] Mutual Evaluations

- Pecuniary sanctions, administrative measures and periodic penalty payments may be imposed separately or in combination. Particular provisions should apply to natural persons that are not themselves obliged entities. This includes senior management and the management body in its supervisory function. Supervisory cooperation is important to ensure proportionate and effective enforcement outcomes. Provisions governing such cooperation are set out in the AMLD. They are outside of the scope of this mandate.

The proposed draft RTS introduces several consecutive steps. The first two steps are outlined under Section 1 and require supervisors to assess the level of gravity of a breach and subsequently classify the level of gravity of the breach. The third step is outlined under Section 2, which lists the criteria supervisors will apply to determine the level of pecuniary sanctions or administrative measures to impose. Finally, Section 3 covers procedural aspects for the imposition of periodic penalty payments.

3.2 Indicators to classify the level of gravity of breaches (Section 1)

As a first step of the process under article 1 of the proposed draft RTS sets out a list of common indicators that supervisors will consider when assessing the level of gravity of breaches. This includes the elements pertaining to the breach such as duration, repetition, impact, nature, structural failures, and others.

Secondly, article 2 of the proposed draft RTS sets out specific situations in which the breach should be classified in a certain category. When classifying the level of gravity of a breach, supervisors shall use four categories by increased order of severity: starting from the lowest category one, moving on to category two, category three, and the highest category four.

The proposed draft RTS also explains the legal effect of the classification of level of gravity of breaches, clarifying in Article 3 that a breach with a level of gravity classified as category three or four shall be deemed serious, repeated or systematic in the meaning of Article 55(1) of Directive (EU) 2024/1640.

3.3 Criteria to be considered when setting the level of pecuniary sanctions or applying administrative measures (Section 2)

As a third step, the proposed draft RTS sets out the criteria to be considered when setting the level, or amount, of pecuniary sanctions. The proposed draft RTS therefore contains criteria that

will help competent authorities decide whether they should increase or decrease the level of pecuniary sanctions. These criteria include the level of cooperation, conduct, benefit derived, and others. They are aligned with the enforcement provisions that apply to AMLA where possible.

At the same time, the proposed draft RTS recognises that, for enforcement to be effective, supervisors must consider the context in which the breach has occurred and therefore, apply supervisory judgement. A specific Recital stresses the importance of this step. Similarly, to provide for sufficient flexibility, the proposed draft RTS do not create a full classification of the breaches, and the specific situations set out in the proposed draft RTS do not prevent supervisors from classifying other breaches in those categories.

Regarding the criteria for applying administrative measures, the proposed draft RTS focuses on the most serious measures listed in Article 56(2) of the AMLD, i.e. point (f) withdrawal or suspension of authorisation, point (e) restriction or limitation of business, and point (g) change in governance structure. To provide for further convergence across the EU, the proposed draft RTS sets out the criteria supervisors should consider when considering applying those measures. The policy objective is to simultaneously trigger a more consistent approach in the way supervisors consider applying those measures and to ensure that the appropriate criteria are assessed.

3.4 A methodology for the imposition of periodic penalty payments pursuant to Article 57, including their frequency (Section 3)

Periodic penalty payments (PePPs) are a new enforcement measure in the EU AML/CFT context. Until now, their use has been limited to a few Members States. The aim of PePPs is to end an ongoing breach of AML/CFT duties. As a PePP is an enforcement measure and not a sanction, the criteria used by supervisors before deciding the amount of the PePP are not the same as criteria proposed for the imposition of pecuniary sanctions.

The proposed approach to PePPs takes inspiration from delegated acts issued by the European Commission and the practice of Members States in which they are already applied. In line with these examples, the proposed draft RTS covers procedural aspects for the imposition of periodic penalty payments, e.g., the right to be heard, a limitation period for the collection of PePPs, and the minimum content of the decision by which a PePP is imposed. It reiterates that unless stipulated differently, the process of imposition of PePPs shall be governed by national law in force in the Member State where the periodic penalty payments are imposed and collected.

The general principles of administrative law such as rule of law, legality, protection of legitimate expectations, proportionality, fairness, and right to non-self-incrimination apply to all Union acts and to any enforcement proceeding.

4 Draft implementing standards

COMMISSION DELEGATED REGULATION (EU) …/...

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supplementing Directive (EU) 2024/1640 of the European Parliament and of the Council with regards to regulatory technical standards specifying indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and the methodology for the imposition of periodic penalty payments for the purposes of Article 53(10)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849, and in particular Article 53(10), first subparagraph points (a), (b) and (c) thereof,

Whereas:

(1) Supervisors should have a common understanding of the breaches that warrant the imposition of pecuniary sanctions or administrative measures to ensure a consistent approach to enforcement across Member States. To achieve this, this Regulation sets out a list of indicators that supervisors should take into account when assessing the level of gravity of breaches. It also classifies the level of gravity of breaches into four categories of increased severity.

(2) When determining the level of gravity of breaches by classifying them into the four categories, and when setting the level of pecuniary sanctions and applying administrative measures, supervisors should take into account in their overall assessment all applicable indicators and criteria. Supervisors should use their supervisory judgement to analyse whether and to what extent these indicators and criteria are met.

(3) The list of indicators and criteria specified by this Regulation is non-exhaustive. This is to enable supervisors to take into account the specific context in which the breach has occurred. Where supervisors consider additional specific indicators or criteria, they should justify their use. Supervisors should ensure that supervisory judgement

is applied in a coherent and consistent way, with comparable outcomes. They should also ensure their approach supports the convergence of practices and the consistency and comparability of enforcement outcomes across Member States.

(4) To ensure a consistent approach to assessing the level of gravity of breaches across Member States, this Regulation sets specific combinations of indicators that, if identified by the supervisor as an outcome of the assessment of a breach, should lead to its classification into a certain category of gravity. Those combinations of indicators are not exhaustive. Supervisors may classify other combinations of indicators into the same categories.

(5) An important indicator for classifying the level of gravity of breaches is the conduct of the natural person or of the legal person, including its senior management and its management body in its supervisory function. Supervisors should consider whether a breach was committed intentionally or negligently. Supervisors should pay particular attention to situations where the natural person or legal person appears to have had knowledge of the breach and took no action, or where their action directly contributed to the breach.

(6) Some administrative measures are more severe than others. To ensure a consistent approach across Member States, it is necessary to set out common criteria that supervisors should take into account when considering whether to apply the administrative measures listed under Article 56(2), points (e), (f), and (g), of Directive (EU) 2024/1640, including the withdrawal or suspension of the authorisation, since these could have the highest impact on the obliged entities and the market.

(7) Periodic penalty payments are a tool that supervisors can use to compel compliance with administrative measures. Where supervisors decide to impose periodic penalty payments they should take into account all relevant factors when determining the appropriate and proportionate amount of periodic penalty payments on obliged entities and natural persons to compel them to comply with the imposed administrative measures.

(8) The decision on the imposition of periodic penalty payments should be taken on the basis of findings that allow the supervisor to conclude that an obliged entity or natural person has failed to comply with an administrative measure within a specified period.

(9) Decisions to impose periodic penalty payments should be based exclusively on grounds on which the obliged entity or natural person has been able to exercise its right to be heard.

(10) The periodic penalty payments imposed should be effective and proportionate, having regard to the circumstances of the specific case.

(11) To ensure legal certainty, if not otherwise stipulated by this Regulation, provisions of law applicable in the Member State where the periodic penalty payment is imposed and collected, should apply.

(12) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the Authority for Anti-Money Laundering and Countering the Financing of Terrorism.

HAS ADOPTED THIS REGULATION:

Section 1 Indicators for the classification of the gravity of breaches

Article 1 - Indicators to classify the level of gravity of breaches

To classify the level of gravity of a breach, supervisors shall take into account all of the following indicators, to the extent that they apply:

(a) the duration of the breach;

(b) the repetition of the breach;

(c) the conduct of the natural person or legal person that committed, permitted or did not prevent the breach;

(d) the impact of the breach on the obliged entity, by assessing:

i. whether the breach concerns the obliged entity and whether it has an impact at group level or any cross-border impact;

ii. the extent to which the products and services are affected by the breach;

iii. the approximate number of customers affected by the breach;

iv. the extent to which the effectiveness of the AML/CFT systems, controls and policies are affected by the breach;

(e) the impact of the breach on the exposure of the obliged entity, or of the group to which it belongs, to money laundering and terrorist financing risks;

(f) the nature of the breach, by assessing whether the breach is related to internal policies, procedures and controls of the obliged entity, customer due diligence, reporting obligations or records retention;

(g) whether the breach could have facilitated or otherwise led to criminal activities as defined in Article 2(1), point (3), of Regulation (EU) 2024/1624;

(h) whether there is a structural failure within the obliged entity with regards to AML/CFT systems, controls or policies or a material failure of the entity to put in place adequate AML/CFT systems, controls or policies;

(i) the actual or potential impact of the breach on the financial viability of the obliged entity or of the group of which the obliged entity is part;

(j) the actual or potential impact of the breach:

i. on the integrity, transparency and security of the financial system of a Member State or of the Union as a whole, or on the financial stability of a Member State or of the Union as a whole;

ii. on the orderly functioning of the financial markets;

(k) the systematic nature of the breach;

(l) any other indicator identified by the supervisors.

Article 2 - Classification of the level of gravity of breaches

1. When classifying the level of gravity of a breach, supervisors shall use four categories as follows, by increased order of severity: category one, category two, category three, category four.
2. To classify the breaches into one of the four categories listed in paragraph 1, supervisors shall assess whether and to what extent all the applicable indicators of Article 1 of this Regulation are met.
3. Supervisors may classify under those categories breaches other than those described in paragraphs 4 to 7.
4. Supervisors shall classify the breach under category one breaches where there is no direct impact or the impact is minor on the obliged entity when assessing the indicators specified in Article 1, points (d) and (e), and, at the same time:

- when assessing the indicator specified in Article 1, point (a), the breach has lasted for a short period of time, and
- when assessing the indicator specified in Article 1, point (b), the breach has been committed on a non-repetitive basis.

Supervisors shall not classify a breach as category one if indicators specified in Article 1, points (g) to (k) are met.

5. Supervisors shall classify the breach as category two where, for the indicators specified in Article 1, points (d) or (e), the impact is moderate and none of the indicators (g) to (k) of Article 1 are met.
6. Supervisors shall classify the breach as at least category three where, for the indicators specified in Article 1, point (d) or point (e), the impact is significant and at the same time:

(a) when assessing the indicators specified in Article 1, point (a), the breach has persisted over a significant period of time, or

(b) one of the indicators specified in Article 1 points (b) or (k), is met.

7. Supervisors shall classify the breach as category four where:

(a) when assessing the indicators specified in Article 1, point (d) or point (e), the impact is very significant, or

(b) when indicator specified in Article 1, point (h), is met, or

(c) when assessing the indicator specified in Article 1, point (g), the breach has facilitated or otherwise led to significant criminal activities as defined in Article 2(1), point (3), of Regulation (EU) 2024/1624, or

(d) when assessing the indicators specified in Article 1, point (i) or (j), the breach has a significant impact.

8. Breaches that would not be classified as category three or category four when assessed in isolation could amount to a breach of category three or four when assessed in combination.

Article 3 - Legal effect of the classification of level of gravity of breaches

A breach with a level of gravity classified as category three or four in accordance with Article 2 shall be deemed serious, repeated or systematic in the meaning of Article 55(1) of Directive (EU) 2024/1640.

Section 2 Criteria to be taken into account when setting the level of pecuniary sanctions and applying the administrative measures listed under this Regulation

Article 4 - Criteria to be taken into account when setting the level of pecuniary sanctions

1. To set the level of pecuniary sanctions, supervisors shall, after performing the assessment of the indicators specified in Articles 1 and 2, take into account:

   (a) the circumstances referred to in Article 53(6) of Directive (EU) 2024/1640, and

   (b) the criteria specified in paragraphs 2 to 6.

2. The level of pecuniary sanctions shall decrease taking into account each of the following criteria, to the extent that they apply:

   (a) the level of cooperation of the natural person or the legal person held responsible with the supervisor. Supervisors shall consider, in particular, whether the natural person or the legal person has quickly and effectively brought the complete breach to the supervisor's attention and whether it has actively and effectively contributed to the investigation of the breach conducted by the supervisor;

   (b) the conduct of the natural person or the legal person held responsible since the breach has been identified either by the natural person or legal person itself or by the supervisor. Supervisors shall consider, in particular, whether the natural person or legal person held responsible has taken effective and timely remedial actions to end the breach or has taken voluntary adequate measures to effectively prevent similar breaches in the future;

   (c) any other criteria identified by the supervisor.

3. The level of pecuniary sanctions shall increase taking into account each of the following criteria, to the extent that they apply:
   (a) the level of cooperation of the natural person or the legal person held responsible with the supervisor. Supervisors shall consider, in particular, whether the natural or legal person has failed to cooperate with the supervisor, did not disclose to the supervisor anything the supervisor would have reasonably expected, or took actions aimed at partially or fully concealing the breach to the supervisor or at misleading the supervisor;
   (b) the conduct of the natural person or the legal person held responsible since the breach was identified either by the entity itself or by the supervisor and the absence of remedial actions or measures taken to prevent breaches in the future;
   (c) the degree of responsibility of the natural person or legal persons held responsible and whether the breach was committed intentionally;
   (d) the benefit derived from the breach insofar as it can be determined and whether the natural person or legal person held responsible has benefited or could benefit either financially or competitively from the breach or avoid any loss;
   (e) the losses to third parties caused by the breach, insofar as they can be determined, and the loss or risk of loss caused to customers or other market users;
   (f) previous breaches by the natural person or the legal person held responsible and whether the supervisor has imposed any previous sanction concerning an AML/CFT breach or has previously requested remedial action be taken concerning an AML/CFT breach, and whether such action has not been taken in the time requested;
   (g) any other criteria identified by the supervisor.
4. In addition to the criteria set out in paragraphs 1 to 3, when setting the level of pecuniary sanctions for natural persons who are not themselves obliged entities, supervisors shall take into account, where applicable, their role and effective responsibilities in the obliged entity, the scope of their functions and the extent of involvement in the breach.
5. When setting the level of pecuniary sanctions, supervisors shall take into account the financial strength of the legal person held responsible, including, where applicable, and in the light of its total annual turnover, any available relevant information from the financial statements in order to assess financial capacity and information from prudential authorities on the level of regulatory capital and liquidity requirements.
6. When setting the level of pecuniary sanctions, supervisors shall take into account the financial strength of the natural persons held responsible by assessing all the information made available. Such assessment shall cover the annual income, whether consisting of fixed or variable remuneration, received from the obliged entity or group of which the obliged entity is part and where relevant, other income of the natural person held responsible.

Article 5 - Criteria to be taken into account when applying the administrative measures listed under this Regulation

1. To set the type of administrative measure, supervisors shall, after assessing the indicators specified in Article 1 and 2, take into account:

   (a) the circumstances referred in Article 53(6) of Directive (EU) 2024/1640, and

   (b) the criteria specified in paragraphs 2 to 4.

2. When considering whether to restrict or limit the business, operations or network of institutions comprising the obliged entity, or requiring the divestment of activities as referred to in Article 56(2), point (e), of Directive (EU) 2024/1640, supervisors shall take into account each of the following criteria, to the extent that they apply:

   (a) the level of gravity is classified pursuant to Article 2 as category three or four;

   (b) whether such a measure is capable of mitigating the actual impact or preventing a potential impact by assessing the indicators specified in Article 1, points (e), (g), (i) or (j);

   (c) the extent to which the business, operations or network of institutions comprising the obliged entity are affected by the breach or the potential breach;

   (d) the extent to which the measure could have a negative impact on customers or stakeholders;

   (e) any other criteria identified by the supervisor.

3. When considering whether to withdraw or suspend an authorisation as referred to in Article 56(2), point (f), of Directive (EU) 2024/1640, supervisors shall take into account each of the following criteria, to the extent that they apply:

   (a) the level of gravity is classified pursuant to Article 2 as category three or four;

   (b) whether such a measure is capable of mitigating the actual impact or preventing a potential impact by assessing the indicators specified in Article 1, points (e), (g), (i) or (j);

   (c) the conduct of the natural person or legal person held responsible;

   (d) whether there is a structural failure within the obliged entity, with regards to AML/CFT systems and controls and policies or a material failure of the entity to put in place adequate AML/CFT systems and controls;

   (e) any other criteria identified by the supervisor.

4. When considering the need for a change in the governance structure as referred to in Article 56(2), point (g), of Directive (EU) 2024/1640, supervisors shall take into account each of the following criteria to the extent that they apply:

   (a) the level of gravity is classified pursuant to Article 2 as category three or four;

   (b) the conduct of the natural person or legal person held responsible;

(c) the natural person or legal person held responsible has not cooperated with the supervisor or took actions aimed at partially or fully concealing the breach to the supervisor or at misleading the supervisor, or the absence of remedial actions since the breach was identified, either by the natural person of legal person held responsible or by the supervisor;

(d) the internal policies, procedures and controls put in place by the obliged entity are ineffective;

(e) any other additional information, where appropriate, including information from a financial intelligence unit, from a prudential supervisor or any other authority or from a judicial authority;

(f) any other criteria identified by the supervisor.

Section 3 Methodology for the imposition of periodic penalty payments pursuant to Article 57 of Directive (EU) 2024/1640

Article 6 - General provision

1. Unless otherwise stipulated by this Regulation and Directive (EU) 2024/1640, the administrative process of the imposition and collection of periodic penalty payments as set out in Article 57 of the Directive (EU) 2024/1640 shall be governed by provisions stipulated by national law in force in the Member State where the periodic penalty payments are imposed and collected.
2. References made to Directive (EU) 2024/1640 shall be construed as references to laws, regulations and administrative provisions into which Member States shall transpose this Directive pursuant to Article 78 thereof.

Article 7 - Statement of findings and right to be heard

1. Before making a decision to impose a periodic penalty payment pursuant to Article 57 of Directive (EU) 2024/1640, supervisors shall submit a statement of findings to the natural person or legal person concerned, setting out the reasons for justifying the imposition of the proposed periodic penalty payment and the amount to be used for its calculation.
2. The statement of findings shall set a time limit of up to four weeks within which the natural person or legal person concerned may make written submissions.
3. The supervisor shall not be obliged to take into account written submissions received after the expiry of that time limit for deciding on the periodic penalty payment.
4. The right to be heard of the natural person or legal persons concerned shall be fully respected in compliance with the administrative process specified in Article 6(1).

Article 8 - Decision on periodic penalty payments

1. The decision on the imposition of periodic penalty payments shall be based only on facts on which the natural person or legal person concerned has had an opportunity to exercise its right to be heard.
2. A decision on the imposition of a periodic penalty payment pursuant to Article 57 of Directive (EU) 2024/1640 shall at least indicate the legal basis, the reasons for the decision and the amount that will be used for the calculation of the final accrued amount of the periodic penalty payment.
3. When deciding on the amount that will be used for the calculation of the final accrued amount of the periodic penalty payment, the supervisor shall take into account all of the following factors:
   (a) the type and the object of the applicable administrative measure that has not been complied with;
   (b) reasons for the non-compliance with the applicable administrative measure;
   (c) the losses to third parties caused by the non-compliance with the applicable administrative measure, provided they were determined when the applicable administrative measure was imposed;
   (d) the benefit derived from the non-compliance with the applicable administrative measure, provided they were determined when the applicable administrative measure was imposed;
   (e) the financial strength of the natural person or legal person concerned, provided this was determined when the applicable administrative measure was imposed.

Article 9 - Calculation of periodic penalty payments

1. The amount of the periodic penalty payment can be set on a daily, weekly or monthly basis.
2. A periodic penalty payment shall be enforced and collected only for the period of noncompliance with the relevant administrative measure referred to in Article 56(2), points (b), (d), (e) and (g), of Directive (EU) 2024/1640. The period of non-compliance with the relevant administrative measure referred to in Article 56(2), points (b), (d), (e) and (g), of Directive (EU) 2024/1640 shall be determined by the supervisor.

Article 10 - Limitation period for the collection of periodic penalty payments

1. The collection of the periodic penalty payment shall be subject to a limitation period of five years. The five years period referred to in paragraph 1 shall start to run on the day following that on which the decision setting the final accrued amount of periodic penalty payment to be paid is notified to the natural person or legal person concerned.
2. The limitation period for the collection of periodic penalty payments can be interrupted or suspended in compliance with provisions stipulated by national law in force in the Member State where the periodic penalty payments are collected.

Article 11 - Entry into force and application date

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [*Date of application*].

It shall not apply to proceedings related to pecuniary sanctions, administrative measures and periodic penalty payments initiated before 10 July 2027.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[…]

On behalf of the President
[…]
[Position]

5 Accompanying documents

5.1 Impact Assessment with cost-benefit analysis

Introduction

As per Article 49(1) of Regulation (EU) 2024/1620, before submitting draft regulatory technical standards (RTS) to the Commission, AMLA shall conduct open public consultations and analyse the potential related costs and benefits.

This analysis presents the Impact Assessment with Cost-Benefit Analysis (IA/CBA) of the main policy options included in the Consultation Paper (CP) on the draft RTS under 53(10) of Directive (EU) 2024/1640 on indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and a methodology for the imposition of periodic penalty payments, including their frequency.

This IA/CBA is qualitative in nature and builds *inter alia* on the preparatory work conducted by the European Banking Authority (EBA) as part of its response to the Call for Advice[2] from the European Commission on certain draft RTS under the new Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) framework, which included the draft RTS under Article 53(10) of Directive (EU) 2024/1640 along with the EBA's own impact assessment.

Background

Article 53(10) of Directive (EU) 2024/1640 requires AMLA to develop draft RTS to specify indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and a methodology for the imposition of periodic penalty payments, including their frequency.

To lay the ground for the development of this mandate before AMLA's establishment, on 12 March 2024 the European Commission issued a Call for Advice to the European Banking Authority (EBA). To prepare its response, the EBA liaised closely with national AML/CFT supervisors that were members of its AML/CFT Standing Committee, the European Commission, the other European Supervisory Authorities (ESAs), and AMLA, once established. In addition, the EBA engaged with the private sector and consumer groups, the Financial Intelligence Unit (FIU) Platform, the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS). The EBA also conducted a 3-month public consultation as well as a public hearing, which more than 600 stakeholders joined. Written feedback was provided by more than 170 respondents, mostly from the financial sector, although responses were also received from non-financial sector representatives. Respondents welcomed the draft RTS overall. Following the public

[2] EBA response to EC CfA on six AMLA mandates 2025 10 30.pdf

consultation, the EBA brought minor amendments to the draft to enhance legal clarity and ensure proportionality. It submitted its response to the European Commission's Call for Advice on 30 October 2025.

In parallel, the European Commission set up an informal subgroup of its Expert Group on Money Laundering and Terrorism Financing (ML/TF) comprising representatives of non-financial supervisors, to complement the EBA's work with sector-specific input, where needed. The outcome of this exercise was formally handed over to AMLA in September 2025.

Through this work, the EBA and the European Commission provided a robust foundation to facilitate AMLA's delivery of the mandate under Article 53(10) of Directive (EU) 2024/1640.

Building on this preparatory work, AMLA carefully evaluated the EBA's proposal, assessing the extent to which it aligns with AMLA's own objectives and approach, taking into consideration the input of the European Commission's subgroup on the non-financial sector and the feedback collected as part of the EBA's public consultation. In particular, AMLA focused on assessing the application of the draft RTS proposed by the EBA to the non-financial sector. It also considered the extent to which the provisions were proportionate and took account of the particular needs of the diverse groups of obliged entities belonging to the non-financial sector and the AML/CFT supervisors in charge of them.

AMLA concluded that the draft RTS proposed by the EBA is proportionate and conducive to effective outcome. Consequently, AMLA concluded that no amendment was needed.

However, since feedback from non-financial sector stakeholders to the EBA's consultation was more limited than that received from the financial sector, AMLA committed to collecting wider input from stakeholders belonging to the non-financial sector. on the applicability of the RTS for the non-financial sector.

A. Problem identification

Given the importance of combating ML/TF to safeguard the integrity and stability of the internal market as well as the protection of EU citizens, the new AML/CFT framework establishes an enforcement system composed of administrative measures, pecuniary sanctions, and pecuniary penalty payments, as set out in Section 4 of Directive (EU) 2024/1640.

In this context, Member States are required to lay down effective, proportionate and dissuasive pecuniary sanctions and administrative measures in national law for failure by obliged entities or senior management and its management body in its supervisory function to comply with their AML/CFT obligations. Supervisors shall be able to impose administrative measures, including corrective instruments aimed at remedying non-compliance with AML/CFT requirements, and to apply, within a set timeframe, pecuniary penalty payments to compel compliance with administrative measures where those measures prove to be insufficient. In case of serious, repeated or systematic breaches, pecuniary sanctions shall be imposed.

Regulation (EU) 2024/1624 also broadens the scope of obliged entities within the AML/CFT framework, introducing new categories that were not previously subject to AML/CFT requirements. These include crowdfunding service providers, investment migration operators, football clubs and agents, credit intermediaries for mortgage and consumer credits, non-financial mixed activity holding companies, as well as types of crypto-asset service providers and traders in certain high-value goods, the latter of which were considered obliged entities under the previous framework within narrower aspects of their business activities. By expanding the list of obliged entities, the Regulation seeks to address emerging ML/FT risks in the financial and non-financial sector. Consequently, AML/CFT supervisors will need to effectively enforce AML/CFT provisions across a broader and more diverse set of obliged entities.

Previous approaches to AML/CFT enforcement have proven to be fragmented and at times ineffective, relying exclusively on national transpositions of EU directives. Specifically, under Directive (EU) 2015/849, Member States have implemented a diverse range of pecuniary sanctions and administrative measures for breaches of key AML/CFT provisions, and supervisors have adopted an inconsistent approach to investigating and sanctioning violations of AML/CFT requirements. Moreover, in the absence of a common understanding among supervisors as regards the assessment of the gravity of breaches, the approach to the imposition of pecuniary sanctions has shown inconsistencies across Member States. Lastly, pecuniary penalty payments are currently being used only by a few Member States, as this enforcement tool has only been introduced at EU level under Directive (EU) 2024/1640.

Recent assessments performed by the EBA[3] on financial supervisors found that enforcement measures applied did not always create a sufficiently deterrent response, and not all supervisors were using their enforcement powers in a proportionate way to achieve effective AML/CFT outcomes. Moreover, data collected by the EBA[4] suggest that supervisory approaches to enforcement diverge, with similar breaches by financial institutions in similar situations possibly resulting in different supervisory responses, including different levels of pecuniary sanctions applied to similar financial institutions.

AMLA also noted the results from the Financial Action Task Force (FATFs) and Moneyval mutual evaluation reports[5] which indicate that the EU's supervision of the non-financial sector is weak. The majority of Member States scored 'low' or 'moderate' level of effectiveness under Immediate Outcome 3 and evidence shows that AML/CFT supervisory inspections on Designated Non-Financial Businesses and Professions (DNFBPs) have been limited, while enforcement and sanctioning powers have also been overall assessed as weak.

[3] See EBA final report on competent authorities' approaches to the AML/CFT supervision of banks (EBA/REP/2025/27), October 2025.

[4] This refers to data collected through EuReCA, the database of AML/CFT related information collected by the EBA pursuant to Article 9a (2) of Regulation (EU) No 1093/2010 and Commission Delegated Regulation (EU) 2024/595.

[5] Mutual Evaluations

Therefore, the enforcement practices across the EU currently fail to achieve the deterrent effect for supervised entities and to mitigate the underlying criminal patterns. This is detrimental to the efforts made in combating ML/TF at Union level and warrants a more robust and harmonised approach.

B. Policy objectives

The overarching objective of this mandate is to strengthen the EU AML/CFT enforcement system, with the overall aim to contribute to reinforcing the prevention of the misuse of the Union's financial system for the purposes of ML/TF.

More specifically, the draft RTS should promote harmonisation of the approaches adopted by AML/CFT supervisors to the enforcement of key AML/CFT provisions across Member States and sectors, by ensuring that the same breach of AML/CFT requirements is assessed in the same way by all supervisors in all Member States, and that the resulting enforcement measure is proportionate, effective and dissuasive.

The general policy objective is to harmonise approaches by AML/CFT supervisors in the EU when imposing sanctions, administrative measures and when introducing periodic penalty payments. The mandate under Article 53(10) of the AMLD therefore request AMLA to set out in the form of draft RTS (i) indicators to classify the level of gravity of breaches, (ii) criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and (iii) a methodology for the imposition of periodic penalty payments.

This draft RTS complements the provisions set out in Section 4 of Directive (EU) 2024/1640, in accordance with the mandate under Article 53(10) of that Directive.

C. Baseline scenario

Under the baseline scenario, supervisors would need to apply the provisions of Directive (EU) 2024/1640 in relation to pecuniary sanctions, administrative measures and periodic penalty payments embedded, respectively, in Articles 55, 56 and 57 of that Directive, while complying with the general provisions stated in Article 53 of that Directive.

In line with the general provisions of Article 53 of Directive (EU) 2024/1640, supervisors need to ensure that any pecuniary sanction imposed, or administrative measure applied, is effective, proportionate and dissuasive. Moreover, pursuant to Article 57, a periodic penalty payment shall be effective and proportionate and can be imposed until the obliged entity or person concerned complies with the relevant administrative measure, for a period that cannot be longer than 12 months.

Directive (EU) 2024/1640 provides foundational rules regarding *inter alia* the maximum amounts of pecuniary sanctions and the types of administrative measures that can be applied, as well as the maximum amount of periodic penalty payments applicable to legal and natural persons, and the maximum timeframe for the imposition of periodic penalty payments.

However, the Directive does not provide common indicators to classify the level of gravity of breaches, criteria to be taken into account when setting the level of pecuniary sanctions or applying administrative measures, and a methodology for the imposition of periodic penalty payments. This scenario is likely to lead to supervisors retaining divergent approaches, thus impairing the effective enforcement of AML/CFT provisions and weaking ML/TF efforts at Union level.

D. Options considered, cost-benefit analysis, and preferred option

This section describes the policy options considered and the decision taken by AMLA for delivering the draft RTS under Article 53(10) of Directive (EU) 2024/1640, building on the preparatory work carried out by the EBA in the context of the response to the European Commission's Call for Advice, feedback collected through the EBA's public consultation, as well as the complementary input provided by the European Commission's subgroup on the non-financial sector.

Overarching principles

Overall, in line with the objectives pursued by Directive (EU) 2024/1640 and the wider AML/CFT framework, the draft RTS aims to ensure a high level of harmonisation across supervisors, Member States and sectors, along with fostering supervisory convergence and promote a level-playing field. At the same time, it strives to preserve and promote the risk-based approach, focusing on effective, workable outcomes.

The policy decision adheres to the principle of proportionality. This means that the draft RTS aims to define obligations that are suitable and necessary to achieve the desired end, and do not impose a burden on the target groups that is excessive in relation to the objective pursued.

Moreover, AMLA strives to be comprehensive, by considering the material impacts of this regulatory instrument on all target groups, being mindful that the provisions of this draft RTS affect a wide range of supervisors and obliged entities within both the financial and non-financial sector, including entities which were not subject to the AML/CFT framework before, as well as their AML/CFT supervisors.

In addition, AMLA aims to be unbiased, by considering the perspectives of the different actors to which the regulatory product is addressed.

Lastly, AMLA aims to ensure a smooth transition to the new regulatory framework, by building on the work already undertaken and validated by the EBA and its AML/CFT stakeholders where possible.

Policy issue: Applicability and proportionality to the non-financial sector

While the EBA's remit is the financial sector, the draft RTS proposed by the EBA are designed to set common, horizontal provisions, based on a proportionate, risk-based approach. Input from

the non-financial sector was incorporated through the drafting and governance process established by the EBA, which involved not only AML/CFT supervisors responsible exclusively for the financial sector, but also some that supervise both the financial and non-financial sectors.

Overall, the EBA's public consultation received positive feedback. This public consultation included a specific question on the applicability of the indicators and criteria of the draft RTS to the non-financial sector. Several respondents highlighted that the non-financial sector should be subject to the same stringent enforcement measures as the financial sector. Most respondents also considered that those indicators and criteria were relevant to the non-financial sector, with limited exceptions connected mostly to the specificities of some business models. Based on stakeholders' input, the EBA also introduced targeted amendments aimed at enhancing legal clarity, fostering proportionality of the criteria for setting the amount of pecuniary sanctions, particularly for smaller entities, and ensuring the criteria concerning natural persons are fit for purpose.

In addition, AMLA focused its analysis on the applicability and proportionality of the draft RTS to the non-financial sector, to assess whether the draft RTS proposed by the EBA warranted any amendments to ensure applicability and proportionality to the non-financial sector.

AMLA concluded that this regulatory instrument, containing common, horizontal provisions would be proportionate, principle-based, risk-based and sufficiently flexible to adapt to a diverse set of obliged entities and AML/CFT supervisors. Setting common, principle-based provisions applicable both to the financial and non-financial sector ensures harmonisation and supervisory convergence across Member States and sectors in terms of AML/CFT supervisors' approach to enforcement practices, ensuring that enforcement measures are always proportionate, effective and dissuasive. It also fosters a level-playing field, ensuring that similar breaches by obliged entities in similar situations result in analogous supervisory responses.

Based on the experience of AML/CFT supervisors in charge of both the financial and non-financial sector, horizontal provisions have proven to be fit for purpose, provided they are proportionate, risk-based and flexible enough. On the other hand, extensive sector-specific provisions would run counter to the objectives of harmonisation, supervisory convergence and level-playing field pursued by the draft RTS and the wider AML/CFT framework, thus weakening the robustness of the AML/CFT enforcement system. Significant sector-specific provisions might also create additional supervisory costs for the AML/CFT supervisors in charge of both the financial and non-financial sector, as they would require supervisors to develop sector-specific supervisory methodologies, train staff, and manage the borderline cases where activities and business models overlap across sectors.

However, AMLA is mindful that some non-financial stakeholders may have been unaware of the EBA's public consultation, given the EBA's remit on the financial sector. Therefore, AMLA carefully considered whether an additional public consultation was needed, focusing more specifically on the need to collect additional feedback from non-financial sector stakeholders.

Options considered

In that context, AMLA considered the following options:

A. Retaining the **draft RTS proposed by the EBA as a baseline, while opening its own public consultation** to collect additional feedback from non-financial sector stakeholders;
B. Retaining the draft **RTS proposed by the EBA without any amendments and without opening its own public consultation.**

Option A

Under **Option A**, AMLA would take over the text proposed by the EBA, considering the horizontal, proportionate and risk-based provisions that the proposed draft RTS contains. However, since responses from non-financial sector stakeholders to the EBA's public consultation were limited, AMLA would still consult in a targeted way and for a short period of time to collect additional feedback from non-financial sector stakeholders.

This approach would entail several benefits. It would preserve consensus reached by EU AML/CFT supervisors throughout the EBA's drafting process. In addition, it would enable AMLA to address any potential outstanding issues through targeted amendments based on the additional input collected, where relevant and duly justified. This approach would not entail any significant costs, except for the limited drafting and governance costs associated with AMLA's public consultation.

Overall, this approach represents a robust and low-risk baseline, capitalising on the maturity of the EBA's proposed text, while still enabling AMLA to collect feedback from the non-financial sector and possibly include limited, targeted amendments, only where relevant and duly justified, to ensure proportionality of the final text.

Option B

Under **Option B**, AMLA would retain the draft RTS proposed by the EBA without any amendments and without opening its own public consultation, considering that the EBA had already conducted a public consultation on the proposed text.

This approach would retain the benefits of the horizontal text proposed by the EBA and would allow AMLA to submit the draft RTS early and without incurring the governance costs associated with a new public consultation.

However, this approach would prevent AMLA from collecting feedback from AML/CFT supervisors and obliged entities in the non-financial sector, which might not have been sufficiently represented in the EBA's drafting process and might not have been sufficiently made aware of the EBA's previous consultation.

Overall, although this approach would ensure early legal certainty and a smooth transition to the new framework, it might not ensure the proportionality of the final text with respect to the non-financial sector.

Overall assessment

Based on the considerations explained above, AMLA has decided to retain the draft RTS proposed by the EBA as a baseline, while opening its own public consultation to collect additional feedback from non-financial sector stakeholders (Option A). The only addition with respect to the text proposed by the EBA was aimed to further clarify the policy intention of indicator (h) under Article 1. The addition consisted in specifying that that the failure of the obliged entity to put in place adequate AML/CFT systems, controls or policies should be 'material'. The same wording was reflected under Article 5(3), letter (d).

By incorporating risk-based, proportionate provisions and by leaving room for supervisory judgement, the draft RTS are designed to be flexible enough to accommodate differences in risk profiles, operational needs, and business models of a wide range of obliged entities, both in the financial and non-financial sector. This has been confirmed by the consensus reached at Member States' level through the drafting and governance process established by the EBA, as well as positive feedback from the EBA's public consultation. The outcome of the EBA's public consultation has also suggested that the financial and non-financial sector should be subject to the same enforcement provisions, and that the criteria and indicator proposed by the EBA are relevant to both sectors, with only limited exceptions.

However, AMLA is mindful that the non-financial sector is highly heterogeneous, including many entities being characterised by highly specific business models and operational needs. Acknowledging that stakeholders belonging to these sectors might have been less represented, or not represented at all, in the drafting, governance, and consultation process established by the EBA. AMLA is committed to ensuring that all the stakeholders affected by this regulatory product are empowered to provide their views. Therefore, AMLA will conduct its own public consultation on the draft RTS and remains open to introduce limited, targeted amendments based on the outcome of the consultation, only where duly justified by objectively identified differences in operational models in certain sectors.

Methodology

AMLA carefully reviewed the draft RTS developed by the EBA, considered the input provided by the European Commission's subgroup on the non-financial sector, and assessed the responses to the EBA's public consultation, especially the responses provided by non-financial sector stakeholders. The analysis focused on assessing the proportionality, fairness, flexibility and adaptability of the provisions to the non-financial sector.

In parallel, AMLA considered alignment with Directive (EU) 2024/1640 and the wider AML/CFT framework, to ensure the draft RTS provisions support regulatory coherence and effective supervision at EU level. The analysis aimed to ensure consistency between the draft RTS and the underlying legislative framework, and to ensure the proposed provisions support harmonisation, supervisory convergence, level-playing field, legal coherence, and effective implementation at national level.

Limitations

The analysis is primarily based on qualitative input and comparative legal assessment. While the input provided by AML/CFT supervisors has provided valuable insights into practical supervisory experience, this may not capture all sector-specific particularities within the highly heterogeneous non-financial sectors. In addition, supervisory practices and market structures continue to evolve, particularly for newly designated obliged entities.

These limitations are however mitigated by the flexibility granted by the provisions of the draft RTS and the possibility to address any outstanding issues through AMLA's public consultation process, where necessary and duly justified.

Further assessments

During the public consultation, respondents will have the opportunity to provide supporting data, evidence, or concrete examples to substantiate any proposals or suggested amendments to the draft RTS. In particular, stakeholders will be invited to submit quantitative information illustrating sector-specific risks, operational constraints, compliance costs, or supervisory impacts, where relevant.

This evidence-based input will support AMLA in re-assessing, where justified, whether proposed changes are proportionate, justified, and consistent with the objective of the draft RTS, i.e., to foster harmonisation and supervisory convergence in terms of enforcement practices, thereby ensuring that enforcement tools are proportionate, effective and dissuasive and that similar breaches by similar obliged entities lead to the application of analogous enforcement measures.

5.2 Overview of questions for consultation

Question 1: Do you agree that the proposed list of indicators to classify the level of gravity of breaches set out in Article 1 of the proposed draft RTS apply to the non-financial sector? If you do not agree, please explain your reasoning.

Question 2: Do you agree that the proposed list of criteria to be taken into account when setting up the level of pecuniary sanctions set out in Article 4 of the proposed draft RTS apply to non-financial sector? If you do not agree, please explain your reasoning.

Question 3: Do you agree that the applicability of financial strength of the legal or natural person held responsible (Article 4(5) and Article 4(6) of the proposed draft RTS) apply to the non-financial sector? If you do not agree, please explain your reasoning.

Question 4: Do you agree with the proposed criteria to be taken into account by a non-financial sector supervisor when applying the administrative measures listed under Article 5 of the proposed draft RTS? If you do not agree, please explain your reasoning.

Question 5: Do you agree that the proposed methodology for imposing periodic penalty payments as listed under Section 3 of the proposed draft RTS applies to the non-financial sector? If you do not agree, please explain your reasoning.