



Factsheet on legal impediments in third countries: minimum actions, additional measures and supervisory actions

This factsheet accompanies the RTS on group-wide minimum requirements and should be considered when the RTS is endorsed by the European Commission in a delegated Regulation at its date of application.

The factsheet consists of 4 parts:

- **Scope:** Identifies the obliged entities and parent undertakings that are subject to the requirements relating to legal impediments in third countries.
- **Minimum actions:** Explains the steps groups must take when third-country laws prevent or restrict compliance with the AMLR or group-wide AML/CFT policies and controls.
- **Additional measures:** Summarises the risk-mitigating measures that may be applied where legal impediments cannot be overcome through customer consent or other means.
- **Supervisory actions:** Describes the actions available to supervisors where risks are not adequately managed or where obliged entities fail to comply with supervisory requirements.

This factsheet provides a simplified overview of the requirements and should be read together with the RTS and the relevant provisions of Regulation (EU) 2024/1624 (AMLR)¹.

Who is subject to articles 7 to 9?

Articles 7–9 apply to obliged entities and parent undertakings that are part of a group with branches or subsidiaries in third countries. They do not apply to:

- groups operating only within the EU; or
- obliged entities without branches or subsidiaries in third countries.

¹ Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing



What should obliged entities do?

Groups must identify and manage situations where the law of a third country prevents or restricts a branch or subsidiary from complying with the AMLR or group-wide AML/CFT policies and controls.

Legal impediments may affect:

- customer due diligence and risk assessments;
- information sharing within the group;
- information sharing related to suspicious transaction reports;
- information sharing with supervisors; and
- record-keeping requirements.

Where a legal impediment exists, the obliged entity or parent undertaking should:

- **Notify the supervisor** of the country concerned and explain how local law restricts compliance with the AMLR.
- **Seek customer consent**, where legally possible, to overcome the restriction.
- **Apply additional measures** to mitigate the resulting ML/TF risks.
- **Take further action where risks remain**, including terminating relationships, refusing transactions or closing operations in the third country.
- **Inform the supervisor** of the measures taken and why they are appropriate to the identified risks.

Additional measures

Where customer consent is not feasible or sufficient, obliged entities should apply risk-based and proportionate measures to mitigate the risks arising from the legal impediment.

Examples include:

- limiting activities to lower-risk products and services;
- performing independent customer due diligence within the group;
- conducting enhanced reviews or audits;
- requiring senior management approval for higher-risk customers or transactions;
- obtaining additional information on source of funds or wealth;
- applying enhanced monitoring;
- sharing suspicious activity information where legally permitted; and
- maintaining up-to-date customer risk and due diligence information.

The selection and intensity of these measures should always follow a **risk-based and proportionate approach**.



What can supervisors do?

Where supervisors consider the measures taken to be insufficient, they may require the obliged entity to:

- implement a risk mitigation plan;
- take corrective measures within a specified timeframe; and
- address identified weaknesses or shortcomings.

Where risks remain unmanaged or supervisory requirements are not met, supervisors may require the obliged entity to:

- stop entering into new business relationships;
- stop carrying out occasional transactions;
- restrict or terminate existing business relationships or transactions; or
- close some or all operations in the third country.

Supervisors should act in a risk-based and proportionate manner, taking into account the seriousness of the risks, the impact of the legal impediment and the effectiveness of the group's AML/CFT framework. Obligated entities are expected to cooperate fully with supervisory measures.

Important: This factsheet reflects the content of the group-wide requirements draft RTS at the date of the AMLA final draft . Please note that the RTS remains subject to review and potential amendments by the European Commission and its provisions will only become definitive upon publication in the Official Journal of the European Union.

This factsheet does not replace, amend or supplement the legal texts. In the event of any conflict, inconsistency or divergence between this factsheet and the RTS or the AMLR, the provisions of the RTS and the AMLR shall prevail.