

Consultation Paper

**Draft Implementing Technical Standards
on cooperation within the AML/CFT supervisory system
for the purposes of direct supervision under Article 15(3)
of Regulation (EU) 2024/1620**

Contents

1 Responding to this consultation	3
1.1 Submission of responses	3
1.2 Publication of responses	3
1.3 Data protection	3
1.4 Who should read this paper?	3
2 Executive Summary	4
Next steps	4
3 Background and rationale	5
3.1 General consideration	5
3.2 Cooperation between financial supervisors and AMLA (Section 1)	6
3.3 Selection process (Section 2 and 3)	6
3.3.1 Sequential approach (Section 2)	6
3.3.2 Notification and Publication of selected obliged entities (Section 3)	6
3.4 Transfer of supervisory tasks and powers (Section 4)	6
3.5 Joint supervisory teams (Section 5)	7
4 Draft implementing standards	8
5 Accompanying documents	22
5.1 Draft cost-benefit analysis	22
5.2 Overview of questions for consultation	29

1 Responding to this consultation

The Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('AMLA') invites comments on all proposals put forward in this paper and in particular 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 27 January 2025. 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?

All interested stakeholders are invited to respond to this Consultation Paper. In particular, AMLA encourages obliged entities from the financial sector that might be eligible for direct supervision, as well as financial supervisors, to participate.

2 Executive Summary

The establishment of AMLA by Regulation (EU) 2024/1620 ('AMLAR') marks a significant step towards an integrated and harmonized approach to AML/CFT supervision across the Union. From 2028, AMLA will be directly supervising obliged entities in the financial sector that operate in at least six Member States and have a high-money laundering and terrorist financing risk profile.

Article 15(3) of the AMLAR requires AMLA to develop implementing technical standards ('ITS') that specify how AMLA and financial supervisors cooperate in the context of the direct supervision.

The draft ITS plays a pivotal role in ensuring continuity and consistency in AML/CFT supervision across the EU. It addresses the operational questions that arise when obliged entities transition between direct supervision by AMLA and their respective national financial supervisors. It also specifies how the selection process will be carried out, from data collection to publication of the list of selected obliged entities for direct supervision.

By adopting a balanced approach that ensures legal certainty while allowing flexibility to ensure a proportionate approach, efficient processes and effective outcomes, the draft ITS aim to provide a clear and adaptable framework for the selection and supervision of obliged entities.

Next steps

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

3 Background and rationale

Article 5(2) of the Regulation (EU) 2024/1620 ('AMLAR') requires AMLA directly to supervise selected obliged entities that are credit institutions, financial institutions and groups of credit and financial institutions. Article 12 of the AMLAR provides that obliged entities are eligible for direct supervision if they operate in at least six Member States. Articles 12 to 15 of the AMLAR specify the main rules governing the selection of obliged entities, and the cooperation of national competent authorities and AMLA in the context of direct supervision.

Article 15(3) of the AMLAR requires AMLA to issue draft Implementing Technical Standards ('ITS'), which set out:

- Conditions for assistance (Section 1 of the draft ITS)
- Process of periodic assessment (Section 2 of the draft ITS)
- Decision on the selection of obliged entities (Section 3 of the draft ITS)
- Transfer of supervisory tasks and powers (Section 4 of the draft ITS)
- Composition and functioning of the joint supervisory teams ('JST') (Section 5 of the draft ITS)

This draft ITS therefore plays an important role in ensuring consistency and continuity of AML/CFT supervision of obliged entities that transition between direct supervision by AMLA and their respective national AML/CFT supervisors. It complements provisions in Articles 12, 13, 15 and 16 of the AMLAR.

3.1 General considerations

The establishment of an EU AML/CFT authority with direct supervision powers over some obliged entities constitutes a significant departure from the current regime, where AML/CFT supervision is performed solely by national supervisors. Nevertheless, under the new legal and institutional framework, national and supranational approaches remain closely intertwined. AMLA and the national AML/CFT supervisory authorities form an AML/CFT supervisory system that should be based on mutual trust and cooperation in good faith.

The draft ITS under Article 15(3) of the AMLAR establishes the foundation for effective cooperation between financial supervisors and AMLA in the context of direct supervision. It should put in place common procedures that are efficient, and conducive to consistent and continuous AML/CFT supervision of obliged entities transitioning between national and EU-level supervision. It should also provide legal certainty where necessary while maintaining flexibility when possible.

3.2 Cooperation between financial supervisors and AMLA (Section 1)

Close cooperation within the supervisory system is key to its effective functioning. The proposed draft ITS elaborates on the general overarching principles and obligations laid down in the AMLAR, for example, the duty to cooperate in good faith and the obligation to exchange information. It also specifies the obligation for AMLA to provide a secured channel of transmission of information for the performance of the selection process and the transfer of supervisory tasks and powers.

3.3 Selection process (Section 2 and 3)

The initial step towards direct supervision is the selection of obliged entities, in which AMLA and national financial supervisors both have an important role to play. To ensure operational efficiency, AMLA proposes that the draft ITS sets out the different steps and rules governing the selection process, from the identification of eligible obliged entities to publication of the list of the selected obliged entities. It also specifies the respective responsibilities within the supervisory system.

3.3.1 SEQUENTIAL APPROACH (SECTION 2)

The proposed draft ITS sets out the steps supervisors need to take when selecting obliged entities for direct supervision. AMLA opted for a sequential process, where national financial supervisors collect the eligibility criteria and necessary data points, perform data quality checks, and then transmit the data to AMLA. AMLA subsequently conducts the risk assessments and conducts the selection process with the necessary input and collaboration from the national financial supervisors.

3.3.2 NOTIFICATION AND PUBLICATION OF SELECTED OBLIGED ENTITIES (SECTION 3)

The proposed draft RTS ensures accountability and transparency of the selection process by requiring AMLA to communicate the results clearly and promptly to both the selected entities and the relevant financial supervisors before the publication of the list of selected obliged entities on AMLA's website. This approach upholds legal certainty and procedural fairness, as selected entities must be informed of their rights and obligations, including options for legal recourse and appeal.

3.4 Transfer of supervisory tasks and powers (Section 4)

AMLA's proposal sets out three provisions in Articles 9 to 11 of the draft ITS that are designed to facilitate the transfer of supervisory tasks and powers between AMLA and financial supervisors.

This framework should ensure that such transfers are conducted smoothly and do not disrupt the supervision of obliged entities.

As part of this, AMLA foresees the establishment of an inventory of information to be exchanged between AMLA and financial supervisors, during the transition period, when an obliged entity is either selected or deselected in order to hand over the supervisory history of the concerned entity. In developing Articles 10 and 11 of the draft ITS, inspiration has also been drawn from the SSM Framework Regulation.

3.5 Joint supervisory teams (Section 5)

Joint Supervisory Teams (JSTs) are the operational units within AMLA that are tasked with the supervision of obliged entities that have been selected. One JST will be established for each selected obliged entity. Each JST will be composed of staff from AMLA and staff from financial supervisors responsible for the supervision of the selected obliged entity at national level. Each JST is coordinated by a member of AMLA staff (the ‘JST coordinator’).

Article 16 of the AMLAR provides the most significant rules regarding the composition and functioning of a JST. The proposed draft ITS further complements these by explicitly adding a rotation principle of the JST coordinator, an equal access to information within the JST and requiring a national coordination of participation in a JST when multiple national financial supervisors are involved. Drawing inspiration from the SSM, this approach reflects a commitment to leveraging established expertise and successful frameworks to bolster the overall supervisory regime.

4 Draft implementing standards

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

laying down implementing technical standards for the application of Regulation (EU) 2024/1620 of the European Parliament and of the Council with regard to cooperation within the AML/CFT supervisory system for the purposes of direct supervision

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010¹, and in particular Article 15(3) thereof,

Whereas:

- (1) This Regulation is based on the draft implementing technical standards submitted to the Commission by the Authority for Anti-Money Laundering and Countering the Financing of Terrorism ('the Authority').
- (2) The Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based and analysed the potential related costs and benefits.
- (3) The Authority is responsible for establishing a secured channel of transmission of information by the financial supervisors. This channel may be the central AML/CFT database referred to in Article 11 of Regulation (EU) 2024/1620 or an alternative channel that meets or exceeds the necessary security and operational standards and needs.
- (4) For the first selection process starting no later than 1 July 2027, a dedicated data collection should be conducted in 2026 to identify the first obliged entities to be assessed. The cut-off to use for this dedicated data collection exercise should be 31 December 2025 to identify the obliged entities that meet the criteria set out in Article 12(1) Regulation (EU) 2024/1620. As from the second selection process in 2030, the financial supervisors should, to the extent possible, use data that has been collected for other purposes to reduce the burden on the obliged entities. Where such data is not available or suitable, a dedicated data collection may be required. These other purposes can include data collected in view of the periodic risk assessment at the national level. By utilizing such pre-existing data, the aim is to streamline the process

¹ OJ L [number], 19.6.2024, [p.].

and minimize additional reporting requirements for obliged entities, thereby optimising efficiency.

- (5) To ensure the orderly and timely submission of information necessary for the selection process referred to in Article 12(1) of Regulation (EU) 2024/1620, the Authority should communicate and, where applicable, publish all relevant details on deadlines, data exchange format specifications including data and metadata information, and related submission procedures. This proactive dissemination of information will enable obliged entities and financial supervisors to adequately prepare and adhere to the reporting requirements.
- (6) To ensure the quality and integrity of submitted information, it is essential to implement robust validation rules, quality checks and plausibility assessments prior to transmission to the Authority. Field validation rules verify the technical accuracy of the data, ensuring compliance with required formats such as field length, numeric and text types, date formats, boolean values, positive integers, and the correct handling of empty fields. Data quality checks focus on internal consistency within the dataset. They verify that reported information is coherent and complete. For example, ensuring that no transaction values are recorded for services marked as not provided. Plausibility checks assess the logical consistency and realism of the data. These checks help identify values that, while technically valid, may be improbable or inconsistent such as drastic fluctuations in reported amounts across different reporting periods or unusually high or low figures that deviate from expected norms.
- (7) The Authority should provide a list of blocking and non-blocking validations. Blocking validations typically cover structural checks, such as correct data types, mandatory fields, and expected value lists, that must always be satisfied for a submission to be processed and accepted. Non-blocking validations identify potential quality issues that do not prevent immediate acceptance but should be reviewed by the entity submitting the data. These may include plausibility checks such as information outside an expected range that may indicate potential errors or other non-material discrepancies that may require attention and correction when necessary.
- (8) To ensure transparency and accountability in the selection process of obliged entities for direct supervision, the Authority should communicate the results of this process clearly and promptly to the General Board in supervisory composition and selected obliged entities.
- (9) In the interest of legal certainty and procedural fairness, it is important that selected obliged entities are immediately informed of their rights and obligations, including options for legal recourse and appeal, upon notification of the selection decision. In particular, in order to guarantee the procedural rights of the selected obliged entities, they should be informed of the fact that the notification constitutes a decision that is subject to appeal with the General Court of the Court of Justice of the European Union, as of the date of publication of the list.
- (10) Publishing the list of selected obliged entities on the Authority's website facilitates easy access to accurate information regarding those entities under direct supervision and the timelines involved, and ensures transparency and clarity for those entities.

- (11) The transfer of supervisory tasks and powers may occur from national level to the Authority and from the Authority back to national level following a selection process. Reciprocal arrangements are thus essential for ensuring the continuity of supervision as well as the seamless continuation of pending supervisory procedures or investigations.
- (12) To ensure the continuity and effectiveness of the supervision, the authority whose competence is to end should provide the authority assuming supervision with all necessary information to enable a comprehensive understanding of the main risks and supervisory history associated with the obliged entity. This transfer of information is critical to allow the authority assuming supervision to efficiently take over its supervisory responsibilities and to ensure that there is no disruption in the monitoring and mitigation of money laundering and terrorist financing risks.
- (13) To ensure efficiency and consistency of supervision, the authority assuming supervision may decide to takeover pending supervisory procedures or investigations when there is a transfer of supervisory tasks and powers between financial supervisors and the Authority. The authority assuming supervision should take into account its capacity and resources before taking the decision of taking over a pending supervisory procedure or investigation.
- (14) In the case of groups, consistent with the identification of the entire group as a selected obliged entity, the arrangements outlined in Articles 9, 10 and 11 should apply to the Authority and to each relevant financial supervisor in the Member States where the selected obliged entity operates, on a bilateral basis.
- (15) To ensure the effective transfer and continuity of supervision when there is a change in competence between the Authority and financial supervisors, it is imperative that comprehensive and timely communication is maintained. The authority whose competence ends should promptly inform the authority assuming supervision of all pending supervisory procedure or investigation, including their respective status. This exchange of information is crucial not only for transparency but also for facilitating informed decision-making by the authority assuming supervision.
- (16) At the moment of transferring supervision between a financial supervisor and the Authority, supervisory procedures and investigations on a selected obliged entity may be pending. Such procedures and investigations may include any ongoing actions regarding potential non-compliance with AML/CFT obligations or any supervisory activity which may be directed towards preparing the issuance of a supervisory decision, including the imposition of administrative measures, pecuniary sanctions and periodic penalty payments, addressed to one or more obliged entities or individuals. To ensure effectiveness of supervisory actions, and given the fact that supervisory procedures or investigations remain pending from their formal initiation until a final decision is reached, it is important to ensure precise coordination during changes in supervisory competence to maintain continuity and certainty vis-à-vis the selected obliged entity.
- (17) To promote impartiality and foster supervisory convergence, the JST Coordinator should be subject to rotation. Such rotation shall not undermine the effectiveness or

continuity of supervision. In duly justified cases, rotation may be adjusted. Any such adjustment shall be appropriately documented.

- (18) It is essential that all members of the joint supervisory team from both the Authority and the financial supervisors ensure the effective and timely exchange of the information necessary for the performance of their supervisory task, as well as equal access to participation in meetings, discussions and other collaborative platforms relating to the supervisory tasks assigned to the joint supervisory teams.

HAS ADOPTED THIS REGULATION:

SECTION 1

Conditions for assistance in the context of direct supervision

Article 1

Duty to cooperate in good faith

1. In accordance with Articles 7(2) and 15(1) of Regulation (EU) 2024/1620, the Authority and the financial supervisors shall cooperate in good faith and shall exchange, in a timely and accurate manner, all information and data which are necessary for the Authority and the financial supervisors to carry out the tasks conferred on them in accordance with Regulation (EU) 2024/1620, Directive (EU) 2024/1640 and other applicable Union or national law, including information necessary for financial supervisors to carry out their role in assisting the Authority where appropriate.
2. In the exercise of their duties, financial supervisors and the Authority shall, in particular, ensure the accurate identification and assessment of eligible obliged entities and listing of selected obliged entities, as well as the continuity and the effectiveness of the supervision of selected obliged entities, including during transfers of supervisory tasks and powers.

Article 2

Channel of transmission of information

1. Information required for the performance of the selection process and the transfer of supervisory tasks and powers, including the periodic assessment referred to in Article 12(1) of Regulation (EU) 2024/1620, shall be submitted to the Authority through a secured channel.
2. The Authority shall establish and provide to the financial supervisors the secured channel allowing them to submit and access the information referred to in paragraph 1.

3. The Authority shall share with the financial supervisors the communication channel to be used between the financial supervisors and the Authority for the purposes of the periodic assessment referred to in Article 12 of Regulation (EU) 2024/1620.

SECTION 2

Process of periodic assessment for the purpose of selection for direct supervision

Article 3

Identification of eligible obliged entities

1. For the purposes of identifying eligible obliged entities that shall be assessed during a selection process on year X, financial supervisors of the home Member States shall collect the necessary information to assess if the obliged entity meet the criteria set out Article 12(1) of Regulation (EU) 2024/1620 ('eligibility information') as on 31 December of year X-2 from credit institutions and financial institutions, and in case of groups of credit institutions and financial institutions from the parent undertaking defined in Article 2(42) of Regulation (EU) 2024/1624 situated in their Member State.
2. For the purposes of the data collection referred to in Article 4, obliged entities that meet the criteria set out in Article 12(1) of Regulation (EU) 2024/1620 as specified in Art. 1 of the of Delegated Regulation (EU) XXXX/XXX [RTS under art. 12(7) AMLAR] ('eligibility criteria') as on 31 December of year X-2 shall qualify as provisionally eligible obliged entities for the selection process on year X.
3. Financial supervisors of the home Member States shall submit to the Authority the list of provisionally eligible obliged entities and the related eligibility information collected pursuant to paragraph 1 by 30 September of year X-1 according to the data exchange format specifications referred to in Article 4(4).
4. The Authority shall provide financial supervisors with the list of provisionally eligible entities that shall be included in the data collections referred to in Article 4(1).
5. The Authority shall verify that the provisionally eligible obliged entities still meet the eligibility criteria as on 31 December of year X-1 based on the data collected pursuant to Article 4 and qualify as eligible obliged entities for the selection process on year X.

Article 4

Collection and transmission of data points of eligible obliged entities

1. Financial supervisors shall collect from provisionally eligible obliged entities the information referred to in Article 5(3) of Delegated Regulation (EU) XXXX/XXX [RTS under art. 12(7) AMLAR] and in the Annex Section A and B thereof ('data points') as on 31 December of year X-1. Financial supervisors of the home Member States shall, at the same time, collect the eligibility information as on 31 December of year X-1.
2. Financial supervisors shall complete the collections referred to in paragraph 1 no later than 31 March of year X.
3. Financial supervisors shall submit the data points and the financial supervisors of the home Member States the eligibility information collected from provisionally eligible obliged entities to the Authority no later than 31 May of year X.
4. Financial supervisors shall submit the data points and the financial supervisors of the home Member States the eligibility information to the Authority in accordance with the applicable data exchange format specifications developed, maintained and published by the Authority. The data exchange format specifications shall include the validation rules and the data quality checks referred to in Article 5(1).

Article 5

Data quality

1. Before submitting the data points referred to in Article 4(1) to the Authority, financial supervisors shall apply:
 - (a) validation rules;
 - (b) data quality checks;
 - (c) plausibility checks.

The rules and checks shall be defined jointly by the Authority and the financial supervisors.

The Authority shall share with the financial supervisors the plausibility checks referred to in point (c).

2. The Authority shall not alter the information received from financial supervisors. Information that does not meet the validation rules or data quality checks referred to in paragraph 1 shall not be accepted through the delivery channel. The Authority shall refuse the information referred to in Article 2(1) that have identified inconsistencies during plausibility checks.

3. The Authority shall provide the data exchange specifications for financial supervisors to verify the compliance of the data they intend to submit with the validation rules and data quality checks referred to in paragraph 1.

4. The data points referred to in Article 4(1) shall be complete. Any existing gaps shall be acknowledged and explained to the Authority. Where the data quality for a given information cannot be warranted, financial supervisors shall accompany that information with the corresponding explanations.

5. Where a significant revision is necessary, the financial supervisor shall resubmit the data points referred to in Article 4(1) in accordance with the procedure shared with the financial supervisors by the Authority.

For the purposes of the previous subparagraph, ‘significant revision’ means any revision of one or more data points which significantly impacts the periodic assessment made using these data points at obliged entity level.

Article 6

Assessment and classification of the inherent and residual risk at the entity level

1. The Authority shall perform the periodic assessment referred to in Article 12 of Regulation (EU) 2024/1620 based on the methodology set out in Delegated Regulation (EU) XXXX/XXX [RTS under art. 12(7) AMLAR].

2. By 31 July of year X, the Authority shall inform financial supervisors on the outcome of the assessment of the inherent risk and the quality of AML/CFT controls.

3. By 30 September of year X, financial supervisors shall provide the Authority with their proposals of adjustments of the assessment of the quality of AML/CFT controls in accordance with Article 3(4) of Delegated Regulation (EU) XXXX/XXX [RTS under art. 12(7) AMLAR]. The Authority shall take due consideration of those proposals. Any refusal of a proposal of adjustment by the Authority shall be duly justified, recorded and shared with the relevant financial supervisors.

4. The Authority shall share the outcome of the periodic assessments of all eligible obliged entities with the relevant financial supervisors.

SECTION 3

Decision on the selection of obliged entities

Article 7

Notification of the decision to selected obliged entities

1. Following the selection process referred to in Article 13 of Regulation (EU) 2024/1620, and after informing the financial supervisors, the Authority shall, without undue delay, notify each selected obliged entity of the decision resulting from the selection process in respect of that selected obliged entity.

The Authority shall concomitantly communicate this outcome to the relevant non-AML/CFT authorities pursuant to Article 13(5) of Regulation (EU) 2024/1620.

2. The notification referred to in paragraph 1 shall:

(a) be provided in writing;

(b) set out the rights and obligations of the selected obliged entity stemming from the decision;

(c) explain how any pending supervisory procedures or investigations involving the selected obliged entity are to be taken forward;

(d) indicate the contact point and time limit for submitting technical observations or proposed minor factual corrections with respect to the draft decision;

(e) indicate the contact point and time limit for requesting the substantive review, specifying the applicable due process rights of the selected obliged entity, including the form in which the right to be heard may be exercised, the right to legal representation, the choice of language and the right to access the case file; such due process rights may be specified by way of reference to the relevant AMLA framework decision;

(f) refer to the right to request a judicial review.

The Authority shall not be obliged to take into account technical observations of requests for substantive review received after the time limit set.

3. The Authority shall inform the relevant financial supervisors, without undue delay and before the publication of the list of selected obliged entities, of any review of the outcome of the selection process.

Article 8

Publication of the list of selected obliged entities

1. The list of selected obliged entities shall be published on the Authority's website after the expiry of the time limit set for submitting requests for substantive review following individual notifications referred to in Article 7 to the selected obliged entities and taking account of the outcome of the aforesaid procedure, as appropriate.

2. That list shall include the names of the selected obliged entities, in alphabetical order, the date on which direct supervision by the Authority commences, and indicate that the decision referred to in Article 7(1) is appealable in front of the General Court of the Court of Justice of the European Union as of the moment of publication of the list.
3. The Authority shall ensure that the information published under paragraphs 1 and 2 remains accessible on its website for at least six years.

SECTION 4

Transfer of supervisory tasks and powers

Article 9

Working arrangements

1. If a change in competence between the Authority and financial supervisors is to take place pursuant to Article 13(4) or (6) of Regulation (EU) 2024/1620, the Authority and financial supervisors shall, upon the publication of the list referred to in Article 13(4) of that Regulation, liaise without undue delay for the purpose of organising the transfer of supervisory tasks and powers and of setting up or disbanding the joint supervisory team.

The Authority and the financial supervisors shall agree on the timeline for initiating the inventory and the secure transfer, by the authority whose competence is to end ('authority whose competence ends'), of the relevant information it possesses, to the authority which is to become competent ('authority assuming supervision') and which are necessary for the carrying out of the supervisory tasks and powers conferred on that authority by Regulation (EU) 2024/1620 or Directive (EU) 2024/1640 and other applicable Union law.

The information to be transferred shall cover a minimum period of three years prior to the publication of the list referred to in Article 13(4) of Regulation (EU) 2024/1620, and may be extended to include information on the relevant obliged entity covering a longer period, if deemed necessary for the purpose of supervision by the authority whose competence ends or the authority assuming supervision. To that end, the authority assuming supervision and the authority whose competence ends shall collaborate with one another and proactively provide the other party with relevant information enabling the identification of cases where information covering longer periods of time shall be transferred.

By way of derogation from the previous subparagraph, where the obliged entity subject to a change of supervisory competence has been operating or where the authority whose competence ends has been the financial supervisor for a shorter timeframe, the information to be transferred shall cover the entire period.

2. The authority whose competence ends and the authority assuming supervision shall cooperate and provide mutual support during the transfer period to facilitate a seamless transition and ensure effective supervision of the obliged entity on a continuous basis.

3. The authority whose competence ends shall establish and, over the course and up to the completion of the transfer of supervisory tasks and powers, maintain the inventory of the relevant information referred to in paragraph 1, second subparagraph. That inventory shall be comprehensive, in writing, and may include descriptions of each item transferred, including the nature, scope, format of the information transferred, the date of transfer and the means by which the transfer is executed.

4. The Authority and financial supervisors shall be responsible for identifying discrepancies or issues identified in the inventory referred to in paragraph 1, second subparagraph to safeguard the integrity and completeness of the information necessary for effective supervision.

Whenever discrepancies or issues are identified, the authority whose competence ends shall resolve them without undue delay.

5. The Authority shall develop and make available a standardised template to be utilised for the inventory referred to in paragraph 1, second subparagraph.

Article 10

Pending supervisory procedures or investigations

1. The authority whose competence ends shall inform promptly the authority assuming supervision of any supervisory procedure or investigation that has been formally initiated and which requires a decision. The authority whose competence ends shall provide this information without undue delay after becoming aware of the change in competence and no later than the publication of the list referred to in Article 13(4) of Regulation (EU) 2024/1620. The authority whose competence ends shall update this information in a timely manner whenever there is new information to report on a supervisory procedure or investigation.

The authority whose competence ends shall liaise with the authority assuming supervision without undue delay after the formal initiation of any new supervisory procedure or investigation which requires a decision initiated during the transition period.

The list of pending supervisory procedures or investigations shall be included in the inventory referred to in Article 9.

2. The authority whose competence ends shall undertake efforts to complete any pending supervisory procedure or investigation which requires a decision prior to the date on which the change in the supervisory competence is to occur.

3. If a supervisory procedure or investigation, which require a decision, cannot be completed prior to the date on which a change in the supervisory competence occurs, the authority whose competence ends shall remain competent to complete such pending supervisory procedure or investigation. For this purpose, the authority whose competence ends shall also retain all relevant powers until the supervisory procedure or investigation has been completed. The authority whose competence ends shall complete the pending supervisory procedure or investigation in question in accordance with the applicable law under its retained powers. The authority whose competence ends shall inform the authority assuming supervision prior to taking any decision in a supervisory procedure or investigation which was pending prior to the change in competence. It shall provide to the authority assuming supervision a copy of the decision taken and any relevant documents relating to that decision.

4. By way of derogation from paragraph 3, the authority assuming supervision may decide within one month of receiving the information necessary to complete its assessment of the relevant formally initiated supervisory procedure or investigation, and in consultation with the authority whose competence ends, to take over the supervisory procedure concerned.

If, due to reasons of national law, a decision is required prior to the end of the assessment period referred to in the first subparagraph, the authority whose competence ends shall provide the authority assuming supervision with the necessary information and specify in particular the timeframe within which the authority assuming supervision has to decide whether or not it intends to take over the procedure. Where the authority assuming supervision takes over a supervisory procedure, it shall notify the authority whose competence ends and the concerned obliged entity of its decision to take over the supervisory procedure concerned. The authority assuming supervision shall specify in its decision the consequences of taking over such supervisory procedure.

5. The authority assuming supervision and the authority whose competence ends shall cooperate with regard to the completion of any pending procedure and may exchange any relevant information for this purpose.

Article 11

Continuity of existing cooperation agreements

All existing cooperation agreements with other authorities entered into by a financial supervisor prior to the change in competence, that cover at least in part tasks transferred to the Authority shall continue to apply to the extent that they do not conflict with the tasks assigned to the Authority by Regulation (EU) 2024/1620. The Authority may decide to participate in such existing cooperation agreements in accordance with the procedures applicable to those agreements, or may establish new cooperation agreements with third parties for the tasks transferred to it by Regulation (EU) 2024/1620. A financial supervisor shall continue to apply existing cooperation agreements only to the extent they are not replaced by cooperation agreements concluded by the Authority. Where necessary for the execution of the existing cooperation agreements, the financial supervisor shall assist the Authority, in particular in regards those agreements in coordination with the Authority.

SECTION 5

Composition and functioning of the joint supervisory teams

Article 12

The JST Coordinator

1. The Authority shall ensure that the JST Coordinator is subject to a rotation principle.
2. The Authority may assign, renew, or terminate the role of the JST Coordinator before or beyond the standard rotation period in duly justified cases, including:
 - (a) institutional reorganisation within the Authority;
 - (b) the existence of a conflict of interest;
 - (c) the need to preserve supervisory continuity due to the JST Coordinator's specific knowledge, expertise or experience relevant to the supervision.
3. Any adjustment from the standard rotation period shall be based on a documented and retained justification.

Article 13

Information sharing and equal access within the joint supervisory team

1. All members of the joint supervisory team shall share information they have acquired or are aware of, for the effective and consistent performance of supervisory tasks assigned to the joint supervisory team, in a timely manner. Equal access to participation in meetings, discussions and other collaborative platforms relating to the supervisory tasks shall be ensured for all joint supervisory team members.

2. Any limitation to access or disclosure of information and participation shall be duly justified and recorded.

Article 14

Establishment and composition of the joint supervisory teams

1. Where more than one financial supervisor is responsible for supervision of the selected obliged entity at national level, the relevant financial supervisors shall coordinate their participation within the joint supervisory team.
2. The Authority may request the financial supervisors to modify the appointments of members of a joint supervisory team they have made if appropriate for the purpose of its adequate composition.

SECTION 6

Final provisions

Article 15

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.
Done at Brussels,

For the Commission
The President

5 Accompanying documents

5.1 Impact Assessment with cost-benefit analysis

Introduction

As per Article 53(1) of Regulation (EU) 2024/1620, before submitting draft ITS 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 ITS under Article 15(3) of Regulation (EU) 2024/1620 on cooperation within the anti-money laundering and countering the financing of terrorism (AML/CFT) supervisory system for the purposes of direct supervision.

This IA is mostly qualitative in nature, since the policy choices have been taken in accordance with qualitative considerations, taking into account the needs and experience of the financial supervisors to which the draft ITS is addressed, as well as lessons learnt from the European Central Bank (ECB) and the national supervisory authorities in the context of the Single Supervisory Mechanism (SSM).

A. Problem identification

The previous AML/CFT framework relied on the transposition, by Member States, of high-level AML/CFT standards in an EU Directive. It was insufficient to tackle the cross-border nature of crime, which can be effectively addressed only through an integrated and harmonised approach at Union level.

To enhance the effectiveness of the Union's AML/CFT efforts, a single AML/CFT Authority has been created. To bring AML/CFT supervision to an efficient and uniform level across the Union, AMLA has been tasked inter alia with the power of direct supervision of a certain number of obliged entities in the financial sector that operate on a cross-border basis and present a high level of ML/TF risks (the 'selected obliged entities').

AMLA and national AML/CFT supervisors form an integrated AML/CFT supervisory system. The AML/CFT supervisory system should be based on mutual trust and cooperation in good faith, including exchanges of information and data related to supervision.

To ensure cooperation between AMLA and national AML/CFT supervisors, Article 15(3) of Regulation 2024/1620 requires AMLA to develop an ITS on this aspect, in the absence of detailed rules on this topic in the Level 1 (L1) text.

B. Policy objectives

This draft ITS aims to ensure effective cooperation between AMLA and financial supervisors within the AML/CFT supervisory system for the purposes of direct supervision, in accordance with the principle of mutual trust, the duty of cooperation in good faith, and the obligation to exchange information for AML/CFT purposes specified in Article 7 of Regulation (EU) 2024/1620.

In particular, the draft ITS sets out technical details about the following aspects:

- a) the conditions under which supervisors are to assist AMLA pursuant to Article 15(2) of Regulation (EU) 2024/1620;
- b) the process of periodic assessment for the selection of obliged entities for direct supervision referred to in Article 12(1) of Regulation (EU) 2024/1620, including the roles of the supervisory authorities and AMLA in assessing the risk profile of credit institutions and financial institutions referred to in that paragraph;
- c) the working arrangements for the transfer of supervisory tasks and powers to AMLA or from AMLA to national level following a selection process, including arrangements on the continuity of pending supervisory procedures or investigations;
- d) the procedures for the preparation and adoption of decisions on the selection of obliged entities;
- e) the detailed rules and arrangements for the composition and functioning of the joint supervisory teams (JSTs) referred to in Article 16(1) and (2) of Regulation (EU) 2024/1620.

C. Baseline scenario

The baseline scenario would foresee the cooperation between AMLA and AML/CFT supervisors within the AML/CFT supervisory system for the purposes of direct supervision based only on provisions in Regulation (EU) 2024/1620, without any further details about their practical implementation. This might create legal, procedural and operational uncertainties which could undermine the efficiency and effectiveness of the cooperation between AMLA and financial supervisors.

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

This section describes the main policy options considered and the decisions taken by AMLA as part of the development of the draft ITS on cooperation for the purposes of direct supervision.

This section starts by outlining the overarching approach guiding the policy decisions. Then, it presents the main policy options considered for each policy issue addressed by the draft ITS, followed by an analysis of the potential costs and benefits of each option from a qualitative perspective, concluding with the preferred options resulting from the analysis.

Overarching approach

As overall approach when drafting the policy mandate, three main options were considered:

- A. Adopting a **granular approach**, thereby specifying detailed rules on procedural aspects covered by the draft ITS;
- B. Adopting a **principle-based approach**, thereby leaving maximum flexibility to financial supervisors;
- C. Adopting a **balanced approach**, thereby providing principle-based provisions setting minimum requirements, unless more specific guidance is deemed necessary.

Adopting a **granular approach** (Option A) would ensure a consistent interpretation of the provisions, thereby ensuring the maximum level of legal certainty and operational clarity. However, such an approach would not be future proof and might not be fit for purpose in all situations, given the fast-changing context in which AMLA and national AML/CFT supervisors operate as well as the different cooperation needs which may arise. Should AMLA need to include new or emerging provisions, it would need to amend the rules set out in the draft ITS, which may be complex and will take time.

Adopting a **principle-based approach** (Option B) would leave to financial supervisors more flexibility in adopting procedures that allow them to achieve the desired outcomes based on a case-by-case assessment. However, in some circumstances, a flexible interpretation of certain provisions may not provide enough clarity and lead to divergent approaches by financial supervisors.

Lastly, adopting a **balanced approach** (Option C) would ensure legal certainty and operational readiness for the benefits of all stakeholders, while allowing greater flexibility where this is necessary to ensure that the provisions be future proof and fit for purpose considering the evolving needs of AMLA, financial supervisors, and obliged entities.

In light of the considerations described above, **Option C** was chosen as the overall approach. The proposed draft ITS mostly includes principle-based provisions but provides more detailed guidance when a higher level of legal certainty is needed.

Policy issue 1: Conditions for assistance in the context of direct supervision

Article 15(3)(a) of Regulation (EU) 2024/1620 requires the draft ITS to specify ‘the conditions under which financial supervisors are to assist AMLA pursuant to paragraph 2’.

Article 15(2) of Regulation (EU) 2024/1620 provides that, where appropriate, financial supervisors shall assist AMLA with the preparation and implementation of any acts referred to in Article 5(2)(b), as regards all selected obliged entities, and shall follow the instructions given by AMLA when performing those tasks. More specifically, Article 5(2)(b) of Regulation (EU) 2024/1620 empowers AMLA to perform supervisory reviews and assessments, as well as impose specific requirements, apply administrative measures, and impose pecuniary sanctions and periodic penalty payments with respect to the selected obliged entities.

In line with the overarching approach described above, the draft ITS contains **principle-based provisions** on the conditions for assistance in the context of direct supervision. As a matter of fact, the benefit of adopting a flexible and future-proof approach, potentially encompassing a very broad set of situations in which assistance might be needed, outweighs the costs linked to the flexible interpretation of the provisions.

Policy issue 2: Process of periodic assessment for the purpose of selection for direct supervision

Article 15(3)(b) of Regulation (EU) 2024/1620 requires the draft ITS to specify ‘the process of periodic assessment referred to in Article 12(1), including the roles of the supervisory authorities and AMLA in assessing the risk profile of credit institutions and financial institutions referred to in that paragraph’. This mandate refers to the periodic assessment (the ‘risk assessment’) of credit and financial institutions, and groups of credit institutions and financial institutions, for the purposes of selection for direct supervision.

Regarding the responsibilities of AMLA and the financial supervisors in the assessment process, the following three approaches were considered:

- A. A **centralised approach**, where AMLA would own a centralised system allowing the Authority to access all the data points about obliged entities in the financial sector collected by financial supervisors, conduct its own data quality checks, and perform both the eligibility assessment and the risk assessment for the purpose of selection for direct supervision.
- B. A **decentralised approach**, where financial supervisors would perform the risk assessment of the obliged entities under their supervision which meet the eligibility criteria referred to in Article 12(1) of Regulation (EU) 2024/1620 (the ‘eligible obliged entities’), based on the methodology set out in the draft RTS under Article 12(7) of Regulation (EU) 2024/1620, without prejudice to the performance of the risk assessment at national level. Financial supervisors would then perform data quality checks and send the outcome of their risk assessment for the eligible obliged entities to AMLA, which would ultimately consolidate the results.
- C. A **sequential approach**, where financial supervisors would collect from the eligible obliged entities the data points specified in the RTS under Article 12(7) of Regulation (EU) 2024/1620, perform data quality checks, and send such data points to AMLA. Then, AMLA would perform the risk assessment according to the methodology described in the above-mentioned RTS, and ultimately consolidate the results.

The **centralised approach** (Option A) would allow AMLA to obtain the most comprehensive dataset about the obliged entities in the financial sector, thus reinforcing its supervisory role. However, this approach would create significant costs for AMLA, which would need to store and maintain a very broad dataset, encompassing an estimated number of 160,000 obliged entities

in the financial sector. This approach would also be operationally complex for both for AMLA and financial supervisors. It would also not be ready on time for the first selection cycle.

The **decentralised approach** (Option B) would be less burdensome for AMLA, but would require a significant effort from financial supervisors. Not only would financial supervisors be required to perform the data collection and data quality checks, but they would also need to perform the risk assessment of all the eligible obliged entities under their supervision before the entry into force of the obligation to assess and classify the inherent and residual risk profile of obliged entities at national level. Moreover, this approach would not enable AMLA to access the data underlying the risk assessment, with several disadvantages in terms of data comparability and data quality.

The **sequential approach** (Option C) would entail several benefits. First, this approach would provide AMLA with access to the underlying data, without requiring AMLA to perform a full-scale data collection in the limited timeframe available before the first selection cycle. This would also be beneficial for obliged entities, which could rely on the national financial supervisors as contact points for both the selection and the risk assessment at national level. Second, this approach would allow the comparability among eligible obliged entities across Member States, thus ensuring a level-playing field. Third, by centralising the computation of the risk profile, this approach would reduce operational risks, such as errors in the formula applied by financial supervisors, which could not be identified and corrected by AMLA without having access to the underlying data. The only disadvantage for AMLA would be the additional burden, compared to the scenario in which national AML/CFT supervisors would perform the computations of the risk profile. However, by focusing on the set on the eligible obliged entities, which have been estimated as 160-220 groups, the risk assessment would still require a reasonable effort from AMLA.

Considering the above, **Option C** was preferred, since it would bring benefits to all the parties involved, including AMLA, national AML/CFT supervisors and obliged entities, while requiring a reasonable and proportionate level of effort from all stakeholders.

Concerning the **level of granularity regarding procedural aspects**, the draft ITS follows a **balanced approach**. More specifically, the provisions present a high level of detail regarding the allocation of responsibility between AMLA and financial supervisors, as legal clarity around these aspects is considered essential. However, they are less detailed in terms of operational aspects – such as format for the submission of information, taxonomy, and data quality checks – since it was considered beneficial to leave room for flexibility so that the procedure could be adapted to the evolving needs of the parties involved, as well as potential evolutions in technology.

Policy issue 3: Decision on the selection of obliged entities

Article 15(3)(d) of Regulation (EU) 2024/1620 requires the draft ITS to specify ‘the procedures for the preparation and adoption of decisions on the selection of obliged entities’.

Article 13(4) of Regulation (EU) 2024/1620 specifies that the list of the selected obliged entities shall be published by AMLA without undue delay upon completion of the selection process. Moreover, Article 13(6) of Regulation (EU) 2024/1620 requires AMLA to inform the relevant non-AML/CFT authorities of the outcomes of the assessment, prior to the publication of the list of the selected obliged entities.

This part of the mandate aims to ensure that decisions regarding the selection of obliged entities for direct supervision produce legal effects and are eligible for appeal. To ensure legal certainty and to allow all parties to exercise their rights, the draft ITS provides that AMLA shall communicate the decision to each selected obliged entity, as well as the financial supervisors and the relevant non-AML/CFT authorities, and specifies the essential details of such notifications, including the rights for legal recourse and appeal. The draft ITS also provides that the list of selected obliged entities shall be published on AMLA's website, in line with the SSM's practice of publishing the list of significant credit institutions on the ECB website.

Policy issue 4: Transfer of supervisory tasks and powers

Article 15(3)(c) of Regulation (EU) 2024/1620 requires the draft ITS to specify 'the working arrangements for the transfer of supervisory tasks and powers to AMLA or from AMLA to national level following a selection process, including arrangements on the continuity of pending supervisory procedures or investigations'.

In particular, the main objective of this part of the mandate is to ensure legal certainty regarding the pending supervisory procedures or investigations, as well as the continuity of existing cooperation agreements. Therefore, the draft ITS sets specific rules regarding those aspects, mirroring the corresponding provisions of the SSM Framework Regulation. As far as additional working arrangements are concerned, the draft ITS sets general provisions requiring the secure transfer of information, accompanied by a proper inventory, without setting highly prescriptive requirements.

Policy issue 5: Composition and functioning of the JST

Article 15(3)(e) of Regulation (EU) 2024/1620 requires the draft ITS to specify 'the detailed rules and arrangements for the composition and functioning of the JSTs referred to in Article 16(1) and (2)'.

This mandate is linked to Article 16 of Regulation (EU) 2024/1620, which provides details about the composition of JSTs, the responsibilities of the JST Coordinator, the tasks of JSTs, and the respective responsibilities of AMLA and the financial supervisors in this context. In addition, Article 16(6) of Regulation (EU) 2024/1620 requires AMLA to develop internal operational rules and procedures regarding the composition of JSTs, which are out of scope of the draft ITS.

Given the detailed nature of the above-mentioned provisions under Article 16, it was not considered necessary to include additional prescriptive rules regarding the functioning and

composition of JSTs in this ITS. Therefore, the draft ITS only specifies minimum requirements aligned with the corresponding provisions of SSM Framework Regulation and the operational procedures adopted in the SSM context.

5.2 Overview of questions for consultation

Question 1: Do you consider that the level of detail in the ITS is appropriate? If you have a different perspective, where do you think additional, or less, detail would be warranted? Please explain your rationale and provide information of the impact the proposals would have if they remained unchanged.

Question 2: Do you have any comments on the proposals in Section 1 (Conditions for assistance in the context of direct supervision) of the draft ITS? If you think adjustments are needed, please explain your rationale and provide information of the impact the proposals would have if they remained unchanged.

Question 3: Do you have any comments on the proposals in Section 2 (Process of periodic assessment for the purpose of selection for direct supervision) of the draft ITS? If you think adjustments are needed, please explain your rationale and provide evidence of the impact the proposals would have if they remained unchanged.

Question 4: Do you have any comments on the proposals in Section 3 (Decision on the selection of obliged entities) of the draft ITS? If you think adjustments are needed, please explain your rationale and provide information of the impact the proposals would have if they remained unchanged.

Question 5: Do you have any comments on the proposals in Section 4 (Transfer of supervisory tasks and powers) of the draft ITS? If you think adjustments are needed, please explain your rationale and provide evidence of the impact the proposals would have if they remained unchanged.

Question 6: Do you have any comments on the proposals in Section 5 (Composition and functioning of the Joint Supervisory Teams) of the draft ITS? If you think adjustments are needed, please explain your rationale and provide information of the impact the proposals would have if they remained unchanged.