Consultation Paper

Draft guidelines on determining the base amounts for imposing pecuniary sanctions under Article 53(11) of Directive (EU) 2024/1640

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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 23 February 2027. 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.

2 Executive Summary

Article 53(11) of Directive (EU) 2024/1640 (AMLD) requires AMLA to develop guidelines for determining the base amounts of pecuniary sanctions relative to turnover, broken down per type of breach and category of obliged entities.

The proposed guidelines put in place an approach that all supervisors will use for determining the base amounts of pecuniary sanctions. The objective is to provide a common starting point for determining pecuniary sanctions across the Union. The final amount of pecuniary sanctions may differ from the base amount, as supervisors take account of the specific aggravating and mitigating circumstances of each case to ensure a proportionate, effective and dissuasive outcome.

The proposed Guidelines establish a sequential approach to determining the base amounts for pecuniary sanctions:

1) As a first step, supervisors establish the severity of the breach in accordance with the classification of a breach as set out in the enforcement RTS under article 53(10) AMLD.
2) As a second step, supervisors establish the category of obliged entity and its legal form. The Guidelines set out a range of base amounts expressed as a percentage of the relevant financial metric applicable to each category of obliged entities. Different base amounts apply depending on the legal form of the obliged entity, that is legal or natural person.
3) In a third step, supervisors establish the relevant financial metric to apply in determining the base amount. The guidelines provide the financial metric to apply and a hierarchy of sources from where to obtain it.
4) Finally, supervisors determine the appropriate base amount based on the outcome of the previous steps.

The proposed guidelines are consistent with the legislative AML/CFT Package and other AMLA instruments, including the draft Regulatory Technical Standards under Article 53(10) of the AMLD.

Next steps

AMLA invites stakeholders to provide feedback on the proposed approach.

This Consultation Paper is published for a three-month period. During this time, AMLA will continue to test the application of the proposed base amounts. AMLA will consider the results from these tests and feedback to this consultation when preparing the final guidelines, which will be published in Q2 2027.

3 Background and rationale

Article 53(11) AMLD requires AMLA to develop guidelines for determining the base amounts of pecuniary sanctions relative to turnover, broken down per type of breach and category of obliged entities.

In March 2024, the European Commission asked the European Banking Authority (EBA) to advise it on this mandate. In formulating its advice[1], the EBA referred to information contained in existing regulatory instruments. AMLA took this advice into consideration when developing its proposal.

3.1 General Considerations

One of AMLA's statutory 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.

The proposed guidelines contribute directly to this objective by establishing a common method for determining the base amounts of pecuniary sanctions in all Member States.

Accordingly, in developing these Guidelines, AMLA seeks to:

- Prevent regulatory arbitrage and ensure a level playing field. According to information from AMLA's database, EuReCA, similar breaches by financial institutions in similar situations currently result in different supervisory responses, including significantly divergent pecuniary sanctions. EuReCA contains information on serious AML/CFT deficiencies in financial institutions and the measures supervisors have taken to address these deficiencies.

- Protect the integrity of the EU's financial market. The Financial Action Task Force (FATF) and Moneyval mutual evaluation reports[2] suggest that EU Member States' non-financial sector supervision framework is fragmented and largely ineffective, which exposes the internal market to financial crime risk.

- Support effective outcomes that are proportionate to the breach; change the behaviour of the offending obliged entity and its peers; deter non-compliance.

In line with the legal mandate in Article 53(11) of the AMLD, the proposed guidelines determine the starting amount of a pecuniary sanction. They do not determine the final amount. When determining the final amount, supervisors are legally required to consider any aggravating and

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

[2] Mutual Evaluations

mitigating factors, including the criteria set out in the enforcement RTS under Article 53(10) AMLD, and revise the base amount upwards or downwards as necessary.

The proposed Guidelines apply without prejudice to the application of other supervisory or enforcement measures. In particular, the imposition of a pecuniary sanction does not preclude the application of administrative measures that are necessary to ensure the effective remediation of the breach.

3.2 Structure of the guidelines

The draft guidelines introduce a four-step approach for determining the base amount of a pecuniary sanction. The process begins with establishing the type of breach, followed by establishing the category of the obliged entity and the legal form. It then sets out how to determine the relevant financial metric and, finally, how to determine the base amount of the pecuniary sanction. Each step is explained in detail within the guidelines.

ESTABLISH THE TYPE OF BREACH (STEP 1)

As a first step of the process, the guidelines require supervisors to establish the type of the breach in accordance with the classification set out in the enforcement RTS under Article 53(10) AMLD.

The type of breach corresponds to one of the four categories used to assess the gravity of the breach, arranged in increasing order of severity: starting from the lowest category one, moving on to category two, category three, and the highest category four.

ESTABLISH THE CATEGORY OF OBLIGED ENTITY AND ITS LEGAL FORM (STEP 2)

As a second step, supervisors should establish the category of obliged entity and its legal form, that is whether being a legal or natural person.

The Guidelines set out a range of base amounts expressed as a percentage of the relevant financial metric applicable to each category of obliged entity. This ensures that comparable AML/CFT breaches are subject to a consistent methodology, irrespective of the sector concerned. The guidelines further set out different base amounts depending on the legal form. The base amounts set for natural persons apply to both obliged entities that are natural persons, and also to members of senior management and other natural persons who under national law are responsible for the breach of obligations stipulated by the AML/CFT framework.

ESTABLISH THE RELEVANT FINANCIAL METRIC (STEP 3)

In a third step, supervisors should establish the relevant financial metric to determine the base amount. For legal persons, this is the total annual turnover and for natural persons, total gross annual income. Where these metrics are not available or cannot be reliably determined,

supervisors should identify an alternative relevant financial metric that provides the closest estimate of total annual turnover for legal persons or total annual income for natural persons.

The proposed guidelines set out a hierarchy of independent and reliable sources from where supervisors should obtain the relevant financial metric, such as audited financial statements and regulatory reporting. Recognising that the availability and reliability of sources may vary depending on the category of obliged entity and legal form, supervisors are able to determine which source is the most appropriate. Clear guidance is provided on how supervisors should assess the independence, reliability and completeness of a source.

SET THE BASE AMOUNT (STEP 4)

Finally, supervisors should determine the base amount of a pecuniary sanction by applying a percentage of the relevant financial metric determined in step 3. Table 1 of the Guidelines sets out the minimum and maximum percentages that supervisors should refer to in determining the base amount of a pecuniary sanction. A set of proportionality principles guide supervisors in selecting the percentage within the applicable range. This ensures the base amount serves as an appropriate starting point for an effective, proportionate and dissuasive pecuniary sanction.

Supervisors should ensure that the base amount set respects the limits established under the applicable legal framework. Accordingly, and where necessary, the base amount of a pecuniary sanction should be adjusted to ensure compliance with the applicable legal framework.

3.3 Proportionality and simplification

The base amounts set out in the draft Guidelines were defined having regard to the provisions set out under Article 55 AMLD, to basic amounts applicable to AMLA under Article 22 of Regulation (EU) 2024/1620, and to existing practices applied by European authorities and several Member States. The Guidelines set out the minimum and maximum percentages that supervisors should use to determine the base amount of a pecuniary sanction. A set of proportionality principles guide supervisors in selecting the percentage within the applicable range. The proposed base amounts have been subject to preliminary testing by several Member States and were calibrated to ensure supervisors can establish a starting point that can support the imposition of a pecuniary sanction that is effective, proportionate and dissuasive.

The draft Guidelines set out a common understanding for financial and non-financial supervisors that form part of the AML/CFT supervisory system of how supervisors should determine the base amount of a pecuniary sanction. Together, these choices aim to ensure that the future EU enforcement framework is consistent, effective and operationally efficient and contributes to regulatory simplification by reducing fragmentation and interpretative divergence amongst Member States.

4 Draft Guidelines

Draft Guidelines

on the base amounts for the imposition of pecuniary sanctions under Article 53(11) of Directive (EU) 2024/1640

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1. Subject matter, scope and definitions

1.1 Subject matter and scope of application

These guidelines specify the base amounts for the imposition of pecuniary sanctions relative to turnover, broken down per type of breach and category of obliged entities in accordance with Article 53(11) of Directive (EU) 2024/1640.

1.2 Addressees

These guidelines are addressed to supervisory authorities as defined in Article 2(1) point (46)[3] and supervisors as defined in Article 2(1), point (45)[4] of Regulation (EU) 2024/1624. For the purpose of these guidelines, the term "supervisors" refer to both "supervisory authorities" and "supervisors".

1.3 Definitions

For the purpose of these guidelines, the terms and definitions set out in Regulation (EU) 2024/1624, Regulation (EU) 2024/1620 and Directive (EU) 2024/1640 apply.

[3] Article 2(1)(46) AMLR): 'supervisory authority' means a supervisor who is a public body, or the public authority overseeing self-regulatory bodies in their performance of supervisory functions pursuant to Article 37 of Directive (EU) 2024/1640, or AMLA when acting as a supervisor.

[4] Article 2(1)(45) AMLR: 'supervisor' means the body entrusted with responsibilities aimed at ensuring compliance by obliged entities with the requirements of this Regulation, including AMLA when performing the tasks entrusted to it in Article 5(2) of Regulation (EU) 2024/1620.

2. Implementation

2.1 Date of application

These guidelines apply from 10 July 2027, except in relation to obliged entities referred to in Article 3, points (3)(n) and (o), of Regulation (EU) 2024/1624, to which it shall apply from 10 July 2029.

These guidelines shall not apply to proceedings related to pecuniary sanctions initiated before 10 July 2027.

3. Guidelines

3.1 General Considerations

1. When responding to a breach, supervisors may impose administrative measures, pecuniary sanctions or a combination of both.

2. In determining the appropriate response, supervisors should ensure that the action of the supervisor is effective proportionate to the breach and dissuasive.

3. When deciding on the amount of the pecuniary sanction to be imposed, supervisors should determine the base amount of the pecuniary sanction based on the type of the breach, the category of obliged entity, their legal form and by applying the relevant financial metric specified in these guidelines.

4. Breaches that are classified as category three or four in accordance with the Commission Delegated Regulation (EU) ...../.....[5],are deemed to be serious, repeated or systematic in the meaning of Article 55(1) of Directive (EU), with the consequence that supervisors are obliged to impose pecuniary sanctions for the commitment of such breaches. The decision whether to impose pecuniary sanctions for breaches classified as category one or category two is left to the supervisory judgment of each supervisor. Where supervisors decide to impose a pecuniary sanction, they should determine the base amount in accordance with these Guidelines.

5. The base amount should serve as the starting point for determining the amount of the pecuniary sanction. After determining the base amount in accordance with these Guidelines, supervisors should consider additional factors[6] to adjust the level of the pecuniary sanction. Accordingly, the final amount of the pecuniary sanction may be lower or higher than the base amount determined under these Guidelines.

[5] [5] This will be updated upon the Commission Delegated Regulation under Article 53(10) of the AMLD being published in the OJEU.

[6] Article 53(6) of Directive (EU) 2024/1640 and the criteria under the Commission Delegated Regulation (EU) ...../.....

3.1.1 PROPORTIONALITY

6. To respect the principle of proportionality, supervisors should determine the base amount of the pecuniary sanction by taking into account, at least:
   I. the extent to which the breach exposes the internal market to ML/TF risk, with the base amount increasing progressively as the gravity of the breach increases; or
   II. the extent to which the amount credibly enforces compliance objectives without exceeding what is necessary to achieve these objectives.

3.2 Process to determine the base amount

7. Supervisors should follow a four-step approach to determine the base amount for the purposes of imposing a pecuniary sanction.

3.2.1 STEP 1: ESTABLISH THE TYPE OF BREACH

8. As a first step, supervisors should determine the type of breach in accordance with the classification set out in the Commission Delegated Regulation (EU) ...../.....[7].

3.2.2 STEP 2: ESTABLISH THE CATEGORY OF OBLIGED ENTITY AND THE LEGAL FORM

9. As a second step, supervisors should establish the category of obliged entity and the legal form.

3.2.2.1 Category of Obliged Entity

10. Supervisors should establish the category to which the obliged entity belongs in accordance with Article 3 of Regulation (EU) 2024/1624. These Guidelines set out a range of base amounts expressed as a percentage of the relevant financial metric applicable to each category of obliged entities.

[7] This will be updated upon the Commission Delegated Regulation being published in the OJEU.

3.2.2.2 Legal form

11. Supervisors should distinguish between:
    I. legal persons that are obliged entities;
    II. natural persons that are:
        (a) obliged entities;
        (b) members of senior management of obliged entities and other natural persons who under national law are responsible for the breach of obligations stipulated by Regulations (EU) 2024/1624 and (EU) 2023/1113.

3.2.3 STEP 3: ESTABLISH THE RELEVANT FINANCIAL METRIC

12. As a third step, supervisors should:
    I. establish the relevant financial metric applicable to the legal person or natural person;
    II. decide on the independent and reliable source to obtain the relevant financial metric;

3.2.3.1 Establish the relevant financial metric

13. Supervisors should establish the relevant financial metric for determining the base amount of a pecuniary sanction by considering the following:
    I. in case of a legal person supervisors should establish the relevant metric by determining the total annual turnover;
    II. In case of a natural person, supervisors should establish the relevant metric by determining the total gross annual income.

14. Where total annual turnover or total gross annual income is not available or cannot be reliably determined, supervisors should use their supervisory judgement to identify an alternative relevant financial metric that provides the closest estimate of total annual turnover for legal persons or total gross annual income for natural persons.

3.2.3.2 Independent and Reliable sources

15. Supervisors should obtain the relevant financial metric from sources that are independent, reliable and complete. For this purpose, supervisors should be guided by the following hierarchy of sources:

    I. audited financial statements;
    II. tax declarations, tax assessment notices, or other equivalent official documentation issued by, filed with, or acknowledged by the competent tax authority;
    III. regulatory reporting to competent authorities;
    IV. management accounts;
    V. official declarations; or
    VI. reasoned estimation.

16. Recognising that the availability and reliability of sources may vary depending on the category of obliged entity and legal form, supervisors should determine which sources within the hierarchy are available and considered the most independent, reliable and complete for the purposes of determining the relevant financial metric.

17. Where supervisors have reasonable grounds to suspect that a source is not independent, reliable or complete, they should refer to other sources within the established hierarchy of sources. In doing so, supervisors should take a holistic view of all available information, including the reliability, consistency and completeness of the sources considered. They should assess whether, and to what extent, the additional information obtained affects the initial assessment, and apply any necessary adjustments accordingly.

18. Where supervisors have reasonable grounds to suspect that a source is not independent, reliable or complete, supervisors should have regard to the following considerations in determining an alternative source:
    I. the credibility of the source, including its reputation;
    II. the official status and independence of the information source;
    III. the extent to which the information is up-to-date;
    IV. the accuracy of the source, based on whether the information or data was subject to verification or validation or is consistent with other sources;
    V. the ease with which the data provided can be forged.

3.2.3.3 Period for determining the financial metric

19. The relevant financial metric established under section 3.2.3.1 should be determined based on the latest available information. Where the use of the latest available information is not representative of the legal or natural person's financial circumstances, supervisors should consider, having regard to the period of the breach:
    I. the financial metric corresponding to the period during which the breach occurred;
    II. an average of the financial metric calculated over a period, taking into account the duration of the breach; or
    III. a period that the supervisor considers proportionate and representative to the circumstances of the case.

3.2.4 STEP 4: SET THE BASE AMOUNT

20. After completing steps one to three, supervisors should determine the base amount of the pecuniary sanction by applying a percentage of the relevant financial metric established under section 3.2.3 of these guidelines.

21. Table 1 sets out the minimum and maximum percentages that supervisors should use to determine the base amount of a pecuniary sanction. When selecting the percentage within the applicable range, supervisors should ensure the base amount complies with section 3.1.1 of these guidelines and serves as an appropriate starting point for an effective, proportionate and dissuasive pecuniary sanction.

22. Supervisors should ensure that the base amount set respects the limits established under the applicable legal framework.

Table 1: Base Amounts

Breach Category	Legal Person		Natural Person	
	Minimum	*Maximum*	*Minimum*	*Maximum*
Category 4	0.50%	5.00%	1.00%	10.00%
Category 3				
Category 2	0.25%	0.50%	0.50%	1.00%
Category 1				

5 Accompanying documents

5.1 Impact assessment with cost-benefit analysis

Introduction

As per Article 54(2) of Regulation (EU) 2024/1620, before issuing Guidelines, AMLA shall, where appropriate, 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 Guidelines on the base amounts for the imposition of pecuniary sanctions under Article 53(11) of Directive (EU) 2024/1640 (draft Guidelines).

This IA/CBA is mostly qualitative in nature and draws on input provided by supervisors in the financial and non-financial sectors as part of the development of the draft Guidelines. The policy choices reflect the experience and professional judgement of AMLA and the national supervisors to which the Guidelines apply. These considerations were complemented by a survey conducted by AMLA among financial and non-financial supervisors and by analysing the methodologies currently used by other European authorities and national supervisors across Member States to determine base amounts, including a review of historical pecuniary sanctions imposed.

The assessment of the current national approaches is based on data on the amounts of pecuniary sanctions available to AMLA through the EuReCA database, through feedback provided by Member States, complemented with the results of previous assessments performed by the European Banking Authority (EBA), for the financial sector, and Financial Action Task Force (FATF) and MONEYVAL's mutual evaluation reports, for the non-financial sector.

The proposed base amounts set out in the draft Guidelines were defined having regard to the provisions set out under Article 55 AMLD, to basic amounts applicable to AMLA under Article 22 of Regulation (EU) 2024/1620, and to existing practices applied by European authorities and several Member States. They have been subject to preliminary testing by several competent authorities to ensure that they support the imposition of a final pecuniary sanction that is effective, proportionate and dissuasive. They will be subject to further testing and may be revised, also in light of consultation responses, before the final Guidelines are published.

A. Problem identification

The new AML/CFT regulatory framework establishes an enforcement system composed of administrative measures, pecuniary sanctions, and periodic penalty payments, as set out in Section 4 of Chapter IV of Directive (EU) 2024/1640.

In this context, Member States are required to lay down rules on pecuniary sanctions and administrative measures and ensure that supervisors may impose such pecuniary sanctions and apply administrative measures, and ensure that they are enforced. Pecuniary sanctions and administrative measures shall be effective, proportionate and dissuasive.

At the same time, AMLA will be empowered to impose administrative measures, pecuniary sanctions, and periodic penalty payments, with respect to the selected obliged entities under its direct supervision, in accordance with the provisions under Section 3 of Chapter I of Regulation (EU) 2024/1620.

Previous approaches to AML/CFT enforcement have proven to be fragmented and at times ineffective. 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.

Empirical evidence confirms this fragmentation. Previous assessments performed by the EBA of AML/CFT supervision in the financial sector found that enforcement measures applied did not always create a sufficiently deterrent response, and that not all supervisors were using their enforcement powers in a proportionate way to achieve effective AML/CFT outcomes[8].

Data reported to EuReCA[9] between 2022 and 2025 show substantial divergence in supervisory approaches to the imposition of pecuniary sanctions, including significant variation in the amounts of the pecuniary sanctions across jurisdictions and sectors. As a result, similar breaches committed by financial institutions in similar situations could result in different sanctioning outcomes, undermining both the neutral conditions of competition within the internal market and the overall deterrent effect of the AML/CFT framework.

International assessments reinforce these findings. Mutual evaluations[10] conducted by the FATF and MONEYVAL indicate that the AML/CFT supervision of the non-financial sector in many EU countries is often weak, including through insufficient sanctioning practices. Most Member

[8] See EBA, Final report on competent authorities' approached to the AML/CFT supervision of banks, October 2025, and previous Reports on national competent authorities' approaches to the AML/CFT supervision of banks, Round 4, Round 3, Round 2, Round 1.

[9] EuReCA is the European Reporting System for Material CFT/AML Weaknesses established by the EBA in 2022 and subsequently transferred into AMLA's mandate via Article 106(1) of Regulation (EU) 1620/2024. EuReCA contains material AML/CFT weaknesses in financial institutions identified by competent authorities, measures taken by competent authorities in response to those weaknesses, and any subsequent developments relating to the weaknesses and measures reported

[10] See Mutual Evaluation and Follow-up Reports.

States scored a 'low' or 'moderate' level of effectiveness under Immediate Outcome 3 (Supervision). Evidence shows that AML/CFT supervisory inspections of Designated Non-Financial Businesses and Professions (DNFBPs) have been limited, while enforcement actions, including pecuniary sanctions, have not always been applied in an effective, proportionate and dissuasive manner. These shortcomings have contributed to the overall moderate effectiveness observed in supervisory outcomes across Member States.

Against this background, there is a clear need to enhance the effectiveness, consistency and deterrent effect of pecuniary sanctions across the Union. In this regard, Article 53(11) of Directive (EU) 2024/1640 requires AMLA to issue Guidelines on the base amounts for the imposition of pecuniary sanctions relative to turnover, broken down per type of breach and category of obliged entities.

B. Policy objectives

The objective of this mandate is to strengthen the EU AML/CFT enforcement system, with the overall aim of contributing to the prevention of the misuse of the Union's financial system for the purposes of ML/TF. In line with Article 53(11) of Directive (EU) 2024/1640, these draft Guidelines aim to promote greater supervisory convergence in the determination of the base amounts of pecuniary sanctions.

More specifically, the draft Guidelines aim to ensure that the base amounts of pecuniary sanctions imposed for similar breaches committed by similar obliged entities are comparable and consistent across Member States. In doing so, the draft Guidelines are another step forward in ensuring that pecuniary sanctions are effective, proportionate and dissuasive, and that they achieve both a punitive and deterrent effect.

By fostering a more harmonised determination of the base amounts of pecuniary sanctions, the draft Guidelines also contribute to reducing fragmentation across Member States and to promoting neutral conditions of competition within the internal market, thereby limiting the risk of regulatory arbitrage.

The draft Guidelines complement the provisions set out in Section 4 of Chapter IV of Directive (EU) 2024/1640, in accordance with the mandate under Article 53(11) of that Directive. They are also aligned with the draft RTS under Article 53(10) of that Directive.

C. Baseline scenario

Under the baseline scenario, AML/CFT supervisors would impose pecuniary sanctions solely in accordance with the national provisions transposing Directive (EU) 2024/1640, taking into account the general sanctioning provisions set out in Article 53 and the provisions on pecuniary sanctions stated in Article 55. In the absence of a harmonised approach at Union level, supervisors would not rely on commonly defined base amounts but would instead apply methodologies determined at national level within the limits and criteria established by the Directive.

In particular, Article 55 of Directive (EU) 2024/1640 requires Member States to ensure that pecuniary sanctions are imposed on obliged entities for serious, repeated or systematic breaches of key AML/CFT requirements laid down in Regulation (EU) 2024/1624, and where obliged entities do not comply with administrative measures applied to them. It further establishes rules on the maximum levels of pecuniary sanctions. However, the Directive does not provide for harmonised rules on the determination of the base amounts of pecuniary sanctions. This is likely to lead supervisors to retain divergent approaches, thus impairing the effective and consistent enforcement of AML/CFT provisions and weakening the overall effectiveness of AML/CFT efforts at Union level.

In parallel, as set out in Article 22 of Regulation (EU) 2024/1620, AMLA may impose pecuniary sanctions where the selected obliged entity breaches a requirement of Regulation (EU) 2023/1113 or Regulation (EU) 2024/1624, or does not comply with a binding decision issued by the Authority. Article 22 also sets out the limits of the basic amounts for pecuniary sanctions.

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 Guidelines under Article 53(11) of Directive (EU) 2024/1640.

This section starts by outlining the overarching principles guiding the policy decision. Then, it presents the main policy options considered by AMLA in developing the draft Guidelines, followed by an analysis of the potential costs and benefits of each option from a qualitative perspective, concluding with the preferred option resulting from the analysis.

Overarching principles

In line with the objectives pursued by Directive (EU) 2024/1640 and the broader AML/CFT regulatory framework, the policy choices underpinning these draft Guidelines are guided by a set of interrelated principles that ensure a coherent, effective, and operationally workable sanctioning framework across the Union.

First, the draft Guidelines prioritise harmonisation and supervisory convergence. Across all policy issues, AMLA has favoured options that establish common reference points, such as a common range of base amounts, a primary financial metric, and simplified categorisations, thereby

ensuring that comparable breaches lead to comparable outcomes irrespective of the supervisory set-up or sectoral classification. This supports legal certainty, strengthens the credibility of enforcement, and promotes neutral conditions of competition across the internal market.

Second, the draft Guidelines are designed to ensure **proportionality** and a **risk-based approach**. While harmonisation is pursued, it is not achieved through rigid standardisation. Instead, the framework preserves risk-based approach to reflect differences in breaches, risks emanating from different sectors, and other individual circumstances.

Third, AMLA has consistently sought to **balance simplicity with flexibility**. Options introducing excessive granularity or parallel frameworks were not retained where their marginal benefits were outweighed by increased complexity, administrative burden, and risks to consistent application. Instead, the preferred approaches rely on streamlined structures, such as limited categorisation and unified treatment of natural persons, combined with a robust methodology that allows supervisors to exercise judgement in a controlled and transparent manner.

Fourth, the draft Guidelines aim to ensure **consistency with fundamental legal principles**, in particular equal treatment and personal liability. The framework avoids distinctions that are not objectively justified, such as the capacity in which a natural person acts (natural persons as obliged entities vs. natural persons acting as members of senior management or otherwise responsible within a legal entity).

Fifth, AMLA has adopted a **cost-effective and operationally focused approach**. In each policy issue, the preferred option reflects a balance between achieving policy objectives and minimising implementation and compliance costs for supervisors and obliged entities. This includes reducing administrative burden, limiting the need for complex classification or parallel methodologies, and supporting consistent application across Member States.

Finally, AMLA has strived to be **comprehensive**, by considering the material impacts of this policy instrument on all target groups, being mindful that the provisions of these draft Guidelines 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.

Taken together, these principles ensure that the draft Guidelines deliver a coherent, harmonised, and workable framework, capable of producing consistent, proportionate, and risk-sensitive outcomes across the Union.

Policy issue 1: Determination of base amounts using percentages or fixed amounts

The first policy issue concerns whether base amounts should be determined by combining percentages of the relevant financial metric with fixed monetary thresholds, or whether they should be expressed exclusively as percentages of that metric. AMLA considered two options.

A. **Base amounts** expressed **as** both **percentages and fixed amounts**.
B. **Base amounts** expressed exclusively **as percentages**.

Option A

Under Option A, the draft Guidelines would set base amounts through percentage ranges linked to the relevant financial metric and predetermined fixed monetary amounts. Where applying the relevant percentage would result in a base amount below the applicable fixed threshold, the fixed amount would apply.

The main benefit of this option is that it would establish a minimum monetary starting point even where turnover or income of the legal or natural person concerned is relatively low. This could reduce the risk of base amounts being too small in absolute terms to serve as an appropriate starting point for determining an effective, proportionate and dissuasive pecuniary sanction, particularly for serious breaches. Fixed thresholds could also provide supervisors with a predictable lower bound and support consistency where percentage-based calculations would otherwise produce very low amounts.

However, fixed thresholds weaken the link between the base amount and the financial metric of the legal or natural person. A fixed amount may represent a substantially greater share of the relevant financial metric for legal or natural persons with lower turnover or income, increasing the risk of disproportionate starting base amounts and over-penalisation. Furthermore, where the fixed threshold applies, the base amount would no longer adjust to differences in the financial metric of the legal or natural person, potentially leading to less proportionate outcomes. Moreover, fixed thresholds would add limited value where the percentage-based amount already exceeds the applicable fixed threshold. Combining two calculation mechanisms would also increase operational complexity and require the calibration and periodic review of fixed thresholds, generating additional administrative costs without necessarily improving sanctioning outcomes.

Option B

Under Option B, the draft Guidelines would express base amounts exclusively as percentages of the relevant financial metric. Supervisors, including AMLA, would select a percentage within a defined applicable range and use it to determine the starting point for a pecuniary sanction.

The main benefit of this approach is that base amounts remain directly linked to the relevant financial metric of the legal or natural person concerned. As base amounts scale with the relevant financial metric, this approach reduces the risk of over-penalising smaller entities or individuals,

while ensuring that base amounts for larger entities remain proportionate to their financial metric, thereby supporting effective, proportionate and dissuasive sanctions. Unlike fixed monetary thresholds, this approach ensures that the base amount adjusts automatically to the financial metric of the person concerned, without imposing the same monetary minimum on persons with significantly different financial metric values. Having a range of percentages for different breach categories also allow supervisors, including AMLA, to select within a harmonised range an appropriate starting point in each case. This provides sufficient flexibility to determine a base amount that reflects the circumstances of the case, while maintaining a common and transparent methodology across supervisors.

A further benefit of this option is that it strengthens supervisory convergence and consistency in determining base amounts across the Union. By applying the same percentage-based calculation methodology, supervisors, including AMLA, can determine comparable starting amounts while accounting for differences in the financial metric of legal or natural persons. Relying on a single calculation mechanism simplifies the methodology, enhances transparency and comparability, and reduces administrative costs. It also avoids the need to establish, calibrate and periodically review fixed monetary thresholds, thereby reducing implementation and maintenance costs for supervisors.

The main cost of this option is that percentages may produce low monetary base amounts when the relevant financial metric is unusually low, which could, in isolation, weaken the deterrence in individual cases. Fluctuations in turnover or income can also affect the result. This is mitigated by having a range of percentages that allow supervisors to select an appropriate starting point in accordance with the proportionality principle. In addition, since a different financial metric is used for natural persons than for legal persons, applying the same percentage ranges to both may result in disproportionately low base amounts for natural persons, potentially reducing the effectiveness and dissuasive effect of pecuniary sanctions. To mitigate this, higher percentage ranges may be applied to natural persons to reflect the different financial metric used as the basis for the calculation and to achieve a comparable dissuasive effect across both legal and natural persons. Finally, the base amount is one element of the overall pecuniary sanction and supervisors should take into account case-specific mitigating and aggravating adjustments when determining the final amount. Subsequently, pecuniary sanctions are one of the tools supervisors can use to ensure the action taken is effective, proportionate and dissuasive.

Preferred option

The preferred option is **Option B**, under which base amounts are expressed exclusively as percentages of the relevant financial metric.

From a cost-benefit perspective, Option B offers the more proportionate and operationally efficient approach. As the base amount adjusts to the financial metric value of the legal or natural person, it supports consistent and comparable decisions across the Union. Subsequently, applying higher percentage ranges to natural persons reflect the different financial metric used as the basis for the calculation and to achieve a comparable dissuasive effect across both legal and natural persons. This helps ensure that the starting point for determining pecuniary sanctions remains proportionate to the financial metric of the person concerned, while maintaining a harmonised calculation methodology. At the same time, percentage ranges allow supervisors, including AMLA, to select an appropriate starting point for an effective, proportionate and dissuasive sanction, without the additional calibration and implementation costs of fixed monetary thresholds.

Although fixed amounts under Option A could provide a safeguard against very low base amounts, that advantage is outweighed by the risk of disproportionate outcomes for smaller obliged entities. Under Option B, supervisors could mitigate this risk by selecting an appropriate percentage within the applicable range, thereby reducing the risk of excessively low base amounts without introducing a separate fixed-amount mechanism. Option B therefore strikes a better balance between proportionality, supervisory convergence and operational efficiency, ensuring that the benefits of a harmonised approach are achieved with lower administrative costs and without introducing the unnecessary rigidity associated with fixed monetary thresholds.

Policy Issue 2: Financial metric for determining base amounts

The second policy issue concerns whether base amounts should be determined exclusively relative to turnover of obliged entities (or income for natural persons), or whether supervisors should be permitted to use alternative financial metrics where turnover or income are not available or cannot be reliably determined. Two policy options were considered.

A. Base amounts **determined solely relative to turnover** (or income for natural persons).
B. Base amounts **determined primarily relative to turnover** (or income for natural persons), **with the possibility to use an alternative financial metric** that provides the closest estimate to turnover or income where these are not available or cannot be reliably determined.

Option A

Under Option A, the base amounts would be determined exclusively on the basis of turnover for legal persons and income for natural persons. The main advantage of this approach is simplicity. A single financial metric provides a clear and uniform basis for calculation, facilitating

comparability across cases and supporting supervisory convergence. It also reduces administrative burden, as supervisors and obliged entities can rely on a common financial metric.

However, this approach has important limitations. Turnover or income may not be available to AML/CFT supervisors in all cases or may not always be determined from an independent and reliable source. As a result, relying exclusively on turnover or income could prevent supervisors from determining the appropriate base amount for the pecuniary sanction. This would be inconsistent with the objective of ensuring that sanctions are effective, proportionate, and dissuasive.

Option B

Under Option B, total annual turnover (or total annual income for natural persons) would remain the primary reference metric, but supervisors would be allowed to use an alternative relevant financial metric that provides the closest estimate of total annual turnover for legal persons or total annual income for natural persons when these are not available or cannot be reliably determined.

The main benefits of this option are enhanced proportionality and flexibility. By providing supervisors with a fallback option to determine the relevant financial metric, it ensures that base amounts better reflect the economic reality and scale of the legal or natural person.

However, this flexibility introduces a degree of additional complexity. Supervisors are required to exercise judgement in selecting the appropriate financial metric, which may lead to some variability in application. However, this is mitigated by the structured approach set out in the draft Guidelines, including the hierarchy of independent and reliable data sources and the requirement to apply supervisory judgement in a consistent manner. As such, any reduction in comparability is limited and outweighed by the benefits ensuring more accurate and effective sanctioning outcomes.

Preferred option

The preferred option is Option B, whereby turnover (income for natural persons) is used as the primary metric, with the possibility to use an alternative financial metric that provides the closest estimate to turnover or income where these are not available or cannot be reliably determined.

From a cost-benefit perspective, this option strikes an appropriate balance between harmonisation and flexibility. While it entails some additional complexity, this is limited and outweighed by the benefits of ensuring that the determined base amounts of pecuniary sanctions are proportionate and reflect operational challenges that may be encountered. At the same time, retaining turnover or income as the default metric preserves a common baseline, supporting comparability and supervisory convergence across the Union.

Policy Issue 3: Categorisation of obliged entities for setting base amounts

The third policy issue concerns the appropriate level of granularity in distinguishing between categories of obliged entities when setting base amounts for pecuniary sanctions. In particular, it assesses whether different base amounts should be established for obliged entities in the financial and non-financial sectors, or whether common base amounts should apply to all obliged entities irrespective of sector. Two policy options were considered.

A. Sector-specific base amounts.
B. Common base amounts applicable to all obliged entities.

Option A

Under Option A, AMLA would establish different base amounts for obliged entities in the financial and non-financial sectors. The applicable percentage ranges would depend on the sector to which the obliged entity belongs, in addition to the breach category and legal form.

The main advantage of this approach is its ability to reflect differences between the financial and non-financial sectors. Different categories of obliged entities are characterised by distinct business models, risk profiles, and regulatory expectations. Such a framework would allow base amounts to be calibrated more closely to these sector-specific characteristics, potentially enhancing the alignment between the base amounts of pecuniary sanctions and the characteristics and inherent risk of each sector.

Nevertheless, the benefit of additional granularity appears limited. The percentage-based methodology already links base amounts to the relevant financial metric of the legal or natural person concerned, allowing them to scale with their financial metric without requiring sector-specific base amounts. Furthermore, differences in the gravity of breaches and individual circumstances are already captured in the broader methodology, including breach categorisation, and the proportionality principle. Moreover, differentiation based solely on whether an obliged entity operates in the financial or non-financial sector would not necessarily reflect differences in size, complexity and risk profiles within each sector. As a result, separate sectoral calibrations would provide limited additional benefits in terms of proportionality.

In addition, this approach entails additional costs and drawbacks. From an operational perspective, it would increase complexity by requiring separate calibration and maintenance of base amounts for the financial and non-financial sectors, resulting in additional administrative costs for supervisors. From a convergence perspective, applying different base amounts depending on the sector could lead to different starting points for comparable breaches, potentially undermining equal treatment and consistency in the determination of base amounts across the Union.

Option B

Under Option B, AMLA would establish common base amounts applicable to all obliged entities, irrespective of whether they operate in the financial or non-financial sector. Base amounts would be determined by applying a percentage within the applicable range to the relevant financial metric, taking into account the breach category and legal form of the person concerned.

The primary benefit of this approach is simplicity and operational efficiency. By applying common base amounts across all sectors, the framework becomes easier to apply, reducing the need for separate sectoral calibration and lowering administrative costs for supervisors. This supports more efficient decision-making and facilitates implementation across jurisdictions.

Option B also enhances convergence and legal certainty. Applying common base amounts across sectors reduces the scope for divergent approaches and ensures that comparable AML/CFT breaches are subject to a consistent methodology, irrespective of the sector concerned. This is particularly important in the context of AMLA's mandate to promote supervisory convergence and comparable enforcement outcomes. Importantly, this approach also supports proportionality, as base amounts remain directly linked to the relevant financial metric of the legal or natural person concerned. At the same time, the applicable percentage ranges provide supervisors with sufficient flexibility to select an appropriate starting point for an effective, proportionate and dissuasive pecuniary sanction.

This approach is also consistent with the risk-based and proportionate framework underpinning Regulation (EU) 2024/1624, which recognises that the implementation of AML/CFT requirements should take into account the nature, size and complexity of obliged entities and the ML/TF risks to which they are exposed. While the Regulation provides for certain sector-specific requirements, its broader approach to proportionality reflects the individual characteristics and risks of obliged entities rather than relying solely on broad sectoral distinctions. In this context, common base amounts, combined with the percentage-based methodology, support a consistent and proportionate approach to determining pecuniary sanctions across sectors.

A further benefit of this option is that it avoids the need to establish, calibrate and periodically review separate base amounts for different sectors. This reduces implementation and maintenance costs while supporting a harmonised approach across the Union.

The potential drawback of Option B is the absence of sector-specific differentiation in the applicable base amounts, which may limit the ability to reflect differences in business models and risk profiles between the financial and non-financial sectors. However, this limitation is mitigated by the overall methodology embedded in the draft Guidelines. Supervisors retain the ability to ensure proportionality through differentiation by breach severity, scaling by turnover or other relevant metrics, and selecting an appropriate percentage within the applicable range, considering the proportionality principles set out in the Guidelines. In addition, when determining the final amount of the pecuniary sanction, supervisors should take into account any relevant

mitigating and aggravating factors that fall outside the scope of these Guidelines, including an assessment of the financial strength of the person concerned. These tools allow for sufficient flexibility to reflect entity-specific circumstances without requiring further fragmentation of the methodology.

Preferred option

The preferred option is **Option B**, which establishes common base amounts applicable to all obliged entities, irrespective of sector.

From a cost-benefit perspective, Option B achieves a well-balanced solution by ensuring that base amounts remain linked to the financial metric of the legal or natural person concerned, without requiring separate sectoral calibrations. This supports supervisory convergence, legal certainty, equal treatment, and consistent application across Member States, while keeping administrative burden and implementation costs proportionate.

At the same time, the methodology set out in the draft Guidelines offers sufficient flexibility to account for entity-specific characteristics, ensuring that sanctions remain proportionate, effective, and dissuasive. This approach is also consistent with the broader risk-based and proportionate framework underpinning Regulation (EU) 2024/1624, which places emphasis on the individual characteristics and risks of obliged entities rather than relying solely on broad sectoral distinctions. Overall, Option B combines a high degree of harmonisation with practical usability, promoting consistent and proportionate sanctioning outcomes across all sectors without introducing the additional complexity and costs associated with separate sector-specific base amounts.

Policy Issue 4: Differentiation of natural persons based on their role

The fourth policy issue concerns whether different base amount ranges should apply to different categories of natural persons, namely obliged entities that are natural persons, such as sole proprietors, and members of senior management or other natural persons responsible for breaches within a legal entity.

In this context, AMLA considered the following options.

A. **Single framework** for all natural persons.
B. **Differentiated framework** based on role.

Option A

Under Option A, a single base amount framework would apply uniformly to all natural persons, irrespective of whether the person is acting as an obliged entity or as a responsible person within a legal entity.

This approach is grounded in the principle that pecuniary sanctions imposed on natural persons address individual responsibility. In all cases, the sanction targets the conduct, decisions, and

level of involvement of the individual, rather than the organisational structure through which the activity is carried out. The distinction between a natural person acting as on obliged entity or as a responsible person within a legal entity does not fundamentally alter the nature of that responsibility.

Differentiating base amounts solely on the basis of whether the natural person acts as an obliged entity or as a responsible person within an obliged entity may introduce formalistic distinctions that are not grounded in the nature of liability. In both cases, the individual is responsible for failures in governance, oversight or compliance processes. The underlying rationale of pecuniary sanctions, namely, to address personal culpability and deterrence of AML/CFT failures, is therefore comparable. Treating these categories differently at the level of base amounts could raise concerns in terms of equal treatment and non-discrimination, as individuals in functionally equivalent positions of responsibility could be subject to different starting points for sanctions without a sufficiently objective justification.

In terms of benefits, Option A avoids the need for supervisors to apply parallel methodologies or to engage in legal characterisation of the role of the natural person in each case. It also enhances legal certainty and predictability, as individuals and supervisors can rely on a clear and uniform approach across Member States, thereby reducing the risk of divergent interpretations and legal challenges.

Importantly, proportionality is not compromised under this option. The framework already allows pecuniary sanctions to be calibrated based on the economic capacity of the individual and by using income as the financial metric. In addition, supervisors should take into account aggravating and mitigating factors, including the degree of responsibility, seniority, intent and influence over the breach. This ensures that differences in accountability are reflected at the stage of determining the final sanction, rather than through rigid ex ante categorisation.

Option B

Under Option B, different base amounts would apply depending on whether the natural person acts as an obliged entity or as a member of senior management or another responsible person within a legal entity.

The main benefit of this approach is the greater degree of conceptual granularity, potentially allowing pecuniary sanctions to reflect differences in organisational influence, particularly in large or complex institutions where decisions taken by senior management may have wider systemic impact. However, the additional granularity provided by Option B does not appear justified, as the same objectives, namely proportionality and deterrence, can be achieved more efficiently through the existing tools in the framework.

Moreover, this option raises several legal and practical concerns. From a legal perspective, differentiating base amounts based on organisational context rather than individual conduct may weaken the principle of personal liability. It may lead to unequal treatment where individuals with

comparable levels of responsibility and involvement in a breach are subject to different starting points for sanctions without sufficiently objective justification.

Option B would also introduce additional complexity into the supervisory process. Supervisors would need to determine, justify, and document the applicable category of natural person in each case, increasing administrative burden. This could in turn lead to reduced convergence across jurisdictions and increased litigation risk, as individuals may challenge the categorisation applied to them.

Preferred option

The preferred option is Option A, which applies a single base amount framework to all natural persons.

AMLA will make use of its powers under Article 54 of Regulation (EU) 2024/1620 to extend the scope of these Guidelines to cover the application of the base amount methodology to all natural persons. Under this approach, the same framework for determining base amounts would apply irrespective of whether the natural person acts as an obliged entity or as a responsible person within a legal entity. This approach aligns with the principle of personal liability, supports equal treatment, and strengthens legal certainty. It also minimises administrative complexity and promotes supervisory convergence across Member States. At the same time, it preserves sufficient flexibility within the broader methodology to account for individual circumstances, ensuring that sanctions remain proportionate, effective, and dissuasive.

Overall, Option A represents the most coherent and efficient solution, balancing simplicity, fairness, and risk-based application of base amounts of pecuniary sanctions.

5.2 Overview of questions for consultation

Question 1: Do you agree with the **'general considerations'** proposed in the draft guidelines? If you do not agree, please explain your reasoning and provide alternative solutions.

Question 2: Do you agree with the proposed first step of the process, to establish the **type of the breach in accordance with the classification set out in the RTS** under article 53(10) AMLD? If you do not agree, please explain your reasoning and provide alternative solutions.

Question 3: Do you agree with the use of a **single percentage framework for calculating base amounts across both the financial and non-financial sectors**? If not, please explain which sectors should be subject to a different approach and why, and provide reasoned alternative proposals for such sector(s).

Question 4: Do you agree with the proposal to distinguish base amounts applicable to **legal persons as opposed to natural Persons**? If you do not agree, please explain your reasoning and provide alternative solutions.

Question 5: Do you agree with the proposal to group base amounts applicable to both **(1) natural persons that are obliged entities and also (2) members of senior management** and other natural persons who under national law are responsible for the breach of obligations stipulated by the AML/CFT framework? If you do not agree, please explain your reasoning and provide alternative solutions.

Question 6: Do you agree with the proposal set out in the guidelines to establish the **relevant financial metric**? If you do not agree, please explain your reasoning and provide alternative solutions.

Question 7: Do you agree that the **proposed base amounts illustrated in Table 1** provide an appropriate starting point for ensuring proportionate pecuniary sanction outcomes and enabling the resulting pecuniary sanction to be sufficiently dissuasive? If you do not agree, please explain your reasoning and provide alternative solutions? Specifically, for:

(a) Legal persons
(b) Natural persons