

# Public consultation on an action plan for a comprehensive Union policy on preventing money laundering and terrorist financing

Fields marked with \* are mandatory.

## Introduction

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As highlighted in President's von der Leyen guidelines for the new Commission, the complexity and sophistication of the Union's financial system has opened the door to new risks of money laundering and terrorist financing. The European Union needs to step up its regulatory framework and preventive architecture to ensure that no loopholes or weak links in the internal market allow criminals to use the EU to launder the proceeds of their illicit activities.

The Action Plan adopted on 7 May 2020 by the Commission sets out the steps to be taken to deliver on this ambitious agenda, from better enforcement of existing rules to revision of the anti-money laundering /countering the financing of terrorism rules, to an overhaul of the EU's supervisory and enforcement architecture.

While recent money laundering scandals have created a sense of urgency to act, the Commission is determined to ensure that such action is comprehensive and delivers a future-proof framework that will effectively protect the Union's financial and economic system from criminal money and that will strengthen the EU's role as a world leader in the fight against money laundering and terrorist financing.

This public consultation aims to gather stakeholder views on the actions that the Commission has identified as priority in its action plan and in view of preparing potential future initiatives to strengthen the EU's antimoney laundering / countering the financing of terrorism framework.

## About this consultation

In line with Better Regulation principles, the Commission has decided to launch a public consultation to gather stakeholder views on the possible enhancements to the EU anti-money laundering/countering the financing of

terrorism framework. This consultation contains separate sections. You can choose to answer only one, several or all sections, depending on your interest and knowledge.

The first section aims to collect stakeholder views regarding actions already undertaken at EU level to strengthen the application and enforcement of the EU anti-money laundering / countering the financing of terrorism framework, and how each of them could be strengthened.

The second section seeks views regarding the current EU legal framework, what areas should be further harmonised and what should be left to Member States to regulate. Feedback is also sought on the need to improve consistency with other related legislation is also raised for feedback.

The third section aims to capture views from all stakeholders on a revised supervisory architecture. Stakeholders are invited to react on scope, structure and powers that should be granted to an EU-level supervisor and how it should interact with national supervisors.

The fourth section looks for input from stakeholders on the actions that can help to strengthen the provision and relevance of financial intelligence, and in particular on the possibility to set up a support and coordination mechanism for financial intelligence units across the EU.

The fifth section seeks stakeholder views with regard to the enforcement actions and the development of partnerships between public authorities and the private sector to ensure that, when money laundering has not been prevented, it can at least be detected and suppressed.

The sixth section aims to receive views from the stakeholders on the actions that the EU should take at international level and with regard to non-EU countries to strengthen its global role in the fight against money laundering and terrorism financing.

Responding to the full questionnaire should take 25 minutes.

## Important notice

Contributions received are intended for publication "as submitted" on the Commission's websites. In the next section, you have the possibility to indicate whether you agree to the publication of your individual responses under your name or anonymously. In addition to answering the questions, you may upload a brief document (e.g. a position paper) at the end of the questionnaire. The document can be in any official EU language.

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**Please note:** In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact [fisma-financial-crime@ec.europa.eu](mailto:fisma-financial-crime@ec.europa.eu).

More information:

- [on this consultation](#)

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- [on the consultation document on the protection of personal data regime for this consultation](#)

## About you

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### \*Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

### \*I am giving my contribution as

- Academic/research institution

- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

**\*First name**

Natalie

**\*Surname**

DILLON

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natalie.dillon@insuranceireland.eu

**\*Organisation name**

*255 character(s) maximum*

Insurance Ireland

**\*Organisation size**

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)  Large (250 or more)

**Transparency register number**

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decisionmaking.

**\*Country of origin**

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan         | <input type="radio"/> Djibouti                            | <input type="radio"/> Libya            | <input type="radio"/> Saint Martin                                 |
| <input type="radio"/> Åland Islands       | <input type="radio"/> Dominica                            | <input type="radio"/> Liechtenstein    | <input type="radio"/> Saint Pierre and Miquelon                    |
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| <input type="radio"/> Bangladesh          | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova          | <input type="radio"/> South Georgia and the South Sandwich Islands |

- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
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- Haiti
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- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey

- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
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- Czechia
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena  
Ascension and  
Tristan da  
Cunha
- Turkmenistan
- Turks and  
Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab  
Emirates
- United Kingdom
- United States
- United States  
Minor Outlying  
Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and  
Futuna
- Western Sahara
- Yemen
- Zambia

Democratic Republic of the Congo

Lesotho

Saint Kitts and Nevis

Zimbabwe

Denmark

Liberia

Saint Lucia

**\*Field of activity or sector (if applicable):**

*at least 1 choice(s)*

- Accounting
- Art dealing
- Auditing
- Banking
- Company and trust creation and management
- Consulting
- Gambling
- Insurance
- Investment management (e.g. assets, securities)
- Other company and trust services
- Other financial services
- Notary services
- Legal services
- Pension provision
- Real estate
- Tax advice
- Think tank
- Trading in goods
- Virtual assets
- Other
- Not applicable

**\*Publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

**Public**

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

## Ensuring effective implementation of the existing rules

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Ensuring correct transposition and application of the EU anti-money laundering / countering the financing of terrorism rules is a priority for the Commission. The Commission adopted a tough approach in relation to the transposition of both the 4th and 5th Anti-Money Laundering Directives and launched or will soon launch infringement proceedings against Member States for failure to fully transpose these provisions.

The Commission monitors the effectiveness of Member States' anti-money laundering / countering the financing of terrorism frameworks in the context of the European Semester cycle. In 2020, 11 countries have seen their frameworks assessed.

The European Banking Authority has seen its mandate recently strengthened, and is now responsible to lead, coordinate and monitor AML/CFT efforts in the financial sector. Among its new powers are the performance of risk assessments on competent authorities, the right to request national authorities to investigate individual institutions and adopt measures when breaches are detected. These new powers complement existing powers to investigate potential breaches of Union law.

This section aims to collect stakeholder views regarding the effectiveness of these measures and on whether other measures could contribute to strengthening the enforcement of anti-money laundering / countering the financing of terrorism rules.

How effective are the following existing EU tools to ensure application and enforcement of anti-money laundering / countering the financing of terrorism rules?

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Infringement proceedings for failure to transpose EU law or incomplete /incorrect transposition	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Country-specific recommendations in the context of the European Semester	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Action following complaint by the public	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Breach of Union law investigations by the European Banking Authority	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New powers granted to the European Banking Authority	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



How effective would more action at each of the following levels be to fight money laundering and terrorist financing?

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
At national level only	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
At national level with financial support and guidance from the European Union	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At the level of the European Union (oversight and coordination of national action)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At international level	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No additional action at any level	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Should other tools be used by the EU to ensure effective implementation of the rules?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As Directives already facilitate pan-European regulation we are of the view that more prescriptive regulation would be of limited impact. Insurance Ireland instead recommends improved intelligence sharing and increased tools to allow use of that information in public-private partnerships as it would promote interconnectedness and allow for better access to intelligence, for example a pan-European intelligence systems serving FIUs across Europe.

We recommend that the use of private sector advisory bodies would allow for more frequent and effective guidance.

Aside from use of tools to ensure effective implementation, it is important that supervisors take note of the continually increasing channels and businesses that may exposed to ML/TF. We suggest adding virtual asset service providers within the scope of obliged entities to ensure that legitimate innovations do not fall victim to be used to facilitate ML/TF, in particular we point to crowd funding platforms.

Additional comments

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As proposed in the action plan, the EBA have been given responsibility to lead, coordinate and monitor AML /CFT for all financial institutions across the EU to promote a more consistent approach to the application of AML/CFT efforts at EU level. Insurance Ireland recommends that this mandate should maintain a risk-based approach to AML/CTF policy and should not result in a standardisation of risk and expectations across the various types of designated bodies operating within each member state.

We believe that a risk-based approach allows for a proportionate and prudent application of policy across sectors and products. It has been recognised at an international level by FATF that certain types of institutions present an

inherently lower ML/TF risk than others, for example Life Assurance. By employing a risk-based model FATF recognise the lower risk presented by Life Assurance products while maintaining adequate scope to allow for application of AML/CTF rules where higher risk factors exist within sectors such as for products that can be surrendered early in their life cycle and policies that can be assigned.

Insurance Ireland recommends that the EBA continue to recognise the individual nuances and sectoral risk presented depending on the designated bodies when developing and implementing the EU's approach to AML/CTF. Insurance Ireland warns against a standardised approach as it could undermine the risk-based approach which is central to AML/CTF policy both an EU and global level. Standardisation of the AML/CTF legislation across all industries presents a real risk of over application of AML/CTF measures within lower risk industries and an under application within those considered of much higher risk. On this basis Insurance Ireland recommends that the EBA maintains the globally recognised risk-based approach to AML/CTF policy.

## Delivering a reinforced rulebook

While the current EU legal framework is far-reaching, its minimum harmonisation approach results in diverging implementation among Member States and the imposition of additional rules at national level (e.g. list of entities subject to anti-money laundering obligations, ceilings for large cash payments). This fragmented legislative landscape affects the provision of cross-border services and limits cooperation among competent authorities. To remedy these weaknesses, some parts of the existing legal framework might be further harmonised and become part of a future Regulation. Other Union rules might also need to be amended or clarified to create better synergies with the AML/CTF framework.

As criminals continuously look for new channels to launder the proceeds of their illicit activities, new businesses might become exposed to money laundering / terrorist financing risks. In order to align with international standards, virtual asset service providers might need to be added among the entities subject to anti-money laundering / countering the financing of terrorism rules (the 'obliged entities'). Other sectors might also need to be included among the obliged entities to ensure that they take adequate preventive measures against money laundering and terrorism financing (e.g. crowdfunding platforms).

This section aims to gather stakeholder views regarding a) what provisions would need to be further harmonised, b) what other EU rules would need to be reviewed or clarified and c) whether the list of entities subject to preventive obligations should be expanded.

The Commission has identified a number of provisions that could be further harmonised through a future Regulation. Do you agree with the selection?

	Yes	No	Don't know
List of obliged entities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Structure and tasks of supervision	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Tasks of financial intelligence units	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Customer due diligence	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Electronic identification and verification	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Record keeping	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Internal controls	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Reporting obligations	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Beneficial ownership registers	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Central bank account registers	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Ceiling for large cash payments	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Freezing powers for financial intelligence units	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sanctions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

## What other provisions should be harmonised through a Regulation?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## What provisions should remain in the Directive due to EU Treaty provisions?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our members have experienced an inconsistent approach across some Member States whereby non-life insurance providers are considered within the scope of domestic AML/CTF policy. We understand this runs counter to the global standard established by FATF which explicitly exempts non-life insurance products. Based on the evidently lower risk presented by non-life providers, such interpretations of AML/CTF policy to include non-life providers takes resources to focus on a disproportionality low risk sector. We recommend that the EU ensure clarity with this approach by articulating that non-life providers are out of scope.

## What areas where Member States have adopted additional rules should continue to be regulated at national level?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland believes it is essential for Member States to retain the ability to adapt rules to the specificities of their market considering local regulators thorough and detailed knowledge of the risks, products, services, legal structures and legal obligations that are particular to their market.

As discussed in response to question 4 above, a risk-based model of supervision is best suited to achieving AML/CTF policy across 28 different markets with unique risks and vulnerabilities particular to each market.

The current legislative model of implementation of AML/CTF policy via Directives with National Competent Authorities (NCAs) charged with supervision promotes the most effective and well-informed supervision. The

ability of Member State NCAs to bolster rules where they have identified areas of higher risk is fundamental to the protection from ML/TF. Insurance Ireland is concerned that under a standardised approach Member States could no longer introduce additional measures where they see fit. A standardised approach may result in the failure to detect specific risks particular to Member States at a sufficiently early stage and would result in ML/TF practices going undetected and unmitigated. On this basis a standardised approach may result in a much higher risk to consumers and the financial market.

Insurance Ireland recommends that the current model of transposition of Directives into national law is maintained as this allows NCAs the ability to respond in a proportionate and timely manner to the particular ML/TF risks present in their market.

Furthermore, transposition via Directive ensures that the legislation introduced is compatible with the jurisdiction's legislative framework allowing for effective implementation into common law and civil law jurisdictions. This is of particular importance when considering instances of criminal wrongdoing in a common law jurisdiction. Another aspect unique to common law jurisdictions include legal structures such as trusts which are not present in civil law jurisdictions. A major challenge which will be encountered by increased harmonisation will be ensuring consistency with a common law legal system which operates in Ireland. It is paramount that increased harmonisation respects the common law legal system present in Ireland and does not hinder the effective implementation of European legislation to the Irish legal system.

## Should new economic operators (e.g. crowdfunding platforms) be added to the list of obliged entities?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland believe that new and emerging platforms should be subject to ML/TF policy, therefore coming within the definition of obliged entity, including crowdfunding platforms. As discussed in a 2015 FATF Report into Emerging Terrorist Financing Risks, "crowdfunding is vulnerable to exploitation for illicit purposes, including instances where the true purpose of the funding campaign is masked. Individuals and organisations seeking to fundraise for terrorism and extremism support may claim to be engaging in legitimate charitable or humanitarian activities and may establish NPOs for these purposes. Several cases indicate that the end-use of funds collected through crowdfunding and social networks was not known to donors". It is important that these new technologies and funding platforms have built in controls to ensure adequate protection against ML/TF.

## In your opinion, are there any FinTech activities that currently pose money laundering / terrorism financing risks and are not captured by the existing EU framework? Please explain

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the rapid development, increased functionality, and growing use of fintech activities and new payment products and services globally, this has created new AML challenges for countries and private sector. Despite the known vulnerabilities, the true extent of exploitation of these technologies by terrorist groups and their supporters has not been fully realised and remains an ongoing challenge. We recommend that the European Union closely analyse developments in fintech for potential ML/TF exploitation and ensure that relevant activities are within scope of the rules.

The Commission has identified that the consistency of a number of other EU rules with anti-money laundering / countering the financing of terrorism rules might need to be further enhanced or clarified through guidance or legislative changes. Do you agree?

	Yes	No	Don't know
Obligation for prudential supervisors to share information with anti-money laundering supervisors	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bank Recovery and Resolution Directive (Directive 2014/59/EU) or normal insolvency proceedings: whether and under what circumstances anti-money laundering grounds can provide valid grounds to trigger the resolution or winding up of a credit institution	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deposit Guarantee Schemes Directive (Directive 2014/49/EU): customer assessment prior to pay-out	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Payment Accounts Directive (Directive 2014/92/EU): need to ensure the general right to basic account without weakening anti-money laundering rules in suspicious cases	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Categories of payment service providers subject to anti-money laundering rules	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Integration of strict anti-money laundering requirements in fit&proper tests	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Are there other EU rules that should be aligned with anti-money laundering / countering the financing of terrorism rules?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland would welcome clarity on how to balance AML requirements with requirements set out under the GDPR, such as between the risk-based approach to the gathering, processing & retention of the personal data of customers (as well as of beneficial owners and other relevant related parties) as required under AML/CFT regulations versus GDPR rules around consent, excessive processing and the 'right to be forgotten'.

An aligned approach to the sharing of information & market intelligence among obliged entities in the area of AML & financial crime would also be welcome. For example, the UK has legislation in place that permits obliged entities there to freely share such information through networks such as CIFAS, without fear of being deemed to be in breach of data protection rules. Attempts to replicate this infrastructure in some EU Member States (including Ireland) have been effectively blocked by local data protection authorities on the basis that they contravene GDPR rules – or else those authorities have instead proposed alternative informationsharing structures which tend to be unfeasible or are much less effective. This approach has practical implications, such as enabling money launderers/terrorist financiers, who have had their relationship with one credit/financial institution terminated due to ML/TF concerns, to move to another institution - safe in the knowledge that the two institutions cannot share information/intelligence with each other. An aligned approach between AML/CFT & GDPR regulations would help address these issues.

## Additional comments

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland feel that the proposed pillars 2 and 3 - single EU rule book and establishing EU level supervision - respectively, propose a fundamental shift in AML/CTF policy which applies across many sectors. These proposals would result in a disproportionate reaction, affecting many sectors, which stemmed from failures identified in one particular sector.

Insurance Ireland would like to highlight the recognised low risk presented by the insurance sector. We feel the proposals under pillars 2 and 3 would jeopardise the risk-based minimum harmonisation approach which is central to AML/CTF policy. Departure from such an approach would have wide-ranging and potentially unforeseen consequences.

In particular a single EU rulebook would likely result in more prescriptive rules which apply across different sectors and different markets. As set out in response to question 7, such an approach would remove the potential for Member States to react to the circumstances particular to their market and in turn risk failure of detection of specific risks particular to certain markets which would result in a much higher risk of ML/TF to consumers and markets alike.

It is imperative that the Commission continue to recognise the variety of ML/TF risk exposure relative to the obliged entity and relevant market. We recommend that the minimum harmonisation model is maintained and that the Commission focus efforts on identifying and mitigating the exact causes of the recent AML failures which prompted these proposals.

## Bringing about EU-level supervision

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Supervision is the cornerstone of an effective anti-money laundering / countering the financing of terrorism framework. Recent money laundering cases in the EU point to significant shortcomings in the supervision of both financial and non-financial entities. A clear weakness is the current design of the supervisory framework, which is Member-State based. However, supervisory quality and effectiveness are uneven across the EU, and no effective mechanisms exist to deal with cross-border situations.

A more integrated supervisory system would continue to build on the work of national supervisors, which could be complement, coordinated and supervised by an EU-level supervisor. The definition of such integrated system will require addressing issues linked to the scope and powers of such EU-level supervisor, and to the body that should be entrusted with such supervisory powers.

Effective EU level-supervision should include all obliged entities (both financial and non-financial ones), either gradually or from the outset. Other options would rest on the current level of harmonisation and provide for a narrower scope, i.e. oversight of the financial sector or of credit institutions only. These options would however leave weak links in the EU supervisory system.

Linked to the issue of the scope is that of the powers that such EU-level supervisor would have. These may range from direct powers (e.g. inspection of obliged entities) to indirect powers (e.g. review of national supervisors' activities) only, either on all or some entities. Alternatively, the EU-level supervisor could be granted both direct and indirect supervisory powers. The entities to be directly supervised by the EU-level supervisor could be predefined or regularly reviewed, based on risk criteria.

Finally, these supervisory tasks might be exercised by the European Banking Authority or by a new centralised agency. A third option might be to set-up a hybrid structure with decisions taken at the central level and applied by EU inspectors present in the Member States.

What entities/sectors should fall within the scope of EU supervision for compliance with anti-money laundering / countering the financing of terrorism rules?

- All obliged entities/sectors
- All obliged entities/sectors, but through a gradual process
- Financial institutions
- Credit institutions

What powers should the EU supervisor have?

*at most 1 choice(s)*

- Indirect powers over all obliged entities, with the possibility to directly intervene in justified cases
- Indirect powers over some obliged entities, with the possibility to directly intervene in justified cases
- Direct powers over all obliged entities
- Direct powers only over some obliged entities
- A mix of direct and indirect powers, depending on the sector/entities

Which body should exercise these supervisory powers?

*at most 1 choice(s)*

- The European Banking Authority
- A new EU centralised agency
- A body with a hybrid structure (central decision-making and decentralised implementation)  Other

If other: please explain

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland believe that skill, expertise and knowledge is central to effective supervision. Given the diverse business models of obliged entities and their varying levels of risk exposure we recommend that the important role played by national supervisors should be maintained. We believe that NCAs are best placed understand the risks present in their home market. In addition to possessing local expertise, they are in direct contact with entities operating within their jurisdiction. To ensure effective supervision any failures should be addressed directly to the NCA concerned. This would be a more proportionate, measured and effective approach rather than creating a new authority with EU-wide jurisdiction for all obliged entities.

It is also worth noting that any allocation of supervisory powers to an EU authority would need to respect the principle of subsidiarity and therefore should only be established if the objectives of AML/CTF policy cannot be sufficiently achieved by NCAs.

Furthermore we would oppose the proposal that obliged entities fund the activities of an EU supervisor due to the absence of budgetary oversight and transparency. We point to the recent rejection of a similar proposal contained in the ESA Review to support this point.

We again want to call on the Commission to maintain the risk-based approach enshrined in AML/CTF policy at a global and European level. On this basis we do not support the blanket inclusion of all obliged entities within scope of an EU wide supervisor.

## Additional comments

*5000 character(s) maximum* including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Establishing a coordination and support mechanism for financial intelligence units

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Financial intelligence units (FIUs) play a key role in the detection of money laundering and identification of new trends. They receive and analyse suspicious transaction and activities reports submitted by obliged entities, produce analyses and disseminate them to competent authorities.

While financial intelligence units generally function well, recent analyses have shown several weaknesses. Feedback to obliged entities remains limited, particularly in cross-border cases, which leaves the private sector without indications on the quality of their reporting system. The cross-border nature of much money laundering cases also calls for closer information exchanges, joint analyses and for a revamping of the FIU net – the EU system for information exchange among financial intelligence units. Concerns regarding data protection issues also prevent Europol, under its current mandate, to continue hosting this system.

An FIU coordination and support mechanism at EU level would remedy the above weaknesses. Currently, the only forum available at EU level to coordinate the work of FIUs is an informal Commission expert group, the FIU Platform.

This section aims to obtain stakeholder feedback on a) what activities could be entrusted to such EU coordination and support mechanism and b) which body should be responsible for providing such coordination and support mechanism.

Which of the following tasks should be given to the coordination and support mechanism?

- Developing draft common templates to report suspicious transactions
- Issuing guidance
- Developing manuals
- Assessing trends in money laundering and terrorist financing across the EU and identify common elements
- Facilitating joint analyses of cross-border cases
- Building capacity through new IT tools  Hosting the FIU.net

Which body should host this coordination and support mechanism?

*at most 1 choice(s)*

- The FIU Platform, turned into a formal committee involved in adopting Commission binding acts
- Europol, based on a revised mandate
- A new dedicated EU body
- The future EU AML/CFT supervisor
- A formal Network of financial intelligence units

Additional comments

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Enforcement of EU criminal law provisions and information exchange

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Recent actions have increased the tools available to law enforcement authorities to investigate and prosecute money laundering and terrorist financing. Common definitions and sanctioning of money laundering facilitate judicial and police cooperation, while direct access to central bank account mechanisms and closer cooperation between law enforcement authorities, financial intelligence units and Europol speed up criminal investigations and make fighting cross-border crime more effective. Structures set up within Europol such as the Anti-Money Laundering Operational Network and the upcoming European Financial and Economic Crime Centre are also expected to facilitate operational cooperation and cross border investigations.

Public-private partnerships are also gaining momentum as a means to make better use of financial intelligence. The current EU framework already requires financial intelligence units to provide feedback on typologies and trends in money laundering and terrorist financing to the private sector. Other forms of partnerships involving the exchange of operational information on intelligence suspects have proven effective but raise concerns as regards the application of EU fundamental rights and data protection rules.

This section aims to gather feedback from stakeholder on what actions are needed to help public-private partnership develop within the boundaries of EU fundamental rights.

What actions are needed to facilitate the development of public-private partnerships?

- Put in place more specific rules on the obligation for financial intelligence units to provide feedback to obliged entities
- Regulate the functioning of public-private partnerships
- Issue guidance on the application of rules with respect to public-private partnerships (e.g. antitrust)
- Promote sharing of good practices

### Additional comments

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Additional feedback and guidance from FIU's to obliged entities would be useful in assisting entities with understanding the detail necessary for reporting. Greater oversight of trends would also give indication to obliged entities on emerging trends and areas of concern so as implement processes to mitigate the risk.

## Strengthening the EU's global role

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Money laundering and terrorism financing are global threats. The Commission and EU Member States actively contribute to the development of international standards to prevent these crimes through the Financial Action Task Force (FATF), an international cooperation mechanism that aims to fight money laundering and terrorism financing. To strengthen the EU's role globally, and given the fact that the EU generally translates FATF standards into binding provisions, it is necessary that the Commission and Member States speak with one voice and that the supranational nature of the EU is adequately taken into account when Member States undergo assessment of their national frameworks.

While FATF remains the international reference as regards the identification of high-risk jurisdictions, the Union also needs to strengthen its autonomous policy towards third countries that might pose a specific threat to the EU financial system. This policy involves early dialogue with these countries, close cooperation with Member States throughout the

process and the identification of remedial actions to be implemented. Technical assistance might be provided to help these countries overcome their weaknesses and contribute to raising global standards.

This section seeks stakeholder views on what actions are needed to secure a stronger role for the EU globally.

**How effective are the following actions to raise the EU's global role in fighting money laundering and terrorist financing?**

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Give the Commission the task of representing the European Union in the FATF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Push for FATF standards to align to EU ones whenever the EU is more advanced (e.g. information on beneficial ownership)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Additional comments**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Ireland disagrees that the EU should push for FATF standards to align to EU if it considers itself more advanced. We feel it is important that the EU as a global role model, set an example by following FATF standards, as to do otherwise would undermine the FATF’s established position as an international standardsetter in AML/CTF policy.

**Additional information**

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Should you wish to provide additional information (for example a position paper) or raise specific points not covered by the questionnaire, you can upload your additional document here.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is

an optional complement and serves as additional background reading to better understand your position.

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

## Useful links

[More on this consultation \(https://ec.europa.eu/info/publications/finance-consultations-2020-anti-money-laundering-action-plan\\_en\)](https://ec.europa.eu/info/publications/finance-consultations-2020-anti-money-laundering-action-plan_en)

[Consultation document \(https://ec.europa.eu/info/files/2020-anti-money-laundering-action-plan-consultationdocument\\_en\)](https://ec.europa.eu/info/files/2020-anti-money-laundering-action-plan-consultationdocument_en)

[Specific privacy statement \(https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement\\_en\)](https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en)

[More on anti-money-laundering \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financialsupervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing\\_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financialsupervision-and-risk-management/anti-money-laundering-and-counter-terrorist-financing_en)

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

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