bitkom

Position Paper

2026 April

Draft RTS on Criteria for Business Relationships, Occasional Transactions and Linked Transactions as Well as Lower Thresholds under Article 19(9) of Regulation (EU) 2024/1624

Answers to Consultation Questions

1. Do you find the criteria listed in Article 2 of the draft RTS effective to identify business relationships properly? If not, could you please indicate why, where possible substantiated by relevant data?

In its current form, the criteria set out in Article 2(3) and Article 3(2) do not sufficiently guarantee that the scope is limited to high-risk transactions. In this case, the associated measures would violate the principle of proportionality. A detailed explanation of this position, including a proposal, is provided in our response to Question 5.

2. Do you find the criteria listed in Article 3 of the draft RTS effective to identify linked transactions properly? If not, could you please indicate why, where possible substantiated by relevant data?

As currently drafted, the criteria listed in Article 3 are not sufficiently effective to ensure a clear and legally certain identification of linked transactions.

First, there is a need for more precise definitions of key criteria such as »family members« and »business partners«. We advocate for the harmonisation of these terms with existing legislation, for example by adopting the definitions of »family member«" as set out in Section 15 of the German Tax Code (AO) and of »business relationships« as defined in Section 15 of the German Stock Corporation Act (AktG).

Second, the draft RTS under Article 19(9) and Article 28 require obliged entities to take into account data or information »available to the obliged entity" or »provided by the customer«, including information that the obliged entity may already hold. This concerns, in particular, Article 3(1)(c) and (d) of the draft RTS under Article 19(9), as well as Article 21(1)(b) of the draft RTS under Article 28(1). The recitals provide further detail on the type of information covered by these provisions. For example, Recital (12) of the draft RTS under Article 19(9) refers to information that customers are connected via family ties, while Recital (13) refers to IP addresses, device identifiers and geolocation data.

In most cases, such information will constitute personal data within the meaning of Article 4 of the GDPR, and in some cases even special categories of personal data within the meaning of Article 9 of the GDPR, for example where family ties may indirectly reveal sensitive information such as sexual orientation. However, the draft RTS do not provide a sufficient legal basis for the processing of such data in accordance with Article 6(1)(c) of the GDPR, but merely require obliged entities to «take into account" such data. Personal data that is already available to an obliged entity has typically been collected for a different purpose and on the basis of a distinct legal ground. As a result, obliged entities are not free to use such data for any other purpose as they deem appropriate, in particular without informing the data subject accordingly.

This creates significant legal uncertainty as to whether and how these criteria can be applied in practice and therefore undermines their effectiveness. We therefore suggest deleting the requirement to »take into account" or »consult« such data in the respective RTS. The alternative, namely a general requirement to obtain such data specifically for AML purposes, would lead to an excessive burden for obliged entities as well as their customers.

3. Do you consider it necessary to add additional criteria that should at least be taken into account when considering the different elements of the definition of a business relationship to ensure the proper identification of business relationships? If so, could you please indicate which criteria and for which sector(s)?

No.

4. Do you consider it necessary to add additional criteria that should at least be taken into account when

considering the different elements of the definition of linked transactions to ensure the proper identification of linked transactions? If so, could you please indicate which criteria and for which sector(s)?

No.

5. Do you consider the criteria for identifying business relationships and linked transactions listed in Article 2(3) and Article 3(2) of this draft RTS proportionate? If not, could you please indicate why, where possible substantiated by relevant data, and which alternative criterion you would find more proportionate?

We consider the current thresholds in Article 2(3) and Article 3(2) to be overly broad. In their current form, the proposed criteria fail to account for the principle of proportionality and risk, inadvertently capturing low-risk transactions that do not align with the high-risk profile intended for these measures.

To ensure a truly risk-based approach, we propose the following adjustments:

- **Article 2(3) – Business Relationships**: Increase the threshold from »three or more transactions" to »20 or more transactions« within a rolling 12-month period.

  The current threshold of three transactions is disproportionately low and would classify a vast number of occasional, low-value customers as formal business partners. By increasing the threshold to 20 transactions, the administrative burden of establishing a formal business relationship is reserved for genuinely repetitive activity that may indicate higher risk.

- **Article 3(2) – Linked Transactions**: Reduce the rolling period for identifying linked transactions from »one month" to »10 days«.

  A one-month window would trigger a high number of false positives in high-transaction environments. A 10-day rolling period is a more proportionate timeframe to detect structured or linked behaviour without placing an undue monitoring burden on entities engaged in standard commercial activities.

By higher quantitative thresholds, the RTS would ensure that intensified measures are targeted specifically at high-risk scenarios. This prevents the unintentional inclusion of low-risk transactions and ensures that regulatory requirements remain manageable and effective for the affected institutions.

6. Do you foresee any operational challenges in implementing this draft RTS? If so, could you please indicate which, where possible substantiated by relevant data? Do you have any suggestions that would make the criteria better suited operationally?

Yes, combined with the thresholds proposed in our response to Question 5, the RTS should address the existing duplication of compliance processes within one payment value chain to further align with the goals of regulatory and operational efficiency.

In modern digital ecosystems, a transaction is frequently subject to multiple KYC checks conducted in isolation. The RTS should introduce a »Chain of Trust Principle« to allow for the recognition of existing due diligence checks already performed by regulated entities. By leveraging the fact that core requirements are often already met within the payment chain, the repetition of identical checks for low-risk transactions would be reduced. This ensures that compliance efforts are directed towards scenarios where risk profiles warrant deeper investigation.

7. Do you see a need for the introduction of an additional lower threshold for a specific obliged entity, sector or transaction? If so, could you please indicate why, where possible substantiated by data, and at which value the threshold should be set?

No.

Bitkom represents more than 2,200 companies from the digital economy. They generate an annual turnover of 200 billion euros in Germany and employ more than 2 million people. Among the members are 1,000 small and medium-sized businesses, over 700 start-ups and almost all global players. These companies provide services in software, IT, telecommunications or the internet, produce hardware and consumer electronics, work in digital media, create content, operate platforms or are in other ways affiliated with the digital economy. 82 percent of the members' headquarters are in Germany, 8 percent in the rest of the EU and 7 percent in the US. 3 percent are from other regions of the world. Bitkom promotes and drives the digital transformation of the German economy and advocates for citizens to participate in and benefit from digitalisation. At the heart of Bitkom's concerns are ensuring a strong European digital policy and a fully integrated digital single market, as well as making Germany a key driver of digital change in Europe and the world.

Published by

Bitkom e.V.

Albrechtstr. 10 | 10117 Berlin

Contact person

Alina Stephanie Bone-Winkel I Head of Digital Banking & Financial Services

T +49 30 27576-273 | a.bone-winkel@bitkom.org

Responsible Bitkom committee

WG Fintech & Digital Banking

WG Digital Payments

Copyright

Bitkom 2026

This publication is intended to provide general, non-binding information. The contents reflect the view within Bitkom at the time of publication. Although the information has been prepared with the utmost care, no claims can be made as to its factual accuracy, completeness and/or currency; in particular, this publication cannot take the specific circumstances of individual cases into account. Utilising this information is therefore sole responsibility of the reader. Any liability is excluded. All rights, including the reproduction of extracts, are held by Bitkom.