bitkom

Position Paper

2026 June

Draft Guidelines on Business-Wide Risk Assessment under Article 10 (4) of Regulation (EU) 2024/1624

Answers to Consultation Questions

1. Do you agree that the proposals set out in these draft GLs can be applied across all obliged entities and allow for an effective application of a risk-based and proportionate approach towards compliance with AML/CFT requirements?
If not, please:
(i) specify the provision concerned with clear reference to the paragraph; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

The proposals should be supported in principle. The risk-based and proportionate approach is appropriately reflected, particularly through the clarification in paragraph 6 (the BWRA is not a »mere formalistic exercise« and should be calibrated to risks, complexity, and size), the proportionality options in paragraph 8(a) (simplified, qualitative-descriptive BWRA for non-complex obliged entities) and paragraph 8(b) (reliance on sectoral BWRAs), as well as the role of the business overview as the basis for calibration in paragraph 22.

However, a certain tension should be noted. Although AMLA deliberately opted for methodological flexibility (Option A) rather than a mandatory methodology under Policy Issue 2, paragraphs 15 (risk-based weighting with documented justification and evidence-based assessments) and 16 (risk levels and the obligation to justify deviations from Annexes II/III of the AMLR and Articles 7/8 of the AMLD) create significant implicit methodological expectations. This generates a de facto standardisation pressure that

may disproportionately burden smaller and less complex obliged entities and partially undermines the proportionality intended by paragraph 8(a).

Drafting suggestion: Explicitly clarify in paragraph 8(a) that, for non-complex obliged entities, a qualitative justification of weightings (paragraph 15) and risk levels (paragraph 16) is sufficient and that no quantitative weighting or scoring matrix is required.

2. Do you agree with the proposed minimum requirements for the content of the BWRA set out in these draft GLs?
If you do not agree, please specify:
(i) the provision(s) concerned, with clear reference to the paragraph; and
(ii) the rationale for your position.
Please provide concrete drafting proposals to resolving the issue and explain why the measure you propose would be more appropriate.

N/A

3. Do you agree with the proposals for additional sources of information to be taken into account when carrying out the BWRA set out in these draft GLs?
If you do not agree, please specify:
(i) the sources you disagree with; and
(ii) the rationale for your position;
(ii) the sources that should be included.

The list of sources (in particular in paragraph 19) should not be mandatory for OEs to take into account. Not all sources will be equally accessible to all OEs, and some may require a considerable, if not disproportionate, effort from some OEs.

For example, academic research and/or press reports require substantial time and access to relevant databases and material, while the volume of academic publications on AML, TF, and TFS can be difficult to navigate and assess in a proportionate manner.

With regard to independent investigative journalism, it will be difficult to verify whether the outlined criteria are actually met. Furthermore, press reports are likely to provide more relevant information for the assessment of individual compliance matters than for an overall risk assessment.

International standards and information from statistical or commercial organisations may also involve costs that could be disproportionate in light of an individual OE's risk profile, in particular in the non-financial sector.

As reflected in the reasoning regarding the methodology (p. 26) of the Consultation Paper, a tick-box exercise should generally be avoided. Therefore, OEs should be able to choose their sources at their discretion, based on their individual risk profile, size, and complexity.

4. Do you foresee any operational challenges in implementing these GLs?
If so, please specify:
(i) the provision(s) concerned with clear reference to the paragraph; and
(ii) the rationale for your position.

Significant operational challenges are identified:

Group-wide consolidation — paragraphs 11 and 31. The requirement for a coordinated methodology, a common approach, and a consolidated group-wide risk assessment (paragraph 11; Article 16(1) AMLR), together with the requirement to take account of residual risk scores of subsidiaries (paragraph 31), must be implemented across groups that often exhibit substantial differences in data quality, risk models, classifications, control frameworks, and risk scales—particularly in groups that have grown through mergers and acquisitions. Important questions remain regarding the group-wide risk classification to be applied, the treatment of local regulatory specificities, and governance responsibilities.

Integration of TFS risks — paragraphs 12/13 (in conjunction with Policy Issue 1). While paragraph 13 formally allows a choice between an integrated and a separate TFS risk assessment, the overall structure suggests a de facto preference for integration. For obliged entities with dedicated sanctions governance structures and systems (name screening, embargo filters, real-time sanctions-list screening), a forced integrated approach increases implementation effort without necessarily improving risk identification. The flexibility promised in paragraph 13 and under Option A should be more clearly preserved in the guideline text.

Timing of updates — paragraph 5(a). The obligation to keep the BWRA »up-to-date and reviewed regularly« intentionally avoids fixed review intervals. However, this creates legal uncertainty and increases the burden of justification. This challenge is compounded by the fact that the review frequency is also intended to be addressed in the future Guidelines under Article 9(4) AMLR. At this interface, there is a risk of inconsistent or incomplete requirements.

5. Within the boundaries of the mandate as defined in Article 10(4) AMLR, do you identify any need to introduce additional provisions? If so, provide concrete drafting proposals.

The overall direction argues against additional prescriptive requirements and in favour of reducing formal obligations that do not add substantive value. Within the limits of the mandate, only clarifying additions appear appropriate:

Regarding paragraph 13: Explicitly state that a properly justified separate TFS risk assessment is equally permissible and does not trigger a higher burden of justification. While this follows from the rationale for Option A (p. 23), it is not reflected in the guideline text itself.

Regarding paragraph 5(a): Clarify its relationship with the update frequency requirements under the future Guidelines pursuant to Article 9(4) AMLR and, building on the indicators already listed in paragraph 23 (strategic changes in business plans, mergers, regulatory changes), include a non-exhaustive illustrative list of typical triggering events.

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