CCBE response to

AML Public Consultation on the draft Regulatory Technical Standards on Customer Due Diligence under Article 28(1) of Regulation (EU) 2024/1624

Substantive comments on the draft Regulatory Technical Standards

*** Question 1. Do you agree that the proposals set out in these draft RTS can be applied across the range of products and services provided by your obliged entity? If you do not agree, please:**
(i) explain why the current proposals do not provide sufficient flexibility; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

Provisions that are clearly marked as applying only to a specific sector or service should not be taken into consideration if they do not impact your sector.

5000 character(s) maximum

The pillar of flexibility comes from a correctly worded Art. 1, setting forth the principle of proportionality and the risk-based approach.

The proposed RTS need to put more weight on both principles and must be refined with the aim of providing the necessary flexibility. The CCBE therefore proposes the following revised text of Article 1:

Article 1 - Proportionality and risk-based approach

This Commission Delegated Regulation ('Regulation') shall be applied in line with the proportionality principle and in coherence with the risk-based approach. The extent and the nature of the information to be obtained and the measures to be applied by obliged entities shall therefore be commensurate with the type and level of risk identified, in order to enable obliged entities to manage and mitigate that risk appropriately.

We generally agree that the draft RTS could in principle be applicable across the range of products and services provided by obliged entities, including across the legal profession, but only if substantially adapted to non-financial business models. For legal practices, particularly for small and sole practitioners, the main concern is that a cross sector RTS may be implemented in a way that fits operating models of financial institutions (e.g. dedicated compliance teams, specialist tooling, and highly standardised onboarding), which many law firms cannot provide in an efficient and proportionate manner due to their different type of activities and set-up. We also miss the explicit confirmation that listed information items (articles 3, 4, 5 & 6) are to be collected only to the extent necessary and in a manner proportionate to risk and the nature of the legal matter.

Where the RTS contemplates automated tools (e.g., screening) or remote verification safeguards, it should be clarified (for example in the recitals) that a controlled manual process may be acceptable for firms where justified by size/business model or by the AML-risks associated with a client or a case, provided it is documented and consistently applied.

For drafting proposals to preserve the proportionality for legal services for Articles 7, 12, 18, 19(3) see CCBE's comments on particular provisions in the further section of the questionnaire.

Article 22 – Pooled Accounts

If Article 22 remains as it is currently proposed, it will have a major impact on a very large part of lawyer's activities and therefore, it must be amended.

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The proposed Art. 22 (a) makes the use of pooled accounts for lawyers impossible, as the prerequisite for applying simplified due diligence measures shall be that "*the credit or financial institution is satisfied that the account holder will provide the information and documents required pursuant to Article 20(1)(h) of Regulation (EU) 2024/1624 in relation to clients for whom it administers their funds, immediately after such request has been made by the credit or financial institution*", which is only fulfilled for matters falling under Article 3(3)(b) AMLR. Moreover, this provision causes major concern from the viewpoint of lawyer professional privilege/professional secrecy. For more detailed comments on this specific provision see the further section of the questionnaire.

*** Question 2. Do you agree that the proposals set out in these draft RTS allow for the effective application of a risk-based approach towards compliance with AML/CFT requirements?**

If you do not agree, please:
(i) specify the provisions concerned; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

5000 character(s) maximum

In principle, we agree that the draft provides for a risk-based approach as stipulated in Article 1 RTS. However, the risk-based approach requires some improvements, as set below.

1) Several provisions provide that the obliged entity shall obtain information on "at least one of the following" points. All these exhaustive lists should contain an additional point: "any information that the obliged entity deems useful to understand / obtain the required information".

This would allow for more flexibility, as in particular situations, other information might be available or relevant, which is not contained in the enumerative lists.

2) Some provisions state that information shall be obtained "where necessary". The wording "where necessary" should be clarified and defined. Obtaining an information is "necessary" where the obliged entity has established according to a risk-based assessment that obtaining the information is required to understand the occasional transaction or business relationship and the associated risks, is able to provide a better understanding of these risks and can be obtained with a reasonable effort.

AMLA should also confirm a tiered approach to assessing reliable and independent sources, allowing small firms to apply standardized checks for commonly used sources with enhanced assessment only where defined risk triggers arise. Finally, AMLA should explicitly confirm that client information may be reused where it is still up-to-date and is appropriate to the assessed risk. This would support proportionality, reduce duplication, and limit repeated client requests across multiple matters.

Clarifications that would strengthen practical risk-based operation especially for small firms

- **Non-checklist clarification:** AMLA should clarify (for example, in recitals) that lists of information/documents in the RTS are not intended to be applied as universal checklists, but proportionately under Article 1.
- **Re-use / avoid duplication:** Recital 21 usefully recognises that information may already be available to the obliged entity and should be considered before requesting similar information again to avoid unnecessary duplication and reduce burden. AMLA

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should emphasise this point, as it is highly relevant to legal practices acting for repeat clients across multiple matters.

See CCBE's comments on specific provisions and effective application of risk-based approach in the further section of the questionnaire, e.g. Article 3, 6 par.3, 6 al.5, 7, 11 and 12, 13, 25 to 28.

*** Question 3. Considering the nature of your business, including its size, risks, and complexity, are there any situations where the information to be collected for the purposes of customer due diligence as proposed in these draft RTS is routinely unavailable and the proposals in these draft RTS do not provide an alternative solution? If so, please provide concrete examples of such situations and your proposals for alternative solutions.**

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Article 5: The provision requires that information on all nationalities or, where applicable, the statelessness and refugee or subsidiary protection status shall be collected. However, national ID documents (such as passports or identity cards), which are examined for the purpose KYC/CDD only show one nationality (i.e. the nationality of the issuing state). Therefore, it is impossible to know if a client has other nationalities (e.g. dual citizenship); the obliged entity has no means to verify information on additional nationalities provided by the costumer. Therefore, the requirement to collect information and verify all nationalities must be replaced by a requirement to record only the nationalities shown in the ID documents presented by the costumer. In other words, verification obligations must be limited to what is objectively verifiable.

Obliged entities have no means of ascertaining with certainty whether a customer holds additional nationalities beyond those declared. Recital (3) provides that verifying one nationality declared in good faith will be sufficient, which creates an inconsistency with the "all nationalities" requirement in the draft Articles.

Article 22: As already explained in the answer to question 1, Article 22 (a) RTS cannot be observed in most situations involving pooled accounts of lawyers.

The CCBE would like to reiterate that the draft RTS focuses obviously on the financial sector and therefore cannot be applied directly to the non-financial sector. It is not only overly ambitious in its approach, but it is also not tailored to the nature of the business of legal professionals.

The non-financial sector is comprised in **large part of many small(er) entities** that do not possess the same amount of resources to implement time-consuming administrative CDD-measures (not including the time it will take to study and comprehend those new rules). The heavy administrative burdens threaten to severely increase the cost of compliance for obliged entities, hampering access of citizens and businesses to their services.

Legal professionals are only subject to AML obligations in specific circumstances defined by Article 3(3) of the AMLR. These are often limited, case-based, and triggered by particular client engagements. Therefore, **the administrative structure and data capture logic proposed in Section 2 of the draft RTS — which appears designed for entities with ongoing client accounts, transaction volumes and continuous onboarding processes — does not align with the operational model of lawyers.** A uniform application of these standards would impose disproportionate compliance burdens on lawyers and legal practices, especially sole practitioners or small offices, with no added benefit in terms of AML/CFT effectiveness.

Article 14: The CCBE suggests to redraft Article 14 (1) as follows:

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"*For the purposes of Article 22(4) of Regulation (EU) 2024/1624, the information obliged entities collect shall include: a. a description of the class of beneficiaries and its characteristics, which shall contain sufficient information to allow the obliged entity to determine whether individual beneficiaries are ascertainable and shall be treated as beneficial owners; and b. relevant documents to enable the obliged entity to establish that the description is correct and up-to-date on a risk-based approach.*"

Moreover, it should be considered how in practice the commitment of Article 14(2) can be complied with by trusts. It is likely that trusts will refuse to take such commitment to inform proactively the obliged entity in case of change in beneficiaries, or in case of beneficiaries previously identified by class or characteristics becoming ascertainable. It is therefore recommended having this control whenever a payment is requested to a beneficiary.

*** Question 4. Considering AMLA's legal mandate in Article 28(1) of Regulation (EU) 2024/1624, and taking into account your obliged entities' products offered and service provided, what other simplified due diligence measures should be included in the draft RTS, for example because of the associated lower ML/TF risks of these products and services? Please provide concrete drafting proposals and rationale for the specific measures you would propose.**
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We do not propose broad additional SDD categories for legal services. Instead, the legal sector is ready to work with AMLA in providing support for the legal profession, particularly small and sole practitioners, to apply existing SDD flexibilities consistently, including:

- **Article 21 (low risk beneficial owners (BO) / senior managing officials (SMO) identification and verification):** Provide examples on how small firms can meet the two-step approach (identify from one source; verify from a different source) in common low-risk corporate client scenarios.
- **Article 23 (updates in low-risk situations):** Provide practical change-trigger examples suitable for legal services to support reduced update frequency while remaining compliant.

If AMLA considers any drafting change appropriate, a narrowly framed recital could usefully reiterate that SDD remains part of a complete CDD process and reduces depth/frequency proportionately, rather than creating a *de facto* exemption.

*** Question 5. Additional observations: Do you have any additional comments relevant to the draft RTS that have not been covered above? Please ensure that comments refer to a specific article, are precise, and, where possible, supported by evidence. Where necessary, comments should also include a proposed solution.**
5000 character(s) maximum

Beneficial ownership verification and SMO fallback. The recitals emphasise that consultation of central registers is necessary but not sufficient, and that SMO identification is limited to cases where all means have been exhausted or doubts exist.

Expectations regarding technology-based tools and proportionality. Article 7 requires remote solutions (where applicable) to meet specified safeguards and to be demonstrable to competent authorities; small firms may struggle with the cost and governance overhead of procuring, maintaining and evidencing such solutions. PEP and sanctions screening provisions also create pressure towards paid automated tools, even where manual checks may be proportionate for small firms. A possible solution may be that AMLA should clarify what constitutes an acceptable manual-check-only model for small firms (governance, record-

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keeping, frequency), and what documentation is sufficient to evidence compliance when using third-party tools.

Lastly, as previously commented, we believe that **Section 2 of the draft RTS** does not sufficiently differentiate between business models. Unlike financial institutions, lawyers do not operate very often continuous transactional relationships, but rather provide episodic legal advice and representation. **Concepts such as "ongoing monitoring", "customer onboarding", or "distribution channels" have limited relevance to the legal profession.** Therefore, we propose that the RTS explicitly allow Member States and self-regulatory bodies to develop sector-specific implementation guidance for legal professionals, aligned with AMLR but tailored to legal ethics, practice, and risks.

Additional substantive input

Use this section to provide feedback on specific articles of the draft RTS, in case these were not already covered in your responses to the previous questions.

For each reply, please describe the issue identified, indicating, where relevant, whether it relates to legal certainty, proportionality, technical implementation or other factors. You are kindly asked to provide alternative drafting proposals and to explain why your proposal would be more appropriate.

Question: Do you have any comments on a specific article in the draft RTS? There is no need to repeat comments made in the previous sections of this survey.

Yes (5000 word limit per Article)

Please note that due to an unexpected limitation of 11 answers (that was not explained on the platform before), answers regarding some articles were provided in one box in order to submit all comments prepared in spite of this limitation.

Articles 3 – 5 (in one box)

Article 3

With respect to Article 3 (Information to be obtained in relation to addresses), the detailed information required under this Article (which applies to both the customer itself, the persons purporting to act on its behalf, and the natural persons on whose behalf or for the benefit of whom a transaction or activity is being conducted) appears contradictory to the risk-based approach principle (e.g. when it comes to proxyholders or persons benefiting from the activity/transaction, regard could be had to reducing the amount of information relating to personal address, reducing it, on a risk-based approach, to the country of residence/nationality(ies) only). For proxyholders acting for a legal person customer, instead of asking the personal address, it could be considered to gather the information on the professional address only.

Article 5

Article 5 RTS requires the collection of information on “all nationalities”, whereas Recital 3 stipulates that verification of one nationality is sufficient if a natural person declares multiple nationalities in good faith. This mitigation should be incorporated directly in Article 5 RTS instead of in the recitals (see also a comment in this regard above).

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It should be confirmed explicitly that "*the natural person purporting to act on behalf of the customer",* as referred to in Article 5 RTS, does not include the legal representatives acting on behalf of a legal person (as mentioned in Article 22(b)(iii) AMLR)). If this term - "natural person purporting to act on behalf of the customer" - were to include legal representatives acting on behalf of a legal person, this would impose a significant and disproportionate administrative burden on obliged entities. In many cases, legal persons have multiple representatives, which may also change frequently. Systematically obtaining and verifying also nationality information for all such representatives (particularly if this would be required in all cases and irrespective of risk) would go beyond what is reasonably necessary for AML/CFT purposes and is inconsistent with a risk-based approach of the RTS.

Article 6

According to **Article 6, par. 3,** obliged entities shall take "reasonable steps" to ensure the authenticity of the documents collected for the purpose of identification and verification of the client. Therefore, it should be clarified in the considerations how the criterium of "reasonable steps" should be interpreted. It should clarify that "reasonable steps" do not imply for example technical or forensic verification of document authenticity beyond the capabilities of (non-financial) obliged entities. It should be specified that, for independent legal professionals, this obligation is limited to plausibility checks based on apparent validity and internal consistency of the documents provided. Lawyers lack the tools, forensic expertise and institutional role required to conduct technical, forensic or investigative verification of such documents.

Art. 6 par. 4 requires obliged entities that they understand the content of foreign-language documents used for identification and verification purposes, without clarifying the acceptable level or method of translation. It should be clarified that the use of machine translations or non-certified translations is permissible where sufficient to understand the content for ML/TF purposes unless inaccuracies could materially affect the risk assessment.

Across Article 6 RTS, the RTS should explicitly allow reliance on reliable and independent sources in line with Article 22(6)(a) AMLR, and provide non-exhaustive examples.

Furthermore, the obligation to systematically obtain and verify documents for identification purposes should not be interpreted in a manner that conflicts with legal professional privilege/professional secrecy. Legal professionals may, in certain circumstances, be limited in what information or documents they may request or retain without infringing client rights or procedural safeguards.

In face-to-face context, Article 6, par. 5 requires systematic collection of the original ID document, or a certified copy thereof, or resorting to verification measures detailed by Article 7 for non face-to-face context (i.e. which, we understand, results in getting a copy of an ID document through eIDAS-compliant tools, or through other electronic tools meeting the conditions detailed by Article 7, §3-4). As previously noted by the CCBE, the requirement of collecting the original or (certified) copy of documents as well as the extensive conditions provided by Article 7, § 3-4 notably in terms of technological features is not aligned with a risk-based approach and consequently creates unnecessary administrative burden and additional costs. More flexible approach could be upheld on a risk-based approach, e.g. in case of proxyholders of low-risk customers (such as regulated or listed entities), relying on a simple letter detailing the minimum identification data should be sufficient. In other cases, a letter detailing the minimum identification data should be acceptable if issued by professionals being themselves subject to AML/KYC obligations and considered, on a risk-based approach, as reliable, such as, for instance, a notary, a qualified lawyer, a registered accountant or any other persons that are authorised as equivalent to a notary for document certification purposes.

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Reference should be made in **Article 6 par. 5** to "where relevant the acquisition of information from reliable and independent sources", in accordance with Article 22(6)(a) AMLR, and it should be made clear that these means can be used instead of obtaining a passport or equivalent, in particular for beneficial owners and for natural persons purporting to act on behalf of a customer (see in this respect also the comment above under 5 on the scope of 'natural persons to act on behalf', e.g. when these natural persons are named in official documents such as excerpts from public registers, it is not clear what would be gained for AML/CTF purposes if verification would apply in accordance with Article 6(5) RTS).

Articles 7- 10 (in one box)

Article 7

Regarding Article 7 (remote verification) (but also Article 8 on reliable/independent sources), AMLA should provide clearer, outcome-focused expectations that remain achievable for small firms, including when using third-party solutions and when evidencing compliance to competent authorities.

Article 7(1) establishes eIDAS-compliant electronic identification means as the primary verification method for non-face-to-face situations. Article 7(2) permits remote solutions only "*in cases where the solution described in paragraph 1 is not available, or cannot reasonably be expected to be provided.*" Article 7(4) further requires obliged entities to "justify why the customer could not be verified through the means referred to under Article 22(6) of Regulation (EU) 2024/1624." eIDAS-compliant solutions should however be merely recognised as a preferred — rather than primary — verification method, with obliged entities retaining the discretion to use equivalent remote tools where appropriate. Indeed, the introduced hierarchy privileging eIDAS, reinforced by the justification required under Article 7(4), is disproportionate and fall short of any risk-based approach principle.

It should be clarified that reliable and independent sources of information according to the criteria set out in Article 7 may replace any documents required for the verification of the identity of the person. This follows from Article 22(6)(a) AMLR which allows the use of such documents. It can occur that a lawyer cannot obtain some documents and in these cases, they should be able to rely on other sources.

Article 7(3a) of the RTS should consistently cover both customers and persons purporting to act on behalf of the customer (in line with Article 22 (6) of the AMLR).

Requirements such as full recording of video sessions (disproportionate), time-stamping, and confirmation that documents are "valid and up-to-date" should be framed as reasonable efforts, not technical guarantees. Proportionate alternatives (e.g. screenshots of video sessions or file notes) should be explicitly permitted. Especially to facilitate compliance by smaller law firms and to mitigate the administrative burden and (costs of) data storage.

Article 8

Article 28 AMLR states that the RTS shall specify the reliable and independent sources of information that may be used to verify the identification data of natural or legal persons for the purposes of Article 22(6) and (7). Article 8 RTS does not fulfil the mandate of Article 28 AMLR, as it does not specify which sources may be used, only how they should be assessed. As already commented on Article 6 RTS, that Article does not seem to allow the use of other reliable and independent sources. The combination of Articles 6, 7 and 8 RTS leaves no room for risk-sensitive measures.

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The criterion referring to the "ease with which information can be forged" is unclear and unrealistic for obliged entities to verify.

Article 9

Article 22(3) AMLR on the use of virtual IBAN is applicable to credit institutions and financial institutions. Article 9 RTS refers to 'obliged entities' in general. This may lead to confusion and it is therefore suggested to change 'obliged entities' into 'credit institutions and financial institutions'.

Article 10

Clarification is needed as to who qualifies as "persons authorised for certification purposes" (Article 10 (sub b iv) RTS).

Art 10 (b): Alternatives as listed herein are practical, however, it should be clarified how these can be used for verification purposes with respect to nationalities of the beneficial owner or if not, what other sources may be used for verification of the nationality/nationalities of the beneficial owner.

Art 10 (b) (iii): It is suggested to allow 'bank statements' (issued by credit or financial institutions as defined in Article 3, paragraphs (1) and (2), of Regulation (EU) 2024/1624) as third-party source. Bank statements are often used as (extra) source to verify information on natural persons.

Articles 11-12 (in one box)

Article 11

The requirement to obtain a "comprehensive understanding" (as included in 11 (1) RTS) goes beyond Article 20 AMLR and should be aligned with the AMLR wording (requiring (simple) understanding of the ownership and control structure of the customer).

Provisions requiring a "comprehensive understanding" (Art. 11 par. 1 RTS) of ownership and control structures and an assessment of their "economic, legal or other rationale" (Art. 11 par. 4 (b) RTS) transforming lawyers into de facto investigators or auditors of their own clients. It should be clarified that lawyers are not required to independently verify or substantively assess the economic legitimacy of client structures beyond identifying ML/TF risk indicators apparent in the course of the mandate.

Article 11 (2b under i) requires the collection of information on how control is expressed and exercised. To qualify as a beneficial owner, the possibility to exercise control is sufficient (see Article 53 AMLR), so in many cases there may not be information available on the exercise of control. Moreover, the 'expression' of control is not a term used in the AMLR and it remains unclear what is meant by it.

Article 11 (2b under ii): It is suggested to specify what information on the regulated market needs to be obtained.

Article 11 (3d) RTS: There seems to be a typo - 'shares of interest' should be 'shares or interest'.

Article 12

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It is suggested to add a sentence confirming that the definition is a trigger, not a ceiling (i.e., other risk indicators may justify treating a structure as complex even if the definition is not met).

With respect to Articles 11 and 12 regarding understanding the ownership and control structure of a customer, CCBE welcomes the amendments provided to Article 12 pursuant to which the threshold was raised from two layers to three layers and now requires more than one cumulative condition (rather than one only) to be met before a structure is treated as complex. However, the CCBE wishes to reiterate its previous following comments:

- the presence of several layers does not necessarily result in a customer or an entity being considered as riskier or complex. The scope and extent of the information and supporting documentation, as the case may be, to be gathered with respect to each entity involved in the ownership structure of the customer should be determined on a risk-based approach;
- accordingly, the assessment of a given ownership structure should be done on a case-by-case basis, instead of being based on mandatory criteria, such as those provided under Article 12 of the draft RTS.

The question arises how are Article 12 RTS and Annex III AMLR related? What is the difference between complex corporate structures (Article 12 RTS) and unusual or excessively complex corporate structures (Annex III AMLR) and why is this difference made? It would be better to stick to a risk-based assessment. For example: In (Dutch) corporate structures, 3 layers with a foundation (Stichting Administratiekantoor) is quite commonly used and not necessarily considered a complex structure.

Art 12 (2): An organigram is not “additional information” but typically the starting point of any CDD.

Art 12 (3): It is suggested to delete this sub-paragraph: obliged entities should always take risk-sensitive measures to satisfy themselves that the information obtained is accurate.

Articles 13-16 (in one box)

Article 13

Article 13 RTS (like Article 22 AMLR) lacks a (further clarifying) definition of SMO. The CCBE would suggest to limit this definition to the executive members of the management body. This comment is also linked to the point below with respect to verification measures - a broader definition of SMO (including not only the executive members but also managers responsible for day to day management) will often lead to very large groups of SMOs per legal entity - verifying their identity would lead to severe administrative burden and is not considered proportionate or feasible.

Article 13 (b) RTS: Verification requirements for the identity of SMOs should not exceed the AMLR and should reflect their generally lower ML/TF risk compared to beneficial owners.

The CCBE welcomes the possibility newly provided to obtain the address of the registered office of the legal entity instead of the SMO’s residential address and country of residence. However, the article continues to require collecting the same information for SMOs as for beneficial owners and verifying their identity "*in the same way as they would for beneficial owners*," which does not reflect the different risk profile of these two categories. Indeed, as previously commented, the ML/TF risk linked to a SMO is generally low as a SMO may be, and often is, simply an employee in an entity and does not normally have a personal financial interest in the transactions / services sought from the obliged entity, and/or may not have control by other means in the entity. It is important to focus on the real risk and stick to the

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follow the money principle. As a result, the verification of the identity of SMOs should occur on a risk-based approach, notably taking into account their actual involvement in the transactions / services.

In addition to this it should be recognised that, in practice, independent legal professionals often have no direct interaction with SMOs, who are not clients and may not be publicly registered. In low- and standard-risk cases, legal professionals should therefore be permitted to rely on information provided by the client, including corporate documentation or written representations, with verification or escalation required only where inconsistencies, implausibilities or risk indicators arise.

Article 14

Article 14(1)(b) RTS appears redundant in light of Article 76(2) AMLR.

Article 15

Article 15(2) RTS should, consistent with Article 14 RTS, explicitly require timely updates when discretionary powers are exercised.

Article 16

The RTS should clarify that verifying authorisation (see Article 20 (1i) AMLR) does not necessarily require a formal written power of attorney. Functional authority (e.g. acting by virtue of role or position, lacking a written power of authority) should be sufficient where appropriate.

Articles 18-21 (in one box)

Article 18

In **Article 18** (purpose and intended nature of the business relationship / occasional transaction), an explicit clarification should be added that the information items in Article 18 are to be obtained only where necessary and proportionately, taking account of the nature of the service and the stage of the matter.

While the repeated use of “where necessary” preserves flexibility, clarification is needed that these elements are supplementary risk-based measures, not default requirements.

Article 20

Article 20 (1) lists the minimum requirements for customer identification in situation of low-risk for natural persons and legal entities. Unlike Article 6 (5), it does not specify any documents required to verify this information. Our understanding is that recital (4) applies, i.e., that the obliged entity must take a risk-based approach to verify the information using reliable and independent sources. For natural persons, these include, but are not limited to, those specified in Article 6 (5). If another interpretation was intended and Art. 6 (5) was meant to also apply for natural persons in low-risk situations, we suggest that simplified due diligence measures apply at least when a person acts on behalf of a customer that is a legal person, and the acting person is named in official documents available for the customer,

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such as excerpts from a public register. In these cases, it is not clear what can be gained in an AML/CTF context by verifying the information in the way described in Article 6 (5).

It should be clarified whether the "person purporting to act on behalf of the customer" (Article 20 RTS) also includes legal representatives of a legal person. If not, what information is to be collected on the legal representative of a legal person in case of simplified CDD?

Article 21

If we understand correctly that article 20 of the RTS does not relate to BOs/SMOs, it should be specified in this Article 21 RTS which minimum information of the BO/SMO should be collected in low-risk situations. Given the risk-based approach, we expect that less information is required than mentioned in Article 62(1)(a) AMLR.

The CCBE does not understand why (according to Article 22 (2) RTS) the information contained in the central register, business or company register cannot be used for verification, since 'public registers other than the central registers' (such as the company register) are mentioned in Article 22(7) AMLR as a source of verification. For example, in the Netherlands, the company register is a reliable source to verify 100% BO's and SMOs.

Article 22

The proposed Art 22 (a) makes the use of pooled accounts for lawyers impossible. Moreover, it conflicts with legal professional privilege / professional secrecy (hereinafter "LPP/PS").

LPP/PS is specifically protected under Article 8 of the European Convention on Human Rights and Article 7 of the Charter. As elaborated in the case law of the ECtHR and the CJEU (cf. ECtHR, 6 December 2012, Michaud v. France; ECtHR, 9 April 2019, Altay v. Turkey; CJEU, 8 December 2022, C-694/20; CJEU, 29 July 2024, C-623/22; CJEU, 26 September 2024, C-432/23), LPP covers both representation in court and legal advice. Thus, a lawyer cannot in principle disclose his or her clients to third parties. The obligation for lawyers in activities not covered by the AML regime and regardless of the risk to immediately and at all times provide information and documents to credit institutions on the latter's mere request, would amount to a disproportionate and unjustified interference with LPP/PS.

Pooled accounts are indispensable for daily operations for lawyers, as the following examples show:

1) Payment of Self Assessed Taxes

In certain cases (e.g. assignments, settlements, lease agreements), fees or self-assessed taxes are paid into the lawyer's pooled account. The lawyer calculates the fee or tax and forwards the amounts to the tax authority or court. The pooled account ensures proper segregation and traceability.

2) Debt Collection and Enforcement Proceedings

In debt recovery matters, debtors pay outstanding amounts into the lawyer's pooled account. The lawyer allocates payments to principal, interest, costs and expenses. Client funds remain clearly separated from the lawyer's own assets. Amounts are often only very small.

3) Damages Claims Arising from Traffic Accidents or Personal Injury

After settlement negotiations, insurers transfer the compensation and legal fees to the claimant's lawyer. The lawyer uses the pooled account to settle third party claims, such as repair costs etc. The remaining amount is paid out to the client.

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4) Settlement Payments and Recoverable Legal Costs in Civil Litigation

Settlement amounts or awarded cost refunds are frequently paid to a lawyer's pooled account. The lawyer distributes the funds in accordance with the settlement agreement or court decision. This is particularly useful in multiparty proceedings, such as class actions.

These for examples do not fall within the scope of AML/CFT provisions (Article 3(3)(b) AMLR). The lawyer is under no legal obligation to carry out CDD/KYC. However, according to the wording of Article 22(a) RTS on CDD, the lawyer would be required to identifying and verifying the identity of the client according to Article 20(1)(h) AMLR. Lawyers can only provide this information if they have established and verified the "identity of the natural person" in accordance with Article 20(1)(h). Outside of the financial and real estate transactions mentioned in Article 3(3)(b), and moreover below the thresholds set out in Article 19(1) (EUR 10,000), lawyers are not required to collect this information, as these transactions do not fall within the scope of the Regulation.

Collecting such information would be practically unmanageable, as it would have to be done for almost every client and would involve a full identification process. The requirement is neither covered by the wording nor the purpose of the AMLR: The application to lawyers was deliberately limited to the scope of Article 3(3)(b). Furthermore, the purpose of this information is limited, since depositors are usually not clients but often the opposing party.

Replacing pooled accounts with direct payments to clients is not feasible, as clients are generally unable to monitor payment deadlines, calculate interest, etc. In addition, fee payments and payments from opposing parties often arrive mixed and must first be separated, which clients cannot handle themselves.

The problem is not specific the legal profession. Pooled accounts are operated for example by schools (for the purpose of collecting small amounts for expenses) or by property managers who manage operating costs. Moreover, Article 19 AMLR establishes thresholds for CDD obligations that must be observed also within Article 22 RTS.

Drafting proposal:

"Article 22 - …

(a) the credit institution is satisfied that

(i) the funds are not related to activities that fall within the scope of the obligations of Regulation (EU) 2024/1624, in particular its Article 3 and Article 19 or

(ii) the account holder will provide the information and documents required pursuant to Article 20(1)(h) of Regulation (EU) 2024/1624 in relation to clients for whom it administers their funds, immediately after such request has been made by the credit institution;"

The term "relationship" in Article 22(d) RTS should be clarified (bank–account holder vs. account holder–client).

Articles 23-29 (in one box)

Article 23

Article 23 RTS largely duplicates Article 33(5) AMLR and introduces additional obligations for low-risk relationships. Deletion or alignment is recommended.

Article 24

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Please clarify that source of funds information should not be treated as a standard element of simplified due diligence, but only where specifically justified on a risk-based approach.

Article 25

Articles 25 to 28 prescribe mandatory enhanced due diligence measures that prevent entities from tailoring their approach to the specific risk profile. The CCBE notes that these articles were amended to provide that at least one information (from the items listed in these Articles) is to be gathered / assessed, while the EBA draft initially required all of these items. While CCBE welcomes this update as more reflective of a risk-based approach, the CCBE remains of the view that imposing any such measures to the obliged entities prevents them from applying their own risk-based approach, on a case-by-case basis, and, conversely, results in a "tick the box" exercise.

Article 25 RTS introduces concepts and criteria that are not defined in the AMLR, in particular the reference to "close relationships known to the obliged entity or publicly known". This appears to introduce a new and open-ended category that goes beyond the AMLR concepts of family members and known close associates.

The provision should be aligned more closely with the AMLR by limiting additional information to clearly defined risk factors and by avoiding vague or new terms that create legal uncertainty and disproportionate investigative expectations for non-financial obliged entities.

Article 26

Article 26 RTS appears to impose stand-alone verification obligations (e.g. confirming that information is "accurate") without clarifying whether this differs from the general CDD obligation to assess consistency and plausibility. It is unclear why such explicit verification language is included for specific elements only.

In addition, the requirement to assess the "destination of funds" is insufficiently defined and could lead to overly broad and impractical assessments, particularly for legal services. The article should clarify that the focus is on consistency with the customer's activities and risk profile, not on exhaustive tracing of downstream fund flows.

Article 27

Article 27 RTS appears to introduce a new standard by requiring information that must "satisfy" the obliged entity that the source of funds or source of wealth is lawful. This wording risks shifting the obligation from risk-based assessment to an outcome-based burden of proof that is not foreseen in the AMLR.

The article should be reframed to clarify that additional information can be obtained where necessary, which *may consist of* the listed elements, rather than imposing a qualitative sufficiency test.

Furthermore, references to source of funds and source of wealth should consistently be framed as "and/or, as applicable".

Article 28

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Article 28 RTS adds further requirements without providing the same level of practical guidance as Article 27 RTS. In particular, subparagraphs (a), (b) and (c) lack concrete examples of what information may reasonably be obtained.

Certain elements, such as assessing transaction patterns or evaluating whether third-country customer due diligence standards are equivalent, are primarily designed for financial institutions and are not appropriate for legal professionals and other DNFBPs. The RTS should clarify this distinction and avoid extending operational expectations beyond what follows from Article 34(4f) AMLR.

Article 28 (a) RTS - reference to 'institution' should be 'obliged entity'.

Article 29

It is suggested to delete '*Where there is a suspicion…whether the person acting on behalf of the customer is subject to targeted financial sanctions*'. This introduces a new requirement on top of screening of financial sanctions as set out in Article 20(1)(d) AMLR.

Again, it is not clear if the person acting on behalf of the customer also includes the legal representative of a legal entity as client.

Articles 30 – 33 (in one box)

Article 30

Regarding **Article 30** (Screening requirements), CCBE notes that Article 30(c)(ii) still requires all *obliged entities* to perform screening against TFS lists "*when there is a change in any of the existing designations, or a new designation is made pursuant to Article 26(4) of Regulation (EU) 2024/1624*". However, as previously commented, the corresponding provision in Article 26(4) of the AMLR clearly limits this specific requirement to credit institutions and financial institutions. Article 30(c)(ii) RTS may not impose requirements exceeding those of the AMLR and, accordingly, shall be amended to reflect the scope intended by the AMLR, limiting the obligation to perform screening upon new designations of targeted financial sanctions to **credit institutions and financial institutions only**, in line with Article 26(4) of AMLR.

With respect to Article 30(a), iii., it may be noted that this Article requires systematic screening, of:

- "*any other names, aliases or trade names where they differ from the registered name*";
- *"digital wallet address, where available in the lists of targeted financial sanctions".*

The obligation to screen this information shall be strictly limited to cases where this information is otherwise held in the KYC file, to the extent in line with the risk-based approach applied by the obliged entity, and relevant to the activities / services provided under the business relationship with the customer.

Article 30

Article 30(c) (ii) RTS should be aligned with Article 26(4) AMLR and limited to financial and credit institutions.

Article 30(c) (iii) RTS either to be limited to financial and credit institutions in line with the point under (ii) above. Alternatively, suggest to further clarify or specify terms used such as

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significant change, and clarify or delete last part of this sentence referring to 'which may have a potential impact on the designation as a listed person, body or entity'.

Article 32

Provisions stating that obliged entities may apply stricter measures (such as Article 32 (2 and 4) RTS) are redundant and could be deleted, as this already follows from the risk-based approach.

Article 33

The second paragraph of Article 33 RTS should probably refer to the 'obliged entity', not the 'customer'.

Clarification is also needed on alignment with the AMLR application date, e.g. shouldn't the RTS also enter into force on 10 July 2027?

Question: Do you have any comments on the recitals? The recitals are the statements at the start of the draft RTS and are numbered from (1) to (25).

Yes

No

(If yes) Please specify which recital you refer to, and share your comments below.

Question: Do you have any comments on the Annex in the draft RTS?

Yes

No

(If yes) Please share your comments below.

Overall assessment

*** Question:** How would you rate the proposals set out in the draft RTS overall?

Inadequate

Somewhat inadequate

Neutral

Good

Excellent

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