Vers 15.06.2026

CCBE response to the AMLA public consultation on

Draft Regulatory Technical Standards on group-wide requirements under article 16(4) of Regulation EU 2024/1624 and on additional measures on branches and subsidiaries in third countries under article 17(3) of Regulation EU 2024/1624

Public consultation questions

Section 1 - General provisions (articles 1 - 2)

Question 1

Do you have any observations concerning the definitions laid out in article 2

These RTS are meant to apply to groups (being very broadly defined by ref. to Art. 2.1 (41) of the AMLR) and are intended to cover (beyond corporate structures) networks and other contractual arrangements that result in shared ownership, management, or compliance functions. In view of this broad definition, we believe that a (limited) number of EU/EEA law firms might fall under these rules.

In practice, most lawyers do not work in large structures. Only for some large international firms, a parent/subsidiary relationship is in theory possible. Deontological rules of some countries prevent such structures, while in others, they may allow common services in large firms, such as marketing, IT and some control functions.

From among the structures covered by the RTS, while “groups” are less common, cooperation amongst law firms may fall under the definitions of “network” or “partnership”.

The definition of “network” in Art.2(3) RTS is very wide, notably referring to “a common brand or marketing name” and “common management” only. The same “brand or name” does not mean that any functions are shared. Often, lawyers join “networks” that only consist of lawyers’ conferences, a website to assist referrals and a common brand. Such “networks” have a common management in the sense of a common organization in order to keep the “network” alive. Such a network does not integrate any functions for common daily operations, but still it seems to be covered by the definition. Networks do not have a “parent undertaking”. Even more important, in such a network, information cannot be shared as legal professional privilege/professional secrecy applies.

This definition must therefore be reduced to networks with common ownership AND common compliance functions

International law firm networks are generally based on voluntary cooperation and consensus and lack hierarchical governance structures or legal mechanisms enabling one entity to impose binding instructions on another. Hence, networks should not be treated in the same way as corporate groups.

The definition of “partnership” in Art.2(4) RTS seems to be narrower than “network”. Still, the broad criterion of a “common purpose” is not distinctive, as a common purpose is very often met (e.g. lawyers share a common purpose to defend the rule of law).

This definition too must be reduced to partnerships with common ownership AND common compliance functions and, if applicable, the related obligation to share information within the structure shall be at all times qualified by applicable rules in terms of legal professional privilege/professional secrecy.

Moreover, the RTS contain dissonances with FATF Recommendations 18 and 23 whose explanatory memorandum explains: "*Based on their understanding of their ML/TF risks, countries should determine in which cases 'other DNFBP structures' could better mitigate their ML/TF risks by applying group wide programmes and ensure that any requirements to this effect are practical and relevant to the goal of improving the effectiveness of AML systems*." The RTS do not follow the same spirit of effectiveness – to apply rules to cases where they would allow to better mitigate ML/TF risks.

We recommend adding a clause that reflects FATF position:

"These RTS are not intended to impact sole traders or other independently operating businesses or professionals."

More generally, in some respects, the provisions of RTS:

-Seem in contrast with the risk-based approach: the risk of a law firm/lawyer may vary depending on the EU/EEA jurisdiction where it is established, and on the activities it undertakes. Accordingly, efficient mitigation of ML/TF risks requires a local anchoring of related controls, including AML framework. However, this RTS would result in the "delocalization" of such a framework at the level of the parent undertaking, thus possibly entailing that local "group" entities would be subject, at "group" level, to decisions/policies that may not necessarily be appropriate or proportionate, nor as strict as those currently in place at the level of their own state;

-Can undermine the decision to entrust SRBs with the supervision of lawyers to guarantee their independence: according to the directive, States may entrust supervision to SRBs. The supervision of lawyers is in many cases explicitly entrusted to the bars as SRBs to ensure the independence of the profession from undue state influence. If according to this draft RTS, a law firm is locally subject to AML supervision by an SRB and has a "parent undertaking" subject to a state supervision system, this can cause tension with the safeguards for the independence of the profession, a part of the rule of law architecture, in the first State. While SRBs can of course very well cooperate with both other SRBs and state supervisors, it has to be ensured that this cooperation does not undermine the sole competence of the SRB in matters regarding lawyers which they supervise.

Section 2 - Minimum group-wide requirements (article 3)

Question 2

Do you find the minimum requirements listed in article 3 of the draft RTS related to internal policies, procedures and controls sufficient and clear?
If not, could you please indicate which other requirements, or further clarification, you think should be added and/or revised?

The group-wide policies should only apply when proportionate and justified according to a risk-based assessment. Moreover, it should be made clear that the requirements only apply to groups, and, when applied by other structures such as networks and partnerships, shall follow a risk-based approach and, in any case, shall not be implemented if contradicting rules on e.g. legal professional privilege/professional secrecy, or independence of the legal profession.

Several provisions under Article 3 conflict with the independence and confidentiality rules applicable to lawyers, such as:

- Art.3,1.(a), requiring to set up, at group level, an "*organisation and coordination structure or body […] with sufficient decision-making powers*", and, relatedly, requiring the group compliance manager and compliance officer to be in position to "*manage and prevent*" ML/TF risks;
- Art.3,1.(b), requiring flow of "*necessary information at group level*";
- Art.3,1.(e), requiring group compliance functions to have "*regular and documented information exchanges*";
- Art.3,1.(g), requiring group compliance functions to review the effectiveness of the group-wide policies, procedures and controls, and that such policies, procedures and controls and the group-wide risk assessments shall be "*adequately*" reviewed at the level of the parent undertaking.

These provisions, and their imprecision, might result in group structures/positions having access to information / documentation protected by confidentiality rules, and imposing policies / instructions to group entities conflicting with the independence that lawyers shall observe when providing services.

Therefore, in some respects, the current provisions of this RTS seem to:

- **constitute a risk to the protection of professional secrecy**: See also the list of information (including information on customer) to be shared under Section 3 of the draft RTS;

- **violate the principle of independence**: Article 3 of the draft RTS, vesting the AML/CFT compliance function at group level with certain prerogatives and access to information. In practice, some law firms may lose their independence in the choice of the most competent compliance functions, which is certainly not in line with the need to have an adequate internal organization.

The generality of this Article should thus be limited through an additional paragraph taking into account the specificities of lawyers, e.g. along the following lines:

> *The provisions of this article shall apply to independent legal professionals only to the extent that they are compatible with fundamental rights under Union law and the European Convention on Human Rights and/or the provisions of national laws governing the access to or the exercise of the profession.*

Moreover, a number of specific requirements go in our opinion beyond Art. 16 AMLR, including the obligation to establish a dedicated 'organisation and coordination structure or body at group level' (Art. 3(a)) with 'sufficient decision-making powers', 'clearly documented reporting lines' and a 'group AML/CFT officer' (Art. 3(b)). These are new and specific obligations without a legal basis in the AMLR.

Section 3 - Information sharing (articles 4 - 9)

Question 3

Do you foresee any operational or legal challenges including challenges related to legal privilege in implementing the provisions related to information sharing within entities of a group? If so, could you please indicate which ones?
Do you foresee any operational or legal challenges in ensuring that information sharing from third countries and to third countries within entities of a group is adequate to regulatory standards in the Union? Do you have any suggestion that would make it better suited operationally or legally?

5000 character(s) maximum

The mere fact that a lawyer represents a certain client or provides assistance for transactions or other services, is subject to legal privilege, so that any information on clients may only be shared with other entities in very limited circumstances. This is even more applicable as regards the content of the lawyer-client relationship.

Lawyers are usually subject to strict confidentiality rules under the applicable deontological rules. These rules reflect Art. 7 and 47 of the Charter, other principles of EU law such as the rule of law, and the ECHR. Professional secrecy is a fundamental right of clients and part of the effective administration of justice. Any exceptions to legal privilege must respect the Charter, the ECHR, and the jurisprudence of the ECJ and the ECtHR.

In this context, reference is made to the various cases of both the ECtHR (e.g. Michaud v. France) and the CJEU (e.g. Ordre des barreaux francophones, C-305/05).

This Section on information sharing should thus at least be limited through an additional Article taking into account the specificities of lawyers, e.g:

"The provisions of this Section 3 shall apply to independent legal professionals only to the extent that they are compatible with the fundamental rights under Union law and the ECHR and/or the provisions of national laws governing the access to or the exercise of the profession."

Moreover, we suggest adding the following recital acknowledging and safeguarding the specificities of certain obliged entities which may conflict with the sharing of information with other (group/network/partnership) entities:

(XX) "The practice of activities carried out by independent legal professionals is subject to registration with an independent professional body and governed by principles such as independence and confidentiality. The EU AML framework recognises, in line with case law of the European Court of Justice, the particular role played by independent legal professionals in the judicial system, reaffirming in particular certain fundamental rights such as the confidentiality of lawyer-client communication. Also, the Council of Europe Convention for the protection of the Profession of Lawyer highlights, in its preamble section, "the fundamental role that lawyers and their professional associations play in upholding the rule of law, securing access to justice and ensuring the protection of human rights and fundamental freedoms". Independent legal professionals should therefore be subject to this Regulation only if its provisions do not infringe upon (i) these fundamental rights, (ii) the fundamental principles and duties governing the practice of the profession or (iii) the provisions of national laws regulating access to and/or the practice of the profession of independent legal professionals in a Member State of the Union ."

Besides, the consistency of some provisions is doubtful: Art.4(1) and Recital 4 seem to envisage a very broad exchange of information, whereas Art.4(3) and Recital 10 refer to proportionate information sharing on a need-to-know basis.

The use of 'shall' and 'at least' in Art.4(1) makes the provision overly prescriptive and inconsistent with risk-based approach.

Art.4.1.d) (i) states: "unless otherwise instructed by the competent FIU". The filter provided by the President of the Bar in certain States (e.g. Belgium, France and Luxembourg), as part of the reporting mechanism by lawyers, is not taken into account. Therefore, the President of the Bar should also be authorized to issue contrary instructions where such a filter mechanism is in place.

Art. 4, 7 and 10 suggest that customer or beneficial owner consent may be used to overcome legal restrictions on information sharing. This approach is not workable. This effectively requires obliged entities to attempt to circumvent the information-restriction laws of third countries. This creates a direct tension with the sovereignty of those countries and may expose European obliged entities to regulatory or legal liability in the jurisdictions concerned.

Recital 7 provides that information sharing within groups should not lead to an automatic group-wide acceptance or rejection of a customer or categories of customers: this is never applicable to lawyers as contracts are *intuitu personae*.

Recital 23 and Art.8 (Information sharing within partnerships for information sharing) go very far, especially when not all members of the structure are obliged entities. It is not inconceivable that two lawyers might work on the same file, one of whom is obliged and the other not (e.g. in a divorce, one lawyer might handle exclusively personal matters and another the partition of assets). If they form a partnership, with or without legal personality, the AMLA should not be able impose obligations on the lawyer who is not an obliged entity.

The entire section concerning the obligations of parent companies that are not obliged entities is not covered by AMLA's competence.

Section 4 - Additional measures for branches or subsidiaries in third countries of obliged entities and parent undertakings in the Union (articles 10 - 16)

Question 4

Do you foresee any operational or legal challenges in implementing the minimum actions and additional measures required under section 4 of the draft RTS where third-country law restricts the application of group-wide AML/CFT policies, procedures and controls?
If so, please describe the challenges and provide practical examples.

Groups subject to the AMLR that operate e.g. through subsidiaries in third countries may face local legal or regulatory restrictions, such as data protection rules, banking secrecy or limitations on customer information.
In any case, in practice, local rules on legal professional privilege / professional secrecy might not be overruled for AML/CFT purposes, as this will depend on the provisions of applicable foreign law.

Question 5

Do you foresee any challenges in applying the provisions relating to information sharing within the group where third-country law restricts the ability to access, process or exchange information for AML/CFT purposes (article 12 and 13 of the draft RTS)? If so, please explain.

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Question 6

Do you consider the proposed framework for additional supervisory actions (article 16 of the draft RTS) appropriate and workable in practice, including the addressee of supervisory decisions and the feasibility of applying restrictions or closure measures in cross-border structures? If not, please explain.

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Section 5 - Criteria for identifying the parent undertaking in the Union in cases of two or more obliged entities whose head office is located outside of the Union (articles 17 - 20)

Question 7

Do you find the criteria provided in section 5 effective to identify the parent undertaking in the Union in cases where two or more obliged entities not in a parent-subsidiary relationship whose head office is located outside of the Union?
Do you find the criterion of annual turnover applicable in your specific sector?

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Section 6 - Conditions for the application of group-wide requirements to structures sharing common ownership, management or compliance control (articles 21 - 24)

Question 8

Do you find the conditions listed in article 21 sufficiently clear and effective to identify the structures that shall apply requirements similar to groups?
If not, please explain.

Certain items and notions, as used in this Article, lack clarity (thus possibly giving rise to varying interpretations in their implementation, which contravenes the legal certainty that instruments such as RTS are expected to promote), such as e.g.:

- Art.21, 2., (a): "*control*" over activities or entities / structures;
- Art.21, 2., (b)(i): provides that common management applies when entities are "*legally dependent parts*" of an entity, without defining its meaning;
- Art.21, 2., (b)(ii): "*homogeneous*" business strategy or business model;

- Art.21, 2., (b)(ii): refers to a "*common management body*", which might not be a body concerned with operational questions. It should be defined that a common management body only is considered as such, if it does not cope with strategy questions only, but with daily operational questions;
- Art.21, 2., (b)(iii): is not distinctive either, as lawyers might share their profits due to well established practices (e.g. if two lawyers assist the client in the same case, they might share the revenue by half – "collegial half"), which is not distinctive
- Art.21, 2., (c)(iii): "*system of periodic central compliance operations or compliance costs*".

Additionally, the relevance of the criteria linked to "*common compliance control*" may be challenged, bearing in mind that the purpose of this draft RTS is the fight against ML/TF and noting that the related criteria actually go beyond the mere AML/CFT framework. In this context:

- Recital 24 is of concern. It explains how conditions for the qualification of structures that share common ownership, management or compliance control should be designed and it states that "common compliance control should not be limited to compliance under the AML/CFT framework, but include other types of compliance such as prudential, product or service compliance arrangements in place.";
- Art.21, 2., (c)(v) refers to common branding, marketing or franchising arrangements.

Consequently, this recital and this provision should be removed (or at least limited to the prevention of ML/TF) given the purpose of this legislation (i.e. fight against ML/TF – prudential or service compliance thus falling short of its subject matter) and, more generally, because AMLA has no jurisdiction over compliance issues not related to the fight against ML/TF.

Question 9

Do you foresee any legal or operational challenges in implementing the provisions listed in this RTS and in particular by article 21 for the above-mentioned structures? If so, please describe the challenges and provide practical examples.

As noted under answer to question 8 above, certain items are not relevant to the prevention of ML/TF and the lack of clarity of certain items and notions used in this Article could end up in divergences in interpretation and practical implementation.

According to the deontological rules in many EU member states, "common ownership" of law firms is not allowed, as it is potentially in conflict with LPP/PS.

It may be useful to clarify that Article 21 should not extend group-wide requirements to entities established exclusively in third countries merely because they participate in a network arrangement, except where Union branches are concerned.

Question 10

Do you find the criteria listed in article 22 effective to identify the parent undertaking in the Union in cases where two or more obliged entities are part of the above-mentioned structures?
If not, please explain and provide practical examples

It appears from points (a) to (g) of Article 22, 1. of the draft RTS that the identification of the "parent undertaking" is based on vague and undefined criteria, such as:

- Art.22, 1., (b): "*important transactions*";
- Art.22, 1., (c): "*right or ability to coordinate the management*";
- Art.22, 1., (d): "*essential technical information or critical services*";
- Art.22, 1., (e): "*manag[ing] the compliance control or system*";
- Art.22, 1., (f): "*manag[ing] the costs of operational and compliance activities*".

The relevance of criteria such as the development, management distribution or review of branding, marketing, franchising partnership or network arrangement (Art.22, 1., (g)) is also questionable regarding the purpose of this draft RTS.

In addition, Article 22, 2. of the draft RTS provides that, in the absence of identification according to the criteria of Article 22, 1., the entity with the highest total annual turnover will be considered the "parent undertaking". The authority to impose rules at the network level should not be based on the turnover as the risk might be very different from one entity to the other, even in the same network. In the case of obliged entities (such as lawyers) which are subject to AML/CFT obligations for certain activities only, this criterion should at least be limited to the turnover corresponding to these activities. This once again demonstrates a misunderstanding of the risk-based approach, a principle that is the basis of European AML/CFT policy.

Lastly, we note that this Article, when dealing with the parent undertaking to be identified in such capacity, merely refers to "*entity*", and not "obliged entity". We also note that Article 24 provides certain notification requirements to supervisors "*in case the parent undertaking is not an obliged entity*". We therefore understand that the parent undertaking might be an entity which, by itself, might not otherwise be in scope of the AML/CFT legislation. This would result in vesting AML/CFT obligations and prerogatives, at group level, to entities having potentially insufficient and/or non-qualified (technical and human) resources to endorse such role, with limited knowledge and understanding of the ML/TF risks at group level which they are supposed to mitigate. As a result, the "parent undertaking" should at least be an obliged entity, i.e. an entity in principle already equipped to understand and mitigate ML/TF risks considering that it is already subject, at its own level, AML/CFT professional obligations.

Additionally, based on the independence and confidentiality obligations applying to independent legal professionals, as detailed hereabove, and noting that, based on its current drafting, this Article would allow non-obliged entities and non-legal professionals to be the "parent undertaking" of independent legal professionals, this Article should include a broader caveat that the identification of the parent undertaking and the prerogatives vested to it under this draft RTS and AMLR shall not conflict with such independence and confidentiality obligations, e.g. along the following lines:

> *The provisions of this Article 22 shall apply to independent legal professionals only to the extent they are compatible with the fundamental rights under Union law and the ECHR and/or the provisions of national laws governing the access to or the exercise of the profession*.

Regarding Article 23, the draft RTS appear to require notification of a designated parent undertaking and allows supervisors to determine a different parent undertaking. It may be worth questioning whether Articles 16 and 17 AMLR provide a sufficient legal basis for such powers.

Regarding Article 24 (*Notification to the supervisor in case the parent undertaking is not an obliged entity*):

- Article 24, 1., first sentence provides that the notification shall be done by "*the obliged entities of the structures*", while third sentence foresees the case where "*a parent undertaking fails to notify to the supervisor*". This Article should thus be corrected to remedy this inconsistency;

- Article 24, 3. provides that, in case of change in the information previously notified to relevant supervisors by the obliged entities, such obliged entities inform the relevant supervisors "*and the Authority*" (i.e. the AMLA) – while the initial notification under Article 24, 1. shall be addressed only to relevant supervisors. There is therefore no reason to notify AMLA in case of change, such notification to AMLA being rather the responsibility of relevant local supervisors, if applicable.