02.09.2026

CCBE response to the AMLA public consultation on the draft guidelines on ongoing monitoring of a business relationship under Article 26(5) of Regulation (EU) 2024/1624

Question 1: Do you consider that Guideline 1 supports a risk-based approach and clearly sets out the fundamental principles that obliged entities should apply to keep customer information up to date?

Comment 1

Guideline paragraph(s): 1, 4

Justification/Rationale:

The Guidelines fail to take into account that lawyers are obliged entities only in respect of certain specified transactions (so-called "catalogue transactions"). An obligation to monitor business relationships can therefore only exist to the extent that such catalogue transactions give rise to a business relationship.

Recital 12 of the AMLR confirms that independent legal professionals should be subject to the Regulation when participating in financial or corporate transactions, including when providing tax advice, because there is a risk of their services being misused for money laundering or terrorist financing. However, there are exemptions from reporting obligations for information obtained in the context of judicial proceedings or in the course of ascertaining the legal position of a client, as such information is covered by legal privilege.

The Guidelines, by imposing general ongoing monitoring obligations on all obliged entities without distinguishing the specific scope of the obligations applicable to legal professionals, create the misleading impression that lawyers are required to monitor the entirety of their client relationships — including mandates that do not constitute catalogue transactions.

The collection of information and data on, and the monitoring of, client relationships outside the scope of catalogue transactions is incompatible with the principle of professional confidentiality (legal privilege). Furthermore, the sharing of client data and mandate-related information relating to non-catalogue transactions is permissible even within an obliged legal practice entity only on a need-to-know basis, in direct connection with the processing of the mandate in question.

Guideline 1 should clarify that its requirements do not apply where legal services are provided through a single or limited mandate, i.e. on an occasional basis. In this respect, the classification of an engagement as a business relationship or an occasional transaction must be determined in accordance with the AMLR and the applicable regulatory technical standards. Ongoing monitoring should only apply where services are provided in the context of a business relationship (as opposed to services provided on an occasional basis), and the scope and duration of ongoing monitoring should correspond to the nature, duration and AML/CFT risk of the covered relationship.

These guidelines should make clearer the scope of their application to DNFBPs, in particular for lawyers, and recall that they apply only with respect to customers with whom a business relationship exists, cross referring to the (draft) RTS on criteria for identifying business relationships, occasional and linked transactions and lower thresholds under Article 19(9) AMLR.

Proposed amendment:

1) Explicitly acknowledge and address the limited scope of monitoring obligations applicable to legal professionals, making clear that:

- Ongoing monitoring obligations apply only in connection with business relationships established in the context of catalogue transactions;
- Monitoring frameworks must be designed in a manner that is compatible with the applicable rules on professional secrecy and legal privilege; and
- The Guidelines should recognize that internal data sharing within legal practice entities is subject to a strict need-to-know principle tied to the specific mandate.

2) Include in the definitions section, or in paragraph 1, some explanatory wording that the ongoing monitoring required under Guideline 1 applies to clients with whom business relationship exists within the meaning of AMLR and the (draft) RTS on criteria for identifying business relationships, occasional and linked transactions and lower thresholds under Article 19(9) AMLR. The intensity and duration of monitoring should be proportionate to the nature, duration and risk of the covered mandate. Once the business relationship has ended, no further periodic review should be required, without prejudice to applicable record-retention obligations. Moreover, occasional transactions, one-off or isolated enquiries, and preliminary enquiries should be treated in accordance with the AMLR provisions specifically applicable to them and remain subject only to customer due diligence obligations at the time the service is provided, without requiring subsequent periodic reviews or ongoing monitoring in the strict sense.

Comment 2

Guideline paragraph(s): 4

Justification: The guidelines refer not only to transactions but also to the monitoring of “activities, behaviours and events”.

As a preliminary remark, we would like to stress that this provision exceeds the mandate given to AMLA under Article 26(5) AMLR, to the extent referring to the monitoring of **transactions** (as opposed to any other “activities, behaviours and events”) in the context of a business relationship.

Further, we note that the scope of the concepts of “activities, behaviours and events” is not clearly defined. For legal professionals, this could create a risk that ongoing monitoring could be interpreted as extending beyond the specific mandate and into a broader form of client surveillance. Legal professionals, however, typically have access only to information relevant to a specific mandate.

Extending monitoring expectations beyond this scope may lead to obligations that cannot be fulfilled in practice.

Proposed amendment: Removing paragraph 4, to the extent exceeding AMLA's mandate under Article 26(5) AMLR. At least, if not removed, Paragraph 4 must clarify that monitoring should be limited to activities and information that (i) exclusively fall within the scope of the legal engagement and of the services provided by the lawyer in the context of this relationship, (ii) are in scope of AML/CFT due diligence obligations pursuant to AMLR, and (iii) relate only to information reasonably available to the lawyer in the professional context. This would also align with the practical reality that lawyers generally do not have access to, or visibility over, a client's broader activities outside the mandate.

Comment 3

Guideline paragraph(s): 16, 17, 18

Justification: The requirement to reassess expired identity documents does not distinguish between documents whose identification number remains unchanged and documents issued with a new number on renewal. Where the number remains unchanged, expiry alone provides no additional identifying information. Expiry of an identification document should not automatically require collection of a replacement where the customer's identity remains reliably established, the relevant identification data remain current, and no increased-risk factor or doubt concerning the document or the customer's identity has arisen. Whether the document carries a permanent identification number may be relevant (such as the Spanish national identity document), but should not be the sole criterion. Updating the document merely because its validity date has expired provides no additional information relevant to identifying the client and does not improve the effectiveness of sanctions or politically exposed persons (PEP) screening, so requiring a new document to be obtained imposes a disproportionate administrative burden without any appreciable preventive benefit.

Proposed amendment: Clarify in paragraph 17 that expiry alone does not require collection of a replacement document where the obliged entity can establish, on a documented risk-sensitive basis, that the customer's identity remains reliably verified, the relevant identification data have not materially changed, and no other factor listed in paragraph 17 indicates that renewed verification is necessary. The existence of an invariable identification number may be taken into account as one relevant factor.

Comment 4

Guideline paragraph(s): 20, 21(d)

Justification: Paragraph 20 refers, as an example of a periodic review of adjusted depth, to "screening against politically exposed persons (PEP) lists and negative news", and paragraph 21(d) likewise refers to PEP status, family members or close associates. The cost that periodic PEP screening represents for smaller practitioners should be capable of being mitigated through proportionate alternative mechanisms for clients whose risk is not above average.

Proposed amendment: Allow for proportionate alternatives, provided that neither the client nor its transactions present an above-average risk and that no element of the due diligence file may indicate PEP qualification of the client or its related parties.

Comment 5

Guideline paragraph(s): 21(c)

Paragraph 21c) and 22 show that the Guidelines do not distinguish between monitoring obligations for the financial and non-financial sectors. However, the financial sector and the non-financial sector have fundamentally different access to customer / client information.

This problem is particularly acute in the context of paragraph 21(c) of the Guidelines, which lists as a key element of information to be assessed during periodic customer information reviews "an up-to-date understanding of the purpose and intended nature of the business relationship including, where applicable, a clear understanding of the source of funds", and paragraph 22, which states that obliged entities may use transaction or activity history to determine whether the source of funds remains consistent with the customer's expected profile.

Whilst AMLA acknowledges that proportionality should apply to monitoring measures and that obliged entities can determine the tools, methods and processes that best address ML/TF risks associated with the nature, risks and complexity of their business, the Guidelines do not provide adequate sector-specific guidance to assist non-financial sector obliged entities — and in particular legal professionals — in understanding how to apply the prescribed requirements given their limited access to financial information about their clients.

Proposed amendment: Clarify how to apply the prescribed requirements given the limited access of the non-financial sector entities to financial information about their clients.

Comment 6

Guideline paragraph: 20

Justification: The second sentence of paragraph 20 limits the ability to adjust the depth and intensity of periodic reviews to low-risk customers. That is difficult to reconcile with paragraph 19, which states as a general rule that depth and intensity should follow a risk-based approach, and paragraph 2 (reflecting Article 26(2) AMLR) distinguishes only between higher-risk customers and all others. The effect is that a standard-risk customer must be reviewed with the same depth and intensity as a higher-risk one, even where the same activity continues unchanged and no trigger event has occurred. The factors in paragraph 20(a) to (e), in particular the duty to review without delay where a trigger event or new activity arises, already prevent the adjustment from being applied where risk indicators are present, and they apply irrespective of the customer's risk category.

Proposed amendment: In the second sentence of paragraph 20, replace "for low-risk customers" with "for customers that do not present a high risk", so that the possibility of adjusting the depth and intensity of periodic reviews is available in respect of all customers other than those classified as higher risk, subject to the factors listed in paragraph 20(a) to (e).

Question 2: Do you foresee any difficulties in applying Guideline 1, taking into account differences in the nature of obliged entities, the risks and complexity of their business, and their size?

Comment 1

Guideline paragraph(s): 1, 4, 9, 10

Justification: The very notion of ongoing monitoring presupposes a business relationship with the client, within which transactions or activities occur over time. These guidelines should make clearer the scope of their application to DNFBPs, in particular for lawyers, and recall that they apply only with respect to customers with whom a business relationship exists, in accordance with the AMLR and the applicable regulatory technical standards.

Proposed amendment: Clarify that the classification of legal engagements as business relationships or occasional transactions is to be determined in accordance with the AMLR and the applicable regulatory technical standards, cross referring to the (draft) RTS on criteria for identifying business relationships, occasional and linked transactions and lower thresholds under Article 19(9) AMLR. Where a legal engagement constitutes a business relationship, the nature, intensity and duration of ongoing monitoring should be proportionate to the nature, duration and risk of the covered mandate. Periodic reviews should cease when the business relationship has ended, without prejudice to applicable record-retention obligations.

Comment 2

Guideline paragraph(s): 28, 29

Justification: Paragraphs 28 and 29 suggest the possibility of using automated or semi-automated systems, as well as external sources and list screening, to detect trigger events. For small professional law firms, or single practitioners, which in the vast majority of cases lack technological tools and a volume of business that would justify their implementation, the reasonable way of detecting trigger events is manual review based on the lawyer's direct knowledge of the client. The CCBE welcomes that this possibility is maintained in the draft. Small firms should not be required to carry out continuous automated screening of PEP, sanctions or adverse media lists across their entire client base irrespective of the risk, nature and activity of the relevant business relationships. For many legal practices, trigger events can be identified effectively through the information obtained in the ordinary course of the covered mandate, direct knowledge of the client and proportionate checks at appropriate review points.

Proposed amendment: The wording in paragraph 28 could be strengthened so that it is clear that manual controls based on information obtained in the ordinary course of the covered mandate and direct knowledge of the client may constitute a proportionate and sufficient method for detecting trigger events, having regard to the size and business model of the obliged entity and the number, nature and risk of its covered mandates. The Guidelines should not imply a general requirement for small legal practices to conduct continuous automated screening of their entire client base, without prejudice to checks required by applicable law or justified by identified risks or trigger events.

The reference to changes of professional service providers as a trigger event should also be narrowed to 'frequent, unexplained or otherwise risk-relevant changes of professional service providers, when considered together with other indicators', so that ordinary client behaviours are not over-captured.

Comment 3

Guideline paragraph(s): 29(f)

Justification: Paragraph 29(f) suggests, from among the elements to identify events or circumstances that trigger a review, the "*use of information shared among entities belonging to the same group*". This should be strictly qualified by the application of professional secrecy rule / LPP which might restrict or prohibit such information sharing.

It should also be clarified that, with reference to Article 26 par. 1, al. 3 of AMLR, and noting the reference in this Article to taking into account, for the purpose of the monitoring of a business relationship, that the customer of a given obliged entity may have with other group entities, including non-obliged entities, this obligation would be deemed fulfilled through mere and appropriate exchange of information (to the extent not prevented by professional secrecy / LPP rules), without imposing any due diligence or ongoing monitoring on non-obliged entities.

Proposed amendment: Clarify in paragraph 29(f) that information sharing is "*subject to applicable requirements in terms of professional secrecy / legal professional privilege*".

Comment 4

Guideline paragraphs: 30–33

Justification: Paragraph 30 states that, pursuant to Articles 20, 21 and 26 AMLR, an obliged entity unable to keep customer information up to date "shall refrain from carrying out transactions and shall terminate the business relationship". That reproduces Article 21(1) but omits Article 21(2), under which paragraph 1 does not apply to notaries, lawyers and other independent legal professionals to the extent that they ascertain the legal position of their client or defend or represent that client in, or concerning, judicial proceedings, including advice on instituting or avoiding such proceedings, subject to points (a) to (c) of that provision. Section 2.5 makes no reference to this exemption, although paragraph 33 expressly reflects Directive 2014/92/EU and Article 21(3).

Moreover, for legal professionals, the proportionate response to missing updated information may concern a particular matter, payment or instruction rather than every aspect of the client relationship.

Finally, Article 26(5) AMLR does not provide AMLA with a mandate to set out in the Guidelines the consequences that apply where an obliged entity does not receive the required information from its customers. Whilst Article 26(1) and (2) AMLR establish the substantive ongoing monitoring obligations, Article 26(5) AMLR specifically confers upon AMLA only the power to issue guidelines on how ongoing monitoring is to be performed. The determination of legal consequences — such as an obligation to terminate the business relationship or to suspend services — is a matter of substantive law already regulated directly by the AMLR and falls outside the scope of AMLA's guidelines mandate under Article 26(5).

Proposed amendment: Section 2.5 (paragraphs 30–33) should be deleted from the Guidelines, or alternatively recast so as merely to cross-reference the directly applicable requirements of Articles 20, 21 and 26 of the AMLR, without imposing additional obligations or purporting to regulate the legal consequences of a failure to obtain updated customer information.

If retained, add to Section 2.5 an express statement that paragraphs 30 to 32 apply without prejudice to Article 21(2) AMLR, and that where that provision applies the obliged entity records its efforts and decisions in accordance with Article 21(3) and may apply alternative mitigating measures instead of termination.

In addition, clarify that an obliged entity may, where it sufficiently mitigates the identified risk, pause the relevant matter, decline to process client money, or restrict, suspend or refuse the relevant instruction while seeking the missing information, before terminating the entire business relationship.

Comment 5

Guideline paragraph(s): 32

Justification: Paragraph 32 provides that the relationship should be terminated where the obliged entity is “ultimately” unable to comply with its due diligence obligations. The meaning of “ultimately” in this context is unclear – the guidelines should clarify that, depending on the obliged entity’s RBA and knowledge of relevant customer, this should be considered in terms e.g. of number of (unfruitful) attempts to reach out to the customer, and/or length of time that the KYC file remain incomplete.

Paragraph 32 further requires obliged entities to “make every effort” to obtain and update relevant KYC documents. Such intensity in the obligation to gather KYC documents appears incompatible with the fact that, ultimately, their collection remains, in practice, dependent on the willingness of a third party to provide them.

Proposed amendment: Amend paragraph 32:

- to provide that obliged entities should “make reasonable effort to obtain and update such documents, data, or information [...]”;
- to provide further guidance regarding the point in time when termination of the relationship should be considered (i.e. after appropriate number of chasers sent to the client, considering also relevant factors such as engagement / responsiveness of the client).

Comment 6

Guideline paragraph(s): 15, 57

Justification: Paragraph 15 (Guideline 1) requires obliged entities to "take the necessary action in accordance with Article 69 of AMLR" upon detecting unusual or suspicious transactions and activities, and paragraph 57 (Guideline 2) requires obliged entities to "determine, based on the analysis performed, whether a suspicious activity report should be submitted in accordance with Article 69 AMLR." Neither paragraph, nor any other provision in these draft Guidelines, acknowledges that for obliged entities referred to in Article 70(2) AMLR (including lawyers and other independent legal professionals), the

reporting obligation under Article 69 is subject to the exemption in Article 70 for information obtained when ascertaining a client's legal position or in connection with judicial proceedings.

Proposed amendment: Add to paragraphs 15 and 57 an express qualification that, for obliged entities referred to in Article 70(2) AMLR, the determination of whether to take action or submit a report under Article 69 is made subject to, and does not override, the exemption in Article 70 AMLR.

Question 3a: Compared with your current monitoring process, what impact would Guideline 1 have on your compliance costs and operational processes?

Impact on compliance costs and operational processes:

X Increase in compliance costs and operational processes

Reduction of compliance costs and operational processes

No effect

Estimated increase bracket (subquestion):

Below 25%

X 25-50%

50-75%

more than 75%

*** Please explain the basis for your assessment, including the methodology used and any supporting evidence:**

Explanation of the assessment: Guideline 1 reinforces systematic obligations for periodic review and documentary updating that are not currently carried out with the degree of formalisation and periodicity proposed. This will increase the time devoted by practitioners and, where applicable, the spending on external advice for small firms without own compliance structure. The impact is proportionally greater for smaller firms, which lack the economies of scale to absorb these new processes, and would be significantly mitigated by adopting the simplification proposals put forward in Questions 1 and 2.

Although the Guidelines emphasize technological neutrality, they set expectations such as the detection of complex patterns and behavioral linkages over time.

In practice, these expectations may only be achievable through advanced analytical or AI-based systems. This creates an indirect pressure on smaller or non-financial entities, including law firms, to adopt costly technologies.

For law firms, implementing such frameworks—especially in the absence of large-scale transaction data—may require disproportionate organisational and financial resources. There is a risk that compliance becomes overly formalistic without corresponding risk mitigation benefits. The Guidelines should further simplify expectations for entities with limited data access and non-transactional business models.

Question 3b: Please rate the expected impact on the following operational processes (Guideline 1)

Operational process	Very positive	Positive	Neutral	Negative	Very negative
Periodic review of customer information, including new collection of documents				**X**	
Event-triggered reviews				**X**	
Impact on staff				**X**	
Other (please specify)			**X**		

Other: Cost of external advice for the initial implementation of the monitoring framework in firms without own compliance structure.

Question 4: Do you foresee any difficulties in applying Guideline 2? In your view, does the guideline provide sufficient clarity, is it proportionate, and does it ensure its applicability across all products and services to support effective, risk-based monitoring of unusual or suspicious transactions and activities?

Comment 1

Guideline paragraph(s): 42, 46, 47

Justification: Guideline 2 allows for manual, automated or semi-automated processes depending on the volume, speed, scale and complexity of transactions (paragraph 47), but paragraph 46 requires assessing, on the basis of the entity-wide risk assessment, whether the framework should “generally” be underpinned by automated or semi-automated systems “where justified”, without specifying with sufficient clarity when this is to be considered justified. For law firms, often, the use of technological monitoring tools will not be justified. Manual filters based on the lawyer's personal relationship with the client constitute the reasonable and proportionate option for most firms.

Proposed amendment: Clarify in paragraph 46 that, as a general rule, legal professionals may use manual controls based on personal client knowledge as a proportionate and sufficient option, unless the entity-wide risk assessment expressly determines otherwise.

Comment 2

Guideline paragraph(s): 35, 36, 60, 61, 62, 63, 64, 65

Justification: Paragraphs 60 to 64 frame pre-transaction and real-time monitoring as an element of the monitoring framework where the obliged entity has the capacity to assess or intervene before a transaction is executed. Paragraph 65 already recognizes that, in sectors where business relationships are not continuous (which actually implies that stricto sensu there is no “business relationship”) or where entities neither control nor execute transactions — as is characteristically the case in the legal profession — the scope of pre-transaction monitoring may be limited to customer due diligence measures and the assessment of relevant information before providing the service. Paragraphs 35 and 36 reflect the same principle for entities that structurally have no access to transaction data. However, it should be clearly defined that “controlling” or “executing” a transaction means that the obliged entities decide on every material aspect of the transaction. It should be set out more clearly as a general principle of the monitoring framework, rather than in a single isolated paragraph, that for professionals who neither execute nor control transactions and whose relationships are not continuous, pre-transaction monitoring based on the parameterisation of earlier transactions of the client's prior transactions cannot be applied at all.

Proposed amendment: Transfer and reinforce the criterion in paragraph 65 within the general principles on the application of the monitoring framework, expressly specifying that, for non-financial obliged entities that neither execute nor control transactions and that do not maintain continuous business relationships, pre-transaction monitoring is limited to customer due diligence measures applied before the service is provided, without requiring pre-transaction or real-time monitoring based on the parameterisation of earlier transactions. Such clarification should also include clarification that transaction monitoring only applies where a “business relationship” (within the meaning of AMLR and related RTS) exists.

Comment 3

Guideline paragraph(s): 11

Justification: Paragraph 11 provides that, where the obliged entity is a natural person or a legal person whose activities are carried out solely by a single natural person, that person shall be responsible for compliance with the requirements. However, as the qualification of obliged entity varies according to the national law, it can be unclear whether the entity liable to sanction before the supervisor is the natural person or the legal person (for example, a professional company or partnership) carrying on the activity. Where a legal person is considered an OE, we consider it reasonable for the natural person to carry out the monitoring work in practice, but it is the legal person, in its capacity as the obliged entity under the AMLR, that will be the entity liable to sanction.

Proposed amendment: Clarify in paragraph 11 that, without prejudice to the natural person actually carrying out the monitoring tasks, liability before the supervisor, including sanctions where applicable, rests with the legal person when the legal person is to be considered the obliged entity under national law.

Comment 4

Guideline paragraph(s): 36, 40

Justification: Paragraph 36 requires documenting limitations arising from a lack of access to transaction data and the reasons underlying them, and paragraph 40 requires the monitoring framework to direct attention proportionally to higher-risk areas. Neither paragraph expressly refers to the principle of proportionality by reference to the size of the obliged entity, which may lead to the interpretation that a small professional firm must document in detail limitations that, given the very nature of its activity (the absence of mass transaction processing), are self-evident and do not require a documentation exercise comparable to that of a financial institution.

Proposed amendment: Include in paragraphs 36 and 40 an express reference to the principle of proportionality by reference to the size and nature of the obliged entity's activity, so that the extent and level of detail of the required documentation is proportionate to the actual complexity of the obliged entity. Clarify that documentation of limitations and mitigating measures may be satisfied through existing internal policies, matter-risk assessments, file notes and escalation records, rather than requiring a separate complex framework in every case.

Comment 5

Guideline paragraph(s): 45

Justification: Paragraph 45 explains that the monitoring framework should be subject to periodic internal and/or external reviews. The CCBE thinks that requiring external reviews would be disproportionate for small professional firms, which lack the resources and structure needed to fund periodic external reviews, which can be costly and create financial and administrative burden. Instead, small law firms could reasonably rely on guidance, criteria and recommendations drawn up by professional bodies for this purpose, without any loss of control effectiveness.

Proposed amendment: Qualify paragraph 45 to clearly foresee that small obliged entities can substitute periodic external review with adherence to guidance, criteria or supervisory programmes established by the relevant professional bodies or self-regulatory organisations.

Comment 6

Guideline paragraphs: 68-74

Justification: The CCBE considers that paragraphs 68–74 of the Draft Guidelines should provide for a specific exemption for pooled client accounts held by lawyers and other professionals subject to professional secrecy. Banking-sector monitoring and documentation methods must not be applied mechanically to legal practice, particularly where this would require lawyers to disclose confidential client information. The requirements of the Guidelines should therefore be deemed satisfied where the management of third-party funds through pooled client accounts is already subject to continuous, risk-based monitoring by the competent national professional supervisor, such as a Bar, in accordance with Article 26 AMLR. This should also apply where the supervisor uses automated or semi-automated monitoring systems based on transaction data supplied by the bank. Such an approach would avoid duplicative supervision, preserve professional secrecy and recognize effective national arrangements such as CARPA-type systems.

Proposed amendment: Add a specific exemption for pooled client accounts held by lawyers and other professionals subject to professional secrecy.

Question 5: Do you consider that the provisions on the use of automated or advanced analytical tools are sufficiently flexible and technology-neutral?

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Question 6a: What impact would the design and implementation of the transaction and activity monitoring framework described in Guideline 2 have on your compliance costs?

Impact on compliance costs and operational processes:

X Increase in compliance costs and operational processes

Reduction of compliance costs and operational processes

No effect

Estimated increase bracket (sub-question):

Below 25

25-50%

50-75%

X more than 75%

*** Please explain the basis for your assessment, including the methodology used and any supporting evidence**

Explanation of the assessment: The design and implementation of the transaction and activity monitoring framework under Guideline 2 requires law firms to formalise processes that, for the most part, are carried out manually (review of client behaviour, ad hoc checks against sanctions and PEP lists), but which will need to be further documented, justified and, where applicable, subject to periodic internal and external review under paragraphs 36, 40 and 45. The main cost does not stem from acquiring technology — which we consider unnecessary for most firms — but from the time devoted to documenting policies, training staff and, where applicable, engaging external advisers for periodic reviews. The impact would be significantly lower if the proportionality proposals put forward in Question

4 were adopted (manual controls as a sufficient option, simplified documentation of limitations, and substitution of external review with professional-body guidance).

Question 6b: Please rate the expected impact on the following operational processes (Guideline 2)

Operational process	Very positive	Positive	Neutral	Negative	Very negative
Processes and controls				**X**	
Impact on staff				**X**	
Other (please specify)			**X**		

Other: Cost of specific staff training in interpreting manual controls, given that no alerts will be generated automatically by a system.

Question 7: Do you identify any other simplification opportunity or measure that could further strengthen proportionality across all guidelines? If so, please provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.

As an organization representing more than 1 million European lawyers, subject to the AML/CFT framework, we welcome the opportunity to take part in this public consultation. Our overarching position, which underlies every answer below, is that a lawyer or law firm, cannot be generally equated with a financial institution for the purposes of ongoing monitoring of the customer relationship.

Except where a firm operates a client money account or otherwise holds or transfers client funds, lawyers do not execute transactions in the manner of a financial institution and are not participants in their clients' payment flows: they advise on, document and give effect to legal transactions, while the associated payments are executed by the client's own financial institutions. Firms therefore structurally lack access to the transaction data on which the monitoring frameworks described in Guideline 2 are premised.

Additionally, capacity of lawyers and law firms, in particular small or medium ones, to invest in technological tools is usually very limited.

We therefore consider that the non-financial nature of the sector and the size of the firm must be decisive factors in the application of these guidelines, in line with the very principle of proportionality set out in paragraphs 9 and 10 of the Guidelines. The Guidelines should therefore avoid importing financial institution--style transaction-monitoring expectations to the legal sector.

In addition to the simplification proposals set out in Questions 1, 2, 4 and 5, we raise the following identified in the impact assessment section of the consultation paper.

1. Horizontal structure versus sector-specific guidelines (Regulatory Issue No. 1): we consider that the difference between financial and non-financial entities —and, within the latter, between law firms of different sizes— is so substantial in terms of the nature of the client relationship, access to transactional data and the ability to execute or control transactions, that it would have been preferable to adopt Option B (differentiated sections by sector) rather than the single horizontal model ultimately adopted (Option A). A horizontal model forces exceptions and nuances to be scattered throughout the text (as in par. 65 itself) rather than establishing, clearly and systematically, a regime adapted to the reality of non-financial professionals. If the horizontal model is retained, the legal-sector clarifications proposed above should be consolidated and presented systematically rather than dispersed as exceptions throughout the Guidelines.

In this vein, rather than revisiting that choice, we propose that the recognitions already present in par. 35, 36, 47, 59 and 65 be also consolidated into a single section addressing OEs that structurally have no access to transaction data and do not execute or control transactions (such as lawyers), setting out in one place how Art. 26 AMLR is to be complied with in those circumstances. This achieves the clarity of Option B within the structure AMLA has chosen, and would remove the principal source of interpretative difficulty for our sector.

2. Prescriptive versus principles-based guidelines (Policy Issue No. 2): we consider the principles-based approach (Option B) appropriate, given its flexibility, as opposed to a prescriptive approach. However, the proposed guidelines are already very prescriptive.

3. Retrieval of expired identity documents, passports or equivalents (Regulatory Issue No. 3): we agree with the adopted Option B (a risk-based approach, rather than automatic renewal), given the simplification of obligations it entails, without prejudice to the additional qualification proposed in our answer to Question 1 regarding documents with an invariable number.

4. Legal-sector operational clarifications: If the horizontal model is retained, the Guidelines should include a concise, sector-neutral example recognizing that legal professionals and other obliged entities with limited or episodic transaction visibility may satisfy ongoing monitoring obligations principally through matter opening and scoping, review of instructions and mandates, customer and beneficial-ownership documentation, relevant funding information, client-account and payment-approval controls, periodic or event-driven file review, and documented staff escalation. The example should make clear that obliged entities are not expected to monitor beyond the scope of their role, of the activities in scope of AML/CFT professional obligations pursuant to the AMLR, and of the access and legal entitlement to information.

Finally, we reiterate that, since law firms are not financial institutions, screening against sanctions and politically exposed persons lists should be linked to the moments when customer information is updated or a service is actually provided to the client (periodic or event-triggered review), rather than requiring continuous screening of the entire client base.