Association des Banques et Banquiers, Luxembourg
The Luxembourg Bankers' Association
Luxemburger Bankenvereinigung

Public consultation on the draft Regulatory Technical Standards on group-wide requirements and on branches and subsidiaries in third countries with legal impediments under article 16(4) and 17(3) AMLR

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Section 1 - General provisions (articles 1 - 2)

Question 1 - Do you have any observations concerning the definitions laid out in article 2?

While the Article 2 definitions provide a useful foundation, several terms create legal uncertainty and should be clarified to support consistent implementation and supervisory convergence. We would welcome interpretative guidance (e.g. a Q&A) and, above all, alignment with existing EU and international frameworks (AMLR, CRD VI, the EBA Guidelines and FATF standards).

Alignment with AMLR terminology. The RTS should confirm in Article 2 that the AMLR's terms and definitions apply, and should align divergent wording: "the person on behalf of whom the customer acts" (Art. 4(1)(a)(iii)) should be read as equivalent to the AMLR's "any person purporting to act on behalf of the customer", and "risk-sensitive basis" (Arts. 10-14) as equivalent to the AMLR's "risk-based approach".

Alignment with CRD VI ("control function"). Article 2 defines "control function" on an open-ended basis ("including, but not limited to ..."), whereas CRD VI uses a closed list (risk management, compliance and internal audit). The RTS criterion (independence from the commercial functions) is also inaccurate for internal audit, whose scope covers both the first and second lines of defence. We recommend aligning the definition with CRD VI to avoid creating a parallel governance vocabulary.

"Structure", "network" and "partnership". These definitions are broad and may capture arm's-length contractual or service relationships without genuine control, coordination or integration - for example fund-servicing arrangements connected only through a prospectus. We recommend a negative delimitation consistent with Recital 27 (excluding pure cooperation agreements and multi-party service arrangements) and alignment with the prudential and accounting frameworks used to define group perimeters.

"Equivalent AML/CFT requirements". This concept is operationally critical when assessing whether a third-country subsidiary operates under an equivalent regime, yet it is undefined. We recommend a definition referenced to minimum substantive criteria (beneficial ownership, CDD, sanctions compliance) to align market participants on a clear benchmark.

Non-obliged entities. Some provisions exclude non-obliged entities from group-wide obligations, while Article 16(3), second subparagraph, AMLR expects information from them

and targeted financial sanctions apply to all persons in the Union. Their role should be expressly clarified, in particular for sanctions and information provision.

Scope and reach. It is unclear how far obliged-entity status and group reach extend, including (i) whether third-country entity status is assessed under Article 3 AMLR or under local law, and (ii) how indirect sub-subsidiaries, or entities that merely share branding, are treated. Worked examples or explicit guidance would provide more clarity.

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?

The Article 3 requirements are welcomed as a baseline for group-level governance, but they are currently formulated at a high level, which may lead to divergent interpretation across institutions and jurisdictions. More operational detail or examples would help (for example, what constitutes adequate "alignment" or "consistency" across group entities), and the RTS should confirm that the requirements are subject to a risk-based and proportionate approach reflecting differences in size, complexity and geographic exposure.

Proportionality. Uniform minimal risk being disproportionate for small or low-risk entities. Although Article 3(1), final subparagraph, acknowledges size and complexity, explicit calibration guidance permitting scaled application by individual-entity risk profile would be welcome.

Alignment with CRD VI (avoiding a parallel governance vocabulary). The RTS risks duplicating or contradicting CRD VI for credit institutions. The "coordination body (...) with decision-making powers" (Article 3(1)(a)) needs to be reconciled with the collective, non-delegable responsibility of the management body and the independence of the internal control functions; the "decision-making power" should be understood as sufficient authority and empowerment (for example escalation rights), not the relocation of decisions from the management body to a control function. Article 3(1)(c) frames financial-crime risk management as opposed to the "tasks of the commercial functions", which is inappropriate, since under the three-lines-of-defence model the first line (the business) owns and operates AML controls, and conflicts of interest are already governed by the internal-governance framework. The reporting-lines documentation in Article 3(1)(a) overlaps with the CRD VI "mapping of duties": it should be confirmed that a single mapping suffices, to avoid two accountability maps for the same key function holders.

Sister entity. Where the relevant Obliged Entity is a sister entity with separate legal personality, the identified parent undertaking may be expected to take actions or implement measures that affect an entity over which it does not have direct enforceable legal authority. The RTS should acknowledge this limitation and allows a proportionate and outcome-based application of the requirements under this article.

Reliance framework. The RTS should expressly permit reliance on the AML/CFT work of other group entities, consistent with Articles 48 and 49 AMLR; otherwise, duplicative

processes across entities are unavoidable and resource-intensive without corresponding risk reduction.

Group-wide risk assessment and data comparability. A meaningful group-wide risk assessment under Article 3(1)(d) requires common templates or minimum data standards: without format guidance, aggregation across entities using different systems remains impractical for complex structures.

Third-country specificities and legal impediments. Group-level policies should be reviewed taking into account relevant third-country specificities and updates (not only on a periodic basis) where a parent supervises non-EU subsidiaries, and the RTS should set out how conflicts between group-level and local law are to be documented, escalated and resolved (a clear best-standard rule). A cross-reference to Articles 16 and 17 would clarify the fallback expectation where local law conflicts with group-wide controls.

Targeted financial sanctions. Article 3 should explicitly require TFS screening and controls across all group entities, including non-obliged ones, applied on the basis that Council Regulations under Article 215 TFEU impose freezing obligations on all persons in the Union, as noted in Recital 33 of the AMLR. This TFS screening obligation should apply regardless of an entity's obliged-entity status under the AMLR, without thereby extending the full set of other group-wide AML/CFT governance obligations under Article 3 to such non-obliged entities. The group-wide risk assessment under Article 3(1)(d) should specifically address TFS exposure in third countries where sanctions regimes diverge from EU autonomous sanctions, for example US OFAC programmes or Swiss implementation timelines.

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?

There is broad support for strengthening intra-group information sharing, but significant operational, legal and privilege-related challenges remain, particularly in cross-border contexts. Divergent legal frameworks, including data-protection, confidentiality and bank-secrecy requirements, are among the main obstacles. Clarification is requested on the interaction between AMLR obligations and third-country restrictions, and on the role of GDPR transfer mechanisms and intra-group arrangements.

Not a mandatory dataset. The wording of Article 4(1) ("shall enable (...) at least"), combined with the extensive list of information categories, may be interpreted as creating a mandatory minimum dataset irrespective of risk. This appears inconsistent with the risk-based approach, Article 4(3) proportionality and GDPR data-minimisation principles. In particular, Article 4(2) could be read as requiring portfolio-wide processing to identify "common customers" before any specific ML/TF concern arises. Article 4 should therefore operate as an enabling framework rather than requiring systematic sharing. Identification of common customers should not entail systematic screening of the entire customer base before any specific ML/TF risk has been identified. The listed categories should permit

information sharing where justified, rather than create a mandatory dataset irrespective of risk.

Legal privilege and professional secrecy. The RTS provides no explicit protection for legally privileged material, despite Articles 4-9 effectively requiring intra-group sharing. An express carve-out for privileged information should be introduced, together with guidance on legal opinions, audit working papers and other protected material. Professional-secrecy obligations, including under Luxembourg law, often require case-by-case analysis, creating uncertainty as to when secrecy prevails over sharing requirements. Sector-specific exclusions, including judicial or legal-advice assignments, should also be clarified.

Client commonality, scope and definitions. The concept of "common client" under Article 4(2) remains unclear. It is uncertain whether it refers to the same legal entity, related entities or entities sharing the same UBO or SMO. Independent directors designated as beneficial owners under Article 63(4) AMLR across unrelated structures should not trigger information sharing. A precise definition distinguishing genuine common-client situations from nominal UBO or SMO overlaps is therefore required. The bidirectional scope of Article 4 should also be clarified, including whether obligations apply only upward to the parent undertaking or throughout the group. The catch-all provision in Article 4(1)(e)(v) should expressly exclude legally restricted information, and the relevance of certain categories (e.g. STR/SAR statistics, supervisory interactions or training-completion data) should be justified or reconsidered.

Third-country restrictions, consent and fallback measures. Numerous jurisdictions restrict or criminalise information sharing, including Switzerland, the United States, the United Kingdom, India and Mauritius. Client or beneficial-owner consent should not constitute a mandatory step but one possible risk-mitigation measure. Consent is often unavailable, freely revocable under GDPR and incapable of overriding statutory prohibitions. Where consent cannot be obtained or is inappropriate, particularly where sharing is prohibited by local law, documentation of the impediment together with notification to the competent authority should suffice. Customer refusal to provide consent may otherwise render relationships unviable, contrary to Recital 53 AMLR. Alternative measures should include aggregated information, documented refusals, consent where feasible and supervisory notification under Articles 6 and 7. Clarification is also requested on whether the 28-day deadline is sufficient where complex legal assessments are required. The interaction with EU restrictive measures should likewise be clarified to avoid conflicting AML and sanctions obligations.

GDPR and cross-border transfers. Transfers involving jurisdictions without an adequacy decision require safeguards under Article 46 GDPR. AMLA should confirm that AMLR obligations constitute a valid Article 6(1)(c) GDPR legal basis for each sharing category, including common-customer identification under Article 4(2), and clarify how GDPR transfer requirements should be reconciled with the RTS timelines.

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?

The Section 4 framework is conceptually sound, but its implementation in restrictive jurisdictions raises significant challenges. Additional clarity and supervisory alignment would strengthen effective, proportionate and legally compliant implementation.

Conflicting obligations and worked examples. Several third-country frameworks directly conflict with Articles 10-12. In the United States, SAR confidentiality rules, privacy requirements and independent AML obligations restrict information sharing. In Switzerland, banking secrecy and criminal-law provisions may restrict disclosures for foreign supervisory purposes. In India, data-protection, confidentiality and tipping-off rules create similar constraints. Such restrictions may prevent comprehensive group-wide risk assessments, reduce group risk visibility and place local management in conflict between local law and group requirements. Similar tensions arise where local law restricts the transfer of UBO information while Articles 10 and 11 require enhanced reporting to the parent undertaking.

Owner of the notification process and timing. Articles 10-14 place the notification duty on "the parent undertaking in the Union or an obliged entity". This could result in multiple notifications concerning the same impediment, duplicating efforts and creating supervisory noise without added value. Centralising notification at parent level would ensure a consistent assessment of group-wide impacts. Consideration should also be given to reviewing the 28-day deadline or introducing a staggered approach.

Firm-led closure conflicts with Article 17(2) AMLR. The RTS requires institutions to terminate relationships, decline transactions or close operations where risks cannot be effectively managed. However, Article 17(2) AMLR reserves such measures to the home-Member-State supervisor. Requiring firms to act independently exposes them to contractual, civil and host-law liabilities without supervisory protection. Withdrawal may also create integrity risks, including reduced supervisory visibility and regulatory fragmentation. Institutions should continue to notify their competent authority, but decisions to restrict, terminate or close activities should remain supervisory decisions. A proportionality assessment should precede closure, with less intrusive measures considered first.

Beneficial-owner/client consent (Article 10(1)(c)). Client or UBO consent is not always feasible, particularly where no direct business relationship exists with the UBO. As consent may be unavailable, withdrawn or ineffective against absolute third-country prohibitions, it should not constitute a mandatory precondition. Consistent with our comments on Article 4, consent should remain one possible risk-based mitigation measure. Where consent cannot be obtained or is inappropriate, documentation of the legal impediment together with supervisory notification should suffice.

Residual liability of the EU parent. Consistent with Article 16(4) AMLR, the RTS should clarify that where the parent undertaking has notified its competent authority of the impediment and implemented compensating controls on a best-efforts basis, no additional liability should attach to the EU parent for residual subsidiary-level non-compliance.

Additional measures (Article 15) and equivalence. Article 15 should be interpreted under an overarching proportionality principle, allowing groups to select and calibrate measures that achieve AMLR-consistent outcomes, including equally or more effective alternatives. The prior senior-management approval requirement under Article 15(1)(d) should be retained for structural measures, while urgent operational decisions should require only prompt notification followed by ex post approval. AMLA should also confirm that an outcomes-based approach to equivalence remains acceptable where third-country restrictions prevent full compliance.

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)?

Material legal and operational challenges arise in applying Articles 12 and 13 where third-country frameworks restrict intra-group information sharing. These constraints may limit the effectiveness of group-wide AML/CFT controls. Key challenges relate to data protection and data transfer restrictions, bank secrecy and confidentiality laws, and operational complexity, among others. We request clarification that information sharing does not require full data replication where legally restricted, and request examples of mitigants such as aggregated reporting and local monitoring with group oversight.

STR confidentiality. Article 12(1)(b) requires aggregated STR data to reach parent management. In the US (31 USC 5318(g)(2)), the UK (POCA 2002, Section 333A) and India (PMLA 2002, Section 66), even disclosing the existence of an STR is criminal, and aggregated figures can amount to indirect disclosure where volumes are low enough to identify clients. This conflict should be expressly resolved, with sharing limited to aggregated, non-tipping-off data.

Procedural path / escalation sequence. Where the third-country law restricts the access of AML/CFT information to the parent company's compliance function, the RTS should design a clear procedural path. We recommend that the RTS mandate explicitly an escalation sequence: the branch/subsidiary would document the legal impediment; the parent compliance/legal function would assess whether and what compensating controls would be sufficient to mitigate the identified inherent risks of non-compliance; the NCA is notified within a defined timeframe. Without such a chain, the bank could face regulatory uncertainty under the AMLR and CSSF 12/552 on internal governance.

Notification overload. If every blocked share triggers a 28-day notification under Articles 10-14, groups operating across multiple restrictive jurisdictions face very high volumes overwhelming both entities and supervisors. The notification deadline should be aligned with the AMLR's "without undue delay" standard rather than a fixed 28-day period, absent

specific justification, and we recommend thresholds, staged processes requiring exhaustion of internal remedies first, and standardised notification templates. It should also be confirmed that an obliged entity that has completed the required notifications under Articles 12(1)(a)/13(1)(a) and applied the measures available to it has discharged its regulatory obligations, even if group-wide information sharing remains de facto impossible due to third-country law.

Local reviews / independent audits as a compensating measure. Regulatory fragmentation risk. Mandatory closure under Article 12(3) could force entities out of groups, reducing rather than increasing oversight. Departed entities could join non-EU groups with no EU obligations. This would result in actions contrary to FATF guidance and increase de-risking and shadow banking contrary to financial inclusion objectives in Recital 53 of Regulation (EU) 2024/1624. We recommend AMLA consider alternative structural measures such as enhanced local governance, independent audit or ring-fencing before requiring exit. Article 13, which covers the scenario where third-country law restricts or even forbids the sharing of data related to customers, includes as a mandatory step the performance of local review and audits leading to the sharing of the collected information, as well as the sharing of a minimum set of data as listed under Article 13(1)(d). The legality of such actions should however be assessed based on the specificities of the applicable foreign law: it cannot be assumed beforehand that it is acceptable. For example, the EU entity conducting "onsite checks or independent audits" in the third country to satisfy itself and feed the home supervisor can itself be unlawful locally. This should therefore not be phrased as mandatory actions to be taken, but rather suggested actions that can be considered / reviewed as alternatives. If this fails: it is to be noted that Article 13 does not make a reference to the "additional measures" under Article 15: there is no clear alternative made available to the banks short of the measures listed in Article 13 itself.

GDPR for cross-border flows. Transfers to or from jurisdictions without adequacy decisions require Article 46 GDPR safeguards. We request confirmation that the AMLR legal obligation constitutes a valid basis under Article 6(1)(c) GDPR and guidance on reconciling the notification timeline (aligned to "without undue delay" as set out above) with Transfer Impact Assessment timelines.

Question 6 - Do you consider the proposed framework for additional supervisory actions (article 16 of the draft RTS) appropriate and workable in practice?

There is agreement that groups should not operate blind spots in third countries with weaker regimes, and support for the principle of graduated escalation, but workability concerns arise on Article 16.

Addressee. Where the non-compliant entity is a sister entity (separate legal personality), a decision must be directed by the EU parent undertaking, but the parent may have no enforceable legal authority to compel sister-level remediation: the RTS should acknowledge this. For Section 6 structures where the parent may be a non-obliged entity (Article 22), it is unclear how supervisory powers under Directive (EU) 2024/1640 attach. Where multiple obliged entities span Member States, the RTS should identify the decision addressee, specify each entity's implementation obligations and provide for supervisory coordination.

More generally, the "risk mitigation plan" and "corrective measures" that Article 16 requires the parent undertaking to apply where third-country law prevents full compliance by a branch or subsidiary should be characterised and implemented as internal group governance measures adopted by the parent in the exercise of its group-wide responsibilities, without prejudice to the exclusive supervisory powers of competent authorities under the AMLR; AMLA should clarify the applicable Article 16 AMLR legal basis for any such instrument and align terminology with the AMLR's "supervisory measures" where appropriate.

Feasibility of restrictions and closure. Forced closure or severe restriction cannot realistically be executed through a top-down mandate to the EU parent alone. Ordering cessation in a third country triggers local licensing, employment and contractual obligations that can take months or years to unwind. The NCA should conduct a proportionality assessment, including wind-down risk, before imposing closure, consistent with the proportionality principle already reflected in Article 5(2) AMLR. Failure to comply, or a determination that the risk is unmanageable, should instead be treated as key factors when risk-assessing the obliged entity and calibrating the level of supervision.

Graduated proportionality. The criteria for escalating from Article 16(1) measures to Article 16(2) restrictions should be specified, in particular what constitutes "failure to comply" or an "unmanageable" risk, and Article 16(3)(b) should distinguish absolute legal prohibitions from practical difficulties resolvable through alternative arrangements.

Coordination with other frameworks and with the consolidating supervisor. Article 16 powers should be exercised in coordination with prudential supervision (SSM, CRD and CRR) to avoid conflicting instructions on the same operations. Given that significant powers rest with the home Member State of the parent or obliged entity, it would be preferable to involve the NCA supervising the parent undertaking, where the consolidated view of the framework and risks is held. Reasoned decisions and adequate implementation timelines should be mandatory.

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?

The Section 5 criteria are likely to prove impractical, particularly where governance, compliance and commercial functions are split across entities, and where a third-country head office has two separate EU subsidiaries with no authority of one over the other.

Commercial metrics are not prudential or compliance weight. The criteria select the parent by quantitative commercial metrics (most customers, highest transaction volumes, highest turnover under Article 17(1)(b) and 17(2)), whereas CRR and CRD VI look to own funds, balance sheet and risk. This may designate an entity that is not the prudentially

significant one, and one lacking compliance capacity. Customer and transaction concepts also vary by service line and are incomparable across obliged and non-obliged activities.

Annual turnover is not meaningful. Net interest, fee and trading income are structurally incomparable across business models (for example private banking as against corporate lending), and differences between IFRS and local GAAP, and misaligned financial years, produce inconsistent results. Turnover may at most serve as a tiebreaker. Harmonised, CRR-reported metrics (total assets or Tier 1 capital) could serve as primary or alternative criteria; for asset-management activities, assets under management may be more relevant than turnover.

Preferred approach — motivated / group-level designation subject to supervisory approval, including for multiple parent undertakings where justified. We recommend that the approach is simplified by giving OEs the power to designate their parent subject to supervisory approval. Alternatively, we recommend a flexible approach allowing motivated group-level designation based on combined factors: turnover, governance role, compliance capacity, data-aggregation ability, and — where relevant — framework robustness and prior regulatory or internal/external audit assessments. Structures should be permitted to designate their parent through documented governance decisions subject to supervisory validation under Article 20. Two routes are identified: permitting obliged entities to designate their parent subject to supervisory approval; and/or replacing turnover with an objective, harmonised metric (total assets or Tier 1 capital). These could be combined.

Critically, where the group structure comprises EU sister entities with no control or supervisory relationship over one another — for example two separate EU subsidiaries of the same third-country head office, as referred to above — and where governance, compliance capacity or the regulatory perimeter so justify, AMLA should permit the designation of multiple EU parent undertakings for distinct sub-groups or perimeters, rather than imposing a single designation that creates a "responsibility without authority" outcome. Absent such plurality, the RTS should clarify that the designated parent's obligation is discharged through reasonable, documented coordination and escalation vis-a-vis entities over which it has no direct authority, rather than through strict liability for their non-compliance.

Specific clarifications. Confirmation is requested as to whether a national holding company qualifying as an obliged entity under Article 3(3)(m) AMLR automatically becomes the parent, or whether the Articles 17 and 18 criteria apply independently; an AMLA arbitration path should be available where supervisors disagree (consistent with Article 20(3) and Articles 33 and 38 of Regulation (EU) 2024/1620). Where the relevant weights shift between entities over time, a buffer period should apply before any transfer of the parent-undertaking role, with guidance on transition timing.

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?

The Article 21 concept is reasonable but needs clearer thresholds and objective indicators to avoid capturing arrangements that lack genuine common control.

Common compliance control should be defined by reference to decision-making authority. The term is undefined and risks significant over-inclusion: an institution that shares a group compliance platform, or outsources screening to the same vendor as a sister entity, does not thereby exercise compliance control over it. "Common compliance control" should be defined by reference to decision-making authority over AML/CFT policies, not shared infrastructure or service arrangements, and a materiality test should be introduced to protect smaller entities within diversified groups.

Broadly drafted conditions. The conditions on common policies and procedures (Article 21(2)(b)(v)) and on common branding with shared audits or controls (Article 21(2)(c)(v)) are very broad; entities sharing some services (for example tax advice or director mandates) but lacking integrated governance could be inappropriately captured. Quantitative and qualitative thresholds should be specified (for example the proportion of common management membership, or the level of shared control functions, that triggers group-equivalent treatment), together with worked examples of structures that do and do not qualify.

Move the key exclusions into the article. Recital 24 (common compliance control beyond AML/CFT), Recital 27 (pure cooperation agreements) and Recital 28 (agent-principal relationships) are welcome. Given their importance, the Recital 27 exclusions should sit in the article itself, making clear that ordinary banking arrangements (white-labelling, distribution, correspondent banking) and multi-party service arrangements are not captured absent genuine common control.

Proportionality. Application should be proportionate to the degree of integration: loosely connected structures should face lighter obligations than those with genuine organisational interdependence.

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?

Responsibility without authority. As already raised in Question 7, the biggest challenge here is that, unlike a corporate group, a structure shares no direct legal authority between its entities: the identified parent undertaking may have no legal power to impose policies or compliance measures on entities that are not its subsidiaries. Additional guidance from AMLA on how this should be operationally done, together with an acknowledgement of the more limited power of the parent undertaking in this situation, is requested. The principle of proportionality would imply lighter supervisory expectations when performing the duties

attached to the role of parent undertaking. The same structural feature — absence of direct legal authority between entities of a "structure" — also underlies a related scope concern with Article 21(3): if this provision implies that non-obliged entities within a structure may be required to share information, this would have a disproportionate and far-reaching impact, extending AML information-sharing obligations to entities not subject to the AMLR and with no established AML compliance framework. The scope of Article 21(3) should therefore be clarified and, absent an explicit AMLR legal basis for extending information-sharing obligations to non-obliged entities, limited to obliged entities within the structure. AMLA should also define "network members" and "partners" (used in Articles 21(3) and 22 but undefined) and clarify how these relate to the "partnership" definition in RTS Article 2(4) and to one another.

Risk of unintended triggering through shared services. The principal practical risk is that Article 21 is triggered by shared or outsourced compliance-service arrangements that are common in the market. Interpretative guidance should confirm that outsourced or shared compliance services do not, in themselves, constitute "common compliance control".

Professional-secrecy conflicts. In some jurisdictions, regulated firms (for example audit firms subject to independence requirements) face legal restrictions on sharing client information within their own structure; the RTS should accommodate this.

Timeline. Identification under Article 26, and its consequences, is ambitious for complex structures that must identify membership, establish governance, amend membership agreements and build information-sharing infrastructure by 10 December 2027. We request an extension to 10 July 2028 for Section 6 structures.

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?

The Article 22 logic, borrowed from Articles 17-20, is harder to apply in non-group structures which by definition lack consolidated financial reporting. The financial data may not be available at the same time and may be methodologically unreliable. This article relies on a set of qualitative criteria, which might not easily apply to structures where there is no legal authority of one entity over another.

Single metrics / turnover unreliable; combine quantitative and qualitative; AuM and risk profile for banks. Article 22 criteria should combine quantitative and qualitative measures rather than relying on single metrics. Turnover alone risks misidentification. A regional holding with high revenue but no compliance function should not automatically be parent if another EU entity performs compliance and data aggregation. Practical example: our largest-revenue entity in one Member State has no group compliance role while a smaller entity in another Member State operates the group's compliance coordination function. This means the fallback option "largest turnover" might become the de facto prime criterion: the observation raised in Question 7 applies, as this might not be the most meaningful metric in relation to banking entities. That fallback may work better for commercial or non-financial structures than for banks. Example: A private bank may have

relatively modest annual turnover because fee income is limited compared with balance-sheet banking income. But it may manage high-net-worth clients, complex structures, trusts, PEPs, offshore vehicles, and higher-risk geographies. A sister retail bank may show higher annual turnover (for example trading activities), but the private bank may present the more complex AML/CFT risk profile. In that case, assets under management, customer risk profile, PEP exposure and complexity of beneficial ownership would be more relevant than turnover.

Fallback rule where consolidated data is unavailable. A clear fallback rule designating the EU entity with the highest total assets or Tier 1 capital (consistent with the approach used to identify the lead supervisor under the SSM) would assist. Because the operational and interpretative difficulties differ across sectors, worked examples would be valuable.

Designation subject to supervisory approval; non-obliged entity as parent. The criteria outlined in the draft RTS face operational challenges including differences in interpretation and applicability in different sectors, as well as legal obstacles. We recommend that the approach is simplified by giving OEs the power to designate their parent subject to supervisory approval. We recommend adding a criterion permitting structures to propose their parent based on demonstrated governance and compliance roles through documented governance decisions, subject to supervisory validation under Articles 23/24. An AMLA arbitration path should be available where supervisors disagree per Article 23(3) third subparagraph referencing Articles 33 and 38 of Regulation (EU) 2024/1620. We welcome permitting non-obliged entities as parent but request clarification on how supervisory powers under Directive (EU) 2024/1640 attach, given Article 24 routes notification through obliged entities.