

EBA Guide for AML/CFT compliance officers

Position paper – Executive summary

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ESBG calls for several clarifications and amendments of the European Banking Authority (EBA) Guidelines on the role, tasks and responsibilities of anti-money laundering and countering the financing of terrorism (AML/CFT) compliance officers. In light of the different transposition of the AML Directive, it is of utmost importance that, where a conflict is unavoidable, national specificities prevail guideline provisions.

THE ROLE AND RESPONSIBILITIES OF THE MANAGEMENT BODY IN THE AML/CFT FRAMEWORK AND OF THE SENIOR MANAGER RESPONSIBLE FOR AML/CFT

Guideline 4.1.4., which assumes the existence of identification of the member of the management body responsible for AML/CFT in accordance with Article 46(4) of Directive (EU) 2015/849 (AMLD4), creates confusion and inaccuracy regarding the concepts and definitions due to different interpretations and transpositions of the AMLD. The Guideline should be amended accordingly.

THE ROLE AND RESPONSIBILITIES OF THE AML/CFT COMPLIANCE OFFICER (4.1)

We call for

- flexibility regarding reporting routes;
- not excluding certain possibilities of outsourcing of “strategic decisions” in 4.26, to keep a high-quality AML level in many regionally-focussed institutions, and an outsourcing possibility of the AML/CFT compliance officer for such institutions;
- less minimum requirements in the *activity report* (52) and a limitation to aggregated numbers in 52.1.e;
- several amendments that take the principle of proportionality into account.

Further clarification is needed with regard to

- the relationships between the senior manager responsible for AML/CFT and the AML compliance officer, as well as between the general compliance function and the AML/CFT compliance function;
- the circumstances in which the AML/CFT compliance officer can be located in another jurisdiction;
- the necessary systems and controls for the financial sector operator (point 28), remedial programs (4.2.4 – 50), “unusual transaction” (52.1.e.i), “judicial requests/ subpoenas” (52.1.e.vi), “orders requiring the postponement” (52.1.e.vii) and “number of replies provided to FIU “(52.1.e.viii).

THE ORGANISATION OF THE AML/CFT COMPLIANCE FUNCTION AT GROUP LEVEL (4.2)

Clarification is needed regarding the addresses of the organisational requirements at group level and legal uncertainties regarding data protection and banking secrecy should be prevented. Special attention should be paid to national regulations that prohibit the communication of certain types of information between a bank and its subsidiaries.

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