



REPORT

ON NCAS' APPROACHES TO THE SUPERVISION OF BANKS WITH RESPECT TO ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (ROUND 4 – 2023/24)

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Contents

Abbreviations	3
Executive Summary	4
1. Background and legal basis	6
1.1 Background	6
1.2 Legal basis	7
1.3 The obligations of NCAs	7
2. Methodology	8
3. Progress made since the last round of implementation reviews	9
4. ML/TF risk assessment	11
4.1 Sectoral risk assessment	11
4.2 Entity-level risk assessment	14
5. AML/CFT supervision	17
5.1 Supervisory strategy and approach	17
5.2 Supervisory tools and techniques	19
5.3 Guidance and outreach	21
5.4 Resources	22
5.5 Supervisory follow-up	23
6. Tackling ML/TF risks through prudential supervision	25
6.1 ML/TF risks identified in ongoing prudential supervision and SREP processes	25
6.2 Authorisations, assessments of qualifying holdings and suitability of members of the management body and key function holders	28
7. Enforcement	32
7.1 Findings	32
7.2 Recommended actions	33
8. Domestic and international cooperation	35
8.1 Findings	35
8.2 Recommended actions	37
9. Conclusions	38
Annex	40

Abbreviations

AML	Anti-money laundering
CFT	Countering the financing of terrorism
EBA	European Banking Authority
ECB	European Central Bank
EEA	European Economic Area
ESAs	European Supervisory Authorities
EU	European Union
EuReCA	European reporting system for material CFT/AML weaknesses
FATF	Financial Action Task Force
FIU	Financial intelligence unit
IMF	International Monetary Fund
ML/TF	Money laundering and terrorist financing
Moneyval	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MoU	Memorandum of understanding
MS	Member State of the European Union and European Economic Area
NCA	National competent authority
NRA	National risk assessment
SNRA	Supranational risk assessment
SRA	Sectoral risk assessment
SREP	Supervisory Review and Evaluation Process

Executive Summary

This report summarises the findings from the fourth round of ongoing reviews of national competent authorities' (NCAs') approaches to AML/CFT supervision of banks in the EU/ EEA Member States ('MS'). Over the course of 2023-2024, the EBA's review team assessed 14 NCAs from 9 MS and issued recommended actions tailored to each NCA to support its AML/CFT work. They also assessed how prudential supervisors in these MS tackled ML/TF risk in line with their supervisory remit and scope. With the conclusion of this round, the EBA has assessed all 40 NCAs that are responsible for the AML/CFT supervision in 30 EU/EEA MS.

This report takes stock of the actions taken by NCAs assessed in the third round to address the review team's findings. It also describes how NCAs in this round apply the risk-based approach set out in international standards, Directive (EU) 2015/849 and guidelines issued by the EBA and European Supervisory Authorities. While it focuses on AML/CFT supervisory approaches, it also reflects on the cooperation between AML/CFT and prudential supervisors and on prudential supervisors' ability to identify ML/TF risks as part of their respective activities. In addition to findings, this report summarises the recommendations that the review team issued to NCAs assessed in this round, which may also be relevant to other NCAs responsible for the AML/CFT supervision of credit and financial institutions across the MS.

In summary, the review team found that all NCAs in this round had taken important steps to implement a risk-based approach to AML/CFT and, since the first round of reviews in 2018, the review team has seen significant developments in the NCAs' approaches to supervision. These related to an enhanced focus on, and investment in, NCAs' risk assessment methodologies and tools, and a marked increase in cooperation, for example in the AML/CFT colleges context. Most NCAs had restructured their AML/CFT supervisory organisation by creating a stand-alone AML/CFT unit and increasing resources allocated to AML/CFT supervision. The positive changes in supervisory approaches can also be seen in a significant number of good practices observed in this round and indicated in this report. Nevertheless, the review team continued to find:

- weaknesses in the entity-level or sectoral risk assessment methodologies. Most NCAs in this round had put in place an entity-level risk assessment methodology and contributed to the sectoral risk assessment. Findings were often related to the selection of the risk factors for the assessment, which were either incomplete (e.g. they were focused only on product risks or did not consider risks associated with terrorist financing) or did not reflect the risks in the banking sector. The methodology for assessing the risk factors was also presenting some challenges, particularly when assigning weights to risk factors or incorporating supervisors' professional judgement in the risk assessment.
- AML/CFT supervision to be lacking a strategic approach. All NCAs in this round were performing on-site and off-site supervisory activities. For the majority of NCAs, it proved challenging to find the right balance between different supervisory tools and to develop a

comprehensive strategy explaining how the NCA will address the ML/TF risks in the banking sector with tools and resources available to it.

- the enforcement process not to be fully effective or deterrent. Almost all NCAs in this round had enforcement powers, however not all of them used these powers effectively. While most NCAs had taken enforcement actions, it was not always clear on what basis these NCAs had selected the supervisory or administrative measures applied and how they had calculated the value of the fine. No documented procedures existed in these cases, therefore often leaving the NCAs open to legal challenges by banks.
- limited cooperation in the absence of AML/CFT colleges. Cooperation with other AML/CFT NCAs had increased overall, with some NCAs, for example, performing joint inspections and having put in place various cooperation mechanisms with other NCAs and third-country authorities. In many NCAs, however, no such arrangements had been put in place. This was irrespective of, for example, third-country institutions operating in the NCA's MS and the NCA having concerns about its AML/CFT controls framework. Also, the cooperation with the FIUs and tax authorities was still lacking as most NCAs had not put in place arrangements to ensure cooperation with tax authorities or, where formal arrangements (e.g. MoUs) with the FIU had been put in place, they had not been fully implemented in practice.
- divergent approaches in the way prudential supervisors consider ML/TF risks. While prudential supervisors' understanding of ML/TF risks has improved when compared to other rounds of reviews, the approaches to how these risks are identified and addressed differ between NCAs. Overall, the cooperation between prudential and AML/CFT supervisors as part of the assessment process for authorisations, qualifying holdings, members of the management body and key function holders is often insufficient to identify applicants that may be exposed to high ML/TF risks.

Updates from the third round of reviews shows that all NCAs have taken action to address the EBA's findings. In particular, they had implemented the necessary changes in their risk assessment processes and methodologies, enhanced cooperation between NCAs in the same MS, worked on developing effective and risk-based supervisory strategies, and formalised their approach to enforcement.

Overall, while the EBA continued to identify issues and shortcomings in the fourth round of reviews, progress made since round 1 suggests that, by NCAs taking the recommended actions, the effectiveness of AML/CFT supervision in the MS will further improve and facilitate the effective implementation of the new AML/CFT package.

1. Background and legal basis

1.1 Background

1. The EU has a comprehensive legal framework to tackle money laundering and terrorist financing (ML/TF) risk. The risk-based approach is at the heart of this framework. Several high-profile ML/TF cases involving European banks raised questions about the effective application of this framework and exposed the fragmentation and lack of convergence in EU NCAs' approaches to tackling ML/TF risk in banks.
2. In 2018, the EBA decided to review the effectiveness of NCAs' approaches to tackling ML/TF risk in banks through AML/CFT and prudential supervision, and to use its findings to support individual NCAs' AML/CFT efforts and strengthen the regulatory framework. Since then, the EBA has assessed all NCAs in all EU/EEA MS (refer to Table 1 for more details) and published four summary reports. It also issued or updated 12 regulatory instruments, 8 opinions and 9 reports across its AML/CFT and prudential remit that draw directly on findings from these implementation reviews.

	Round 1	Round 2	Round 3	Round 4	Total
Duration of the round	Nov 2018 – Oct 2019	Sept 2020 – Oct 2021	Jan 2022 – Dec 2022	Jan 2023 – June 2024	55 months
NCAs assessed (AML/CFT and prudential, if different)	7	7	12	14	40
EU/ EEA MSs	5	7	9	9	30

Table 1: EBA's AML/CFT implementation review timeline for each round of reviews.

3. The fourth, and final, round of reviews took place between January 2023 and June 2024. As part of it, the EBA assessed 14 NCAs that are responsible for tackling ML/TF risk in banks from 9 MS. Each review covered three years of supervisory activities. Each review involved an off-site review of documents as well as on-site and off-site meetings with NCAs and other stakeholders.



TOTAL OF 18 MONTHS SPENT
TO COMPLETE THE 4TH ROUND
OF REVIEWS



A TOTAL OF 45 DAYS SPENT
ON-SITE IN MS



MEETINGS WITH 44 PRIVATE
SECTOR REPRESENTATIVES



MEETINGS WITH STAFF FROM
9 FINANCIAL INTELLIGENCE
UNITS



MORE THAN 1000
DOCUMENTS REVIEWED

4. This report provides a summary of the main findings and recommended actions from the fourth and final round of reviews. EBA staff have provided detailed, written feedback to each NCA that was assessed as part of these reviews.

1.2 Legal basis

5. The legal basis for the EBA's implementation reviews is set out in Articles 1, 8(1), 9a and 29(1) and (2) of the EBA Regulation, which confers on the EBA a duty to ensure effective and consistent supervisory practices, to contribute to the consistent and effective application of Union law and to contribute to preventing the use of the EU's financial system for ML/TF purposes. To this effect, the EBA can carry out peer reviews and investigate potential breaches of Union law, and it can take other measures such as staff-led implementation reviews to assess NCAs' responses to specific compliance challenges.

1.3 The obligations of NCAs

6. Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing aims, inter alia, to bring EU legislation in line with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation that the FATF, an international AML/CFT standard-setter, adopted in 2012. Directive (EU) 2015/849 prescribes that NCAs should carry out AML/CFT supervision on a risk-sensitive basis. The guidelines and opinions published by the EBA or the ESAs Joint Committee set out the steps NCAs should take to implement this approach in practice. They are listed in the Annex to this report.

2. Methodology

7. AML/CFT implementation reviews are EBA staff-led, qualitative assessments of NCAs' approaches to the AML/CFT supervision of banks. They do not result in a score, a compliance rating, or a simple 'pass' or 'fail'. Instead, the purpose of these reviews is to identify areas for improvement and to support individual NCAs' AML/CFT efforts.
8. Each implementation review is carried out in line with a written methodology and on the basis of NCAs' responses to a set of core questions that are sent to all NCAs together with requests for documentary evidence. These responses and information obtained from the documentation are complemented by in-depth interviews of AML/CFT and prudential supervisors, as well as relevant external stakeholders including FIUs, trade associations and a sample of banks, during the on-site visit part of the implementation review. The review takes into account the specific circumstances of each NCA and MS while focusing on:
 - a. NCAs' approaches to assessing ML/TF risks;
 - b. NCAs' approaches to supervising banks' risk-based approaches to AML/CFT, including supervisory follow-up and the imposition of dissuasive, effective and proportionate sanctions (fines); and
 - c. domestic and international cooperation in relation to AML/CFT, including cooperation between AML/CFT and prudential NCAs and the extent to which this cooperation supports AML/CFT and prudential NCAs' work to ensure banks' safety and soundness and the integrity of the banking sector.
9. Wherever possible, and to the extent that this is relevant, implementation review teams also use information that NCAs have prepared for international AML/CFT assessments, such as those led by the FATF, Moneyval, the Council of Europe or the IMF; however, the conclusions of implementation reviews may differ from the conclusions of these assessment bodies due to differences in the methodology and scope, and also the level of intrusiveness. Each implementation review concludes with the review team, based on its findings, providing feedback and recommending specific actions to each NCA.
10. EBA staff were supported by members of a small network of AML/CFT experts from NCAs. Members of this network were selected based on their supervisory and policy skills and AML/CFT expertise. They acted on the EBA's behalf for the purpose of these reviews.

3. Progress made since the last round of implementation reviews

11. As part of the implementation review process, the EBA asks NCAs to report back on the steps they have taken to address the review teams' findings within one year. All NCAs included in the third round of reviews submitted their response to the EBA.
12. In the third round of reviews, most findings were related to deficiencies in NCAs' ML/TF risk assessment methodologies at the sectoral or entity level, the lack of a clearly documented AML/CFT supervisory strategy, the incomplete understanding of ML/TF risks by prudential supervisors and weak enforcement processes. Therefore, as part of the follow-up, the EBA focused on these aspects.
13. All NCAs from the third round made tangible progress in this regard.
14. All NCAs have revised their ML/TF risk assessment methodology in line with the review team's recommendations. This included NCAs from seven MS broadening the sources of information used in the risk assessment and expanding the list of risk factors; NCAs from five MS recalibrating the weights assigned to the risk factors; NCAs from four MS implementing tools and procedures to test the reliability of the information collected; and NCAs from two MS streamlining their off-site questionnaires to ensure proportionality in the collection of data by credit institutions. Furthermore, NCAs from four MS are amending their internal procedures to set out the impact of supervisors' expert judgement on the final score and ensure consistency in their risk assessment process. One NCA has started work on a dedicated risk assessment of the banking exposure to emerging risks of terrorist financing.
15. Where multiple NCAs share responsibility for the AML/CFT supervision of banks in the same MS, they took steps to align approaches to avoid duplication of information requests from banks and to avoid the risk of conflicting data being reported. NCAs from one MS cooperated with each other to develop a common risk assessment methodology while NCAs from another MS took steps to elaborate a consolidated questionnaire.
16. All NCAs that received recommendations relating to their supervisory strategy acted on these recommendations. This was necessary to ensure that their supervisory approach is commensurate with the risk profile of banks under their supervision and to ensure that resources available to them are sufficient to fulfil their supervisory objectives. For example, one NCA implemented an AML/CFT supervisory strategy for higher risk banks, to organise supervisory activities on those institutions in a more comprehensive manner. NCAs from six MS formalised their approach to selecting supervisory tools in a risk-sensitive manner and documented this in their internal procedures' documents. This included the recalibration

of the balance between on-site and off-site supervision in NCAs from three MS, either by increasing the on-site activity for the riskiest entities or reducing it for lower-risk banks.

17. All NCAs assessed took steps to ensure that prudential supervisors are aware of the ML/TF risks and their impact on prudential activities and that they can tackle those risks in an effective way. This involved the formalisation of their information exchange processes, either by ad hoc agreements in one MS or by updating their internal manuals in six MS, to clearly set out the type of information that should be exchanged between AML/CFT and prudential supervisors and to specify the practical modalities for it. Also, NCAs from six MS put in place dedicated AML/CFT training for prudential supervisors or boosted the existing training programmes.
18. NCAs from all MS took steps to strengthen their approach to enforcement. NCAs from eight MS are formalising or revising their criteria for assessing infringements/weaknesses identified through their supervisory activities and for determining the value of fines; NCAs from three MS are taking steps to make sure that banks' remediation is effective, by formalising or enhancing internal processes to that end. NCAs from three MS have introduced processes for raising awareness within the sector of the key AML/CFT weaknesses and supervisory or administrative measures taken by them. Furthermore, one NCA has established an enforcement unit to facilitate and expedite the process for the imposition of measures, while another NCA has developed a specific methodology and plan to assess the effectiveness of sanctions on a periodic basis.

4. ML/TF risk assessment

19. Directive (EU) 2015/849 requires NCAs to have a clear understanding of the ML/TF risks that affect their sector, and individual institutions within their sector. A clear understanding of ML/TF risks is essential because it forms the basis for an effective approach to AML/CFT supervision. It also allows supervisors to allocate adequate resources to ensure that these risks are mitigated effectively.
20. The EBA's Risk-Based Supervision Guidelines specify that this means that NCAs should identify ML/TF risks at the international, domestic, sectoral and institutional levels and assess how these risks affect them. The EBA's ML/TF Risk Factors Guidelines further set out the type of risks often associated with the banking sector.

4.1 Sectoral risk assessment






21. In accordance with the EBA's Risk-Based Supervision Guidelines, the sectoral risk assessment (SRA) should provide NCAs with the basis for the individual risk assessment of institutions in that particular sector to inform the NCA's understanding of the extent of supervisory attention needed in the sector. The Guidelines do not prescribe the format of the SRA and they envisage that the SRA can form part of a MS's NRA as long as certain conditions are met.
22. All MSs in this round had identified and assessed sectoral ML/TF risks at the national level and documented their findings in a national risk assessment (NRA). Most NCAs had contributed to their MS's NRA at different levels of intensity, with some authorities providing input and assessment of the banking sector risks while other authorities were only involved through informal discussions.

4.1.1 Findings

23. Nine NCAs relied solely on the NRA to identify ML/TF risks in the sector. This meant that in MS where the NRA had not been updated, these NCAs did not have an up to date understanding of the ML/TF risks in the sector. For example, in four MS, the NRA was based on data from 2016, 2017 or 2018. This meant that the emerging risks linked to Russia's war in Ukraine, the increased use of crypto assets or risks related to the COVID-19 pandemic had not been identified or addressed by NCAs in these jurisdictions. This affected their ability to implement an adequate risk-based supervisory strategy within the banking sector.
24. In contrast, five NCAs had developed their own SRA, in addition to the one in the NRA. Their SRA addressed the risks which had emerged between the two NRAs. This meant that their supervisory strategy and priorities could address the risks in the banking sector more effectively.

25. The implementation review team found that:

- a. most NCAs did not have a comprehensive view of ML/TF risks within the banking sector. Some SRAs that formed part of the NRA focused only on one or two risk categories like risks arising from banks' customers or number of products/services, providing limited or no assessment of other risk factors such as geographies and distribution channels. For example, one NCA had assessed risks associated with only some banking products such as private banking and payment services. In another MS, the SRA did not consider the banking sector's exposure to ML/TF risks presented by third countries to which the banking sector had close geographic and business links.
- Good practices** relating to the SRAs:

 -  a comprehensive sectoral risk assessment methodology
 -  a comprehensive assessment of terrorist financing risks separate from the money laundering risk assessment
 -  a broad range of information sources
 -  regular updates of the SRA
 -  private sector is involved at an early stage in the SRA process
- b. most NCAs did not differentiate between TF risks and ML risks. They did not include sufficiently specific factors to ascertain the level of the TF risk in their SRA methodology. For example, in one case this was in spite of the NRA assessing the threat of TF as 'quite significant'. By contrast, some NCAs had assessed the sector's exposure to threats of ML and TF separately, which enabled them to identify the differences in the level of exposure to ML and TF risks by different products and services offered by credit institutions.
 - c. most NCAs did not have a documented SRA methodology and, where it was in place, it was lacking granularity. This meant that the rationale for assumptions in the SRA was not always provided. For example, in two cases, the SRA referred to the 'effectiveness of controls within the sector', which appeared to contradict supervisory findings, including serious weaknesses identified by those NCAs. In one NCA, which based its SRA on supervisors' professional judgement, the methodology did not detail the criteria or sources of information that should be consulted to form their judgement of each risk factor. This meant that the consistency of risk assessments across the sector could not be ensured.
 - d. where multiple NCAs were responsible for the supervision of the banking sector in one MS, some NCAs were not involved at all in the SRA (which formed part of the NRA) process or were consulted only informally. This meant that their assessment

of controls or risks associated with specific institutions under their supervision was not captured in the SRA.

In two MS, NCAs had given equal weights to all risk factors. As risk factors carry different weights depending on the specific circumstances in the country, a sector or sub-sector not weighting risk factors may hamper NCAs' ability to understand the relative importance of sectoral risks and to tackle these risks effectively.

4.1.2 Recommended actions

26. To address the review team's findings and to the extent that this was relevant in each case, the review team's recommended actions were that NCAs comply with the Risk-Based Supervision Guidelines, paying particular attention to the following:

- a. putting in place a comprehensive SRA methodology and documenting it to ensure a consistent approach and facilitate comparisons over time. Where the SRA is part of the NRA, NCAs should document how they will identify and assess ML/TF risks that emerge in between the NRAs. For example, in some instances it may be necessary to carry out a thematic review to understand the scale of a risk that has been identified.
- b. identifying and assessing specific risks in the banking sector, based on qualitative and quantitative assessment, and in those sub-sectors that are the most prevalent in the country, such as regional cooperative banks, private banks or universal banks.
- c. capturing TF risks in the SRA in a reliable and consistent manner. ML and TF are two different types of risks and, the risk drivers for TF can be different from those for ML.
- d. ensuring that supervisors' professional judgement is reflected in the risk assessment in a consistent way: for example, by defining criteria and information sources that should be considered when assessing each risk factor, or by clarifying the criteria based on which the effectiveness of controls put in place by banks should be captured in the SRA.
- e. defining weights assigned to risk factors to ensure that they are adequate, are balanced, and reflect the relative significance of each factor, and document the rationale for this in the methodology.
- f. putting in place internal governance arrangements and processes to ensure that the SRA remains up to date. NCAs should define the review frequency and

conditions that may lead to a decision that an update of the SRAs is or is not necessary in a given year.

- g. where multiple NCAs are involved in the SRA, whether as a stand-alone SRA or as part of the NRA, the authority leading this work should put in place a methodology that defines the role and responsibilities of each authority to ensure their adequate input in respect of those institutions under their supervision.


4.2 Entity-level risk assessment


27. The EBA's Risk-Based Supervision Guidelines state that an entity-level risk assessment is a tool to inform AML/CFT supervision. This is why it is important that NCAs take steps to ensure that their risk assessment methodology delivers reliable and meaningful results.


28. Almost all NCAs in this round's sample had developed a methodology for assessing the ML/TF risks associated with individual banks. The majority of these NCAs had taken steps to assess risks in line with that methodology either in all banks within the sector or in certain banks. In two cases, although the methodology was in place, the entity-level risk assessments were incomplete because the NCA had not assessed all credit institutions under its remit.

29. Almost all NCAs in this round had put in place a risk assessment tool to assess risks associated with individual banks. In some cases it was an automated tool and, in other cases, NCAs had opted for a more manual tool like a spreadsheet. In all cases, supervisors allocated the risk score based on their assessment of inherent risk and effectiveness of controls put in place by financial institutions. Most NCAs used a combination of data collected from credit institutions via questionnaires or regular reports for the assessment of the inherent risk. For the controls assessment, NCAs supplemented this with information from their supervisory activities, prudential supervisors, AML/CFT colleges and FIUs.

Good practices relating to the entity-level risk assessments:

 a comprehensive methodology and process guide that considers risks associated with all risk categories

 incorporating data from various sources already available to the NCAs rather than requesting it only from banks

 incorporating manual or automated quality and veracity checks to ensure that any errors and inaccuracies are rectified

4.2.1 Findings

30. The implementation review team found that:

- a. all NCAs had a documented entity-level risk assessment methodology in place, but the level of completeness and granularity varied between them. For example, half of all NCAs assessed allowed the risk score to be manually amended based on

supervisors' professional judgement without defining in their methodology a clear and robust process for these amendments. This may expose the NCAs to the risk that their risk assessment process may fail to deliver meaningful results.

- b. the methodology adopted by some NCAs to calculate the controls risk score did not reflect the actual effectiveness of controls in the sector. For example, one NCA applied a default score of 'medium-low risk' to banks that had not been assessed, justifying it by the level of maturity of controls in the banking sector. This was in spite of the NCA uncovering AML/CFT compliance failings that appeared to be widespread.
- c. nearly half of all NCAs in this round did not identify and assess all relevant ML/TF risks in the banking sector or in the specific sub-sector that they supervise. For example, in one case the authority was responsible for the supervision of banks that offer investment services, but its risk assessment failed to capture factors that reflect the diversity of investment products/services offered by banks under its supervision.
- d. several NCAs had failed to document their assumptions and rationale underpinning their choice of risk factors and the weights allocated to them. Some assumptions did not stand up to scrutiny when discussed. For example, in one NCA's view, the comparatively low proportion of PEP customers in the bank was an indication of poor controls in place for the identification of such customers.
- e. where multiple NCAs shared the responsibility for the AML/CFT supervision of the same banks in one MS, risk assessments were not aligned or coordinated between them. This resulted in NCAs of the same MS having divergent views on the level of the ML/TF risk in the same institution. This had further negative consequences for the private sector as, in one MS, the same information was requested by two different NCAs in a slightly different format and at different times.

Several NCAs based their risk assessment solely on information obtained from credit institutions. They did not supplement this information with other information available to them. They did not carry out veracity checks to satisfy themselves of the accuracy of data and information received. As a result, the reliability of the risk assessment could not be ensured, jeopardising the effectiveness of the overall risk-based supervisory approach.

4.2.2 Recommended actions

- 31. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
 - a. review their risk assessment methodology to ensure that it:
 - is sufficiently comprehensive and methodologically sound, and that it adequately informs the AML/CFT supervisory approach;

- defines the process and methodology for applying professional judgement as part of the risk assessment. For example, it should explain how the quantitative and qualitative information collected during supervisory engagements should be captured in the risk assessment tool and reflected in the controls score to ensure this is done in a consistent way;
 - captures ML/TF risks that are significant for banks under NCAs' supervision. In particular, NCAs should consider how they capture TF risks in the risk assessment.
- b. coordinate and exchange information relevant for the risk assessment between NCAs where multiple NCAs in the MS are responsible for the AML/CFT supervision of the same banks. This is necessary to ensure that all NCAs have a common understanding of ML/TF risks in the country and to avoid unnecessary duplication of efforts. NCAs should consider how they can leverage each other's risk assessments and potentially develop a joint-risk assessment.
- c. establish a process to ensure, to a reasonable degree, that any discrepancies or inaccuracies in the information received from banks are identified and corrected. For example, NCAs may consider cross-checking the information received from banks with other records held by them.

5. AML/CFT supervision

32. Directive (EU) 2015/849 requires NCAs to monitor effectively, and to take the measures necessary to ensure compliance with this Directive. As part of this, it requires NCAs to adjust the frequency and intensity of on-site and off-site supervision in line with the outcomes of their ML/TF risk assessments. Step 3 of the EBA's Risk-Based Supervision Guidelines clarifies that NCAs should ensure that staff with direct or indirect AML/CFT responsibilities are suitably qualified and trained to exercise sound judgment with a view to effectively challenging banks' AML/CFT policies and procedures should they give rise to concerns.
33. In almost all NCAs, the AML/CFT supervision was carried out by a stand-alone AML/CFT unit. Nevertheless, overall, NCAs continued to face the same challenges as NCAs that were assessed in the first three rounds of implementation reviews. This meant that significant differences existed in the way that ML/TF risks associated with the banking sector were managed and addressed.

5.1 Supervisory strategy and approach

34. Section 4.4.2 of the EBA's Risk-Based Supervision Guidelines provides that NCAs put in place an AML/CFT supervisory strategy that is based on their sectoral and entity-level ML/TF risk assessment. This strategy should set clear objectives for their approach to AML/CFT supervision and specify what the NCA will do to meet these objectives within a defined timeframe and with the available resources. They should also set out how they will implement their strategy through successive inspection plans.

5.1.1 Findings

35. Most NCAs in this year's sample experienced challenges in determining and implementing a longer-term AML/CFT supervisory strategy. These challenges affected the effectiveness of their risk-based approach to the AML/CFT supervision of banks.
36. The implementation review team found that:

Good practices relating to the supervisory practices and approach:



a yearly supervisory plan covers both on-site and off-site activities



a process is in place to calibrate the intensity of supervisory activities

- a. almost half of NCAs in this review round had no documented AML/CFT supervisory strategy in place. Where NCAs had put in place an AML/CFT supervisory strategy, this was (often) insufficiently detailed and did not meet all the requirements set

out in Section 4.4.2 of the EBA's Risk-Based Supervision Guidelines. For example, strategies did not always set out clear supervisory objectives or explain how the NCA would achieve its objectives with the resources at its disposal. As a result, several NCAs' supervisory approaches did not appear to be sufficient to mitigate the ML/TF risks identified in the banking sector.

- b. some NCAs had not put in place a formal comprehensive supervisory plan as described in Section 4.4.3 of the EBA's Risk-Based Supervision Guidelines. This, coupled with limited or no strategy, meant that it was not always clear on what basis NCAs were adjusting the nature, frequency and intensity of supervision. In a few cases, the NCAs did not supervise the sector with adequate intensity.
- c. where multiple NCAs were responsible for the AML/CFT supervision of the banking sector in the MS, they were making insufficient efforts to coordinate their supervisory approaches and plans. None of the NCAs had a sufficient overview of all the supervisory activities conducted in the sector and they could not ensure that the banking sector was adequately covered.

One NCA had integrated its AML/CFT function within the prudential function. As a result, the AML/CFT functions did not have a sufficient independence as prudential objectives appeared to play a significant role in the NCA's approach to AML/CFT on-site supervision. The review team was therefore concerned that prudential priorities may override AML/CFT priorities and that AML/CFT issues and breaches may not be adequately addressed.

5.1.2 Recommended actions

37. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
 - a. develop or enhance their AML/CFT supervisory strategy, in accordance with Section 4.4.2 of the EBA's Risk-Based Supervision Guidelines. The strategy should set out how the NCAs address the ML/TF risk associated with the sector: particularly, how they will use different on-site and off-site supervisory tools to achieve their supervisory objectives, how they will ensure adequate supervisory coverage of the whole banking sector and what resources they need to do so.
 - b. where multiple NCAs are responsible for AML/CFT supervision, coordinate their strategies to minimise the duplication and to ensure that all institutions are adequately supervised.
 - c. put in place a comprehensive supervisory plan that implements the strategy, in accordance with section 4.4.3 of the EBA's Risk-Based Supervision Guidelines. NCAs should ensure that the plan establishes clear and measurable performance indicators to monitor the implementation of the strategy. In the case of multiple NCAs, they

should coordinate their supervisory plans in good time to ensure that their supervisory activities do not overlap.

- d. for integrated supervisors, assess whether the AML/CFT function is sufficiently independent from the prudential function to ensure that AML/CFT objectives can be achieved.

5.2 Supervisory tools and techniques

38. The EBA's Risk-Based Supervision Guidelines require that, to ensure efficient use of supervisory resources, NCAs should choose such supervisory tools that are likely to have a greater impact on banks' compliance or allow them to cover a larger part of a sector. NCAs should recognise that each institution, sector and sub-sector is exposed to different levels of ML/TF risk and, therefore, the type and frequency of supervisory tools used may differ between them.


5.2.1 Findings


39. In this year's sample, most NCAs did not make full use of the comprehensive range of supervisory tools available to them. As a result, NCAs' approaches to supervision were not always sufficiently intrusive and adequate supervisory coverage of the whole banking sector could not be ensured.


40. The implementation review team found that:


- a. some NCAs relied on a small number of supervisory tools (although a variety of tools was available to them). These tools did not appear to be chosen based on the banks' ML/TF risk profiles. As a result, the NCAs had a limited ability to identify and address vulnerabilities in their banking sector.
- a. most NCAs' approaches to supervision were not sufficiently intrusive. For example, some NCAs were not requesting access to the banks' IT systems or assessing the effectiveness of the banks' screening and monitoring systems. Some NCAs did not have a robust sampling process in place.

Good practices relating to the supervisory tools and techniques:

 a detailed supervisory manual in place providing a comprehensive overview of all on-site and offsite supervisory tools

 thorough and comprehensive inspections

 particular attention given to testing of systems and customer files with an effective use of SupTech tools

 checks performed by supervisors clearly documented in the inspection reports

- b. almost all NCAs had put in place a supervisory manual, but this manual was not always sufficiently comprehensive or detailed to ensure the application of supervisory tools and professional judgement in a consistent way. In particular, manuals did not:

- set out criteria that staff should consider when choosing the best supervisory tools for specific supervisory purposes and objectives, for example when to opt for full-scope or targeted inspections and, in the case where NCAs opt for the latter, how to select the focus area of the inspection;
- detail the checks that NCAs should perform to assess the effectiveness of banks' AML/CFT systems and controls (such as their screening and monitoring systems). As a result, many NCAs did not challenge institutions' approaches and they did not do enough to satisfy themselves that systems and controls were effective;
- appear to be always applied or followed by the NCAs' staff. This may have prevented NCAs from gaining a sufficiently holistic view of the effectiveness of controls within the banking sector and root causes of weaknesses identified may have been missed.

One NCA was partly relying on external auditors to conduct onsite inspections. The NCA had full control and oversight over the selection of the auditors, the scope of the inspection and the checks that needed to be conducted by the auditors. The NCA also had a process in place to assess the outcome of each commissioned audit, which appeared to be effective.

5.2.2 Recommended actions

41. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
 - a. put in place a stand-alone comprehensive supervisory manual that is sufficiently detailed and complies with Section 4.4.5 of the EBA's Risk-Based Supervision Guidelines. The manual should set out the NCA's approach for choosing the most effective supervisory tools for specific supervisory purposes and objectives, provide guidance on how supervisors should assess the effectiveness of banks' specific AML/CFT systems and controls, and explain how to adjust the level of intrusiveness.
 - b. ensure the balance between, and the use of, different supervisory tools at the NCAs' disposal. NCAs should ensure that all tools are applied in a strategic way and that they mitigate the ML/TF risks to which the supervised banks are exposed.
 - c. ensure that supervision is sufficiently intrusive, in accordance with the risk-based approach. NCAs should develop a robust sampling process and ensure that the relevant controls within banks are adequately scrutinised and tested during the on-site inspection consistently by all staff.

5.3 Guidance and outreach

42. The EBA's ML/TF Risk Factors Guidelines¹ provide that NCAs should make available to their sector guidance that sets out how institutions in the sector should implement the risk-based approach. Guidance should help institutions comply with their AML/CFT obligations. In addition, Section 4.4.9 of the EBA's Risk-Based Supervision Guidelines clarifies the steps NCAs should take to identify the need for guidance and how to communicate that guidance to the sector.

5.3.1 Findings

43. Almost all NCAs used a variety of tools to set supervisory expectations and communicate them to banks, such as legally binding decrees, guidelines, meetings with the sector, seminars, bilateral engagements and the publication of sanction decisions.

44. Nevertheless, the implementation review team found that:

- a. most NCAs did not approach the communication with the sector strategically. For example, in many cases NCAs did not have a formalised approach in place for assessing the sector's guidance needs and for identifying the most adequate tools to address these needs. Where multiple NCAs were responsible for the same sector, in most cases they did not systematically consult with their counterparts prior to issuing guidance to the sector. This meant that there was a risk of duplication of work and contradictions between different guidance materials, which had materialised in some instances.
- b. half of all NCAs did not systematically consult with the sector prior to issuing guidance. As a result, NCAs' guidance was not always sufficiently adapted to the local context. For example, one NCA had more intense engagement with the larger banks in the MS, resulting in smaller banks' needs not always been captured or addressed through the guidance.
- c. most NCAs had not put in place mechanisms for assessing or testing the effectiveness of their guidance.

Three NCAs were effectively engaging with their banking sector, using a wide range of tools (e.g., guidelines, circulars, ad hoc communications and bilateral exchanges). These NCAs were strategically using different tools to engage with the sector. Banks praised the quality and usefulness of their guidance materials.

5.3.2 Recommended actions

¹ Guidelines (EBA/GL/2021/02) on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849.

45. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs should be systematic and strategic when providing guidance to and communicating with the sector and that they:
- a. systematically identify areas where more comprehensive, or more targeted, AML/CFT guidance might be necessary: for example, by reviewing inspection findings to identify common breaches or by identifying frequently asked questions from the sector. As part of this, NCAs should determine the best communication tools to serve the specific information needs. NCAs should also consider providing operative guidance such as information on emerging risks or aggregate inspection findings or by highlighting examples of good and poor practices.
 - b. ensure that their guidance is effective and improves the quality of banks' AML/CFT systems and controls, by testing its application during inspections and making changes where necessary to complement or improve the current framework.
 - c. systematically consult and involve all relevant stakeholders before communicating supervisory expectations to ensure that guidance is well understood and raises awareness of regulatory expectations. Where there are multiple NCAs responsible for the AML/CFT supervision of the banking sector, it is important that these NCAs act in a coordinated manner, clearly allocate each NCA's responsibilities and consult each other before issuing guidance to the sector. The coordination is also needed to ensure that expectations are consistent and to avoid duplication of efforts. In some instances, it may be necessary to consider whether one set of joint guidance would be more effective.

5.4 Resources

46. Section 4.4.2 of the EBA's Risk-Based Supervision Guidelines provides that NCAs should determine the supervisory resources necessary to implement the supervisory strategy and ensure that sufficient resources are available to them.

5.4.1 Findings

47. As was the case in the last two rounds, almost all NCAs in this year's sample had set up a stand-alone AML/CFT unit with dedicated expert staff. Almost half of all NCAs had increased their AML/CFT supervisory resources in recent years. Several NCAs were in the process of hiring staff at the time of the on-site visit.

The implementation review team identified a few NCAs which did not have sufficient human resources to implement their supervisory strategy.

Good practices relating to resources:

❶ a wide range of training available to staff, both in house and externally

🔊 joint training with the FIU and tax authorities

48. The implementation review team also found that:

- a. almost all NCAs were not approaching training of new or existing staff in a sufficiently strategic way. The absence of a dedicated strategy for onboarding new employees meant that the success of the onboarding process largely depended on informal knowledge sharing between new joiners and existing staff. The lack of a strategy for existing staff meant that potential knowledge gaps may remain unaddressed. This may have a negative impact on supervisors' ability to carry out their role effectively.
- b. where multiple NCAs were responsible for AML/CFT supervision in the MS, none of the NCAs approached training systematically or coordinated their training needs.

5.4.2 Recommended actions

49. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that:

- a. NCAs ensure that the number of staff is adequate and sufficient to implement the supervisory strategy, taking into account the expertise of existing staff and the maturity, size and complexity of the sector.
- b. NCAs identify the training needs and knowledge gaps of new and existing staff and address these systematically. NCAs should ensure that all relevant staff have appropriate knowledge and understanding of the risk-based approach to AML/CFT supervision and are able to exercise sound supervisory judgement in line with Section 4.4.10 of the EBA's Risk-Based Supervision Guidelines.
- c. NCAs assess the effectiveness of existing training programmes, for instance by reviewing inspection reports to test the consistent application of the NCA's in-house guidance.
- d. where multiple NCAs are jointly responsible for the supervision of the banking sector, the coordinating authority should use its position to ensure a consistent approach between all AML/CFT supervisors at national level by, for example, organising and coordinating joint training between them.

5.5 Supervisory follow-up




50. Section 4.4.8 of the EBA's Risk-Based Supervision Guidelines requires NCAs to ensure that all breaches or weaknesses in institutions' AML/CFT systems and controls framework are adequately addressed and effectively remediated by them. NCAs should take all necessary steps to ensure that institutions' behaviours or activities change or discontinue.

5.5.1 Findings

51. The implementation review team found that:

- a. almost half of all NCAs did not have a formalised process in place to support effective follow-up and to verify that banks had remedied the shortcomings effectively. For example, one NCA did not require specific timelines to be included in the remediation plan proposed by a bank, which made tracking progress difficult.

Good practices relating to the supervisory follow-up included:

-  a quarterly update of the follow-up file
-  a dedicated database in place where all remediation plans and follow-up actions are recorded, providing an easy way to track their progress
-  an internal audit review is requested by the NCA to verify the completion of corrective measures

5.5.2 Recommended actions

52. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:

- a. formalise and document their follow-up measures. NCAs should develop criteria they will consider when deciding on the most appropriate way to satisfy themselves that shortcomings have been addressed appropriately and effectively by institutions, considering the nature and severity of the breach.
- b. ensure that the remediation plans proposed by institutions are time bound and set out specific actions that will be taken by institutions to remedy the issues. This would enable the NCAs' monitoring of progress made with the remediation plan.

One NCA did not foresee any follow-up actions and relied on banks to take the adequate corrective measures to fix the weaknesses identified. The NCA also expected for the remediation to be verified by another NCA (which was also responsible for AML/CFT supervision) during its inspections, although the other NCA was never explicitly asked to do so.

6. Tackling ML/TF risks through prudential supervision

53. Directive 2013/36/EU (CRD) requires prudential supervisors to assess ML/TF risk when assessing applications for authorisation and applications for the acquisition or increase of qualifying holdings. It also requires them periodically to review the arrangements, strategies, processes and mechanisms put in place by banks, and to assess the suitability of members of the management body and key function holders at authorisation and on an ongoing basis afterwards. Where an assessment or ongoing review gives rise to reasonable grounds to suspect that ML/TF is or has been committed or attempted, or that there is an increased risk thereof, the Directive requires prudential supervisors to adopt measures to mitigate that risk.
54. On 4 November 2020, the EBA published its Opinion on how to take into account ML/TF risks in the SREP, to complement provisions in existing prudential guidelines and to clarify its expectations on this point. The revised SREP guidelines were published on 18 March 2022 and entered into force on 1 January 2023.
55. Nine NCAs in this round were integrated supervisors, which meant that they performed both prudential and AML/CFT supervision of the banking sector. Out of those, six NCAs shared their supervisory tasks with the European Central Bank (ECB). The ECB's processes were outside of the scope of this review.

6.1 ML/TF risks identified in ongoing prudential supervision and SREP processes

56. It is important that prudential supervisors are equipped effectively to identify, assess and manage the impact of ML/TF risks on prudential objectives, and to involve AML/CFT experts in a timely manner in the case of concern. The EBA's ongoing efforts to foster a holistic approach to AML/CFT meant that all prudential supervisors in this round were aware of their role in tackling ML/TF risks through prudential means.

6.1.1 Findings

57. In all integrated supervisors, cooperation and information exchange between prudential and AML/CFT supervisors were facilitated by physical proximity, integrated information systems and a common supervisory culture. Nevertheless, cooperation was often hampered by limited awareness among most prudential staff of indicators or warning signals that would suggest that the involvement of AML/CFT experts was warranted. The lack of documented and formalised internal procedures in some NCAs contributed to this. This meant that a comprehensive approach to tackling ML/TF risk could not always be

ensured or enforced.


58. The implementation review team found that, even though no legal obstacles to exchanging information between AML/CFT and prudential supervisors existed (regardless of whether the NCA was integrated or not):


- a. cooperation and information exchange between prudential and AML/CFT supervisors were not systematic in most cases. In three NCAs, processes were not formalised and cooperation was based on informal exchanges between staff. This meant that the exchange of relevant information before and after on-site


inspections was often dependent on personal relationships or the level of awareness and knowledge of individual prudential and AML/CFT supervisors. For example, staff were not always clear which supervisory findings should be shared and at what stage.


- b. in some integrated supervisors where AML/CFT supervision had previously been performed as part of prudential supervision, this had an adverse effect on cooperation as prudential supervisors assumed that they can tackle ML/TF risks on their own. As a result, some warning signals that should have triggered the involvement of AML/CFT experts were not acted upon.
- c. in MS with several AML/CFT supervisors, no cooperation mechanism had been put in place to ensure the exchange of information between the prudential department of the integrated supervisor and all AML/CFT supervisors, either directly or through the integrated supervisor's AML/CFT unit.
- d. only half of all NCAs in this round's sample considered whether a coordinated approach between AML/CFT and prudential supervisors to tackling relevant risks (e.g. joint inspections, prudential supervisors' participation in AML/CFT inspections or AML/CFT supervisors' participation in prudential meetings with banks' management) would be warranted.
- e. NCAs' approaches to incorporating ML/TF risks in the SREP process varied significantly. For example, some NCAs considered ML/TF risks only at a generic, theoretical level

Good practices relating to AML/CFT and prudential supervisory cooperation included:

 a single point of contact to manage the communications concerning specific credit institutions

 capital ad-ons applied in the SREP for AML/CFT shortcomings

 secondments to the AML/CFT unit, where prudential supervisors spend two to three months

 a stock-take of lessons learned carried out to enhance the effectiveness of AML/CFT and prudential cooperation

rather than systematically and provided limited evidence of how SREP reviews considered ML/TF risks. In one NCA, such consideration was left to the discretion of the prudential supervisor in charge of the respective bank. By contrast, the majority of NCAs had put in place a methodology for incorporating ML/TF risks in the SREP assessment, which defined the type of information prudential supervisors should receive in that regard. In those cases, ML/TF risks had an impact on the institution's final SREP score. In three cases, prudential supervisors had direct access to the ML/TF risk assessment tool, which allowed them to be up to date with any changes in the institution's ML/TF risk profile.

- f. as in most previous rounds, no prudential supervisors benefited from mandatory targeted training on ML/TF risks and warning signals, although most said that this would be useful. Where training was offered, it was generic training on AM/CFT and often not mandatory. For example, while there was a wide variety of AML/CFT training opportunities available to prudential supervisors in several NCAs, none of them were mandatory or tailored for their specific roles.

Prudential supervisors in two NCAs rarely requested information from the FIU (e.g. information from STRs or any other intelligence information the FIU may hold). This was due to strict confidentiality rules within these FIUs, which meant that such information could not be used directly for prudential supervision, but it could trigger a request for further information from the bank.

6.1.2 Recommended actions

59. To strengthen the synergies between prudential and AML/CFT supervision, to ensure that ML/TF risks are considered as part of ongoing prudential supervision, to address the points raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
 - a. set out in their internal policies and process manuals practical modalities for cooperation and exchange of information between prudential and AML/CFT supervisors. NCAs should consult the EBA's Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs (EBA/GL/2021/15). This is particularly important when several AML/CFT supervisors exist in one MS. Formalising these policies and processes will ensure that they can be applied consistently and effectively over time, including in situations where NCAs' staff change.
 - b. develop a methodology, based on the revised EBA SREP guidelines, which sets out with an appropriate degree of granularity how to incorporate ML/TF risks and concerns into the SREP, and the process for involving AML/CFT experts in the SREP process.

- c. develop a targeted AML/CFT training programme for prudential supervisors to ensure that they are aware of the impact that ML/TF risks might have on prudential objectives. Prudential supervisors should be aware of potential red flags and warning signals and instances when they are required to cooperate with AML/CFT supervisors. Such training should be provided and updated regularly to ensure that all relevant prudential supervisors have attended the training. NCAs should test the effectiveness of this training periodically.

6.2 Authorisations, assessments of qualifying holdings and the suitability of members of the management body and key function holders

60. In all cases examined in this round, the applicable legal framework allowed the exchange of information between AML/CFT and prudential supervisors. Nine NCAs in this round were also prudential supervisors and were responsible for the assessment of applications for authorisation, acquisition of qualifying holdings and the suitability of members of the management body and key function holders.

6.2.1 Findings

61. Cooperation and exchange of information worked better in those NCAs that were integrated supervisors than among NCAs with distinct prudential and AML/CFT profiles. Almost all prudential supervisors systematically required AML/CFT experts' input when assessing applications for authorisations and, in most NCAs, a formalised process was put in place for this. In general, AML/CFT experts provided their assessment of the applicant's AML/CFT systems and controls, of the consistency of the ML/TF risk assessment with the applicant's business model, and of the risk exposure of qualifying shareholders and key function holders. Different approaches, however, were adopted in respect of assessments of qualifying holdings and the suitability of members of the management body and key function holders.

One NCA shared an example whereby the proposed acquirer of a qualifying shareholding could not demonstrate that its AML/CFT controls in place were appropriate and sufficient, resulting in a negative decision by the AML/CFT experts. The prudential supervisor followed the advice of the AML/CFT experts and issued a negative decision based on the increased risk of ML/TF.

62. The implementation review team found that:
- a. some NCAs continue to rely on prudential supervisors to identify any ML/TF risks or AML/CFT concerns associated with authorisation applications, without having clearly defined instances that may trigger such concerns. In the absence of targeted training

for prudential staff on ML/TF risk indicators or documented procedure manuals, this meant that there was a risk that important warning signals might be missed.

- b. in almost all NCAs, the processes for identifying ML/TF risks associated with proposed acquisitions of qualifying holdings or members of the management body and key function holders were insufficiently robust. While almost all NCAs envisaged AML/CFT experts' involvement in these processes, only some of them had defined the trigger events for their involvement, such as changes in the bank's risk profile, the business plan or products. In most cases, however, the AML/CFT experts were involved only when individual prudential supervisors had concerns about the applicant. When asked by the review team for examples of instances giving rise to such concerns, prudential supervisors in most cases could not provide any examples or focused on the existence of criminal convictions of the applicant.
- c. where multiple NCAs were involved in AML/CFT supervision of banks in the MS, in all cases prudential supervisors did not consult AML/CFT experts from the other NCAs. This meant that prudential supervisors did not have a comprehensive view on ML/TF risks in relevant banks or people involved in the management or ownership of those banks.
- d. in most NCAs, the internal process manuals were incomplete or lacking granularity as they failed to define the AML/CFT experts' role in the authorisation, qualifying holdings and fit and proper assessments processes. The procedure manuals often did not:
 - specify the type of checks that should be performed or sources of information that should be consulted to ensure the integrity of the applicant or the legitimacy of funds used in the acquisition of proposed qualifying holdings. This meant that there might be gaps, which may lead to illegally obtained funds being used as banks' capital. Particularly exposed to this are NCAs that could not explain what checks are performed and by whom to ensure that funds come from legitimate sources.
 - define instances or indicators that would trigger the involvement of AML/CFT experts. The decision to involve AML/CFT experts appeared to be driven mainly by the judgement of the respective prudential supervisors. For example, in one NCA AML/CFT experts were involved only in complex qualifying holdings cases, without having a clear definition of what makes a case complex, how complexity relates to ML/TF risk and who decides on the complexity of a case, or which factors should be considered in this assessment.
 - define instances in which information from the financial intelligence unit (FIU) should be requested. As a result, half of the NCAs either did not request any information from the FIU or requested it only in limited circumstances. This

meant that NCAs' decision to approve or reject the application may be based on incomplete information. While the review team recognises that information received from the FIU may not be used as a reason for rejecting an application due to confidentiality provisions, such information can trigger further requests for information from the applicant to address any concerns raised by the FIU.

- explain the impact that a negative opinion from AML/CFT experts would have on the final decision on the applicant and how the NCA would deal with situations where AML/CFT experts' views diverge from those of prudential supervisors.

In two NCAs, although many applications (relative to the size of the sector) from potential members of the management body and key function holders had been received (i.e. one NCA received more than 1000 applications in 2023 and, the other NCA had 35 applications in 2023), the review team saw no evidence that AML/CFT experts' opinion was sought in any of these cases. This exposes the NCAs to a risk that some high-risk applicants may have been approved without sufficient scrutiny from an AML/CFT perspective.

6.2.2 Recommended actions

63. Prudential authorities perform an important gatekeeper function, by making sure that persons that own, control or manage banks are fit and proper and that the conditions for authorisation are met so that the sound and prudent management of applicant banks, and the integrity of the financial system in which the bank will operate, are ensured.
64. To ensure that AML/CFT issues are considered and appropriately acted upon in all relevant cases, to address the points raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
 - a. clarify and document in their internal process manual the role of AML/CFT experts in prudential processes. It should explain at least:
 - when and how the AML/CFT experts' opinion on the applicant should be sought, including from those AML/CFT experts that are not part of the integrated NCA but are also responsible for the AML/CFT supervision in the MS;
 - the type of information that should be exchanged between AML/CFT and prudential supervisors and when;
 - the impact that divergent views between AML/CFT and prudential supervisors or a negative assessment might have on the final decision in respect of the applicant; and

- the sources of information that should be consulted and checks performed either by prudential supervisors or AML/CFT experts to ensure that the NCA has a comprehensive view of possible ML/TF risks associated with the applicants' integrity as well as to ensure that funds used in the acquisition of qualifying holdings come from legitimate sources. The analysis of the legitimacy of funds should be meaningful and performed systematically for all cases.
- b. define criteria or warning signals which may indicate high-risk applications from qualifying shareholders and from members of the management body and key function holders in banks, particularly in instances with no criminal convictions. The EBA's forthcoming revision of the joint ESMA and EBA Guidelines on suitability will include specific guidance on this point.
- c. define when and how the information from the FIU should be requested and how it should be used for the purposes of prudential assessments. NCAs should refer to the EBA's Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs to inform their engagement approach with the FIU.

In one NCA, the involvement of the AML/CFT team in the authorisations process was limited to situations where the applicant had 'relations' with other supervised entities, particularly the founders or the persons envisaged to take up the functions of members of the board of directors. When AML/CFT experts were asked about the extent of their involvement in the three applications received during the review period, they could not elaborate on this or provide evidence of their involvement.

7. Enforcement

65. Directive (EU) 2015/849 requires sanctions and other supervisory measures to be effective, proportionate and dissuasive. The FATF's guidance on effective supervision and enforcement confirms that, to be effective, corrective measures and sanctions should be proportionate to the breach; change the behaviour of the offending bank and its peers; deter non-compliance; and eliminate financial gain.

7.1 Findings

66. The review team did not have any findings in relation to the enforcement process in place in two NCAs in this round.
67. Almost all NCAs in this round's sample had powers to take enforcement action or impose corrective measures on banks that were in breach of their AML/CFT obligations, but they did not always apply them effectively.
68. Nevertheless, the implementation review team found that:
- a. more than half of all NCAs did not have a comprehensive enforcement and sanctioning policy or procedures in place. This meant that NCAs relied on the professional judgement of individual staff to determine the severity of a weakness or a breach, define the value of fines or decide on administrative or corrective measures. In those cases, NCAs had not documented the criteria or factors that staff should consider when making such decisions. The absence of documented policies and procedures led to inconsistent approaches when taking an enforcement action and exposed NCAs to the risk of legal challenges by banks that in practice often resulted in the court reducing the fine imposed by the NCA.
 - b. in almost half of all NCAs, irrespective of the severity of the breach, fines or administrative measures were often low and not commensurate with the severity of breaches. This meant that enforcement was not always effective. For example,

Good practices observed in some NCAs relating to their enforcement processes:

▢ a full enforcement decision published providing details on breaches, the reasoning of the decision and aggravating/mitigating factors

☒ an institution's failure to implement previous recommendations is an aggravating factor when imposing a fine

- private sector representatives in one MS explained that they expected a fine that was a hundred times higher and, in several other MS, private sector representatives confirmed that they did not view fines as a deterrent;
 - in some NCAs, other types of remedial actions, such as prudential measures, operational stops, a change in the institution's management or the withdrawal of authorisation, existed but were rarely used by them.
- c. NCAs had adopted divergent approaches to publishing the administrative measures imposed by them, particularly as regards the level of detail provided in the publication. For example, some NCAs published a complete sanctions decision, while other NCAs relied on exceptions from publication foreseen in Directive (EU) 2015/849 by publishing most measures anonymously. Also, the rationale of the sanctions was limited by some NCAs to an abstract and generic explanation of the breaches found. Where this was the case, the educational and deterrent effect of enforcement was not ensured.
- d. some NCAs provide limited or no reports to the EBA's EuReCA database². For example, one NCA reports only those weaknesses that relate to irregularities which are 'very serious and systematic' and another NCA was lacking procedures for determining whether weaknesses are material and should be reported. This is in spite of the EuReCA RTS requiring all material weaknesses to be reported.

One NCA explained that some cases of on-site inspections did not generate any supervisory measures as the bank took action to remediate the issues during the inspection, even if serious breaches were identified. This created the perception that having irregularities in their AML/CFT controls framework is something that should be dealt with only if detected by the supervisor, without any consequences.

7.2 Recommended actions

69. In respect of other NCAs, to address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that NCAs:
- a. put in place and document AML/CFT enforcement policies and procedures that set out clearly how, and based on what criteria, they will determine the seriousness of breaches and weaknesses and how they will use different corrective and supervisory measures to achieve their supervisory objectives. These policies and procedures should

² The EBA's draft regulatory technical standards (EBA/RTS/2021/16) under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein ('EuReCA RTS').

be sufficiently detailed and methodologically robust to ensure they can be referred to in the case of legal challenges.

- b. reflect all infringements identified during the inspection in their findings reports, even if the correction of shortcomings occurs during or immediately after the on-site inspection. This would ensure a more accurate reflection of the level of controls in place in the banking sector and more accurate supervisory/ enforcement measures.
- c. publish sufficient information relating to the enforcement actions taken by the NCA to ensure their deterrent and educational effect. It is important that the published information can then be used by banks to carry out a gap analysis against their own AML/CFT policies and procedures with a view to avoiding similar breaches. Where NCAs are taking supervisory measures that do not require publication under their national laws, they should consider how else they can communicate these measures and shortcomings to the sector to ensure their deterrent effect. They might do so, for example, by publishing them in an aggregated format or in a summary report.
- d. periodically assess whether their approach to enforcement is effective and adjust their approach where this is necessary.

NCAs should use all supervisory and remedial measures at their disposal, either on their own or in conjunction with each other. For example, in more severe cases NCAs may consider temporarily forbidding a supervised institution from undertaking certain business activities or withdrawing its licence³.

³ Joint ESAs Report (ESAs 2022 23) on the withdrawal of authorisation for serious breaches of AML/CFT rules.

8. Domestic and international cooperation

70. Directive (EU) 2015/849 is clear that cooperation between NCAs at home and across borders is an integral component of an effective approach to AML/CFT supervision.

71. In December 2021, the EBA published its Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs, as well as the revised Risk-Based Supervision Guidelines. Both sets of Guidelines lay down how NCAs should cooperate in the fight against financial crime.

8.1 Findings

72. The review team observed that domestic and international cooperation was better developed in those countries where one NCA was responsible for AML/CFT supervision of the banking sector. In all those cases, the review team found that both national (refer to Figure 1) and international cooperation (refer to Figure 2) frameworks included arrangements for sharing supervisory information, as well as participation in different national and international cooperation platforms and fora.

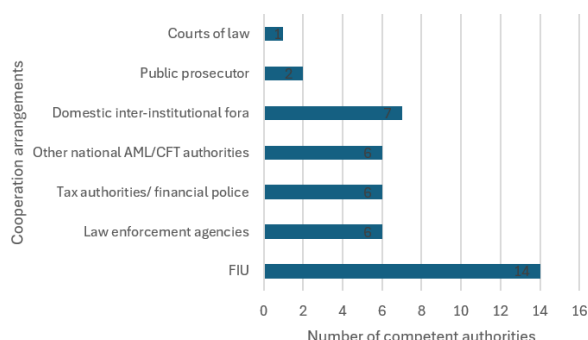


Figure 1: NCAs' most common domestic cooperation arrangements.

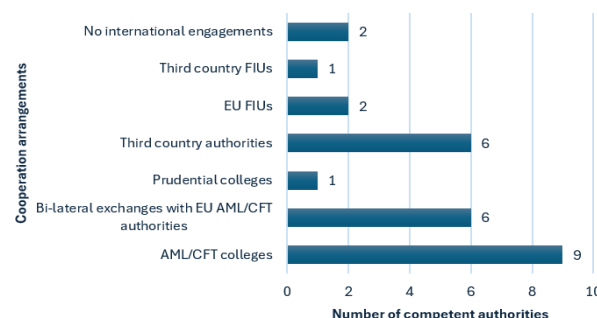




Figure 2: NCAs' most common international cooperation arrangements.

73. The implementation review team found that:

- a. in respect of domestic cooperation:
 - i. while all NCAs had put in place some cooperation mechanisms with the FIU or the FIU analysis function (e.g. an MoU), in most cases the information was not flowing smoothly, and cooperation was not regular or ongoing. This was often due to reliance on informal ad hoc exchanges, rather than scheduled meetings between the NCAs and the FIU, although they were envisaged in the formal agreements.

- ii. in those MS where multiple NCAs were responsible for the AML/CFT supervision of banks, the cooperation mechanisms in place were not used effectively or, in some cases, fell short of the standards set by the EBA. This meant that NCAs did not have access to all information relevant for their supervisory or the ML/TF risk assessment purposes, creating gaps in their understanding of ML/TF risks in the banking sector.
- iii. most NCAs had only limited or no cooperation with tax authorities. In most cases, no formal cooperation agreement had been put in place. This meant that information relating to specific cases or on wider trends and typologies was not exchanged, thus creating a risk that the banks' exposure to ML and TF risk relating to tax crimes may not be identified, assessed and tackled as part of the supervisory tasks performed by NCAs.

Good practices relating to domestic and international cooperation:

-  a proactive engagement with NCAs in other MS and in third countries, which involved joint or coordinated inspections
-  an FIU liaison officer appointed to ensure smooth cooperation between the NCA and the FIU
- ☒ an agreement reached on common topics between the NCA and tax authorities for the purposes of cooperation

During one review, the review team learned that tax evasion and tax related crimes present a major risk in the country. However, exchanges between the NCA and tax authorities happened only rarely, including during an annual meeting as part of an inter-institutional cooperation forum.

74. The implementation review team found that:

In respect of international cooperation:

- i. half of all NCAs in this round had only limited or no engagement with NCAs in other MS or third countries. Despite the presence of the country's banking groups in other jurisdictions or their having foreign branches under their supervision, NCAs had not established cooperation mechanisms with authorities in those countries. This meant that no information was exchanged between them and NCAs did not have a holistic view on the controls framework or risks associated with these institutions.
- ii. some NCAs did not participate in AML/CFT colleges. This was generally observed in those countries where multiple NCAs are responsible for the supervision of banks. In those cases, one of the NCAs was nominated to attend the college, however it did not appear to consult other NCAs before or debrief them after the AML/CFT college meeting.

8.2 Recommended actions

75. To address the points raised above and to the extent that this was relevant in each case, the review team recommended the following:

- a. In respect of domestic cooperation:
 - i. that NCAs strengthen cooperation with the FIU by ensuring ongoing cooperation, including formal and periodic meetings with staff at different levels, to ensure a permanent and immediate flow of information between the NCA and the FIU. Such cooperation should not be limited to discussions on specific cases, but should also include exchanges on trends, typologies and ML/TF risks.
 - ii. that NCAs put in place or strengthen the cooperation arrangements with tax authorities. This could be achieved by, for example, putting in place an MoU which clearly defines practical modalities of cooperation between the two authorities. These cooperation mechanisms should include processes to exchange strategic information on a systematic basis.
- b. In respect of international cooperation:
 - i. that NCAs approach international supervisory cooperation in a more strategic way. NCAs should engage with relevant EU and third-country authorities, particularly where they have concerns or adverse findings about foreign institutions operating in their MS (in the absence of AML/CFT colleges). This could be achieved, for example, by establishing cooperation agreements or putting in place an MoU with these authorities. This may allow NCAs to perform joint on-site inspections or to invite other authorities to participate in inspections led by the NCA.
 - ii. that NCAs apply a risk-based approach to their participation in AML/CFT colleges (if the NCA is unable to participate in all colleges), to ensure that the supervisory approach of branches of foreign banks in their MS is adequate in the case of possible systemic issues across the group.
 - iii. where one of the NCAs is representing the country in the AML/CFT college, the coordination of messages and feedback from the college meeting is crucial. The effectiveness of AML/CFT colleges is dependent on the comprehensiveness of information shared between the members.
 - iv. to develop a better understanding of ML/TF risk exposure of banking groups operating in other countries, NCAs may wish to consider carrying out joint on-site inspections with NCAs in other MS or inviting other authorities to participate in inspections led by the NCA in branches of foreign banks.

One NCA had put in place an MoU on cooperation and exchange of information with the tax authorities. As a result of this, the NCA and tax authorities were able to address jointly issues with a particular type of customer spotted by the tax authorities.

9. Conclusions

76. In June 2024, a new EU AML/CFT legislative package entered into force. The new provisions will transform the EU's legal and institutional AML/CFT framework, including through the establishment of a new EU-wide AML/CFT agency ('AMLA'), which will be fully operational from 2026. The new legislation provides AMLA with significant powers to enhance supervisory cooperation and convergence in the EU by putting in place a harmonised ML/TF risk assessment methodology, by setting supervisory expectations and by developing a common supervisory approach and methodology. AMLA will also directly supervise some of the largest, higher-ML/TF-risk financial institutions in the EU.
77. Since the launch of the EBA's implementation reviews in 2018, the review team has seen significant developments in the NCAs' approaches to supervision. These related to an enhanced focus on, and investment in, NCAs' risk assessment methodologies and tools, a marked increase in cooperation, for example in the AML/CFT colleges context, and an improved understanding by prudential supervisors of the ML/TF risk and the negative impact that it may have on prudential objectives of banks. Almost all NCAs have restructured their AML/CFT supervisory organisation by creating stand-alone AML/CFT units and increasing resources allocated to the AML/CFT supervision. This is a direct result of various training initiatives, reports, opinions and legal instruments published by the EBA in recent years to build capacity and make AML/CFT supervision more effective. The positive changes in supervisory approaches can also be observed in the shape of a significant number of good practices observed in this round and indicated in this report.
78. Nevertheless, most NCAs continued to experience challenges in operationalising the risk-based approach to AML/CFT supervision in practice. While almost all NCAs used risk assessments (either entity-level or SRAs) as a base for their risk-based approach, their approach was not always strategic. This meant that the intensity and intrusiveness of supervision was often not determined by a risk profile of a certain institution but by supervisors' professional judgement on a case-by-case basis. Similar issues were identified in relation to the selection of supervisory tools, which appeared to be either by default (i.e. all inspections are targeted inspections) or determined by the supervisor on a case-by-case basis, regardless of the risk profile.
79. The most significant challenges in this round were observed in the processes relating to the prudential supervisors' abilities to identify ML/TF risks as part of the assessment process for authorisations, qualifying holdings, and members of the management body and key function holders. It was evident that NCAs' approaches diverge significantly in this area, with some NCAs involving AML/CFT experts in all applications and others only on a case-by-case basis. The lack of involvement of AML/CFT experts and cooperation between AML/CFT and prudential supervisors in some of these processes may result in high-risk applications being

missed. It is important to note that the high-risk exposure of the applicant to ML/TF does not necessarily mean the refusal of the application, but it may mean that additional measures may need to be put in place to mitigate the risk associated with these applicants.

80. With this fourth round of reviews, the EBA has assessed all NCAs that are responsible for the AML/CFT supervision of the banking sector. As the final step in this project, the EBA will carry out a follow-up exercise in 2025 where it will take stock of the actions taken by the assessed NCAs to address the EBA's recommendations since the first round of reviews and share its findings with AMLA.
81. On 31 December 2025, the EBA hands over its AML/CFT mandate to AMLA but remains responsible for tackling ML/TF risk through the prudential framework.

Annex

List of key AML/CFT instruments mentioned in this report

AML/CFT supervision	EBA (2021): Guidelines on the characteristics of a risk-based approach to AML/CFT supervision and the steps to be taken when conducting supervision on a risk-sensitive basis – the Risk-Based Supervision Guidelines (amending Joint Guidelines ESAs JC 2016 72)
AML/CFT systems and controls	EBA (2021): Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the ML/TF risk associated with individual business relationships and occasional transactions – the ML/TF Risk Factors Guidelines (amending Joint Guidelines ESAs JC 201737)
ML/TF risk	EBA (2023): fourth Opinion on the risks of ML/TF affecting the European Union's financial sector
Authorisations	EBA (2021): Guidelines on a common assessment methodology for granting authorisation as a credit institution under Article 8(5) of Directive 2013/36/EU
Qualifying holdings	ESAs (2016): Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector
Suitability	EBA, ESMA (2021): Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body (revised)
Governance	EBA (2021): Guidelines on internal governance under Directive 2013/36/EU – second revision
Ongoing prudential supervision	EBA (2022): Guidelines on common procedures and methodologies for the Supervisory Review and Evaluation Process (SREP)

Cooperation

EBA (2021): Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units under Directive (EU) 2013/36/EU

ESAs (2019): Joint Guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between NCAs supervising credit and financial institutions – the AML/CFT Colleges Guidelines

For a complete list of the EBA's regulatory instruments, opinions and reports on AML/CFT, please refer to the EBA's AML/CFT website at:

<https://www.eba.europa.eu/regulation-and-policy/anti-money-laundering-andcounteringfinancing-terrorism>



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