A&L Goodbody

FINANCIAL REGULATION

The EU's new Anti-Money Laundering Authority –
ALG FAQ

The EU's Anti-Money Laundering Authority (**AMLA**) became operational on 1 July 2025. Although its full set of legal powers will only be in force in two years' time, from 1 July 2027, it is clear from formal and informal announcements that AMLA's influence will be felt well before that date.

We have set out below an ALG FAQ for financial services legal and compliance staff to help them assess the impact of AMLA. The FAQ includes details on the process for assessing and selecting obliged entities for direct supervision by AMLA (including a summary table in the Appendix).
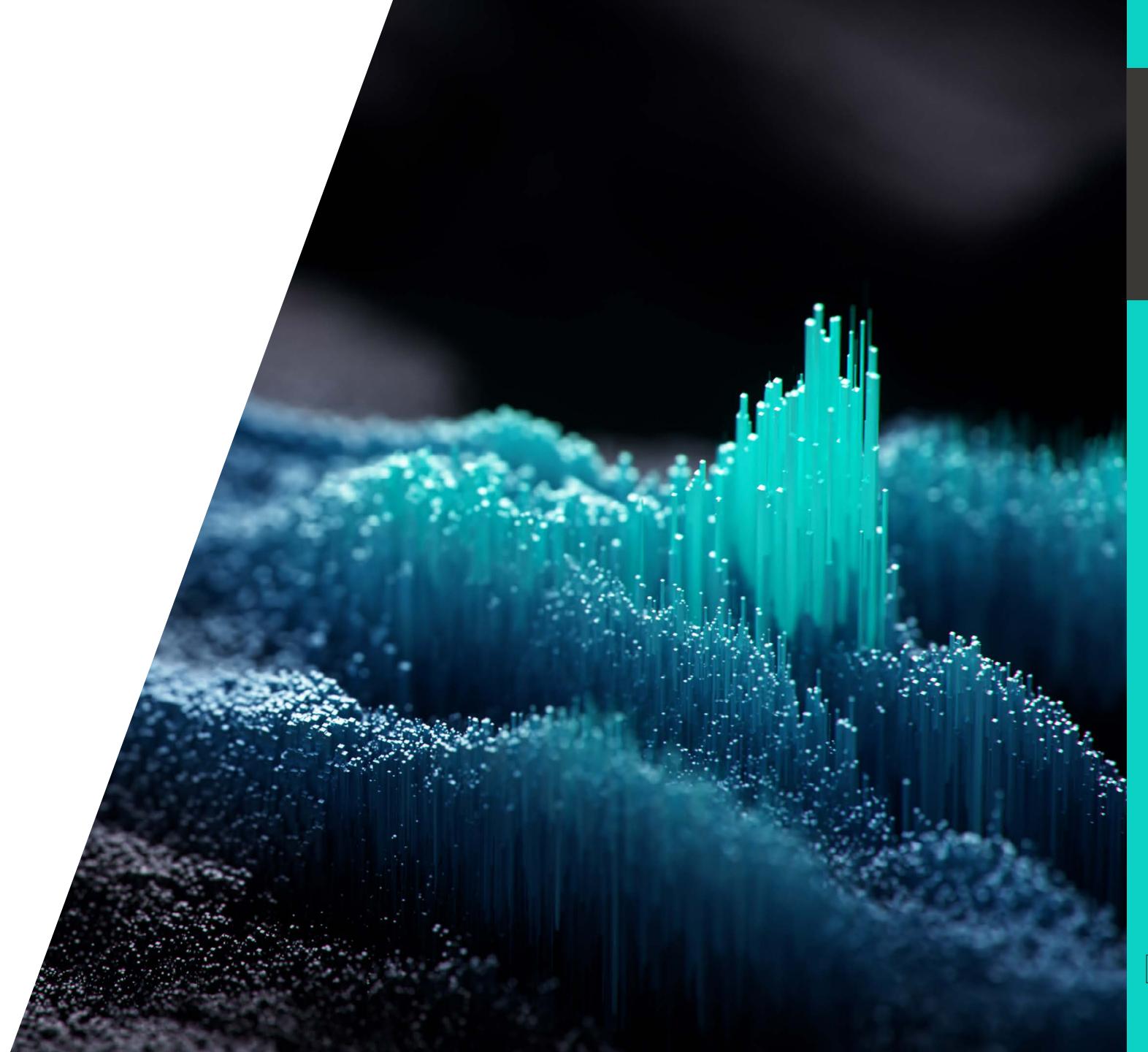
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What is AMLA?

AMLA was established in 2024 under the European Commission's anti-money laundering and countering the financing of terrorism (**AML/CFT**) package.

The AML/CFT package was published in the Official Journal of the EU on 19 June 2024 and consists of:

- <u>**Regulation (EU) 2024/1624**</u> on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (**AML Regulation**)

- <u>**Directive (EU) 2024/1640**</u> on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (**AMLD6**)

- <u>**Regulation (EU) 2024/1620**</u> establishing AMLA (**AMLA Regulation**)

AMLA is a central EU regulatory authority which will co-ordinate all EU national AML/CFT supervisory authorities, with a view to integrating and improving the effectiveness and consistency of EU AML/CFT supervision and enforcement across the financial and non-financial sectors. Once it has its full legal powers, AMLA will act as an AML/CFT supervisor, support the work of financial intelligence units (**FIUs**) and manage a central AML/CFT database. AMLA will also have enforcement powers.

What are AMLA's supervisory powers?

Direct supervision

AMLA will directly supervise 'selected obliged entities' or groups of 'selected obliged entities' (see table below) that are deemed to pose the highest risk of money laundering or terrorist financing and operate in at least six EU Member States (through establishments or under the freedom to provide services). Up to 40 obliged entities will initially be chosen for direct AMLA supervision (which the AMLA Regulation refers to as 'selected obliged entities'). However, where more than 40 obliged entities or groups would qualify for direct supervision based on their high-risk profile, AMLA may, in consultation with the relevant national supervisory authorities, agree to supervise a larger number (AMLA has discretion in this regard). Market rumour indicates that AMLA will likely supervise more than 40 obliged entities but that is yet to be confirmed at this early stage.

Each selected obliged entity will be directly supervised by a joint supervisory team **(JST)**, a similar structure to SSM banking supervision. As such, every JST will be comprised of AML staff and staff from the national supervisory authorities responsible for supervision of the selected obliged entity (i.e. home and host supervisory authorities). This will result in each selected obliged entity and its branches being directly supervised by a dedicated JST. Each JST will be led by an AMLA staff member, who will co-ordinate all team supervisory activities. All obliged entities that are selected for direct supervision will be subject to consistent EU AML/CFT standards and supervision. This is expected to be a change to the current position of divergent practices currently adopted by national regulators and would mean a more uniform AML/CFT framework for those selected obliged entities.

Obliged entities that may be selected for direct supervision by AMLA	
Credit institution	Crypto-asset service provider
MiFID investment firm	UCITS and UCITS management company
Insurance undertaking	AIF and AIF fund manager
Insurance intermediary	Central securities depository
Payment institution	Mortgage provider and mortgage credit intermediary within the scope of the Mortgage Credit Directive
E-money institution	Creditor and credit intermediary within the scope of the Consumer Credit Directive
Certain undertakings that fall within the CRD 'financial institution' definition (this includes but is not limited to 'Schedule 2' firms in Ireland that are regulated for AML/CFT purposes)	—

Indirect supervision

Non-selected obliged entities will be directly supervised by national supervisory authorities (home and host supervisory authorities, as applicable). However, all non-selected obliged entities will also be subject to indirect supervision by AMLA.

AMLA will engage with national supervisory authorities to ensure consistent EU application of AML/CFT rules. It will monitor and co-ordinate the supervisory authorities by carrying out assessments of supervisory convergence, publishing its findings and issuing follow-up measures in the form of guidelines or recommendations (including follow-up measures addressed to specific supervisory authorities). Supervisory authorities will be required to make every effort to comply with AMLA requested follow-up measures.

What is the process for assessing and selecting obliged entities for direct supervision by AMLA?

AMLA will use a **two-step process** to identify the obliged entities that will be subject to its direct supervision:

- **Step 1:** AMLA will identify all obliged entities that operate in at least six EU Member States (including the home Member State) whether via establishment (i.e. a branch) or on a cross-border services basis.
- **Step 2:** AMLA will then assess the inherent and residual ML/TF risk profile of each of the obliged entities identified in Step 1 and classify their inherent and residual risk profiles as low, medium, substantial or high.
  - ɯ The result of the two-step process will be that an obliged entity which operates in at least six EU Member States and whose residual risk profile is classified as 'high' will qualify for direct supervision. AMLA may then use its discretion to classify the entity as a 'selected obliged entity'.

Where an obliged entity is part of a group, its risk profile will be classified at group-wide level. The calculation of a group-wide risk profile uses a weighted averaging method, emphasising high-risk entities (see below for further detail).

Is there any additional detail on the two-step process?

Yes. Further detail on the two-step process will be set out in regulatory technical standards (**Final RTS**), an initial draft of which has been published for <u>consultation</u> by the EBA (**Draft RTS**).

The Draft RTS sets out materiality thresholds for determining if an obliged entity operates in a Member State under the freedom to provide services for the purposes of 'Step 1' of the process. The Draft RTS also sets out benchmarks and methodology for classifying obliged entities' inherent and residual risk profiles for the purposes of 'Step 2' of the process. The details are summarised below.

Materiality threshold for determining if an obliged entity operates in a Member State under the freedom to provide services (part of Step 1)

It is straightforward to identify if an obliged entity operates in a Member State via establishment, e.g. if the obliged entity has a branch in another Member State, then that is clearly an establishment. However, it is not as easy to determine if an obliged entity operates in another Member State under the freedom to provide services and therefore the Draft RTS prescribe materiality thresholds to assist with this determination.

If an obliged entity satisfies one or both of the following thresholds in relation to a Member State, it will be deemed to be operating in that Member State under the freedom to provide services:

a. the number of entity customers resident in the Member State exceeds 20,000

or

b. the total value in Euro of incoming and outgoing transactions generated by the customers exceeds €50m

Assessing inherent and residual ML/TF risk profile (Step 2)

The Draft RTS set out a detailed 'three-phase' methodology for calculating and classifying the level of inherent and residual ML/TF risk of an obliged entity:

- **Phase 1:** The inherent risk profile of the obliged entity is calculated and classified
- **Phase 2:** A quality assessment of the entity's AML/CFT controls is conducted
- **Phase 3:** The residual risk profile of the obliged entity is calculated and classified based on the outcome of the phase 1 and 2 assessments, resulting in a residual risk score for the obliged entity of low, medium, substantial or high.

The methodology and benchmarks for each phase are detailed in the Draft RTS. In summary, the phase 1 and 2 assessments are performed based on an automated scoring system, with a possibility to adjust the scores based on certain considerations. In phase 3, an automated scoring system is then used to combine the obliged entity's inherent risk score and quality of controls score to produce its residual risk score.

The three-phase methodology and benchmarks are consistent with the methodology and benchmarks used for the national risk assessments that are required for all obliged entities under Article 40 of AMLD6. The EBA states that using consistent methodology and benchmarks limits the operational burden on obliged entities and national supervisory authorities.

Is there a group-wide risk assessment for identifying obliged entities for direct supervision?

Where an obliged entity is part of a group, its risk profile will be calculated and classified at group-wide level. A weighted averaging methodology will be used to calculate the group-wide risk score. The Draft RTS sets out the methodology which involves an aggregation of entity-level residual risk scores. This aggregation consists of a weighted average, reflecting the importance of each entity within the group. The intention is to give due

consideration to entities that carry a high ML/TF risk and whose operations represent a sizeable part of the group's operations and to avoid lower-risk entities unduly lowering the group's overall ML/TF risk score. Ultimately, the aggregation exercise is an additional step following the three-phased methodology for identifying each residual risk score at entity level within the group.

Can AMLA directly supervise entities that do not satisfy the assessment criteria outlined above?

Yes, in exceptional circumstances. AMLA may take over the direct supervision of a non-selected obliged entity for a limited period following a request by a national supervisory authority. AMLA may only agree to the request where at least one of the following conditions is met:

- the requesting supervisory authority can demonstrate the inefficacy of supervisory measures imposed on the non-selected obliged entity in relation to serious, repeated or systematic breaches of applicable requirements
- the heightened ML/TF risk or the serious, repeated or systematic breaches of applicable requirements affect several entities within a non-selected obliged entity group, and coordinated supervisory action at EU level would be more effective to address the breaches

- the request concerns a temporary, objective and demonstrable lack of capacity at the level of the supervisory authority to adequately and timely address the ML/TF risk

Where AMLA takes a decision to assume direct supervision, it will notify the requesting supervisory authority and the relevant non-selected obliged entity of the date on which it will assume direct supervision and the duration of supervision. The non-selected obliged entity will be deemed a selected obliged entity for the purposes of the AMLA Regulation during that period. At the end of the period, direct supervision will automatically transfer back to the national supervisory authority unless AMLA extends the duration of its direct supervision following a further request.

What else will AMLA do?

Supporting FIUs

AMLA will facilitate co-operation, information exchange and identification of best practices among FIUs and contribute to the harmonisation of FIUs' practices for the detection of suspicious transactions across borders. It will do so by developing procedures for the joint analyses by FIUs of cross-border cases, conducting peer reviews of FIUs' activities, hosting the FIU.net system to allow FIUs exchange information with each other and other authorities and developing and sharing expertise on detection, analysis and notification of suspicious transactions (among other tasks).

Managing a central AML/CFT database

AMLA will establish and keep up to date a central AML/CFT database of information collected from national supervisory authorities or arising from its own activities. AMLA will analyse the information in the database and share its analyses with national supervisory authorities on a confidential basis to facilitate their supervisory activities.

Enforcement

AMLA will have enforcement powers. However, given the timelines below it is unlikely that the market will see AMLA led enforcement action in the next few years.

What are the timelines?

The following indicative timeline applies to AMLA's activities:

- **1 July 2025**: AMLA has started operating and begun most of its non-supervisory activities.
- **By 1 July 2027:** AMLA is expected to commence the first process to select 40 obliged entities for direct supervision (selection must be concluded within six months of the date of commencement). We understand that AMLA has already begun initial scoping work for identifying selected obliged entities given the short formal selection window that it has between 1 July 2027 and the end of 2027.
- **By the end of 2027:** AMLA is expected to have selected at least 40 obliged entities for direct supervision (it must publish a list of the selected obliged entities without undue delay upon completion of the selection process).

APPENDIX: Summary table

PROCESS FOR ASSESSING AND SELECTING OBLIGED ENTITIES FOR DIRECT SUPERVISION BY AMLA			
Step	**Description**	**Additional detail**	**Outcome > selected for direct supervision**
Step 1: **Identifying obliged entities operating in at least six Member States**	AMLA will conduct an assessment to identify obliged entities that operate in at least six Member States (including the home Member State) whether: ■ via establishment or ■ under the freedom to provide services	An obliged entity has establishment in a Member State if it has a branch in that Member State. An obliged entity is deemed to be operating in a Member State under the freedom to provide services if it satisfies one or both of the following thresholds in relation to that Member State: a. customers resident in the Member State exceeds 20,000 or b. the total value in € of incoming and outgoing transactions generated by the above-mentioned customers is over €50m	
Step 2: **Classifying inherent and residual ML/TF risk profile of the obliged entities identified under Step 1**	There is a 'three-phase' methodology and specific benchmarks for calculating and classifying the level of inherent and residual ML/TF risk of an obliged entity: ■ Phase 1: The inherent risk profile of the obliged entity is calculated and classified ■ Phase 2: A quality assessment of the entity's AML/CFT controls is conducted ■ Phase 3: The residual risk profile of the obliged entity is calculated and classified based on the outcome of the phase 1 and 2 assessments, resulting in a residual risk score for the obliged entity of low, medium, substantial or high	■ There is a separate methodology for each phase, along with specific benchmarks ■ The phase 1 and 2 assessments are performed based on an automated scoring system, with a possibility to adjust the scores based on certain considerations ■ An automated scoring system is then used to combine the obliged entity's inherent risk score and quality of controls score to produce its residual risk score	If an obliged entity operates in at least six Member States **and** its residual risk score is classified as 'high', it will qualify for direct supervision and AMLA may determine it to be a 'selected obliged entity'
Group-wide assessment	■ Where an obliged entity is part of a group of credit institutions or financial institutions, its risk profile will be calculated and classified at group-wide level. ■ The Draft RTS provide a weighted averaging methodology for the calculation of a group-wide risk score. The methodology is based on an aggregation of entity-level residual risk scores. This aggregation consists of a weighted average, reflecting the importance of each entity within the group. ■ The intention is to give due consideration to entities that carry a high ML/TF risk and whose operations represent a sizeable part of the group's operations and to avoid lower-risk entities unduly lowering the group's overall ML/TF risk score.		

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