

## **AMLA PUBLIC CONSULTATION ON DRAFT REGULATORY TECHNICAL STANDARDS ON PECUNIARY SANCTIONS, ADMINISTRATIVE MEASURES AND PERIODIC PENALTY PAYMENTS UNDER ARTICLE 53(10) OF DIRECTIVE (EU) 2024/1640**

### **ACCOUNTANCY EUROPE GENERAL OBSERVATIONS**

We welcome the opportunity to provide feedback on the draft *Regulatory Technical Standards on pecuniary sanctions, administrative measures, and periodic penalty payments under Article 53(10) of Directive (EU) 2024/1640 (RTS)*. In particular, we appreciate that this consultation explicitly invites input from the non-financial sector, as it is essential that the enforcement framework reflects the practical realities and risk profiles of sectors beyond financial services.

However, we would like to note that the four-week consultation deadline is very short for a complex and far-reaching set of rules. This risks creating the impression that the exercise is more procedural than a genuine effort to gather meaningful feedback from the non-financial sector. AMLA's consultation paper itself recognises that the earlier European Banking Authority (EBA) consultation — on which this text is based — was primarily targeted at the financial sector, and that non-financial stakeholders may not have been sufficiently engaged at that stage.

Against this background, a short consultation period for new enforcement standards appears unduly constrained and may reinforce the perception that the exercise is formal rather than substantive.

This underscores the importance of allowing sufficient time and providing clear guidance to facilitate meaningful input from all affected stakeholders. We therefore encourage AMLA to engage actively with non-financial sector stakeholders to better understand their operational realities.

Early and ongoing engagement is essential. Structured dialogue from the outset enables stakeholders to provide practical feedback and helps ensure that standards are workable, proportionate, and aligned with real-world practices in the non-financial sector. Cooperation between AMLA, national authorities, and professional bodies will also be crucial to support consistent implementation across jurisdictions.

### **TAILORING THE RTS FOR NON-FINANCIAL SECTOR OBLIGED ENTITIES**

We would like to emphasise that, as currently drafted, the proposed RTS are primarily designed for the financial sector and do not adequately reflect the operational realities of non-financial professions. Several indicators are calibrated for large financial institutions and are not suitable for non-financial obliged entities, such as accountancy practices, particularly small and medium-sized practitioners.

This concern was explicitly raised during the Accountancy Europe [stakeholder roundtable](#) with AMLA held on 18 November 2025. During that discussion, participants from across the non-financial professions stressed that standards designed for banks and financial institutions cannot simply be replicated for professional services sectors such as accountancy, auditing, tax advisory, legal and notarial professions.

Participants highlighted the need for:

- Proportionality and tailored approach: accountants, auditors, tax advisers operate differently from banks. Risk-based approaches should allow professional judgement rather than replacing it with prescriptive “tick-box” processes.
- Sector-specific implementation: Standards should reflect the day-to-day realities of non-financial professions particularly smaller firms. Clear and consistent definitions are needed to ensure that obligations are interpreted in the same way across sectors and Member States.
- Balancing detail and flexibility in Level 2 and 3 measures: Level 2 and 3 measures should avoid excessive prescriptiveness, preserving the flexibility needed for professional judgement and risk-based decision-making. This balance is essential to avoid disproportionate burdens, direct resources toward genuine risk, and to ensure that the rules can be applied effectively within a professional services environment, rather than being overly calibrated to financial-institution operating models.

This distinction is not for the time being sufficiently reflected in the current draft RTS. We therefore [encourage AMLA to more clearly incorporate sectoral differentiation and proportionality in the final standards](#) to ensure they are practical, effective and aligned with the realities of the non-financial sector. Accountancy Europe and its experts stand ready support in this exercise.

Without sector-specific adjustments, the RTS risks overstating the severity of breaches in the accountancy sector, whose risk profiles, operational capacities, and business models differ substantially from those of financial institutions.

Applied to non-financial obliged entities, the draft RTS raises three key concerns:

1. Disproportionate outcomes: Several indicators are designed for large financial institutions, making them unsuitable for non-financial organisations and smaller entities, including small accountancy practices.
2. Divergent interpretations: Broad and undefined criteria may lead to inconsistent application by supervisory authorities.
3. Confusion between technical and substantive breaches: This is particularly important in our sector, where most shortcomings relate to procedural deficiencies rather than substantive failings.

## **MAKING SANCTIONS MORE RELEVANT TO THE NON-FINANCIAL SECTOR**

The RTS provisions on sanctions and periodic penalty payments are complex and difficult to interpret in practice, particularly for non-financial entities. Their structure and level of detail make it challenging to understand how these measures would be applied consistently across institutions and jurisdictions.

The concept of periodic penalty payments, including their calibration, is particularly unclear. It is not evident how these payments would achieve supervisory objectives, how they relate to existing sanctions, or how they would be applied in a predictable and legally defined manner. This raises questions about proportionality and operational feasibility.

Whilst efforts to harmonise sanctioning approaches are welcome, certain aspects of the classification methodology appear designed primarily with large and complex financial institutions in mind and are not suitable for the accountancy and audit sector. Overly complex methodologies for assessing breaches in smaller and less complex entities risk generating limited supervisory benefit while significantly increasing administrative complexity.

Simplifying and clarifying the sanctions system would enhance legal certainty, practical applicability, and the effectiveness of enforcement. A more structured approach would improve clarity and consistency: all potential AML Regulation violations should be explicitly listed and assessed according to materiality, impact, and relevance to the non-financial sector. Once violations are clearly defined, it becomes easier to determine proportionate sanctions and ensure predictable enforcement across sectors and Member States.

In particular, simplified or tailored criteria should be introduced for non-financial professionals, prioritising concrete and verifiable elements directly linked to the conduct in question, rather than abstract, group-level or systemic assessments.

## **SANCTIONS AS PART OF A BROADER ENFORCEMENT FRAMEWORK**

Sanctions are an essential part of AML/CFT enforcement, but they should not be the sole mechanism for driving compliance. Overreliance on pecuniary penalties risks creating a reactive system focused on punishment rather than effective risk prevention.

Equal emphasis should be placed on mechanisms that support obliged entities in strengthening AML/CFT compliance sustainably. Evidence across Member States shows that fines alone do not always prevent breaches or systemic weaknesses. Alternative or complementary measures — such as restrictions on certain business activities, limitations on client onboarding, or targeted compliance guidance — can directly influence behaviour and reduce systemic risk.

We also recommend that the RTS include a mandated review of the effectiveness of pecuniary sanctions three years after entry into force, to assess whether they meaningfully reduce economic crime risk and promote risk-based compliance. If evidence shows that financial penalties primarily drive procedural compliance without reducing risk, the framework should consider alternative or complementary approaches to ensure meaningful, sustainable behaviour change.

A multipronged enforcement framework — combining credible sanctions with structured supervisory engagement, remediation pathways, and practical support — will ensure enforcement tools achieve real risk reduction rather than purely procedural compliance.

## **SANCTIONS WITHIN THE BROADER SUPERVISORY PROCESS**

Sanctions represent the final stage of a broader supervisory process that typically also includes supervisory engagement and remediation. The draft RTS focus primarily on the sanctioning stage, with limited clarity on how it interacts with earlier supervisory steps. Greater transparency on this process would help ensure proportionate and predictable enforcement.

## **ENSURING A DIFFERENTIATED AND PROPORTIONATE SANCTIONS FRAMEWORK**

Recital 101 of Directive (EU) 2024/1640, read together with Article 56, clearly promotes a proportionate and differentiated sanctioning framework. The Directive emphasises differentiation based on the nature and risk profile of the obliged entity, its organisational structure, and its financial capacity:

“The pecuniary sanctions and administrative measures should be sufficiently broad to allow Member States and supervisors to take account of the differences between obliged entities, in particular between credit institutions and financial institutions and other obliged entities, as regards their size, characteristics and the nature of the business.”

However, the draft RTS appears to adopt a largely undifferentiated approach, without sufficiently reflecting the characteristics of different categories of addressees. This may undermine the proportionality and tailored application envisaged by the Directive and give rise to practical challenges in implementation.

While the RTS is intended to apply uniformly across sectors, its current indicators and classification criteria do not fully capture the operational realities of accountancy and audit practices, especially small ones. Explicit clarification that indicators must be applied proportionately, taking into account the nature, size and complexity of the obliged entity, would better align the RTS with the 6AML Directive's intent.

## **ADAPTING THE RTS TO THE SIZE AND NATURE OF OBLIGED ENTITIES**

The majority of firms supervised by self-regulatory bodies are sole practitioners or small/medium-sized partnerships. It is therefore essential that the standards are proportionate and scalable for businesses of this nature.

A lot of accounting and auditing professional practices are small and medium-sized (SMPs), including sole practitioners, and typically do not have sufficiently large teams or complex structures to extrapolate the consequences of an issue identified in one file across their entire client portfolio. Criteria that assume group-wide analysis, cross-border operations or systemic portfolio-level assessments are therefore often not meaningful in this context.

Some aspects of the language used throughout the RTS are not well suited to firms of this size. We encourage greater flexibility in wording, for example using terms such as "where relevant," "as appropriate," or "if applicable," to acknowledge sectoral differences and allow supervisors to exercise judgement where necessary.

While the standard notes that "supervisors should use their supervisory judgement to analyse whether and to what extent these indicators and criteria are met," much of the draft RTS is framed in terms of "the supervisor shall," which risks a rigid approach to sanctioning. Greater emphasis on supervisory discretion, combined with explicit reference to proportionality for non-financial professions, would enhance both consistency and fairness in application.

## **ENSURING LEGAL CLARITY AND A DEFINED GRACE PERIOD**

Several elements of the RTS remain unclear, particularly regarding the implementation of pecuniary sanctions, periodic penalty payments, and administrative measures such as the suspension or limitation of business activity. This creates uncertainty as to how the framework will operate in practice.

For example, further clarification is needed regarding the duty to report suspicious activity, as practices and interpretations differ across Member States. At the same time, the draft RTS already envisages sanctions for non-compliance in this area. The combination of unclear expectations and immediate exposure to sanctions may create legal uncertainty.

Given this context, it would be appropriate to provide for a defined grace period before sanctions are imposed. A reasonable remediation period, pending greater clarification of applicable requirements and expectations, would help ensure fairness, proportionality, and consistent implementation across Member States.

## CONCLUSION

We fully support the objective of the EU framework to harmonise sanctions and administrative measures in the field of AML/CFT across the EU. However, the analysis of the *draft RTS on pecuniary sanctions, administrative measures and periodic penalty payments under Article 53(10) of Directive (EU) 2024/1640* highlights the need to adapt several indicators and classification mechanisms to ensure a truly proportionate application to non-financial professions.

Without specific adjustments, the proposed RTS — originally designed for financial institutions — risk failing to reflect the specific risk profile and operational realities of accountancy practices, whose risks, activity volumes and organisational capacities differ fundamentally. The absence of clear definitions, the omission of indicators essential to our sector, and the inclusion of criteria that are inapplicable or overly broad could lead to divergent interpretations, disproportionate sanctions and legal uncertainty for professionals.

We therefore recommend explicitly embedding the principle of proportionality within the RTS by calibrating indicators according to the size, nature and risk profile of obliged entities, neutralising criteria that are not relevant to economic professions, and clearly distinguishing between technical and substantive breaches. Such adjustments would promote a coherent, fair and operationally realistic application of the framework to accountancy practices, while fully preserving the effectiveness of the EU AML/CFT regime.

In addition, sector-specific transposition — or, at a minimum, clear interpretative guidance — is necessary to ensure proportionality, legal certainty and consistent application across jurisdictions.

Throughout our response, we also highlight a number of areas where greater clarity is required, particularly regarding the definitions of key concepts used in the RTS. We consider it essential that the non-financial sector be actively consulted when these definitions are further clarified or developed.

Accountancy Europe and its members stand ready to support AMLA with practical expertise to help ensure that the standards are workable, proportionate, and aligned with the operational realities of non-financial sectors.

Our responses to the consultation questions set out specific comments and recommendations to that end.

## ABOUT ACCOUNTANCY EUROPE

Accountancy Europe unites 49 professional organisations from 35 countries that represent close to **1 million** professional accountants, auditors and advisors. Accountancy Europe translates their daily experience to inform the public policy debate in Europe and beyond.

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