



## **EBA REPORT**

**ON COMPETENT AUTHORITIES' APPROACHES TO  
THE ANTI-MONEY LAUNDERING AND  
COUNTERING THE FINANCING OF TERRORISM  
SUPERVISION OF BANKS (ROUND 2 – 2020/21)**

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**EBA**

EUROPEAN  
BANKING  
AUTHORITY

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# Abbreviations

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<b>AML</b>	Anti-money laundering
<b>CFT</b>	Countering the financing of terrorism
<b>EBA</b>	European Banking Authority
<b>EEA</b>	European Economic Area
<b>ESAs</b>	European Supervisory Authorities
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>FIU</b>	Financial Intelligence Unit
<b>ML/TF</b>	Money laundering and terrorist financing
<b>MONEYVAL</b>	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
<b>NRA</b>	National risk assessment
<b>SNRA</b>	Supranational risk assessment

## Executive summary

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This report summarises the findings from the second year of ongoing reviews, led by EBA staff with the support of a team of national anti-money laundering and countering the financing of terrorism (AML/CFT) experts, of all competent authorities that are responsible for the AML/CFT supervision of banks in the European Union (EU) and in the European Economic Area (EEA). Over the course of 2020 and 2021, review teams assessed seven competent authorities from seven EU/EEA Member States and made recommendations tailored to each competent authority to support their AML/CFT work. They also assessed how prudential supervisors in these Member States tackled ML/TF risk in line with their supervisory remit and scope. Competent authorities that have not yet been reviewed will be assessed during the next evaluation rounds.

This report describes how competent authorities in this period's sample apply the risk-based approach set out in international standards, Directive (EU) 2015/849 and AML/CFT guidelines issued jointly by the European Supervisory Authorities and the EBA. It focuses on how these competent authorities assess the money laundering and terrorist financing (ML/TF) risks associated with banks under their supervision, and on how competent authorities are using these risk assessments to inform their supervisory practice and enforcement. It also sets out how these AML/CFT competent authorities interact with their prudential counterparts and other stakeholders to ensure a comprehensive supervisory approach to tackling ML/TF and safeguarding the integrity of the financial markets in their jurisdiction. For each topic, this report summarises recommendations that the review team issued to competent authorities. These recommendations may also be relevant to other competent authorities responsible for the AML/CFT supervision of financial institutions across the single market.

As was the case in the first round of reviews that took place in 2019, EBA staff found that all competent authorities in the EBA's sample had undertaken significant work to implement a risk-based approach to AML/CFT. AML/CFT supervisory staff in all competent authorities had a good understanding of international and EU AML/CFT standards and were committed to the fight against financial crime. Several competent authorities had made tackling ML/TF one of their key priorities, and in many cases reforms were underway to strengthen their approach to the AML/CFT supervision of banks. Since the last round of reviews, supervisory cooperation had become a clear focus for all competent authorities in this year's sample, and all competent authorities had started to put in place mechanisms to exchange information with other relevant authorities at home and abroad such as memoranda of understanding and AML/CFT colleges.

Nevertheless, as was the case during the first round of reviews, competent authorities continued to face challenges in operationalising the risk-based approach to AML/CFT. Some of these challenges were unique to individual competent authorities and related to, for example, geographical factors such as their sector's exposure to customers from higher ML/TF risk third countries, or the lack of adequate powers that hampered their ability to execute their functions effectively. But some challenges were common to most competent authorities in this year's sample.

Common challenges included difficulties relating to the identification and assessment of ML/TF risks associated with the banking sector and with individual banks within that sector, in particular in relation to TF risk; translating ML/TF risk assessments into risk-based supervisory strategies; using available resources effectively, including by ensuring sufficiently intrusive on-site and off-site supervision; and taking proportionate and sufficiently dissuasive enforcement measures to correct AML/CFT compliance weaknesses. The review team also found that cooperation with FIUs was not always systematic and continued to be largely ineffective in most Member States in this year's sample, though several competent authorities had started to take steps to address this.

Overall, while these challenges hampered the effectiveness of aspects of competent authorities' approaches to AML/CFT supervision, change was underway and the review team found that most competent authorities were on course to tackle ML/TF risks more effectively, holistically and comprehensively.

# 1. Background and legal basis

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## 1.1 Background

1. The EU has a comprehensive legal framework to tackle ML/TF. This framework is evolving in line with international AML/CFT standards and best practices.
2. There has, nevertheless, been a constant stream of high-profile ML/TF cases involving European banks. These scandals, together with findings by international AML/CFT assessment bodies that point to deficiencies in some competent authorities' approaches to the AML/CFT supervision of banks, have led to suggestions that competent authorities should do more to ensure that the EU's AML/CFT framework is implemented consistently and effectively.
3. In 2018, the EBA therefore decided to review the effectiveness of national competent authorities' approaches to the AML/CFT supervision of banks, and to support individual competent authorities' AML/CFT efforts. The first round of reviews took place during 2019. The second round of reviews was scheduled to take place in 2020 but was postponed by several months due to the restrictions on movement and associated operational challenges for competent authorities that were caused by the global pandemic.
4. The legal basis for the EBA's implementation reviews is set out in Article 1, Article 8(1), Article 9a as well as Article 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 competent authorities' responses to particular compliance challenges.

## 1.2 Obligations of competent authorities

5. 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 into line with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation that the Financial Action Task Force (FATF), an international AML/CFT standard-setter, adopted in 2012.
6. In line with the FATF's standards, Directive (EU) 2015/849 puts the risk-based approach at the centre of the EU's AML/CFT regime. It recognises that ML/TF risks can vary and that Member States, competent authorities, and credit and financial institutions within its scope

have to take steps to identify and assess these risks with a view to deciding how best to manage them.

7. Article 48(10) of Directive (EU) 2015/849 requires the European Supervisory Authorities (ESAs) to issue guidelines to competent authorities on the characteristics of a risk-based approach to AML/CTF supervision and the steps that competent authorities should take when conducting AML/CFT supervision on a risk-sensitive basis.<sup>1</sup> The aim is to create a common understanding of the risk-based approach to AML/CFT supervision and to establish consistent and effective supervisory practices across the EU. In these guidelines, which were first issued in 2016, the ESAs characterise the risk-based approach to AML/CFT supervision as an ongoing and cyclical process that consists of four steps, namely the identification of ML/TF risk factors; the assessment of ML/TF risks; the allocation of AML/CFT supervisory resources based on the outcomes of this risk assessment, including decisions on the focus, depth, duration and frequency of on-site and off-site inspections, and on supervisory staffing needs; and the monitoring and review of both the risk assessment and the underlying methodology. All competent authorities responsible for the AML/CFT supervision of banks indicated that they complied, or intended to comply, with these guidelines. In 2020, the AML/CFT mandates of the three ESAs were consolidated and the EBA has been solely responsible for leading, coordinating and monitoring the EU financial sector's fight against ML/TF since then.
8. Following the first round of reviews in 2019, the EBA provided AML/CFT training to more than 1,500 staff from competent authorities across the EU. It also updated its guidelines on risk-based AML/CFT supervision to address the key obstacles to effective supervision that it had identified during the first round of implementation reviews, published new guidelines on the cooperation between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units (FIUs), and issued opinions and new or revised guidelines on tackling ML/TF risk through prudential supervision.<sup>2</sup>
9. The EBA publicly consulted on these revised guidelines in 2021. Compliance by competent authorities with these revised guidelines has not yet been assessed, and references in this report to EBA guidelines refer to the versions in place at the time the reviews took place, unless specified otherwise.

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<sup>1</sup> Joint guidelines on the characteristics of a risk-based approach to anti-money laundering and terrorist financing supervision, and the steps to be taken when conducting supervision on a risk-sensitive basis (The Risk-Based Supervision Guidelines)

<sup>2</sup> For an overview of the EBA's opinions and guidelines on tackling ML/TF risk through prudential supervision, please refer to the Annex.

## 2. Methodology

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10. AML/CFT implementation reviews are staff-led, qualitative assessments of competent authorities' approaches to the AML/CFT supervision of banks. They are not a tick-box, compliance-based exercise and 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 competent authorities' AML/CFT efforts.
11. Each implementation review is carried out in line with a written methodology and on the basis of competent authorities' responses to a set of core questions that are sent to all competent authorities 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 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 competent authority and Member State while focusing on:
  - a. competent authorities' approaches to assessing ML/TF risks;
  - b. competent authorities' approaches to supervising banks' risk-based approaches to AML/CFT, including supervisory follow-up and the imposition of dissuasive, effective and proportionate sanctions; and
  - c. domestic and international cooperation in relation to AML/CFT, including cooperation between AML/CFT and prudential competent authorities and the extent to which this cooperation supports AML/CFT and prudential competent authorities' work to ensure banks' safety and soundness and the integrity of the banking sector.
12. Wherever possible, and to the extent that this is relevant, implementation review teams also use information that competent authorities have prepared for international AML/CFT assessments, such as those led by the FATF, MONEYVAL or the International Monetary Fund (IMF), for AML/CFT implementation review purposes; 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 competent authority.
13. Between 2020 and 2021, members of EBA staff reviewed seven competent authorities from seven Member States. Six reviews were carried out concurrently with the Council of Europe in the context of the Council of Europe's work to assess compliance, by EU Member States, with the provisions in Directive (EU) 2015/849. Due to restrictions on movement in the



context of the Covid-19 pandemic, interviews with relevant stakeholders were carried out remotely rather than in-person.

14. EBA staff were supported by members of a small network of AML/CFT experts from competent authorities. Members of this network were selected based on their supervisory and policy skills and AML/CFT expertise at the start of the implementation review process to ensure a consistent approach. They acted on the EBA's behalf for the purpose of these reviews.
15. This report provides a summary of the main findings and recommendations from this round of reviews. EBA staff have provided detailed, written feedback to each competent authority that was assessed as part of these reviews.

## 3. Risk assessment

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16. Directive (EU) 2015/849 requires competent authorities to have a clear understanding of the ML/TF risks that affect their sector, and individual institutions within their sector. The ESAs' risk-based supervision guidelines specify that, to obtain a good understanding of ML/TF risks, competent authorities should consider ML/TF risks at the international, domestic, sectoral and institutional levels.
17. A good understanding of ML/TF risk is important because it forms the basis for an effective approach to AML/CFT supervision.

### 3.1 Findings

18. Many competent authorities in the second round of the EBA's reviews had recently begun to revise – or put in place for the first time – an ML/TF risk assessment methodology, and their understanding of ML/TF risk in their sector was developing.

#### 3.1.1 National risk assessments

19. As was the case in 2019, all competent authorities in this year's sample were aware of the need to address national risks in their assessments, but many found incorporating these risks into their supervisory risk assessments difficult.
20. The implementation review team found that
  - a. not all Member States had carried out a national ML/TF risk assessment (NRA) in line with Article 7 of Directive (EU) 2015/849, and where an NRA existed it was sometimes out of date or incomplete. This affected competent authorities' understanding of the ML/TF risks to which banks in their jurisdiction were exposed; and
  - b. many competent authorities in this review round's sample were actively engaged in the NRA process. They contributed to the NRA by providing relevant information and, in turn, benefited from insights shared by other stakeholders.

One competent authority led a team of AML/CFT supervisors, FIU analysts and banking sector representatives to assess sectoral risk as part of their Member State's NRA. The resulting sectoral risk assessment was robust, and the review team found that the direct involvement of banks had led to significant buy-in by the sector to national AML/CFT efforts.

There were, however, situations where a lack of involvement by competent authorities in the NRA process hampered competent authorities' ability to understand, or improve their understanding of, ML/TF risks in their sector. This was the case in respect of TF risk in particular.

The review team found that most competent authorities' understanding of TF risk was limited. For example, some competent authorities appeared to be unaware of TF risks arising from right-wing extremism, which law enforcement in these Member States had highlighted to the review team as an area of growing or significant concern. Some competent authorities did not consider that the risk of TF had increased in their sector despite it servicing a significant number of customers with links to countries and territories with a high TF risk, which meant that cross-border transfers of funds to the countries and territories in these sectors were prevalent. And many competent authorities considered TF risk exclusively under the heading of sanction breaches.

This meant that TF risks were not always identified or managed effectively by competent authorities and their banking sector.

One competent authority told the review team that its understanding of TF risk was limited, and that it was not best placed to tackle TF risk in the banking sector. As a result, it did not participate in relevant working groups at the national level or assess the systems and controls banks had put in place to tackle this risk.

### 3.1.2 Sectoral risk assessments

21. During the first round of reviews, the EBA found that most competent authorities in that round's sample had not assessed the ML/TF risks associated with their banking sector. This had affected their ability to draw up a supervisory strategy focused on the areas of greatest risk and hampered their ability to critically assess banks' own risk assessments.
22. Following this first round of reviews, to help competent authorities with this task the EBA prepared guidance on sectoral risk assessments as part of its review of the ESAs' risk-based supervision guidelines and consulted on it publicly in 2021. Several competent authorities in this year's sample had therefore taken steps to assess ML/TF risks in their sector.
23. The implementation review team found that:
  - a. where competent authorities had carried out a sectoral risk assessment, this was often generic and not specific to the jurisdiction or the sector. Some competent authorities' sectoral risk assessments did not draw on inspection findings or reflect the make-up of the local banking sector, and key ML/TF risks to which banks in the sector were exposed had not been identified or assessed. For example, rather than assessing ML/TF risks specific to their own banking sector, some competent authorities had summarised findings from international risk assessments such as the EBA's Opinion on ML/TF risk and the European Commission's Supranational Risk Assessment. Other competent authorities had simply aggregated their entity-level risk assessments, which meant that their sectoral risk assessment did not consider significant, emerging ML/TF risks or existing ML/TF risks that were insufficiently addressed through entity-level risk assessments.

This meant that many competent authorities' understanding of ML/TF risk in their banking sector and, consequently, their view of what the greatest ML/TF risks were, differed from that of the banking sector, at times significantly.

One competent authority had not assessed the ML risk associated with its Member State's residency by investment scheme.

Banks in this Member State told the review team that they frequently handled suspicious transactions associated with this scheme, but in the absence of supervisory focus or guidance were unsure how to manage this risk effectively.

### 3.1.3 Entity-level risk assessments

24. All competent authorities in this round's sample had taken steps to assess the ML/TF risks associated with individual banks. Some competent authorities were in the very early stages of developing their entity-level risk assessment methodology or implementing their entity-level risk assessment methodology for the first time.

25. The implementation review team found that:

- a. all competent authorities used questionnaires that they sent to banks at regular intervals to obtain data to inform their ML/TF risk assessment of each bank. The frequency with which these questionnaires were sent to banks varied, with most competent authorities asking for annual returns and some asking for more frequent returns in respect of at least some data points.

Most competent authorities had not considered whether information to support their entity-level risk assessment had already been obtained by other domestic authorities or different teams within the same competent authority, such as, for example prudential supervisors or the Financial Intelligence Unit (FIU), and if so, whether this information could be shared to avoid situations where different competent authorities, or different departments within the same competent authority, request the same information from the same bank at different times and in different formats. At the same time, several competent authorities requested information on a large number of data points but did not use that information subsequently in their entity-level ML/TF risk assessment or as part of their AML/CFT supervision;

- b. most competent authorities used the same set of ML/TF risk factors for all banks and, in some cases, for all financial institutions. This meant that significant differences in banks' business models could not be considered or assessed. As a result, the risk associated with specialist banks, including specialist banks with high ML/TF risk business models and customer types, was not always captured or assessed;

- c. in many cases, competent authorities' entity-level risk assessment methodology did not consider or include ML/TF risk factors for banks that had been identified at the national level through the NRA;
- d. some competent authorities were unable to explain the meaning of individual risk factors and the reason for their inclusion in the questionnaire, or the methodology was often unclear. This meant that these competent authorities found interpreting the results from their entity-level risk assessment difficult;

One competent authority had identified a number of risk factors that it used as an indicator of the quality of banks' AML/CFT systems and controls. For example, it used the number of customers rejected prior to the establishment of a business relationship per year as an indicator of robust AML/CFT controls. The competent authority had not considered whether this could also be an indicator of unwarranted de-risking.

- e. most competent authorities allocated different weights to individual risk factors, but the review team found that some competent authorities were unable to explain the rationale underlying these differences in weighting. As was the case during the first round of reviews, many competent authorities allocated significant weight to prudential risk factors such as a bank's size, which meant that smaller banks or branches of foreign banks were unlikely to be classified as presenting a high ML/TF risk irrespective of their business model or customer base;
- f. most competent authorities combined an assessment of inherent risks and the quality of banks' controls to obtain each bank's residual risk profile. The way that some competent authorities computed this risk profile meant that they were unable to establish whether a bank's ML/TF risk rating resulted from, for example, a high level of inherent ML/TF risk and effective AML/CFT controls, or a moderate level of ML/TF risk and ineffective AML/CFT controls. This hampered their ability to target supervisory action effectively.

Furthermore, as was the case during the first round of reviews, most competent authorities relied on banks' own assessments of the adequacy of their AML/CFT systems and controls. Less thought appeared to have been given to whether banks' self-assessment was reliable, and most competent authorities that used this approach had not put in place controls to test the veracity or plausibility of the responses obtained, for example in situations where a bank's self-assessment is

different from the competent authority's own assessment. This meant that the resulting risk scores were not always reliable;

Two competent authorities told the review team that banks' responses to self-assessment questionnaires were tested routinely during onsite inspections. The number of onsite inspections by these competent authorities was limited, and supervisory manuals contained no reference to establishing the veracity of banks' responses during onsite or offsite reviews.

In one Member State, a bank that had been classified as 'low risk' told the review team about serious AML/CFT breaches spanning several years which it had not reported and which had not been identified by the competent authority.

- g. most competent authorities had put in place systems to calculate entity-level ML/TF risk scores automatically. Of these, several competent authorities routinely adjusted these automated entity-level risk scores manually using supervisory judgement. One competent authority had set out in its internal process manual the process for adjustments and the criteria it would consider when deciding whether to adjust the automated score, but most competent authorities had not formalised this process and did not keep records of why, or how, adjustments were made. This meant that their approach to adjusting automated risk scores, and the resulting final risk scores, were not always consistent or reliable.

One competent authority carried out on-site inspections of more than 30 banks within two years to obtain a baseline score and a robust understanding of inherent ML/TF risks and of the quality of banks' AML/CFT controls. Insights gained from this exercise informed the subsequent development of the competent authority's entity-level risk assessment methodology.

## 3.2 Recommendations

26. The ESAs' risk-based supervision guidelines specify that competent authorities should assess the ML/TF risks associated with individual institutions or 'clusters' of individual institutions that share the same characteristics. They also require competent authorities to have a good understanding of sectoral and domestic risks, and of international risks to the extent that these are relevant to their sector. The guidelines are clear that a risk assessment is, above all, a tool to inform AML/CFT supervision, and that it is important that competent authorities take steps to ensure that their risk assessment methodology delivers reliable and meaningful results.
27. The EBA considers that assessing ML/TF risks does not have to be a complex process to be effective. Instead, a good risk assessment can also be achieved through a considered combination of carefully chosen risk factors and information sources, and a methodology for assessing ML/TF risks that can be easily understood and applied. This view is reflected in the revised risk-based supervision guidelines which the EBA published in 2021.

28. To address the findings listed above and to the extent that this was relevant in each case, the implementation review team recommended that

- a. in respect of their sectoral ML/TF risk assessment:
  - i. competent authorities take the steps necessary to strengthen their understanding of existing and emerging ML/TF risks to which their banking sector is exposed and draw on a sufficiently wide range of information sources, including information from banks, the FIU and other domestic authorities including law enforcement, tax authorities and, where applicable, the secret services, to obtain a holistic view of all ML/TF risks in their banking sector and the extent to which these risks affect different subsectors;
  - ii. competent authorities put in place a sectoral ML/TF risk assessment methodology that allows them to trace back how different risk scores were determined and to compare the evolution of different ML/TF risks over time;
  - iii. where a sectoral ML/TF risk assessment is available from another source, for example the NRA, competent authorities should assess whether this is sufficient to meet their information needs and complement this sectoral assessment as necessary.
- b. in respect of entity-level ML/TF risk assessments:
  - i. competent authorities carefully consider the frequency of information requests and the amount and nature of the data requested to ensure that the information requested of banks is proportionate and focused on what is necessary to inform the competent authority's ML/TF risk assessments. Competent authorities should consider whether reliable information could instead be obtained from other sources, for example prudential supervisors or the FIU;

One competent authority routinely incorporated into its entity-level risk assessment information from the FIU on the quality and quantity of STRs each bank had submitted during the relevant period.

- ii. competent authorities ensure that the risk indicators it uses are meaningful and unequivocal and help them assess the extent to which individual banks are exposed to the ML/TF risks identified in the sectoral and national risk assessments.

As part of this, the review team recommended that competent authorities consider whether the same information should be obtained from all banks or whether some indicators should differ to capture specificities of different subsectors or business models in situations where the local banking sector is very diverse;

In two Member States, some banks, due to their business model, were unable to answer all the questions in the competent authority's annual risk assessment questionnaire. Competent authorities in both Member States provided waivers to these banks and, in the absence of completed risk assessment questionnaires, did not assess ML/TF risks associated with these banks systematically or at all.

The review team found that some of these banks were providing products and services to customers associated with high ML/TF risk.

- iii. where competent authorities decide to weigh risk factors differently, they ensure that weightings decisions are documented, well founded and understood and do not give undue weight to a particular risk factor such as a bank's size;
- iv. consider whether banks' responses to questions about the adequacy of their AML/CFT systems and controls add value, or whether more reliable information could instead be obtained by placing greater emphasis on inspection findings where these are available.

One competent authority's annual risk assessment questionnaire contained only a small number of quantitative risk indicators that it had chosen to reflect inherent ML/TF risk. Banks' responses to this questionnaire were assessed automatically and complemented in a second step with qualitative information from AML/CFT and prudential inspections, as well as external sources such as the FIU and the local tax authority. The resulting residual risk score was meaningful and reliable, and suitable to inform the competent authority's inspection plans.

Where competent authorities relied solely on banks' self-assessments to calculate a residual risk score, the review team recommended that they put in place a system to test the accuracy, plausibility or veracity of this information, for example by carrying out sample-checks or using technological solutions designed for this purpose;

- v. set out clearly in a document or manual the process that governs manual overrides of automated risk scores and the approvals process to be followed where an automated risk score is adjusted in this way to ensure a consistent approach.



## 4. AML/CFT supervision

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29. Directive (EU) 2015/849 requires competent authorities to monitor effectively, and to take the measures necessary to ensure compliance with this directive. As part of this, it requires competent authorities to adjust the frequency and intensity of on-site and off-site supervision in line with the outcomes of their ML/TF risks assessments. Step 3 of the ESAs' risk-based supervision guidelines further clarifies that competent authorities should ensure that staff with direct or indirect AML/CFT responsibilities are suitably qualified and trained to exercise sound judgement with a view to effectively challenging banks' AML/CFT policies and procedures should they give rise to concerns.

### 4.1 Findings

30. All competent authorities in this review round's sample had set up stand-alone AML/CFT units with dedicated expert staff and significantly increased their AML/CFT supervisory resources. Many had recently reformed their approach to the AML/CFT supervision of banks.

31. The review team found that many of the challenges faced by competent authorities during the first round of the EBA's implementation reviews were also faced by competent authorities in this review round. These challenges included translating ML/TF risk assessments into AML/CFT supervisory strategies and plans and the effective use of different supervisory tools to meet supervisory objectives.

32. While restrictions on movement as a result of the Covid-19 pandemic had led to some delays in the implementation of annual inspection plans and in some cases, a temporary move to more desk-based approaches, all competent authorities in this review round had worked to overcome related supervisory challenges by the time the reviews were carried out, and they did not affect the review team's findings.

#### 4.1.1. Supervisory strategy

33. Some competent authorities in this year's sample had put in place an AML/CFT supervisory strategy, in most cases for the first time. Many competent authorities did not have an AML/CFT supervisory strategy and this affected the effectiveness of their approach to AML/CFT supervision.

34. The implementation review team found that:

- a. where competent authorities had adopted an AML/CFT strategy, most strategies contained references to review cycles, for example by setting out that the highest ML/TF risk banks should be inspected every two years. They did not set out how competent authorities intended to tackle the ML/TF risks they had identified at the

national or sectoral level, the period of time covered by the supervisory strategy, the resources required to implement the strategy, or how they intended to ensure adequate risk-based supervisory coverage of all banks under their supervision. This meant that it was unclear how the strategy informed competent authorities' approaches to AML/CFT supervision, and how it informed competent authorities' AML/CFT supervision plans;

One competent authority had put in place an AML/CFT supervisory strategy that clearly set out its approach to AML/CFT supervision, including the number and type of inspections it intended to carry out each year, the use of different supervisory tools for different supervisory purposes and the resources it needed to implement that strategy.

However, the strategy contained no reference to the ML/TF risks the strategy should have been designed to address.

- b. some competent authorities had drafted an AML/CFT strategy, but this strategy had not been signed off by these authorities' senior management in all cases. This meant that there was a risk, which had crystallised in a number of cases, that the strategy could not be implemented, for example because its status was unclear or because the resources required were unavailable;
- c. some competent authorities had put in place a supervisory strategy, but this strategy was not specific to AML/CFT supervision. This meant that it did not recognise or prioritise the mitigation of ML/TF risks.

One competent authority's selection of banks for inspection appeared to be largely reactive and driven by negative media reports or prudential supervision priorities. Smaller banks that were not systemically important were not inspected, irrespective of their ML/TF risk profiles.

#### 4.1.2 Supervisory plans

35. All competent authorities had put in place an annual AML/CFT supervision plan, but the link between competent authorities' ML/TF risk assessments and their supervisory strategy, where one existed, was often unclear. This meant that key ML/TF risks were not always addressed.

36. The review team found that

- a. all competent authorities had a wide range of supervisory tools available, but these tools were not always used strategically. This meant that these competent authorities were unable to make the best use of their limited supervisory resources and that, in many cases, the population of actively supervised banks was very small;

Some competent authorities only inspected the three or four largest banks in their Member State.

- b. in some competent authorities, prudential supervisors appeared to have significant influence over AML/CFT inspection plans and were able to deprioritise AML/CFT inspections or order AML/CFT inspections of banks in which they had a particular interest. It was not clear what happened to banks that were deprioritised as a result of this;
- c. most competent authorities had no contingency plans, which meant that they had no resources left to act on risks that had crystallised during the period covered by the supervisory plan. Some competent authorities regularly reprioritised nearly half of their scheduled inspections as a result, but others were unable to react in a sufficiently timely manner in those cases. In both situations, important ML/TF risks remained unaddressed.

#### 4.1.3 Supervisory practices

37. The intensity and intrusiveness of competent authorities' supervisory practices varied significantly, irrespective of the level of ML/TF risk associated with different banks or the scope of different inspections.

38. The review team found that:

- a. most competent authorities were carrying out a small number of full scope on-site inspections each year and relied on off-site supervision for most other banks. With a few exceptions, the off-site supervisory measures competent authorities in this round's sample took were not intrusive, and were largely limited to a high-level review of banks' responses to the competent authority's annual AML/CFT questionnaire;
- b. in respect of on-site inspections, while some competent authorities carried out extensive testing of banks' AML/CFT systems and controls as part of their full-scope or partial-scope on-site inspections, other competent authorities only established whether the banks inspected had put in place AML/CFT systems and controls. They did not assess whether these systems and controls were effective and commensurate with the ML/TF risks to which the banks were exposed;
- c. many competent authorities had put in place a supervisory manual to guide their inspection process and to ensure a consistent approach. However, in some cases these manuals were insufficiently comprehensive and lacked important information such as the steps supervisors should take to assess the effectiveness of the banks' AML/CFT systems and controls and to verify that these systems and controls were adequate for the ML/TF risks to which the banks are exposed. The absence of sufficient guidance for supervisors appears to have contributed to a lack

of strategic focus in these competent authorities' approaches to AML/CFT inspections;

One competent authority had put in place a comprehensive AML/CFT supervisory manual that set out clearly how supervisors should approach AML/CFT supervision in a risk-sensitive way.

The review team found no evidence of this manual being used in practice, and the competent authority confirmed that it was used mainly for training purposes.

- d. many competent authorities relied on junior members of staff learning through observation from senior members of staff. This appeared to work well in competent authorities where senior members of staff had significant levels of AML/CFT expertise, but in some competent authorities, due to either the recent creation of the AML/CFT team or high levels of staff turnover, senior members of staff's AML/CFT experience amounted to less than two or three years.

Most competent authorities provided training opportunities for AML/CFT supervisors, but many had not systematically identified skills gaps or training needs, which therefore appeared to remain unaddressed.

#### 4.1.4 Supervisory expectations

39. All competent authorities used different tools to convey supervisory expectations to their sector but in many cases had not prioritised this aspect of their approach to AML/CFT supervision. Common compliance challenges for banks in these competent authorities' sectors therefore remained unaddressed.

40. The review team found that:

- a. some competent authorities had considered strategically how to reach out to the banking sector. They had developed a comprehensive range of communication tools, including guidance, instructions, recommendations, frequently asked questions, seminars and bilateral exchanges that they used to disseminate information to specific target groups;

One competent authority had put together a comprehensive AML/CFT website that brought together in one place all public AML/CFT information and guidance, including European legislation, European and national regulatory instruments, ML/TF risk assessments and administrative sanctions. The content of this website was approved by the competent authority's management board.

Banks in this Member State found the website useful and referenced it repeatedly during interviews.

- b. many competent authorities had yet to set clear regulatory expectations of banks' management of ML/TF risks. Banks in these Member States told the review team that they were not always clear about what was expected of them. For example, regulatory guidance in these cases was not always sufficiently

comprehensive, up to date or specific to the risks to which the banking sector within the relevant Member State was exposed. It frequently failed to address specific business models that were prevalent in the Member State, such as small, independent, cooperative banks or banks that specialised in specific activities such as trade finance;

- c. furthermore, where competent authorities used a multitude of different formats to set supervisory expectations for their sector, banks told the review team that they did not understand the status, or the degree of enforceability, of different supervisory communications;
- d. some competent authorities used bilateral exchanges with large banks and exchanges with trade associations as one of their main communication tools. Smaller banks and banks that were not members of trade associations tended to receive less guidance than larger banks and banks that were members of a trade association, or no guidance in some cases;
- e. in some cases, it was not clear that competent authorities had liaised with the other AML/CFT authorities in their Member State to ensure a consistent approach to the interpretation of the provisions in their AML/CFT national law.

## 4.2 Recommendations

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

- a. in respect of their approach to the AML/CFT supervision of banks,
  - i. competent authorities put in place an overall AML/CFT supervisory strategy that sets out clearly how the competent authority, through its supervisory actions, will tackle the ML/TF risks it has identified over a specific period of time through a combination of different on-site and off-site supervisory tools to achieve different supervisory objectives and through private sector outreach. The strategy should be forward-looking and focus on preventative measures. It should not normally be primarily reactive or events-driven.

In one case, the government influenced the competent authority's supervisory strategy and required that the competent authority focus on the biggest banks, with less capacity left for smaller institutions.

The review team recommended that competent authorities ensure that all banks, including banks that have been assessed as medium-low or low risk from an AML/CFT perspective, are included in their supervisory strategy, and that the resources needed to implement this strategy are clearly listed. The AML/CFT supervisory strategy should be signed off by a sufficiently

senior manager or decision-making body within the competent authority to achieve buy-in and to ensure that it can be implemented effectively;

- ii. competent authorities design their annual supervisory plans based on their sectoral and entity-level ML/TF risk assessments, and in line with their overall supervisory strategy. Internal processes should specify the criteria competent authorities will consider when selecting banks for inclusion in the annual plan, and how they will tackle ML/TF risks in banks that are initially put forward for inclusion in the annual plan but are then not selected.

As part of this, the review team recommended that competent authorities ensure an appropriate balance between on-site and off-site supervision, and between intrusive approaches and less intrusive approaches. This can be achieved through the strategic use of full-scope and partial-scope on-site and off-site inspections, and the strategic use of thematic reviews of a cross-section of banks that focus on one specific aspect of their AML/CFT systems and controls framework.

Monitoring of key indicators, such as banks' annual AML/CFT returns, is important but is not a substitute for intrusive on-site or off-site AML/CFT supervision;

- iii. competent authorities put in place a comprehensive AML/CFT supervisory manual that guides AML/CFT supervisors in the application of the risk-based approach. This manual should be used in practice so that their supervisory policy is applied in a consistent and coherent manner.

The review team recommended that the supervisory manual guide on-site and off-site supervisors in the performance of their respective functions and provide them with the tools they need to test the effectiveness of banks' AML/CFT systems and controls;

One competent authority had put in place a comprehensive AML/CFT supervisory manual that set out what supervisors should do to test the effectiveness of banks' AML/CFT systems and controls. A combination of open questions and specific instructions regarding the type of information to obtain and review provided a sound basis for risk-based AML/CFT inspections with consistent outcomes.

- iv. competent authorities ensure that supervisors have appropriate knowledge and understanding of the risk-based approach to AML/CFT and are trained to exercise sound judgement in line with the principles set out in the ESAs' risk-based supervision guidelines. As a part of this, the review team recommended that competent authorities assess AML/CFT supervisors' current and future training needs and put in place training programmes specifically targeting these needs.

One competent authority assessed the training needs of all members of staff annually. It had set aside a significant training budget for each member of staff that staff were encouraged to use to pursue training offered by external providers. External providers included a university, with which the competent authority had collaborated to set up a masters' course on compliance. This budget was in addition to comprehensive, mandatory AML/CFT training for all staff that the competent authority provided in-house.

The review team found that staff in all departments in this competent authority had a sound understanding of ML/TF risks and the measures banks had to put in place to manage those risks.

- b. in respect of their engagement with banks,
- i. competent authorities put in place a communications strategy that sets out how they will communicate with different banks and the banking sector, and which tools they will use to achieve different outcomes.

As part of this, the review team recommended that competent authorities consider how to be more inclusive in their engagement with the sector, and with smaller banks in particular to ensure that they were aware of their legal and regulatory obligations, and of supervisory expectations. This was particularly important in situations where small banks were not members of relevant trade associations;

Two competent authorities published inspection findings on their website or required banks to publish these findings on their own websites.

Banks in these Member States told the review team that they welcomed this approach because they used these findings to review and strengthen their own AML/CFT systems and controls. They also helped them understand supervisory expectations and priorities.

- ii. competent authorities take steps to ensure that their guidance is effective and improves the quality of banks' AML/CFT systems and controls. As part of this, the review team recommended that competent authorities consider whether the guidance competent authorities had issued was in line with their AML/CFT national law and sufficiently specific to the activities of banks operating in their Member States, as well as to the ML/TF risks to which these banks are exposed.

## 5. Tackling ML/TF risks through prudential supervision

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42. Directive 2013/36/EU (CRD) requires prudential supervisors to conduct preventative assessments, for example when granting authorisations or when approving the acquisition or increase of qualifying holdings by proposed acquirers. It also requires them to periodically review the arrangements, strategies, processes and mechanisms put in place by banks to comply with this directive and with Regulation (EU) 575/2013. Where a preventative 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 increased risk thereof, the directive requires prudential supervisors to adopt measures to mitigate that risk. In the case of preventative assessments, this could include rejecting applications; in the case of ongoing reviews, prudential supervisors have to notify the EBA and the bank's AML/CFT supervisor immediately.
43. On 4 November 2020, the EBA published its opinion on how to take into account ML/TF risks in the Supervisory Review and Evaluation Process (SREP), to complement provisions in existing prudential guidelines and to clarify its expectations on this point. Its revised SREP Guidelines, which incorporate those points, were published on 18 March 2022.

### 5.1 Findings

44. The review team found that awareness of the synergies that exist between AML/CFT and prudential supervision had increased significantly since the last round of reviews.
45. All AML/CFT and prudential authorities in this review round's sample had recently adopted measures to strengthen the exchange of information between AML/CFT supervisors and prudential supervisors. In most cases, newly established processes were still being implemented.
46. The implementation review team found that:
  - a. some prudential supervisors systematically involved AML/CFT experts in the assessment of applications for authorisations, the acquisition of qualifying holdings, or fitness and propriety. Most prudential supervisors did so only if they had strong indications that ML/TF risks existed. In these cases, AML/CFT experts were often consulted informally, rather than on the basis of internal guidance or

Several prudential supervisors did not involve AML/CFT experts systematically as part of their authorisation processes.

The review team found that high ML/TF risk factors, such as complex business structures or high ML/TF risk business models, had not been identified and acted upon.



process manuals, and their advice, if sought, was not always considered subsequently. In some cases, authorisation or approvals appeared to have been granted even though AML/CFT experts had raised concerns about high levels of ML/TF risks, or inadequate AML/CFT systems and controls;

- b. in many authorities, staff from prudential supervision teams were relied upon to alert AML/CFT experts to areas with a higher level of ML/TF risk. While prudential supervisors in some authorities had a sound understanding of ML/TF risk because AML/CFT supervision had until recently formed part of their remit, the review team found that this was not the case in other authorities. In many cases, prudential staff did not appear to understand ML/TF risk sufficiently to be able to identify issues of concern and alert their AML/CFT counterparts. No authority had provided targeted AML/CFT training to their prudential supervisors to support them in their functions, though some staff had participated in introductory AML/CFT training, for example introductory training provided by the EBA;

A senior manager responsible for prudential supervision in one authority told the review team that they considered targeted training on ML/TF risks for prudential supervisors unnecessary.

The review team found that this authority did not comply with the EBA's guidelines on the assessment of applications for qualifying holdings because it did not establish the legitimacy of the applicant's source of funds or follow the money trail because of resource constraints.

- c. all prudential authorities confirmed that criminal convictions constituted grounds for the refusal of applications for qualifying holdings or senior management positions, but because of legal constraints, they were generally unable to act on indications of increased ML/TF risk alone. In these cases, prudential authorities that wanted to act had to rely on other prudential assessment criteria to oppose the proposed acquisition or increase either formally or informally.

In several cases, prudential supervisors confirmed that applicants for the acquisition of qualifying holdings, key functions or director positions had withdrawn their application voluntarily following questions about their suitability or integrity. In these cases, prudential authorities no longer had recourse over them and applicants' supervisory records remained clear. The review team found two cases where such individuals subsequently took up positions in financial institutions in other Member States;

In one case, a recently appointed director in a bank resigned after information about their associations with a major AML/CFT scandal in another Member State became public. Because they had resigned from their previous position, the competent authority had received no adverse information from the competent authority of that Member State about this person's integrity.

- d. as set out in Section 4, the review team found that prudential supervisors in most authorities had begun to seek input from AML/CFT supervisors in the context of the Supervisory Review and Evaluations Process (SREP) but had not always

considered how this information should be reflected in their assessment. AML/CFT supervisors were rarely involved in discussions about the severity of the issues they had identified and the impact of these issues on prudential objectives.

Awareness had also increased of the value prudential information could add to AML/CFT supervisory processes and risk assessments. In most authorities, this had led to a significant increase in formal and informal requests for prudential information by AML/CFT supervisors. Where prudential supervisors required AML/CFT supervisors to formally request access to relevant information, the review team found that AML/CFT supervisors did not always receive the requested information in a timely fashion, or only after considerable delays.

## 5.2 Recommendations

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

- a. AML/CFT and prudential authorities put in place policies and procedures to ensure that AML/CFT and prudential supervisors exchange relevant information proactively, on a risk-sensitive basis and in a timely fashion. The review team recommended that authorities clearly set out, in their supervisory manuals or procedures, the type, format and frequency of information prudential supervisors should obtain from AML/CFT supervisors, and the type, format and frequency of information AML/CFT supervisors should obtain from prudential supervisors. The new EBA Guidelines on cooperation and information exchange provide further details on this point;

In one authority, the AML/CFT section received an email from the prudential section each month, which listed all banks under enhanced prudential supervision as well as the rationale for subjecting these banks to enhanced prudential supervision. The information from this email was then included in each bank's ML/TF risk scoreboard.

Similarly, the AML/CFT section provided information to the prudential section to inform their operational risk assessment and supervision processes.

- b. to ensure a consistent and sufficiently robust approach, prudential authorities set out in their internal policies and procedures which external information sources they will consult and when they will consult them to ensure that they have the best view of possible ML/TF risks associated with an application for authorisation, the acquisition of qualifying holdings, or a management position. The EBA's new AML/CFT cooperation guidelines and authorisation guidelines contain important information in this regard.

One competent authority set up dedicated project teams for each licensing application.

Project teams comprised of prudential and AML/CFT experts.

The review team recommended that these processes should also set out how information relating to ML/TF risk, and the views expressed by AML/CFT supervisors, will be reflected in prudential supervisors' final decision where this is relevant or appropriate;

- c. prudential authorities put together a targeted, formal training programme for prudential supervisors to ensure that they have a clear understanding of ML/TF risks, of how these risks affect prudential objectives and of how they should cooperate with their AML/CFT counterparts where ML/TF risks are identified;
- d. prudential authorities keep adequate records of applications withdrawn, and the reason for that withdrawal, to ensure that persons of questionable integrity do not own or control financial institutions in the EU;

One prudential authority did not verify information received during the authorisations process, or in the context of its assessment of applications for the acquisition of qualifying holdings or suitability.

Where an applicant had already been approved by another authority, approval was granted automatically.

- e. prudential authorities set out clearly in their internal processes how they will ensure that prudential supervisors take ML/TF risks into account in the SREP assessment, in line with the EBA's 2020 Opinion on how to take account of ML/TF risks in the SREP and going forward, the amended SREP Guidelines that were published on 18 March 2022.

## 6. Enforcement and supervisory follow-up

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48. 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.

### 6.1. Findings

49. All competent authorities in this year's sample had powers to take enforcement action or impose corrective measures on banks who were in breach of their AML/CFT obligations. In practice, their approaches to determining and imposing sanctions and other measures diverged, and the review team found that the same breach by the same bank was likely to trigger the imposition of different sanctions and measures, or no sanctions or measures at all, depending on which competent authority was responsible for taking enforcement action.

50. The implementation review team found that:

- a. many competent authorities had broad powers to impose sanctions and take measures to correct AML/CFT systems and control breaches, but this was not the case in all Member States. In several cases, the power to impose serious sanctions for AML/CFT breaches lay with an external body such as the public prosecutor or an external sanctions committee. Supervisors were not always represented or involved in these external bodies' decision-making processes.

The review team found that in situations where enforcement decisions were taken by an external body, extensive process requirements, the need to provide evidence of criminality rather than systems and controls breaches and, in some cases, the limited prospect of a successful outcome appeared to act as a disincentive for some competent authorities to refer serious breaches. They opted for the imposition of more limited administrative measures instead. Consequently, the measures taken were not always proportionate to the severity of the breach.

In one case, the NCA was unable to impose a financial sanction on a subsidiary following serious AML/CFT system and control breaches because national law did not provide for sanctions to be imposed on subsidiaries.

Furthermore, where the responsibility for the imposition of serious sanctions lay with external bodies, the review team found that sanctions were not always published, or that they were published anonymously because the external body considered that publishing the name of a bank was 'detrimental to the bank's interests'. Banks in these Member States were unaware of existing enforcement measures and told the review

team that in their experience, the competent authority never took enforcement action. This limited the deterrent effect enforcement measures could have;

- b. some competent authorities in this review round's sample had put in place guidance on the factors supervisors should consider when determining the seriousness of a breach and the nature and size of the sanction or corrective measure to be imposed as a result. Many competent authorities in this year's sample had not set out common, objective criteria to determine the seriousness of the breach, and their approach to imposing corrective measures or sanctions was not always consistent;
- c. the review team found that the number of sanctions and corrective measures competent authorities imposed for breaches of the current AML/CFT regime was increasing. Where breaches under consideration had occurred before national law was changed in line with the provisions in Directive (EU) 2015/849, competent authorities' AML/CFT enforcement powers were at times still limited;
- d. many competent authorities in this year's sample did not appear to follow up systematically to satisfy themselves that banks had complied with enforcement measures. Instead, they relied on a desk-based assessment of documentation from banks about the corrective measures they had put in place, irrespective of the scale or severity of the breach or the level of ML/TF risk associated with the bank. This meant that competent authorities were unable to ascertain whether banks' remediation was effective.

One competent authority had put in place a process to track the status of banks' remediation work and carried out targeted on-site inspections, on a risk-sensitive basis, to ensure that banks' action plans had been implemented effectively.

## 6.2. Recommended actions

- 51. To address the points raised above and to the extent that this was relevant in each case, the implementation review team recommended that:
  - a. competent authorities make full use of all enforcement powers, including – where necessary and relevant – prudential powers, to sanction banks' breaches of AML/CFT obligations in a proportionate and effective manner.

One competent authority had until recently no powers to impose corrective measures on banks, but once it had been granted them, made full use of its enforcement powers.

In situations where serious breaches or weaknesses had been identified but no sanctions had been imposed as a result of legal obstacles, the review team advised competent authorities to consider taking other measures instead to address the shortcoming, and to communicate these measures publicly to help other banks understand what went wrong, why it went wrong, and the measures banks had to take

to remedy those shortcomings so that they can use that information to inform their own AML/CFT policies and procedures;

- b. competent authorities put in place internal processes and guidance to set out objective criteria they will use to determine the seriousness of a breach, to ensure that these criteria are applied consistently and that decision-making processes are well documented. The criteria should take account of relevant aggravating and mitigating factors with a view to ensuring that the level and type of measure or sanction is sufficiently high as to be effective, proportionate and dissuasive;
- c. competent authorities put in place and implement a formal policy on the publication of sanctions, noting in particular the provisions in Article 60(1) of Directive (EU) 2015/849, which stipulate that in cases where competent authorities decide against publication, for example because of market stability concerns, publication should ensue once the reasons for not publishing the sanction or measure have ceased to exist;
- d. competent authorities systematically test the effectiveness of the AML/CFT enforcement measures imposed and take corrective measures where necessary to ensure banks' compliance with their AML/CFT obligations. This should include an assessment to ascertain that banks have taken adequate steps, which are proportionate to the nature and severity of the breach, to remedy the breaches identified.

## 7. Domestic and international cooperation

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- 52. Directive (EU) 2015/849 is clear that cooperation between competent authorities at home and across borders is an integral component of an effective approach to AML/CFT supervision.
- 53. In December 2021, the EBA published its guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs, as well as revised risk-based AML/CFT supervision guidelines. Both guidelines set out how competent authorities should cooperate in the fight against financial crime.

### 7.1. Findings

- 54. All competent authorities in this review round's sample acknowledged the importance of cooperation at both the domestic and international levels. Supervisory cooperation had become a clear priority for all competent authorities, and they had started to put in place mechanisms to exchange information with other relevant authorities at home and abroad.
- 55. There were no legal obstacles preventing competent authorities from cooperating with other competent authorities or agencies in their Member State, in line with AMLD. Nevertheless, cooperation was in certain cases limited by the resources available to competent authorities, or a lack of understanding of how the national legal framework had evolved.
- 56. The implementation review team found that:
- 57. in respect of domestic cooperation:
  - a. All competent authorities in the sample confirmed that they were part of national AML/CFT fora or working groups that contributed to the development of national AML risk assessments, AML/CFT policy or AML/CFT legislation. Some competent authorities chaired these groups, or parts of these groups, including dedicated teams to carry out their Member State's NRA in some cases;

In one Member State, a wide-ranging national cooperation forum was established — and subsequently enshrined in law — bringing together relevant national authorities, including the supervisory authority, the FIU, the national tax agency, the company registry and various departments of the public prosecutor. This forum met three to four times per year and also had several permanent working groups to facilitate greater cooperation domestically as well as internationally, and to coordinate guidance and private sector outreach.

- b. all competent authorities in the sample had in place or were working to finalise bilateral arrangements to formalise cooperation and information exchange with the national FIU. In the meantime, with very few exceptions, information exchange between

competent authorities and their FIUs remained limited and was not usually material, and rarely systematic. This meant that in many cases competent authorities took decisions on AML/CFT supervision and in respect of prudential processes without having full knowledge of all the relevant facts;

One competent authority did not exchange information with the FIU because some members of staff had previously worked at the FIU.

- c. several competent authorities had put in place bilateral cooperation arrangements with other domestic authorities or agencies, including tax authorities or law enforcement agencies. In some cases, this had led to joint guidance by competent authorities and other domestic authorities on issues of common interest.

58. In respect of international cooperation:

- a. All competent authorities in the sample highlighted the importance of international cooperation, especially in relation to supervisory authorities of their neighbouring countries or in Member States where financial institutions established in their territory had a presence via branches and subsidiaries. Some competent authorities in this year's sample participated in multilateral structures in their region that had been set up to facilitate the exchange of good supervisory practices and discuss issues of common concern. However, none of the competent authorities in this year's sample had performed inspections of foreign branches or subsidiaries of banks that were headquartered in their Member State, and they had not considered how to use information obtained through international cooperation to inform their own approach.
- b. All competent authorities welcomed the establishment of AML/CFT colleges and participated in meetings of AML/CFT colleges. Competent authorities that were 'lead supervisors' had begun to set up AML/CFT colleges for banks within their supervisory remit, and in some cases the review team learned about measures competent authorities had started to adopt following their observation of others' approaches during AML/CFT colleges meetings. However, most competent authorities had not yet incorporated AML/CFT colleges as part of their supervisory strategy or plans or considered how to use information exchanged in the AML/CFT colleges context to inform their own supervisory approach.

One competent authority assumed that attending AML/CFT colleges replaced the need for active AML/CFT supervision.

Prudential supervisors were invited to attend AML/CFT college meetings as observers, but AML/CFT supervisors in this year's sample had rarely participated in prudential colleges of supervisors, including in situations where AML/CFT issues were discussed.

## 7.2. Recommended actions



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

60. in respect of domestic cooperation:

- a. competent authorities continue to work with different domestic authorities, including the FIU, law enforcement and tax authorities, as well as the public prosecutor where applicable and to the extent that this is necessary, formalising their engagement with them through MoUs or other cooperation agreements.

As part of this, the review team recommended that competent authorities strengthen cooperation with the FIU to ensure that meaningful information is exchanged in a timely and constructive manner, in line with the new EBA AML/CFT cooperation guidelines;

One competent authority had set up an effective framework for cooperation and information exchange with the FIU that included a mix of regular, high-level meetings and ad hoc exchanges as necessary. The FIU routinely provided the competent authority with relevant statistics, which the competent authority reflected in its ML/TF risk assessment and supervisory approach. In several cases, alerts from the FIU had triggered inspections.

The competent authority had also strategically assessed where gaps in its wider national cooperation framework existed and had taken steps to address these gaps, for example by achieving the inclusion of relevant action points in the Member State's AML/CFT strategy.

- b. competent authorities build on existing domestic cooperation structures and explore how they can use these effectively to inform their approach to AML/CFT supervision, including by exchanging operational information as appropriate.

61. In respect of international cooperation:

- a. Put in place and implement a comprehensive international supervisory cooperation strategy to engage proactively as well as reactively with competent authorities in the EU and third countries to obtain as full a view as possible of the ML/TF risks to which banks within their supervisory remit are exposed.

The review team recommended that competent authorities consider strategically how to use information obtained through international cooperation to inform their own approach.

- b. Competent authorities that are home supervisors enhance their role and oversight of the group's AML/CFT policies and procedures, for example by facilitating constructive exchanges in the AML/CFT college context or considering on-site inspections abroad.

The ESAs' AML/CFT college guidelines provide useful information on this point.

## 8. Conclusion and next steps

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62. As was the case in the first round of reviews that took place in 2019, EBA staff found that all competent authorities in the EBA's sample had undertaken significant work to implement a risk-based approach to AML/CFT. AML/CFT supervisory staff in all competent authorities had a good, high-level understanding of international and EU AML/CFT standards and were committed to the fight against financial crime. Several competent authorities had made tackling ML/TF one of their key priorities and, in a number of cases, significant reforms were under way to strengthen their approach to the AML/CFT supervision of banks. Since the last round of reviews, awareness of the synergies that exist between AML/CFT and prudential supervision had increased significantly and supervisory cooperation had become a clear focus for all competent authorities in this review round's sample. Many had started to put in place mechanisms to exchange information with other relevant authorities at home and abroad such as memoranda of understanding, AML/CFT colleges and in some cases, regional groups of AML/CFT supervisors.
63. Nevertheless, competent authorities experienced challenges in operationalising the risk-based approach to AML/CFT. Some of these challenges were unique to individual competent authorities and related to, for example, geographical factors such as the sector's exposure to customers from higher ML/TF risk third countries, or the lack of adequate legal powers that hampered their ability to execute their functions effectively. But there were also challenges that were common to all competent authorities in this year's sample that may also be relevant to other competent authorities responsible for the AML/CFT supervision of financial institutions in the EU.
64. Common challenges included difficulties associated with the identification of ML/TF risks relating to the banking sector and with individual banks within that sector, in particular in relation to TF risk; translating ML/TF risk assessments into risk-based supervisory strategies; using available resources effectively, including by ensuring sufficiently intrusive on-site and off-site supervision; and taking proportionate and sufficiently dissuasive enforcement measures to correct AML/CFT compliance weaknesses. The review team also found that cooperation with FIUs was not always systematic and in most Member States in this year's sample was largely ineffective, though several competent authorities had started to take steps to address this. These challenges hampered the implementation of an effective risk-based approach to AML/CFT supervision.
65. Overall, despite these challenges, the review team found that most competent authorities were on track and committed to strengthening their approach to AML/CFT supervision. Several competent authorities had begun to take steps to implement new EBA guidelines on AML/CFT to put in place a holistic approach to tackling ML/TF risks in their banking sector and changes they had introduced after the recent transposition of relevant EU legislation, such as greater enforcement powers, had started to make a difference.

Furthermore, AML/CFT teams in almost all the competent authorities in this review round's sample had grown significantly and were set to expand further still.

66. Following the first round of reviews in 2019, the EBA provided AML/CFT training to more than 1,500 staff from competent authorities across the EU. It also updated its guidelines on risk-based AML/CFT supervision to address the key obstacles to effective supervision that it had identified during the first round of implementation reviews, published new guidelines on the cooperation between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units (FIUs) and issued opinions and guidelines on tackling ML/TF risk through prudential supervision.<sup>3</sup> The EBA publicly consulted on these guidelines in 2020/21. Once implemented, these guidelines will formalise the recommendations issued in the context of these implementation reviews and strengthen competent authorities' approaches to AML/CFT supervision across the EU's financial sector.
67. The EBA will continue its implementation reviews and provide support and training for all competent authorities to build capacity and to support the effective implementation by competent authorities of the comprehensive regulatory AML/CFT framework the EBA has now put in place. EBA staff will also continue to follow up and work bilaterally with competent authorities to strengthen AML/CFT supervision in Europe.

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<sup>3</sup> Please refer to the Annex for more information on these instruments

# Annex

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## 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 AML/CFT 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 (2021): Third 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)

EBA (2021): Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units under Directive (EU) 2013/36/EU

Cooperation

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

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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-and-counteracting-financing-terrorism>



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