

07 May 2026

EBF feedback on AMLA Draft Regulatory Technical Standards (RTS) on criteria for identifying business relationships, occasional and linked transactions, and lower thresholds Article 19(9) – Regulation (EU) 2024/1624

Question 1: Do you find the criteria listed in Article 2 of the draft RTS effective to identify business relationships properly? If not, could you please indicate why, where possible substantiated by relevant data?

From a banking sector perspective, we caution that the proposed text of Article 2 does not bring sufficient clarity with respect to the identification of business relationships.

First, Article 2 does not provide the required level of granularity. The definition of ‘business relationship’ laid down in Article 2(19) of the AMLR expands the one currently in force pursuant to the AMLDs (Article 3(13)). The AMLR definition refers to:

- the existence of a business relationship, including in the absence of a written contract;
- the connection with the professional activities of the obliged entity - meaning that a business relationship would only be characterized in relation to activities and services ordinarily provided by an obliged entity and subject to AML-CFT requirements; and
- situations where the relationship has or subsequently acquires an element of repetition or duration.

The RTS fails to detail these additional elements.

Similarly, Article 2(3) (and the corresponding Recital (9)) specifies that the provision of services at different intervals may indicate repetition where at least three transactions occur within a rolling period of twelve months. However, the RTS does not specify minimum value or materiality thresholds for those transactions. In the absence of such clarification, even low-value or de minimis interactions could qualify as repetitive activity, thereby potentially triggering the classification of a business relationship without commensurate ML/TF risk.

We note that some sector-specific guidance is provided in the paragraphs applicable to designated non-financial businesses and professions, currency exchanges, money remittance businesses, providers of gambling services, and football clubs. However, no concrete examples relevant to the banking sector are mentioned beyond the horizontal criterion pertaining to the use of online services through a registration providing ongoing access when considering the element of duration. Additionally, Recital 4 states that a business relationship and linked transactions may exist even in the absence of any criteria specified in the RTS. As a result, obliged entities will

face the uncertainty whereby even if the RTS criteria are not met, this may not suffice to conclude that a business relationship does not exist. The current wording of Recital 4 may weaken the harmonization objective of the RTS, insofar as it could be interpreted as leaving room for indeterminate outcomes not clearly anchored in the criteria AMLA is mandated to specify. This may create the risk of divergent interpretations among obliged entities and across Member States in the practical application of Recital 4. Such divergence could, in turn, introduce inconsistencies in the data reported for risk assessment purposes.

Second, the RTS adopts a mutually exclusive approach (“either-or”) concerning business relationships and occasional transactions. Article 2 explicitly states that the listed criteria only serve the purpose of establishing a dichotomy, distinguishing between the two categories of relationship and transactions. No explicit focus is placed on their identification. We agree with the text of Recital 5 whereby business relationships and occasional transactions are mutually exclusive. However, the approach in the RTS implies that any interaction which does not meet the criteria for a business relationship would be considered an occasional transaction, and vice versa.

We underline that not every interaction with a counterparty should always fall within one of the two categories and hence trigger the application of the AML/CFT framework. The broad, mutually exclusive approach would have a cascading effect with respect to CDD obligations and reporting requirements, which would be extremely disproportionate. This would result in a steep increase in corresponding compliance costs and administrative burden without any added value. Such approach risks capturing interactions that bear no AML/CFT risks.

We hence suggest including a specific paragraph on the identification of the existence of a business relationship (see response to Question 3 below). This is in line with AMLA’s mandate as mentioned in Article 19(9)(c) of AMLR which explicitly mentions the identification of occasional transactions and business relationships regarding the scope of the RTS.

Finally, we highlight that in the absence of an EU-wide Level 3 guidance on the criteria for identifying business relationships, obliged entities across Member States will inevitably continue operating based on diverging regulatory frameworks informed by their respective national competent authorities. We note that the current brevity of the draft RTS reflects a deliberate choice to ensure applicability across both financial and non-financial sectors. Should AMLA decide on the preparation of sector-specific guidance for the financial sector, the EBF stands ready to support such initiative as part of a consultation process.

Characters: 4976

Question 2: Do you find the criteria listed in Article 3 of the draft RTS effective to identify linked transactions properly? If not, could you please indicate why, where possible substantiated by relevant data?

We note that several of the criteria for identifying linked transactions are difficult to identify for obliged entities. In many cases, this is because that most criteria are not available in the context of occasional transactions, which, in essence, fall above the threshold for identification and verification (ID&V) requirements.

In particular, the elements referring to identical or similar origin and destination of transactions rely on imprecise concepts such as “customers being family members”, “business partners”, “operating in concert”, or “subsidiaries or beneficial owners of the same parent undertaking”, as well as indicators such as “same digital infrastructure” or “common intermediaries or service providers”.

Several of these concepts are insufficiently defined and leave significant room for interpretation:

- Family members: The term is very broad and not defined with sufficient precision. A more proportionate approach would be to align this notion with the definition used for politically exposed persons (PEPs), where family members are exhaustively specified. Moreover, linking customers based on family relations raises data protection and data governance concerns and is not a criterion explicitly required under the existing due diligence framework.
- Business partners: Similar concerns apply, as the notion remains vague and may imply the processing and linking of personal data beyond what is clearly justified under applicable data protection laws. From a technical perspective, identifying and maintaining such links may also prove challenging.
- Operating in concert: This concept appears even broader than “business partners” and therefore raises the same, if not higher, concerns regarding interpretative uncertainty, proportionality and feasibility.
- Customers being subsidiaries or beneficial owners of the same parent undertaking: The criterion does not clarify the ownership layers or control thresholds to be considered, which is problematic both from an interpretative and a technical implementation perspective.
- Same digital infrastructure: The meaning of this term is unclear and would require further explanation to be operationally usable.
- Common intermediaries or service providers facilitating transactions: Given that, in international banking, the use of trustees, lawyers, asset managers or other professional intermediaries is common, this criterion may lead to the artificial linking of a large number of unrelated clients. In particular for professional service providers with a high

number of clients, a risk-based assessment of common interests becomes difficult and may generate a high volume of false positives without corresponding risk indicators.

- Same purchase: Clarification would be helpful as to whether this refers to a single good or service, and whether a set of complementary goods or services may be considered as a single purchase.
- Loyalty program: Further clarification would be useful as to whether the simple registration of a customer to a loyalty programme is sufficient for the criterion to apply, or whether it becomes relevant only in cases of actual use of the programme (e.g. use of the card, accumulation of points, or receipt of discounts).

Given the above, we welcome the clarification in let. “b” that the assessment should be conducted based on the information available to the obliged entity.

We suggest extending this wording to the other paragraphs of Article 3.

Characters: 3448

Question 3: Do you consider it necessary to add additional criteria that should at least be taken into account when considering the different elements of the definition of a business relationship to ensure the proper identification of business relationships? If so, could you please indicate which criteria and for which sector(s)?

Considering the argumentation in the response to Question 1 concerning the need to include a provision on the identification of a business relationship, we recommend that the RTS specifies the following in Article 2 (new para. 1) and in a corresponding recital:

“1. Obligated entities shall, for the purpose of identifying the existence of a business relationship as defined in Article 2(19) of Regulation (EU) 2024/1624, consider any of the following criteria with respect to the elements of repetition and duration :

- (a) whether the obliged entity receives any economic benefit stemming directly from the relationship with a third party or otherwise directly handles a third party’s funds;*
- (b) whether the third party interacts with the obliged entity directly and where both parties manifest a willingness to commit, as opposed to being a customer of an intermediary which is itself in a business relationship with the obliged entity;*
- (c) whether the service provided by the obliged entity falls within the scope of Regulation (EU) 2024/1624.”*

The proposed wording above aims at clarifying the following:

- 1) Let. “a” – exclude from the scope of the AML/CFT framework cases where the interactions with a third party do not involve a commercial element, e.g. a cash payment by the third party to the obliged entity.

This could be the case, e.g. where a user subscribes to a free banking platform (without holding an account with the respective bank) to receive regular updates related to currency exchange, mortgage rates, or where access is provided to an information platform accessible by underlying clients, e.g. to monitor investments, etc. In the absence of any receipt of funds from the user, there are no ML/TF risks involved.

- 2) Let. “b” – this suggestion aims at clarifying that obliged entities are not in a business relationship with their customers’ customers, e.g. in the context of correspondent banking, nor with the client’s own counterparts (e.g., the customer’s guarantor).

- 3) Let. “c” – this proposed provision aims at aligning the identification of a business relationship with the intention of the legislator as stated in Recital 8 of the RTS whereby the element of repetition would apply only to services falling within the scope of the AML/CFT framework. The purpose is to exclude services where the obliged entities do not act as gatekeepers, e.g. banks procuring office equipment or providing certain data services to counterparties not holding bank accounts with them (e.g. information on traded securities). This would also align with and further detail the text of Recital 4 of the RTS which emphasises that the mere fulfilment of any criterion in the RTS does not automatically indicate that the definition of a business relationship or a linked transaction is satisfied.

The aforementioned would need to be supplemented with other definitions clarifying the concepts of customer, transaction, and provision of a service (see Additional Observations below).

Characters: 2981

Question 4: Do you consider it necessary to add additional criteria that should at least be taken into account when considering the different elements of the definition of linked transactions to ensure the proper identification of linked transactions? If so, could you please indicate which criteria and for which sector(s)?

N/A.

Question 5: Do you consider the criteria for identifying business relationships and linked transactions listed in Article 2(3) and Article 3(2) of this draft RTS proportionate? If not, could you please indicate why, where possible substantiated by relevant data, and which alternative criterion you would find more proportionate?

We consider the set of criteria to be disproportionate, as they are neither exhaustive nor cumulative.

With regard to linked transactions, the clarification in let. “d” that the assessment should be conducted based on the information available to the obliged entity should be extended to the other paragraphs of Article 3.

See also comments under Question 2, with respect to the breadth and imprecision of several criteria used to identify linked transactions and their impact on proportionality and operational feasibility.

The listed criteria should be understood as minimum factors to be considered in the assessment, functioning as risk indicators rather than automatic or determinative thresholds. Such clarification would help avoiding a rule-based application and ensure that obliged entities retain the necessary discretion to apply a risk-based approach.

Characters: 860

Question 6: Do you foresee any operational challenges in implementing this draft RTS? If so, could you please indicate which, where possible substantiated by relevant data? Do you have any suggestions that would make the criteria better suited operationally?

In its current version, the RTS does not appear to be narrowly tailored as it does not distinguish between different types of interactions obliged entities, especially banks, have with various counterparties. Although Recital 4 states that the fulfilment of the criteria laid down in the RTS does not automatically indicate that the definition of a business relationship is met, it further proceeds by stating that a business relationship may exist even in the absence of said criteria.

Coupled with the broad definition of ‘occasional transaction’ (see Additional observations below) and the mutually exclusive approach whereby the RTS does not address the identification of a business relationship (see responses to Question 1 and Question 3), this creates legal uncertainty which could potentially lead to significant operational challenges. Such challenges would derive from a potential far-reaching interpretation of the concepts equating certain interactions to business relationships. This would entail the application of AML/CFT obligations vis-à-vis many natural and legal persons with whom obliged entities do not always have a direct contact or in relation to whom they do not act as gatekeepers.

In addition, the RTS relies on the systematic linking of transactions and customers based on multiple, broadly defined criteria. From an operational perspective, this poses significant challenges, as such criteria would need to be translated into monitoring rules and coding logic. Given the lack of precision of several criteria, this may result in inconsistent application, excessive false positives and difficulties in applying a risk-based approach.

Furthermore, the linking of transactions and customers based on indirect relationships may conflict with the requirement to maintain separate and clearly attributable documentation for

each customer. This could become particularly problematic in situations where transaction records or customer files are subsequently required for evidentiary purposes, for example in the context of judicial proceedings, where documentation must remain clearly segregated at customer level.

To address these challenges, we propose the following:

- 1) Include in the RTS a provision assisting the obliged entities in the identification of a business relationship where the criteria relating to duration and/or repetition may be met, but the interaction is not connected to the obliged entity's role of gatekeeper to the financial system, nor does it entail any AML/CFT risks – see the proposal in the response to Question 3.
- 2) Specify the scope of transactions meeting the definition of 'occasional transaction'. Defining the concept negatively ("not carried out as part of a business relationship") implies that any interaction would fall in scope, especially in the absence of a definition of 'transaction' and 'provision of services' (see the proposal in the Additional observations).
- 3) Include a first article introducing a risk-based approach, similar to Article 1 of the CDD RTS. Several criteria raise operational implementation challenges. Including an article establishing a risk-based approach would help clarify that the identification of linked transactions should be carried out by obliged entities on a best-efforts basis and in accordance with the risk-based approach. "This Commission Delegated Regulation ('Regulation') shall be applied in line with the risk-based approach. To appreciate the existence of a business relationship, occasional transaction or linked transactions, obliged entities shall assess the information obtained with a commensurate approach."

Characters: 3621

Question 7: Do you see a need for the introduction of an additional lower threshold for a specific obliged entity, sector or transaction? If so, could you please indicate why, where possible substantiated by data, and at which value the threshold should be set?

N/A.

Additional observations: Do you have any additional comments relevant to the draft RTS that have not been covered above? Please ensure that comments refer to a specific article, are precise, and, where possible, supported by evidence. Where necessary, comments should also include a proposed solution.

We caution that the definition of ‘occasional transaction’ is excessively broad given that there is no clarity on what constitutes a transaction. Furthermore, the reference to provision of services connected to a transaction expands the scope even further.

We therefore propose including the following definitions based on AMLA’s Interpretative Note on the risk assessment methodologies pursuant to draft RTS under Article 12(7) AMLAR and draft RTS under Article 40(2) AMLD as additional paragraphs to Article 1:

(2) “‘transaction’ means any operation or activity initiated by a third party and involving the transfer or movement of funds, crypto-assets, securities, or other assets or value, including instructions that lead to automated or recurring execution (e.g., standing orders, direct debits, pre-authorized securities orders).”

The definition in the Interpretative Note also provides certain examples that could be mentioned in the recitals of the RTS.

The reasoning behind the proposed definition is to emphasize that a transaction should involve certain movement of funds.

(3) “‘provision of services connected to a transaction’ means a service falling within the scope of Regulation (EU) 2024/1624 provided by obliged entities listed in Article 3(3) of that Regulation to a third party directly related to a transaction between third parties.”

This proposal aims to specify that the notion of ‘provision of services connected to a transaction’ pertains to the non-financial sector in accordance with the examples provided in Recital 8 of the RTS. In practice, we see no plausible scenarios where financial institutions would be captured in the scope of such a concept.

For full clarity, this definition should also be complemented by a definition of a ‘customer’ (also provided in the Interpretative Note) to be distinct from a third party (with whom there is no business relationship):

4) “‘customer’ means a natural or legal person who maintains a business relationship with an obliged entity pursuant to Regulation (EU) 2024/1624, including the persons referred to in Article 19(6) of that Regulation.”

Characters: 2119