ETAF response to AMLA consultation

Draft RTS on inherent and residual risk assessment of non-financial obliged entities

The European Tax Adviser Federation (ETAF) is the European umbrella organisation for 280, 000 regulated tax professionals from France, Germany, Belgium, Romania, Hungary, Austria, Croatia, and Portugal. ETAF welcomes the opportunity to contribute to the European Anti-Money Laundering Authority (AMLA) consultation on the draft regulatory technical standards (RTS) on the assessment of the inherent and residual risk profile of obliged entities in the non-financial sector under article 40(2) of Directive (EU) 2024/1640.

The non-financial sector is extremely diverse, with a wide range of professions and business activities. This means that professions in the non-financial sector will have very different activities and ML/TF profiles. The methodology should therefore differentiate according to the specific characteristics of each profession, rather than applying the same criteria to fundamentally different sectors. An appropriate approach would be to develop a separate sector-specific methodology and to provide exemptions from data points that are not relevant to the activities of the profession at hand.

In this context, ETAF is concerned that, in its current form, the methodology would impose onerous administrative burdens on both obliged entities and supervisors of the profession, while diverting supervisory resources from areas of actual ML/TF risk. ETAF's main concerns were raised at the public hearing on 10 September 2026 and are restated here below.

Proportionate thresholds for small entities

ETAF considers that the proposed threshold of a “small obliged entity” is too low for the profession and does not fit the reality of many genuinely small practices.

Under the draft RTS, an entity must have fewer than five full-time equivalent (FTE) employees and annual turnover below € 600,000 to benefit from the simplified regime. These proposed thresholds, if adopted, risk excluding actual small practices from the simplified treatment. To provide a comparison, the EU definition of a micro-enterprise already covers undertakings with fewer than 10 employees and an annual turnover or balance sheet total of up to €2 million.

Also, the employee threshold should reflect who actually performs AML-relevant work. Secretarial, administrative or IT staff should not determine whether a professional practice is considered “small”. In ETAF's view, the relevant consideration should be the number of professionals or staff involved in AML-related activities. Additionally, turnover is only an indirect measure for reporting capacity but does not in itself indicate a higher ML/TF risk, as it can fluctuate from one year to the next without any major changes.

ETAF therefore recommends significantly higher thresholds, for example fewer than 10 professional or AML-relevant staff and an annual turnover below € 1.5-2 million. The approach should be flexible, and the two criteria should be applied alternatively.

Longer assessment timelines and review cycles

ETAF considers the proposed intervals of assessment cycles to be unfeasible for supervisors that are responsible for very large populations of professional practices. ETAF members have reported that the IT infrastructure and human resources necessary to perform an exercise of such a scale are simply unavailable.

Meeting the proposed initial assessment deadline for obliged entities by 31 December 2029 will aready be difficult, but the greater problem is the annual re-assessments (reduced to once every three years for low risk) of risk profiles. For many professional supervisors, the data that is required is not readily available and must first be collected from obliged entities, which may take several months before the actual risk assessment and supervisory follow-up can begin. ETAF cautions against such a timeline as it will entail the spending of supervisory resources on thousands of small, low-risk professional practices instead of focusing those resources where the actual ML/TF risk is.

ETAF therefore recommends allowing five to seven years to complete the first risk-based assessment cycle, starting with high-risk entities. For small and stable low-risk entities, a full reassessment at intervals of at least five years, with an earlier reassessment necessary only where major changes or actual ML/TF risk indicators arise.

Sector-specific and relevant data points: prioritise actual AML impact

Under the standard regime, tax advisers may be subject to 65 data points: 34 on inherent risk under Annex I and 31 on the quality of AML/CFT controls under Annex II. For small obliged entities under the simplified regime, this is reduced to 12 inherent-risk data points.

ETAF considers these proposed data points excessive and unsuitable for the profession. This is because many introduce new reporting requirements that have limited impact on ML/TF prevention. For example, the value of the largest transaction, the total value of transactions, the total number of relevant services reflect the scale and economic intensity of an entity's activities, not its inherent ML/TF risk. Specific risk features should be the focus instead of the number of clients, transactions, or services. Similarly, the volume of routine tax advisory activities, such as bookkeeping, payroll, and tax compliance, should not be viewed as indicators of ML/TF. This also applies to tax disputes or regular tax planning unless specific risk-relevant characteristics are present.

The number of sector-specific data points should therefore be greatly reduced and revised to reflect the actual relevant risks for tax advisers, such as links to high-risk third countries, PEP relationships, complex structures with risk-relevant cross-border elements, relevant fiduciary activities and concrete findings from previous supervisory actions. The methodology should also take into account the fact that tax advisers do not have the same level of visibility as banks regarding their clients' transactions. ETAF therefore recommends that tax advisers should first be evaluated on the basis of these sector-specific indicators and also on the information already available to the supervisors, and that only in those cases where this initial assessment identifies ML/TF risks should more detailed data be requested.

Additionally, the same sector-specific method should be used when evaluating the quality of AML/CFT controls. The methodology must not make assumptions about organisational structures, formal scoring systems or internal control functions which are neither required nor proportionate to the professional practices in question. The relevant data points should be designed to check whether the AML/CFT obligations are effectively met, not to impose organisational models that are appropriate for other sectors. Moreover, when interpreting each individual data point no automatic negative conclusions should be drawn. For instance, a greater number of cases in which enhanced due diligence is carried out or suspicious transaction reports are filed might indicate effective risk identification and compliance, rather than point to weaker AML/CFT controls.

Notes
For further information on this statement, please contact: info@etaf.tax.

About ETAF
The European Tax Adviser Federation (ETAF) is a European umbrella organisation for tax professionals whose activities are regulated by law. It is established as an international not-for-profit organisation (AISBL) governed by Belgian law, based in Brussels and was launched on 15th December 2015. It represents more than 280 000 tax professionals from France, Germany, Belgium, Romania, Hungary, Austria, Croatia, and Portugal. ETAF is a registered organisation in the EU Transparency Register, with the register identification number 760084520382-92.