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EBA Report

on competent authorities' responses to the 2020 Luanda Leaks

Contents

Executive Summary	4
1. Background and legal basis	6
2. Methodology	6
3. Actions taken by CAs following the publication of the leaks	9
4. Supervisory follow-up	13
5. Measures adopted in relation to breaches and shortcomings identified	16
6. Conclusion	17

Abbreviations

AMLD	Anti-Money Laundering Directive
AML	Anti-Money Laundering
CA	Competent Authority
CFT	Countering the financing of terrorism
FATF	Financial Action Task Force
ICIJ	International Consortium of Investigative Journalists
ML	Money Laundering
PEP	Politically Exposed Person
RA	Risk Assessment
TF	Terrorist Financing
UBO	Ultimate Beneficial Owner

Executive Summary

In January 2020, the International Consortium of Investigative Journalists (ICIJ) published hundreds of leaked documents about the financial affairs of Ms Isabel dos Santos, the daughter of a former president of Angola, and various companies and individuals linked to her. The information contained in the leaked documents appeared to confirm long-standing allegations that Ms dos Santos used Angolan government funds illicitly to benefit herself and her family.

In its resolution of 10 July 2020 on a comprehensive Union policy on preventing money laundering and terrorist financing, the Commission's Action Plan and other recent developments (2020/2686(RSP)), the European Parliament called on the EBA 'to conduct an inquiry into the Luanda Leaks revelations, in particular to assess whether there were breaches of either national or EU law, and to assess the actions taken by financial supervisors'. The Parliament also called on the EBA 'to issue appropriate recommendations for reform and for action to the competent authorities concerned'.¹

To respond to the European Parliament's request, the EBA carried out an inquiry under Article 9a(5) of the EBA Regulation. Specifically, the EBA worked to establish how competent authorities:

- responded to allegations that Isabel dos Santos or her associates laundered the proceeds from corruption through their financial sector, or owned or controlled financial institutions; and
- assessed their sector's exposure to wider ML/TF risks highlighted by the case, such as risks related to the lack of identification by credit and financial institutions of customers or beneficial owners who are PEPs or the ML/TF risks related to CAs' own assessment of persons from high ML/TF risk jurisdictions who own or control financial institutions.

The EBA found that competent authorities' approaches to identifying and tackling ML/TF risks highlighted by the Luanda Leaks differed significantly across NCAs and varied beyond what the EBA would have expected under a risk-based approach. More than half of all CAs took action whether or not their jurisdictions, or institutions under their supervisory remit, were mentioned in the ICIJ leaks. Of these, several CAs subsequently identified institutions that had links with Isabel dos Santos and her associates, in spite of the fact that these institutions had not been explicitly mentioned by the ICIJ. This suggests that there is a risk that relevant risk exposures in Member States whose CAs took no action may not have been detected.

The EBA's findings also suggest that not all CAs took advantage of existing cooperation channels to exchange information and improve their understanding of the risks to which their sector was exposed. This was the case domestically, where the nature of the leaks suggests that useful

¹ European Parliament, Resolution on a comprehensive Union policy on preventing money laundering and terrorist financing – the Commission's Action Plan and other recent developments ([2020/2686\(RSP\)](#)), paragraph 20.



intelligence could have been shared between FIUs and CAs, and internationally, where CAs had identified links between Isabel dos Santos, her associates, and foreign credit and financial institutions that operated branches or subsidiaries on their territory. This may have hampered CAs' ML/TF risk assessment efforts and suggests that the risk of institutions laundering the proceeds from corruption by third country PEPs that present higher ML/TF risks is not currently managed effectively in all Member States.

Nevertheless, the EBA also found examples of good practice across the EU. These included steps by CAs to put in place dedicated processes to identify and swiftly react to instances of crystallised ML/TF risk, as was the case in the Luanda Leaks. Going forward, CAs should consider building on those examples to strengthen their own approach to addressing ML/TF risks, and consequently, the EU's financial crime defences.

1. Background and legal basis

1. In January 2020, the International Consortium of Investigative Journalists (ICIJ) published hundreds of leaked documents that focussed on the financial affairs of Ms Isabel dos Santos, the daughter of a former president of Angola, and various companies and individuals linked to her. The information contained in the leaked documents appeared to confirm long-standing allegations that Ms dos Santos used Angolan government funds to benefit herself and her family.
2. In its resolution of 10 July 2020 on a comprehensive Union policy on preventing money laundering and terrorist financing, the Commission's Action Plan and other recent developments (2020/2686(RSP)), the European Parliament called on the EBA 'to conduct an inquiry into the Luanda Leaks revelations, in particular to assess whether there were breaches of either national or EU law, and to assess the actions taken by financial supervisors'. The Parliament also called on the EBA 'to issue appropriate recommendations for reform and for action to the competent authorities concerned'.²
3. To respond to the European Parliament's request, the EBA carried out an inquiry under Article 9a(5) of the EBA Regulation.

2. Methodology

4. Article 9a(5) of the EBA Regulation empowers the EBA to perform risk assessments of the strategies, capacities and resources of competent authorities (CAs) to address the most important emerging risks related to money laundering and terrorist financing at Union level. 'Emerging risks' in this context refers to a risk that has never been identified before or an existing risk that has significantly increased. The methodology for carrying out such a risk assessment was adopted in December 2020 by the EBA's Board of Supervisors.³ The methodology envisages a five-step process.
5. As a first step, the EBA assessed the content of the documents released by the ICIJ and the nature of the ML/TF risks raised by the Luanda Leaks. In this context, the EBA noted that the ICIJ's lists of companies in which Ms dos Santos or her husband Mr Dokolo held a stake as direct or indirect shareholders,⁴ included 241 companies that were or had been incorporated in 12

² European Parliament, Resolution on a comprehensive Union policy on preventing money laundering and terrorist financing – the Commission's Action Plan and other recent developments ([2020/2686\(RSP\)](#)), paragraph 20.

³ [Risk assessment under Article 9a of the EBA Regulation](#), EBA/REP/2020/36.

⁴ [ICIJ: Luanda Leaks - List of companies held by Isabel dos Santos and Sindika Dokolo - Google Sheets](#)



EU Member States and one EEA country. 197 of these companies were 'still active' as of December 2019, according to the ICIJ.

6. The ICIJ classified⁵ these companies as follows:

- For companies classified as being of a 'financial' nature, three banks were licensed in one Member State, five life insurance or non-life insurance companies were registered in two Member States and 68 'Investment Banking and Brokerage Services' were registered in six Member States. The latter category comprises a wide range of financial activities that range from companies providing services such as investment banking, trading, and asset management to investment services companies that provide trading and brokerage services.
- Many of the entities listed by the ICIJ in the 'Investment Banking and Brokerage Services' category comprise so-called 'company service providers' (CSPs) that are entities that provide services such as formation of companies or the provision of registered offices, as well as 'trust offices' or 'holdings'.
- Other types of companies incorporated in the EU included companies related to sectors as diverse as energy, media and telecommunication, real estate, construction and personal goods.

7. Furthermore, the ICIJ published, in addition to this list of companies held by Ms dos Santos, a wide range of press articles that make reference to several credit institutions licensed in the EU that, if they were not held by Isabel dos Santos and her associates, were nevertheless involved in the financial affairs of Isabel dos Santos, including in the provision of loans to Isabel dos Santos.

8. When assessing this information, the EBA observed that many of the entities mentioned in the ICIJ list, and by extension in the media, are not 'credit and financial institutions' in the sense of the AMLD. At the same time, while companies may not be credit and financial institutions, they may potentially be customers of financial institutions licensed in the EU, which means that Isabel dos Santos and her associates could be the ultimate beneficial owners (UBOs), i.e. the individuals who ultimately own or control the customer or on whose behalf a transaction or activity is being conducted.

9. The EBA concluded that the leaks and the information contained therein gave rise to concerns about:

- the adequacy of AML/CFT systems and controls in place at credit and financial institutions in the EU that have directly or indirectly entered into a business relationship with Ms dos Santos and her associates;
- the effectiveness of AML/CFT supervision of these institutions;

⁵ For its classification, the ICIJ refers to: FTSE Russel, [The industry classification benchmark](#).



- the effectiveness of AML/CFT and prudential supervisors' approaches to identifying and tackling ML/TF risks in these institutions, in particular in relation to the assessment of applications for the acquisition of qualifying holdings.
10. As a second step, the EBA used these findings to set the scope of the risk assessment. In consultation with EU AML/CFT competent authorities, the EBA determined that the risk assessment should focus on CAs' ability to respond to emerging ML/TF risks and how CAs that are directly affected by the Luanda Leaks responded to those leaks and the effectiveness of the actions they took in this regard.
 11. The EBA subsequently carried out a fact-finding exercise during the summer of 2020 to gain a comprehensive view of the types of actions AML/CFT CAs had taken in light of the issues raised by the leaks. All AML/CFT CAs at EU level received the survey and were asked to provide their input. Specifically, CAs were asked to indicate if they had taken steps to identify whether any of the individuals and institutions implicated in the leaks had links with their jurisdiction; taken any supervisory action to address and mitigate risks raised by the leaks; and if the information contained in the leaks triggered any other specific actions. The EBA received responses from 33 CAs that are responsible for the AML/CFT supervision of credit or financial institutions across 26 Member States and one EEA jurisdiction.
 12. Responses received through this fact-finding exercise provided the EBA with the basis for the third step of the methodology: the selection of the sample of AML/CFT CAs for further assessment. The EBA selected for a more in-depth review a sample of seven CAs in seven Member States that were responsible for the AML/CFT supervision of credit and financial institutions that were implicated in the leaks or that had indicated in their responses to the EBA's fact-finding exercise that they identified direct or indirect links with Ms dos Santos but that had not been named in the leaks.
 13. Between Q4 2020 and Q3 2021, the EBA conducted the fourth step envisaged in the methodology. In accordance with the methodology, the EBA followed the principle of proportionality when requesting the information from CAs and therefore started by examining the information already available to it, and in particular:
 - the information held and gained in the course of the EBA's reviews of CAs' approaches to the AML/CFT supervision of banks that take place throughout the year;
 - information gathered in the course of the EBA Peer Review on Joint Guidelines on acquisitions and increases of qualifying holdings that was finalised in August 2021.⁶ The results of this exercise were key to inform further the EBA's initial assessment that suggested that there was a risk that assessments related to qualifying holdings were not sufficiently robust.

⁶ EBA [Report on the peer review of Joint ESAs Guidelines on the prudential assessment of the acquisition of qualifying holdings](#), EBA/REP/2021/24.



14. In Q4 2021, in order to finalise its assessment and taking into consideration that CAs had indicated to the EBA that following up on initial findings may take time, in particular in the context of the COVID-19 pandemic, the EBA conducted a series of interviews with the seven selected CAs. The purpose of these interviews was to understand the steps CAs had taken since the initial fact-finding survey was submitted (e.g. bilateral exchange or follow-up with relevant financial institutions, inspections or further investigations) and whether any breaches or shortcomings had been identified, and to take stock of the various challenges identified by CAs when dealing with these types of leaks and to identify good practices that can be used across the EU to ensure that CAs are well-equipped in the future to tackle the risks revealed by such leaks. Six CAs provided their input as part of this series of structured interviews. One CA indicated to the EBA that it could not be interviewed due to resources constraints and provided its input in writing.
15. In line with Article 9a(5), the EBA's assessment of the input received from CAs focussed on the extent to which competent authorities' resources, capacities and strategies were sufficient and effective to mitigate the risks identified in the context of the Luanda Leaks.

3. Actions taken by CAs following the publication of the leaks

16. The EBA first issued guidelines on risk-based AML/CFT supervision in 2017. These guidelines provide that competent authorities should carry out ad-hoc reviews of their ML/TF risk assessment and, where necessary, their supervisory plans, should information emerge that suggests a significant change to a supervised institution's ML/TF risk profile. Examples of significant changes include new information on an institution's owners or members of the management body, or any other situation where CAs have grounds to believe that the information on which they had based their initial risk assessment is no longer relevant. Following the publication of the leaks, the EBA therefore expected all CAs to consider the content of the leaks and assess whether and, if so, to what extent their sector was exposed to the ML/TF risks highlighted by the leaks, including:
- the risk that Isabel dos Santos or her associates owned or controlled credit or financial institutions in their jurisdiction and used those institutions to launder the proceeds from corruption;
 - the risk that companies that were beneficially owned or controlled by Isabel dos Santos or her associates may be customers of credit and financial institutions registered in their jurisdiction, and used to launder the proceeds from corruption; and



- the risk that credit and financial institutions fail to identify customers or beneficial owners that are high-risk PEPs, or are owned and controlled by persons from high ML/TF risk jurisdictions.

17. In the fact-finding survey that the EBA carried out in the first step of its 9a risk assessment, the EBA asked CAs whether they had carried out an assessment to identify if any of the individuals or financial institutions mentioned in the leaks had links to their jurisdiction. The EBA expected that as part of this assessment, CAs would check whether the financial institutions and individuals named in the leaks were included in their own registers as authorised entities, directors or qualifying shareholders. The EBA also expected that CAs would consider checking whether the companies the ICIJ suggested were owned by Isabel dos Santos or her associates had links with their jurisdiction and if so, could be customers of institutions in their jurisdiction.

CAs' assessment of their sector's exposure to the Luanda Leaks

18. Of the 33 CAs that responded to the EBA's questionnaire, more than half indicated that they had carried out an assessment to understand their sector's exposure to the Luanda Leaks. Among these CAs, the vast majority indicated that they had assessed both, whether any of the individuals named in the leaks had links to their jurisdiction and whether any of the financial institutions mentioned in the Luanda Leaks fell under their supervision.

19. By contrast, nearly one third of CAs indicated that they had taken no action following the publication of the leaks. Among these, some CAs indicated they did so because their jurisdictions were not named in the leaks or because there was no explicit indication that the institutions implicated in the Luanda Leaks were under their supervision. Other CAs indicated they took no action because they considered that their existing supervisory processes were sufficiently effective to identify and mitigate emerging ML/TF risks, including risks associated with the Luanda Leaks. For example, one CA indicated that it had recently strengthened its AML/CFT requirements and that it was confident that this would ensure that financial institutions under its supervision were sufficiently prepared to mitigate risks arising from the leaks. This was in spite of the fact that according to the ICIJ, its Member State was host to a construction company that was owned by Isabel dos Santos. Another CA indicated that it did not conduct an assessment because a local company listed by the ICIJ as being linked to Isabel dos Santos had ceased its activities in 2009.

20. Several CAs indicated that although they had not taken steps to assess risks, they had nevertheless taken other actions following the leaks. For example, one CA had issued guidance to their financial sector explaining the regulatory expectations on how to mitigate the risks arising from the Luanda Leaks, for instance in relation to the screening of high ML/TF risk customers.

CAs' findings on their sector's exposure to the Luanda Leaks

21. Out of the CAs that indicated that they had carried out an assessment to understand their sector's exposure to the Luanda Leaks, 11 CAs in nine Member States indicated that they had



identified a total of 35 credit and financial institutions that were currently active and that had links to the individuals mentioned in the leaks. Not all of those institutions had previously been linked to Isabel dos Santos or her associates, or listed by the ICIJ.

22. The nature of these links varied:

- these individuals directly or indirectly held shares in financial institutions in the CA's jurisdiction;
- they were members of the management body in financial institutions in the CA's jurisdiction;
- they were customers of financial institutions under the CA's supervision; or
- they were the beneficial owners of customers of financial institutions under the CA's supervision.

23. In one MS, Isabel dos Santos held a direct majority share or indirect shares in two credit institutions licensed in this MS. In two other MS, three credit institutions provided loans to companies connected to Isabel dos Santos. All these cases were referred to in the press in the context of the Luanda Leaks.

24. CAs in four other Member States also identified links to branches of credit institutions in their jurisdiction. In these cases, individuals mentioned in the leaks were either customers or the UBO of customers of financial institutions under their supervision.

25. Two CAs linked Isabel dos Santos and her associates to indirect shares in investment firms or insurance companies. These CAs indicated that in assessing the links with Isabel dos Santos, they focused their inquiries on those institutions in which Isabel dos Santos held direct or indirect shares of more than 10%, as they considered that if the percentage had been less, Isabel dos Santos would not be considered a beneficial owner or qualified shareholder.

26. One CA indicated that the institutions identified were servicing several of the CSPs mentioned in the leaks, or had correspondent relationships with credit institutions located in Angola.

27. Another CA specified that the links it had identified were limited to individual and occasional SEPA transactions of a very low amount.

Cooperation among CAs

28. As part of their initial assessment following the publication of the leaks, 11 CAs, including some of those CAs that had identified links with their jurisdictions, indicated that they cooperated with other public authorities, including FIUs, prudential supervisors and LEAs. Very few CAs mentioned they cooperated with AML/CFT authorities from third countries, even in cases where CAs had identified links between Isabel dos Santos, her associates, and foreign credit and financial institutions that operated branches and subsidiaries on their territory.



29. Where CAs cooperated with prudential supervisors, this included exchanges of information on internal governance and qualifying holdings. Several CAs also referred to cooperation with the ECB in situations where the ECB was competent.
30. Regarding the cooperation of CAs with FIUs, a majority of the 11 CAs indicated that they liaised with their respective FIUs in relation to specific individuals, entities or transactions that had been identified in the Luanda Leaks. A minority of CAs indicated that their FIU also cooperated with other FIUs in the EU or abroad.
31. Finally, three CAs reported that they had cooperated with law enforcement authorities in their jurisdiction where relevant.

The EBA's assessment of the actions taken by CAs

32. CAs' responses to the EBA's survey suggest that competent authorities took different approaches in response to the publication of the leaks. While close to one third of CAs that responded to the EBA's questionnaire took no action, more than half of all CAs took action, whether or not their jurisdictions, or institutions under their supervisory remit, were mentioned in the ICIJ leaks. Of these, several CAs subsequently identified institutions that had links with Isabel dos Santos and her associates, in spite of the fact that these institutions had not been explicitly mentioned by the ICIJ. This suggests that there is a risk that relevant risk exposures in MS whose CAs took no action may not have been detected.
33. Furthermore, the EBA observes that very few CAs had identified individuals mentioned in the leaks that held shares directly in credit and financial institutions under their supervision. The EBA notes that some CAs indicated that in assessing links with Isabel dos Santos, they had focused their inquiries on those institutions in which Isabel dos Santos held (directly or indirectly) a participation of more than 10%. The EBA notes that according to point (36) of Article 4 CRR, a qualifying holding is 'a direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking'. As clarified by Article 22 CRD, a qualifying holding may also result from the acquisition in concert with other shareholders. Therefore, assessing a participation of less than 10% may be warranted in some instances where the holdings result in the exercise of significant influence or in the concerted acquisition of 10% or more of the capital or voting rights.
34. Moreover, information provided by CAs suggests that while Isabel dos Santos and her associates owned or controlled a number of financial institutions in the EU, another significant ML/TF risk, at the level of the EU, arose from inadequate AML/CFT systems and controls in credit and financial institutions that had failed to identify, assess and mitigate the ML/TF risks associated with high-risk PEP customers or beneficial owners.
35. The EBA considers that failing to take steps to mitigate the ML/TF risks associated with individuals who own qualifying holdings or are members of the management body, or failing to identify, assess and manage the ML/TF associated with customers or a customer's beneficial owners is serious if, as was the case of Isabel dos Santos and her associates, those individuals



have been exposed to allegations of corruption from various reputable sources over a sustained period of time.

36. The EBA further notes that while some CAs indicated that they had cooperated with their domestic counterparts, the FIU or law enforcement, outreach was not as systematic or common as the EBA would have expected. This was particularly the case of cooperation between CAs and FIUs, where the nature of the leaks suggests that useful intelligence could have been shared if authorities had communicated effectively. Similarly, given the cross-border nature of the allegations contained in the leaks, the EBA would have expected more CAs to reach out to their foreign counterparts, especially where CAs had identified links between branches or subsidiaries of foreign credit or financial institutions on their territory and Isabel dos Santos and her associates. Failure to communicate and exchange information may have hampered CAs' risk assessment efforts.

4. Supervisory follow-up

37. As part of its fact-finding survey, the EBA asked those CAs that identified links between individuals mentioned in the leaks and financial institutions under their supervision whether they took any follow-up action and whether they experienced any challenges in assessing the content of the leaks and whether the findings of their assessment led them to change their supervisory approach.

Steps taken when exposure to risks arising from the leaks was identified

38. All of the 11 CAs in nine Member States that had identified links between institutions under their supervision and Isabel dos Santos indicated to the EBA that they carried out a number of subsequent checks, such as an assessment of the adequacy of AML/CFT systems and controls in place in those institutions.

39. To perform those checks, CAs took various approaches that included:

- bilateral contacts with the relevant institutions;
- targeted requests for information;
- off-site reviews;
- in a minority of cases, on-site inspections at the institution. However, these inspections were already part of their AML/CFT inspection plans prior to the publication of the leaks.

40. As regards the two credit institutions mentioned in the press article as being closely linked to Isabel dos Santos, either because she was a qualifying shareholder or because she held significant shares indirectly, the relevant CA indicated that it directly engaged with these institutions and performed a mix of offsite and onsite reviews of their AM/CFT controls. In both

cases, these reviews were already ongoing at the time of the publication of the leaks. In one case, the CA had previously identified serious concerns about the adequacy of that institution's AML/CFT controls that had persisted over a number of years. In the other case, the CA had initiated a full scope inspection that was adjusted following the leaks to include a specific module on the risks arising from the Luanda Leaks. The CA specified to the EBA that the assets of Isabel dos Santos had now been frozen.

41. As regards the other credit institutions mentioned in the leaks that provided products and services to Isabel dos Santos or her associates, the relevant CAs indicated that they engaged in bilateral exchanges with the relevant credit institutions and asked them to report back (via a statement to the CA) on the allegations made in the newspapers. For example, one CA asked the relevant credit institutions to carry out their own investigation and to determine if there were any transactions regarding the relevant customers that needed to be reported to the FIU. One of these two institutions carried out an investigation with the assistance of a third party. The other carried out their own investigation without the assistance of a third party and reported back to the CA.
42. For the other CAs that identified links with Isabel dos Santos and institutions under their supervision, the majority of CAs indicated they engaged in bilateral exchanges with the relevant institutions that included in some cases request for detailed statement. Several CAs also indicated that they gathered additional targeted information in respect of these institutions, for instance by requesting a sample of customers, with the entities linked to the Luanda Leaks.

Longer-term changes envisaged by CAs in their supervisory approaches as a result of the leaks

43. Several CAs reported challenges in assessing the content of the Luanda Leaks, including:
 - Limited resources to assess the large volume of information made available by the ICIJ;
 - Limited possibilities for onsite activities during the Covid-19 pandemic and associated restrictions on movement;
 - Difficulties in identifying links of institutions under their supervision with the individuals and entities mentioned in the Luanda Leaks, given the complexity of corporate structures and legal arrangements, thus suggesting that they experienced difficulties in understanding the UBO structure of institutions under their supervision;
 - Difficulties stemming from third country legislation that hampers the exchange of information.
44. A small number of CAs, in particular those that identified close links between institutions under their supervision and Isabel dos Santos, indicated that they made some changes to their supervisory approach following the publication of the leaks. These changes included:
 - A revision of their ML/TF risk assessment of individual institutions in light of the Luanda Leaks, for instance by amending the risk scoring of some institutions, in particular in relation of their exposure to geographical risks;



- The inclusion of specific components in planned onsite inspections of supervised institutions on the key ML/TF risks that arise from the leaks;
 - The launch of thematic inspections, including in respect of how credit and financial institutions perform UBO checks and identify shareholding structures.
45. The EBA notes that a small number of CAs indicated that they had put in place formal processes to deal with such leaks, or that they were planning to do so going forward. Such processes involved measures to strengthen coordination and communication channels inside the CA and domestically, to streamline CAs' investigations when leaks arise, specifically by:
- setting up a specific team within the CA to deal with the amount of information in the context of any future leaks and to perform initial checks on adverse negative media;
 - setting up a dedicated procedure to assess the level of ML/TF exposure of their jurisdiction, including using direct communication with the sector (e.g., survey) and/or batch searches across relevant databases, including public beneficial ownership registers;
 - establishing a dedicated strategy to deal with the information gained through these preliminary assessments, in line with a risk-based approach.
46. These processes, where they were already in place, appear to have helped CAs carry out their assessment of the emerging risks associated with the Luanda Leaks effectively and in a timely manner.

The EBA's assessment of the supervisory follow-up provide by CAs

47. The EBA notes that the steps taken by CAs following their initial assessment of the links identified with their jurisdiction, and the level of intrusiveness of these steps, varied beyond what could have been expected under a risk-based approach. While some CAs took robust supervisory action following their risk assessment findings, others relied exclusively or almost exclusively on credit and financial institutions' self-assessment. Requests for information can be a useful supervisory tool but on their own may not be enough to mitigate ML/TF risks effectively in all cases.
48. The EBA further notes that credit institutions with close links to Isabel dos Santos or her associates were already under strict monitoring by the relevant CA prior to the publication of leaks, thus raising questions about the efficiency and effectiveness of previous prudential and AML/CFT supervisory process.

5. Measures adopted in relation to breaches and shortcomings identified

49. To date, four CAs in three MS that indicated to the EBA that they took action after their assessment of the ML/TF risks arising from the Luanda Leaks highlighted shortcomings in institutions' AML/CFT systems and control. As a result of these shortcomings, some CAs indicated they revised their risk scoring of an individual institution or their sectoral risk assessment. Some CAs also indicated that they included thematic inspections in their supervisory plans, focusing on these shortcomings. One CA imposed restrictions on Isabel dos Santos' ability to exercise her voting rights in the institution in which she was a shareholder.
50. One CA in one MS identified breaches in two institutions under its supervision, that included:
- Inadequate AML/CFT monitoring systems and controls, including in the functioning of the IT systems devoted to AML/CFT, notably with regard to risk scoring, filtering tools (concerning PEP identification or the detection of specific hits associated with Luanda Leaks) and ongoing monitoring;
 - failures to comply with CDD/EDD obligations, including in collecting documents and/or information, lack of evidence on the source/ destination of funds;
 - failure to submit STRs and inadequate record retention.
51. To date, no CA has imposed sanctions on institutions for AML/CFT systems and controls failings in connection with the Luanda Leaks.

The EBA's assessment of the measures taken by CAs

52. The EBA notes that one CA had been aware of serious failings in at least one institution for many years, without, however, taking sufficiently effective supervisory measures to address these failings. EBA staff had previously engaged with staff at this CA in respect of this case. The CA is on track to remedy the situation, including by opening sanctions proceedings. Nevertheless, administrative sanctions have not yet been imposed.
53. The EBA also notes that in some MS, measures were taken by law enforcement. For example, in one MS, one institution attracted a penalty notice of EUR 150,000, following criminal investigations that found that it facilitated loans to a company linked to Isabel dos Santos. In addition, a number of outcomes of investigations have been recently mentioned in the press with regard to non-financial institutions and auditors, which fall outside of the EBA's AML/CFT remit.

6. Conclusion

54. The EBA found that competent authorities' approaches to identifying and tackling ML/TF risks highlighted by the Luanda Leaks differed significantly across NCAs and varied beyond what the EBA would have expected under a risk-based approach. While many NCAs took action to assess their sector's exposure, nearly one third of NCAs that responded to the EBA's questionnaire did not assess whether individuals or institutions mentioned in the leaks had links to institutions under their supervisory remit. This suggests that there is a risk that relevant risk exposures in Member States whose CAs took no action may not have been detected.
55. Furthermore, the EBA's findings suggest that not enough CAs took advantage of existing cooperation channels to exchange information and improve their understanding of the risks to which their sector was exposed. This means that the risk of institutions laundering the proceeds from corruption by third country PEPs is not currently managed effectively in all Member States, and that persons of questionable integrity or against whom serious and longstanding allegations of corruption exist may continue to own or control credit and financial institutions. These risks are not specific to the Luanda Leaks.
56. Nevertheless, examples of good practice also emerged. These included steps by CAs to put in place dedicated processes to identify and swiftly react to instances of crystallised ML/TF risk, as was the case in the Luanda Leaks. They also included efforts to consider, in their initial risk assessment, risks related to broader geographical risks, for instance in assessing the level of exposure of their sector to potentially corrupt funds from Angola. Going forward, CAs should consider building on those examples to strengthen their own approach to addressing ML/TF risks, and consequently, the EU's financial crime defences.
57. The EBA notes in this context that existing EBA guidelines set clear expectations for the way competent authorities should identify, assess and manage the ML/TF risks highlighted by the Luanda Leaks holistically and across all areas of supervision.
58. These guidelines include:
- a. The EBA's Risk-based Supervision Guidelines,⁷ which set out how competent authorities should react to emerging ML/TF risk and which have recently been updated to provide that CAs are expected to explain, as part of their supervisory strategy, how they will work to mitigate the existing and emerging ML/TF risks identified in the sectors and sub-sectors under their supervision, and to help CAs decide on the appropriate use of further and proportionate actions where relevant. For example, these guidelines set out how CAs can select the most appropriate tools to supervise the

⁷ ESAs 2016 72

institutions under their supervision, and how to follow up, should weaknesses in institutions' AML/CFT systems and controls be identified.

- b. The EBA's Guidelines on ML/TF risk factors,⁸ which set clear expectations of credit and financial institutions' AML/CFT systems and controls, including in relation to ML/TF risks associated with customers or beneficial owners who are PEPs and jurisdictions that are associated with high levels of predicate ML/TF offences, including corruption.
- c. The ESAs' Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector,⁹ which set out how prudential supervisors should consider ML/TF risks when assessing applications for the acquisition of qualifying holdings, including the steps they should take to assess the legitimacy of the funds used for acquisitions and increases of qualifying holdings, and which provide guidance on situations where shareholders with a less than 10% holding are still able to exercise influence by acting 'in concert' with others.
- d. The EBA's new Guidelines on a common assessment methodology for granting authorisation as a credit institution,¹⁰ which set out how CAs should take into account ML/TF risks.
- e. The EBA's Guidelines on the assessment of suitability and internal governance, and the revised SREP guidelines¹¹, which contain clear provisions on tackling ML/TF risks from a prudential perspective and which have recently been updated to reflect new legal obligations set out in the CRD 5.
- f. The EBA's new Guidelines on cooperation between prudential and AML/CFT supervisors and FIUs.

The EBA is committed to supporting NCAs further in applying these guidelines.

59. Finally, the EBA notes that not all legal and regulatory instruments apply to all sectors. In the EBA's view, as set out in its response to the Commission's call for advice on the future EU AML/CFT framework, there is a risk-divergent approach by competent authorities to the implementation of provisions in sectoral financial services law for tackling ML/TF risk at market entry and on an ongoing basis thereafter, for example when assessing the suitability of members of the management body, but this can stand in the way of a holistic approach to AML/CFT and open the Union's financial sector up to abuse for ML/TF purposes. It will therefore be important that provisions in the CRD that are specific to tackling ML/TF are also reflected in other financial services laws and, subsequently, ESA guidance.

⁸ EBA/GL/2021/02

⁹ JC/GL/2016/01

¹⁰ EBA/GL/2021/07

¹¹ EBA/GL/2014/13