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**EBA**

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# **Draft guidelines amending the ML/TF risk factors guidelines and draft guidelines on effective management of ML/TF risks when providing access to financial services**

Public Hearing, 10 January 2023

# GUIDANCE FOR PARTICIPANTS



- Please note that microphones are muted on entry. Kindly keep yourself muted during the presentation.
- Do not start your camera if you are not the speaker. It will save a lot of bandwidth.
- If you would like to intervene during the QA session that will follow the EBA's presentation, please indicate in the Webex chat your name and on which topic you'd like to intervene or write your question / comment directly in the chat.
- Whenever intervening please identify yourself by providing:
  - your full name (unless already used in Webex)
  - name of your organisation.
- In case of technical issues with Webex, you are encouraged to log out and log in again. If that still does not solve your issue, you can try dialling in via phone through one of the local access numbers provided in the invitation. Please send all technical questions to [meetings@eba.europa.eu](mailto:meetings@eba.europa.eu).

# Introduction

- Welcoming words
- Purpose of the hearing:
  - ✓ to provide an overview of the two new sets of guidelines the EBA proposes to mitigate the negative consequences of unwarranted de-risking;
  - ✓ to explain how the consultation process works;
  - ✓ and to give the opportunity to participants for a first expression of views.



The public hearing does not replace the written submission!



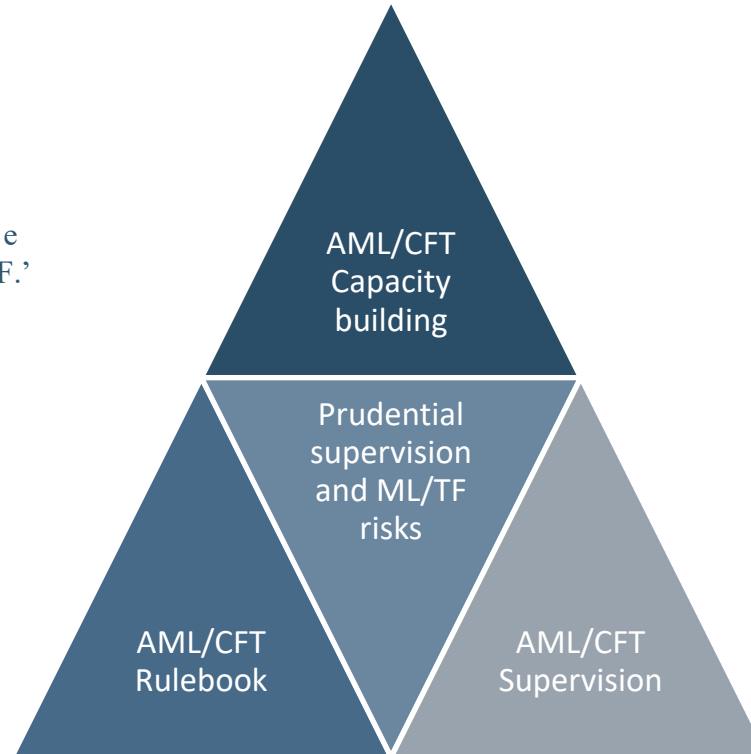
# The EBA's AML/CFT role and objectives

Article 1(5)(fb) of the EBA Regulation:

'The Authority shall, within its respective competences, contribute to [...] preventing the use of the financial system for the purposes of ML/TF.'

Article 9a(1) of the EBA Regulation:

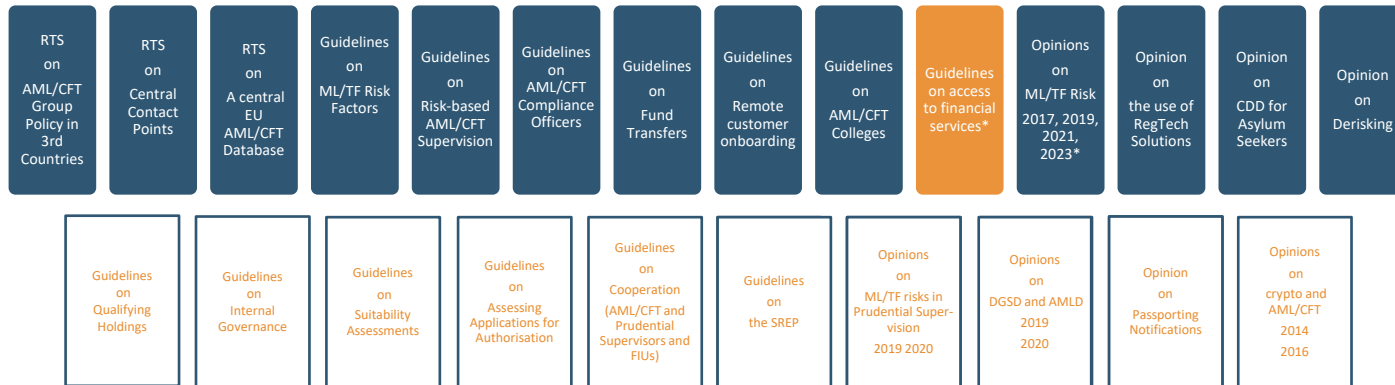
The Authority shall [...] take a leading, coordinating and monitoring role in promoting integrity, transparency and security in the financial system by means of adopting measures to prevent and counter money laundering and terrorist financing in that system.



# OVERVIEW: EBA LEGAL INSTRUMENTS ON AML/CFT

## POLICY OBJECTIVE:

A PROPORTIONATE, RISK-BASED APPROACH THAT IS BASED ON COOPERATION AND INFORMATION-SHARING, AND THAT IS APPLIED EFFECTIVELY AND CONSISTENTLY BY FINANCIAL INSTITUTIONS AND SUPERVISORS ACROSS THE EU.



\* Currently being finalised

# The draft Guidelines – Background



## **EBA's previous work on de-risking:**

- June 2020: EBA's call for input on de-risking
- September 2020: virtual event dedicated to challenges faced by Not-for-profit Organisations
- January 2022: EBA's Opinion and report on de-risking

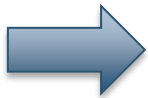
## **Additional contextual factors:**

- March 2022: Outbreak of the war in Ukraine
- Request from the European Commission to issue new guidelines to cover access to financial services for legitimate customers, in particular those who are particularly vulnerable to unwarranted de-risking

# The draft Guidelines – Subject matter and scope

The Consultation Paper covers both:

- (1) An annex providing guidance added to the EBA's ML/TF risk factors guidelines and dedicated to customers that are not-for-profit organisations
- (2) A new set of guidelines on effective management of ML/TF risks and access to financial services, which are broader but contain specific guidance for the handling of most vulnerable customers such as refugees or homeless people.



Both sets of guidelines aim to tackle unwarranted de-risking and to foster a common understanding throughout the EU on what financial institutions should do to tackle ML/TF risks effectively while taking care not to deny customers' access to financial services without good reason.

# Guidelines on NPOs: overview of content



- **Risk Profile:** guidance is provided on the types of information and related documents financial institutions should gather to obtain a good understanding of the NPO's governance, how it is funded, its activities, where it operates and who its beneficiaries are.
  
- **Identification of ML/TF risks:** guidance is provided on the ML/TF risk factors financial institutions should consider, in particular in relation to:
  - ✓ Governance and exertion of control
  - ✓ Reputation/adverse media findings
  - ✓ Funding methods
  - ✓ Operations in jurisdictions associated with higher ML/TF risks and high-risk third countries
  
- The guidelines make clear that not all NPOs are exposed in a similar way to ML/TF risk and that institutions should consider **factors that may contribute to reducing risks.**
  
- The guidelines encourage institutions that are likely to have NPO customers to establish a **dedicated contact point** for this specific category of customers.



# Guidelines on access to financial services: overview of content (1)



## Section 1: General requirements

- Credit and financial institutions should ensure that their policies and procedures:
  - ✓ **differentiate between ML/TF risks** associated with a particular category of customers and risks associated with individual customers that belong to this category
  - ✓ **do not lead to blanket refusal** or termination of business relationships with entire categories of customers that present higher ML/TF risk
  - ✓ **include options for mitigating higher ML/TF risk** before deciding to reject a customer on ML/TF risk grounds (e.g., adjusting the level and intensity of monitoring, application of targeted restrictions to products or services...)
  
- Credit and financial institutions should **document any decision to refuse or terminate a business relationship** and the reason for doing so.

# Guidelines on access to financial services: overview of content (2)

## Section 2: Adjusting the intensity of monitoring measures

- Credit and institutions should set out in their policies and procedures:
  - ✓ how they **adjust** the level and intensity of monitoring in a way that is **commensurate to the ML/TF risk** associated with the customer, incl. by:
    - setting expectations of the customer's behavior
    - ensuring that the customer's account is reviewed regularly
    - ensuring that any changes to the previously obtained CDD information are taken into account.
  - ✓ how to handle applications from individuals that may have **credible and legitimate reasons to be unable to provide traditional forms of identity documentation**, such as refugees or homeless people.

# Guidelines on access to financial services: overview of content (3)

## Section 3: Targeted and proportionate limitation of access to products or services

- Credit and financial institutions' policies and procedures should include **options and criteria on adjusting the features of products or services offered to a given customer on an individual and risk-sensitive basis**. These should include the options to offer payment accounts with basic features (for institutions covered by PAD) or impose targeted restrictions on financial products and services limits.
- In relation to refugees and homeless individuals, credit and financial institutions should ensure that their controls and procedures **take into consideration the personal situation of the individuals, the ML/TF risks associated therewith and their financial basic needs**.

## Section 4: Information on complaint mechanisms

- When communicating their decision to refuse or terminate a business relationship with a customer, credit and financial institutions' policies and procedure should include the **requirement to advise the customer of the consumer's right to contact the relevant competent authority or designated alternative dispute resolution body** and provide the relevant contact details accordingly.



## Process and deadline for the public consultation



The public consultation is open until  
**6 February 2023**  
at

<https://www.eba.europa.eu/calendar/consultation-effective-management-mltf-risks-when-providing-access-financial-services>

# Please provide your views !



Please indicate your name in the Webex chat if you'd like to take the floor [and indicate on which topic you'd like to intervene] or write your question / comment directly in the chat. Thanks !

## More information on the EBA's AML/CFT work



Visit the **EBA's website** at:

<https://eba.europa.eu/regulation-and-policy/anti-money-laundering-and-countering-financing-terrorism>

You can also sign up to receiving a quarterly **Newsletter** with the latest information and developments here:

<https://europa.eu/!rt48Jc>

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AUTHORITY

## EUROPEAN BANKING AUTHORITY

Floor 24-27, Tour Europlaza  
20 Avenue André Prothin  
92400 Courbevoie, France

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Tel: +33 1 86 52 70 00

E-mail: [info@eba.europa.eu](mailto:info@eba.europa.eu)

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<https://eba.europa.eu/>