de Nederlandse Orde van Belastingadviseurs

Response to Consultation on draft Regulatory Technical Standards in the context of the EBA's response to the European Commission's Call for advice on new AMLA mandates

Amsterdam, 5 June 2025

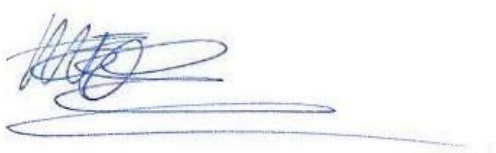
Dear Madam / Sir,

The Dutch Association of Tax Advisers (de Nederlandse Orde van Belastingadviseurs, also referred to as 'NOB' – more information about the NOB is included at the end of this document) is pleased to herewith provide comments on the public consultation on the four draft Regulatory Technical Standards (RTS) (**Consultation Paper**) that will be part of the European Banking Authority's (EBA) response to the European Commission's 'Call for Advice' and as published on the EBA's website on 6 March 2025.

The comments will focus on the Draft Regulation on supplementing Regulation (EU) 2024/1624 of the European Parliament and of the Council with regard to regulatory technical standards specifying information and requirements necessary for the performance of customer due diligence for the purposes of Article 28(1) (Draft RTS under Article 28(1) of the AMLR on Customer Due Diligence).

The NOB addresses some concerns regarding the draft RTS. The NOB addresses also some concerns regarding the AMLR and urges the EBA to bring the issues involved to the attention of the European Commission and call for reconsideration.

Kind Regards,
The Dutch Association of Tax Advisers



Margriet Lukkien
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Observations regarding draft RTS under Article 28(1) of the AMLR on Customer Due Diligence

General observations

According to the Consultation Paper the proposed drafts RTS focus on the financial sector. In line with the European Commission's request, the EBA's response to the Call for Advice will highlight which aspects of the draft RTS could also be relevant for the non-financial sector (chapter 3, paragraph 6). The NOB endorses the EBA's intention to minimise divergence across sectors and Member States to the extent that this is possible.

On the one hand no technical standards of the draft RTS under Article 28(1) of the AMLR on Customer Due Diligence seem to have been highlighted as relevant for the non-financial sector. On the other hand many technical standards of said draft seem to be generic and thus applicable to both the financial sector and the non-financial sector, apart from for example the Articles 8, 20, 21 and 30. The NOB suggests to clearly describe the scope of application in the preamble to the RTS.

On 14 May 2025 the Dutch State Secretary for Finance has formulated in a letter to the Dutch Lower House two main goals regarding measures against money laundering or terrorist financing: (1) easing the burden on bona fide businesses and citizens and (2) increasing barriers for criminals. The NOB is pleased that the EBA agrees to this approach according to preamble (13), which reads: 'In situations where the ML/TF risk is assessed as lower, Regulation (EU) 2024/1624 allows the application of simplified due diligence measures. Simplified due diligence measures should ease the administrative burden on the obliged entities and on the customers without increasing the risk of money laundering or terrorist financing.'.

Furthermore (and in line with the foregoing), in chapter 5, paragraph 5.3. the EBA describes that it's 'overall objective is to propose a RTS that is risk-based and proportionate where possible, and conducive to effective outcomes while keeping associated compliance costs to a necessary minimum'. It therefore consciously concludes that the proposed and investigated option, being 'not specifying further level 1 requirements that are already sufficiently detailed and only providing further clarification where needed to achieve a harmonised, risk-based approach' is most suitable going forward.

Although the NOB endorses this view to keep flexibility the opinion of the NOB is also that there is unfortunately insufficient attention for simplified due diligence measures in the RTS itself. The RTS lack for instance simplified due diligence measures regarding 'understanding the ownership and control structure of the customer' and 'identification of the purpose and intended nature of the business relationship'.

Article 1 – Information to be obtained in relation to names

In paragraph 3 (please note that paragraph 2 does not exist) an extra obligation and thus administrative burden seems to be created, where the obliged entities have to obtain not only the registered name, but also the commercial name where it differs from the registered name. The NOB does not see why or how this additional obligation could contribute to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. In the opinion of the NOB obtaining the entities' registered name suffices.

Article 3 – Specification on the provision of the place of birth

In this Article (again) an extra obligation and thus administrative burden is created, where the obliged entities have to obtain both the city and the country name of the place of birth. The NOB does not see why or how this additional obligation could contribute to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Either the city name or the country name should suffice, unless the specific city name should not be unique. Only in the latter case obtaining the country name could be required.

Article 4 – Specification on nationalities

An(other) additional obligation and thus administrative burden is created where obliged entities have to obtain necessary information to satisfy themselves that they know of any other nationalities their customers may hold. This may be relevant in cases of higher ML/TF risk business relationships, but not for other relationships. Obtaining one nationality of the client should suffice.

Article 9 – Reasonable measures for the verification of the beneficial owner

In case the obliged entity has personal contact with the beneficial owner it could make sense that the obliged entity verifies the identity of the beneficial owner on the basis of a valid identity document. In those cases, the legal representative(s) and the beneficial owner(s) often will be the same person(s). However, in many cases the obliged entity does not have any personal contact with the beneficial owner.

For instance, Client Z is a Dutch resident entity that is part of a large(r) international privately owned organization. Mr Y, resident of the US, indirectly holds 25% of the shares in Z. Mrs T is legal representative of Z. Mr A is Z's tax advisor and only has contact with Mrs T. In that case it does not make sense that the obliged entity of Mr A verifies the identity of Mr Y on the basis of a valid identity document. For the obliged entity to establish that Mr Y is, who he claims to be, which in principle - abstracting from possible alternatives, because these divert the attention from the essence of the matter - forces Mr Y to travel to the Netherlands or Mr A to travel to the US – in order for Mr Y to be able to present his passport to Mr A and for Mr A to be able to verify Mr Y's identity on the basis of the original passport – can in the opinion of the NOB not in any way contribute to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Naturally it is relevant for Mr A to establish that the legal

representative of the entity, Mrs T is, who she claims to be, and the obliged entity will have to establish her identity on the basis of a valid identity document. But this suffices.

It would be relevant to verify on the basis of reliable documents that Mr Y indeed is a beneficial owner of Z. In the opinion of the NOB article 22(7)(b) of Regulation (EU) 2024/1624 clearly permits said verifying method. The NOB presses the EBA to at least clarify that the list in Article 9 is not exhaustive, thus keeping other possibilities open such as said verifying method.

Following from the above the NOB urges EBA to seek the European Commission's attention for and call for reconsideration of the obliged entity's requirement to gather information about the UBO's identity document (Article 22(2) in connection with Article 62(1)(a) of Regulation (EU) 2024/1624). Gathering said information does not serve any purpose, or at least the purpose is unclear, is very risky because of the sensitivity of the information, or at least in conflict with GDPR.

Article 12 – Information on senior managing officials

Please refer to our comments regarding Article 9, as the same goes for the verification of the senior managing officials' identity as for the verification of the UBO's identity.

Article 18(1)(a) – Minimum requirement for the customer identification in situations of lower risk

Please refer to our comments regarding Article 4.

Article 32 – Entry into force

In the Consultation Paper reference is made to the date at which obliged entities are expected to comply with the new customer due diligence (CDD) measures. The AMLR could be read as suggesting that obliged entities will have to comply with it from 10 July 2027. This would mean that obliged entities would have to apply the new CDD standards to all existing customers at that date. The NOB is pleased that EBA acknowledges that it may not be possible for obliged entities to apply the new CDD standards to all of their existing clients at that date. According to the draft RTS obliged entities may apply a risk-based approach. The NOB understands that the proposed transition period of five years will also apply to the non-financial sector. The NOB would appreciate an explicit confirmation thereof in the preamble.

In conclusion

The NOB is available to further elaborate on this response to the evaluation. A copy of this response will be published on our website.

The Dutch Association of Tax Advisers

The Dutch Association of Tax Advisers, established in 1954, is the professional association of the university educated tax advisers in the Netherlands. It has over 6,000 members (including 800 corporate tax advisers), who must meet high standards in terms of expertise, professional skills and ethics. These standards form a guarantee for the quality of service and are important because the occupation of tax adviser is not legally protected in the Netherlands. As years of practice have shown, we are in a most excellent position to monitor the quality, integrity and recognizability of the profession of tax adviser for the general public, without legal regulation. We do this through our entry requirements, our professional education and our independent disciplinary boards.

The NOB has a long tradition in the area of legal commentaries. Since 1981, we have had a special Legislative Proposal Committee, which, over the years, has submitted extensive commentaries on proposed Dutch and EU tax legislations and made them available to parliament.