Insurance Europe's response to the consultation on the draft Guidelines on business-wide risk assessment

Our reference:	LPC-AML-26-079	Date:	15-07-2026
Referring to:	Consultation on the draft Guidelines on business-wide risk assessment		
Related documents:			
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Pages:	5	Transparency Register ID no.:	33213703459-54

Q1. ***Do you agree that the proposals set out in these draft GLs can be applied across all obliged entities and allow for an effective application of a risk-based and proportionate approach towards compliance with AML/CFT requirements?***

If not, please:
(i) specify the provision concerned with clear reference to the paragraph; and
(ii) provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.
…
Insurance Europe notes that in a number of places in the draft BWRA Guidelines, including paragraph 4(b)(2) and Section 2.5 of the paper, incorrect wording is used and therefore should be rectified. The wording currently reads: "the quality of AML/CFT/non-implementation and evasion of TFS controls". This should instead be amended to "the quality of AML/CFT/~~**non-implementation and evasion of**~~ TFS controls".

Comment 1
Provision / Guidelines paragraph: Paragraph 11
Comment (*3000 characters maximum*):

With regard to paragraph 11 of the draft Guidelines, we note that its current wording ("all branches and subsidiaries of the group conduct their own BWRAs") could be interpreted as extending the obligation to conduct BWRAs to non-obliged entities within a group and requiring the parent undertaking to take such assessments into account for the purposes of the group-wide risk assessment.

In our view, such an interpretation would not be supported by the Level 1 framework. Article 10(1) AMLR requires BWRAs to be carried out by obliged entities and does not establish corresponding obligations for non-obliged entities within a group. This understanding is also consistent with statements made by AMLA during the public hearing on 28 May 2026, where AMLA indicated that only obliged entities subject to the obligations laid down in the AMLR are required to conduct BWRAs.

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We would therefore welcome clarification that paragraph 11 is not intended to extend the scope of Article 10(1) AMLR beyond obliged entities. In particular, the Guidelines should clarify that references to group-wide risk assessments do not require the inclusion of non-obliged entities within a group.

Insurance Europe considers that branches should not be required to carry out a separate risk assessment, as they have no legal personality and therefore are entirely dependent on the classification and mapping carried out by their parent company.

Comment 2
Provision / Guidelines paragraph: Paragraph 5(d)
Comment (*3000 characters maximum):*

We support the objective of ensuring that employees, agents and distributors understand how the results of the BWRA affect their daily work.

However, paragraph 5(d) could be interpreted as implying that employees, agents and distributors must understand the BWRA in its entirety, regardless of their specific roles and responsibilities.

Furthermore, the Guidelines should clarify that the term "agents and distributors" in paragraph 5(d) does not encompass obliged entities under the AMLR. While the term is used in several provisions of the Regulation, it is not defined. In the insurance sector, insurance intermediaries may act as distributors of life insurance products and could therefore be considered to fall within its scope. However, insurance intermediaries are obliged entities in their own right under the AMLR and are not comparable to employees or persons performing equivalent functions within an insurance undertaking. Accordingly, they should not be covered by this provision.

Suggested drafting amendment:

"Take steps, including ongoing training, to ensure that their employees or persons in comparable functions whose function so requires, including agents and distributors ***other than obliged entities****, are aware of and understand* ***the aspects and outcomes of*** *the BWRA* ***relevant to their responsibilities*** *and how ~~it~~* ***these*** *affects~~~~ their daily work in line with Article 12 of the AMLR."*

Rationale:
This clarification would better reflect the risk-based and proportionate approach by ensuring that employees, agents and distributors receive information and training relevant to their functions. It would also avoid interpretation, whereby all persons are required to understand the BWRA in its entirety, irrespective of their role, while fully preserving the objective of ensuring the effective implementation of AML/CFT measures.

Comment 3
Provision / Guidelines paragraph: Paragraph 8(a)
Comment (*3000 characters maximum):*

In paragraph 8(a), first sentence of the draft Guidelines, a simplified ("less elaborate"), more qualitative and descriptive BWRA is envisaged for non-complex OEs. However, the criteria set out in the second sentence for qualifying as a non-complex OE are too narrow and therefore not proportionate and inconsistent with the risk-based approach.

From a systematic perspective, it is not clear why the definition of non-complex OEs refers to the criteria in terms of size and activity for reduced frequency of the supervisory risk assessment under RTS on Article 40(2) AMLD. Article 5(3) of those RTS serves to reduce the burden on supervisory authorities and thus pursues a different objective from paragraph 8(a) of the draft Guidelines, which aims to provide proportionate, risk-based relief for OEs.

Moreover, in practice, the conditions set out in Article 5(3) of the RTS on Article 40(2) AMLD are likely to cover only a very limited number of OEs, since the criteria must be met cumulatively. In particular, due to the criterion of a limit of five full-time equivalent employees, this would, with regard to insurance undertakings, likely encompass only a small number of insurance holding companies, which, by their nature, do not conduct operational business. However, Article 5(3)(b)(iii) of those RTS, in principle, covers insurance undertakings engaged in operational business, provided that they do not distribute the life insurance contracts listed therein. This indicates that, for insurance undertakings carrying out other types of operational activities, simplified treatment should be available.

Therefore, the criteria set out in paragraph 8(a), second sentence of the draft Guidelines, should be broadened to ensure that OEs with more than five full-time equivalent employees may also be covered, provided that the risks associated with their operational activities can be assessed as low, in line with the risk-based approach.

Furthermore, with regard to paragraph 8(a), first sentence of the draft Guidelines, it should be clarified that "less elaborate" allows for a deviation from the requirement in paragraph 23, second sentence, of the draft Guidelines, such that a simplified BWRA is not required to refer, at a minimum, to the data points listed in the RTS on Article 40(2) AMLD.

Proposal for paragraph 8(a) of the draft Guidelines (if the reference to the RTS on Article 40(2) AMLD is retained):

"OEs that are non-complex may apply a less elaborate BWRA and opt for a more qualitative and descriptive assessment, which may deviate from paragraph 23, second sentence, and does not necessarily need to refer to the data points listed in the RTS on Article 40(2) of the AMLD. Non-complex OEs are those that meet any of the criteria in terms of size and activity for the reduced frequency of supervisory risk assessments set out in Article 5(3) of the RTS on Article 40(2) of the AMLD."

Comment 4
Provision / Guidelines paragraph: Section 3.3 of Background and Rationale part
Comment (*3000 characters maximum):*

Section 3.3 describes the interconnection between the BWRA and individual risk assessments. We agree with this conclusion. However, it suggests that every individual risk assessment serves as input for the BWRA. While this may be the case, it is more common that aggregated outcomes of individual types of assessments serve as input. We therefore propose clarifying this in Section 3.3.

Drafting suggestion:

While interconnected, the BWRA and individual risk assessments conducted pursuant to Article 20(2) of the AMLR are distinct in nature, however they should inform each other. Individual risk assessments at customer level**, including where appropriate the aggregated outcomes of such assessments,** should inform the BWRA, but are no substitute for it. Conversely, the BWRA should be considered as an input for performing the individual risk assessments. OEs should therefore use the BWRA to inform the level of customer due diligence that they will apply in specific situations, and to particular types of customers, products, services and delivery channels, transactions and geographical areas.

Q2. *Do you agree with the proposed minimum requirements for the content of the BWRA set out in these draft GLs?*

If you do not agree, please specify:
(i) the provision(s) concerned, with clear reference to the paragraph; and
(ii) the rationale for your position.
Please provide concrete drafting proposals to resolving the issue and explain why the measure you propose would be more appropriate.

Comment 1
Provision / Guidelines paragraph: paragraph 23
Comment (*3000 characters maximum):*

Insurance Europe supports the objective of ensuring comprehensive identification and assessment of inherent risks. However, paragraph 23, second sentence, states that obliged entities should "at least refer to the data points listed in the RTS on Article 40(2) AMLD". It is unclear whether this means that all data points contained in the RTS are expected to be incorporated into the BWRA, or whether obliged entities should assess their relevance in light of their business model, activities and risk profile and consider only those that are relevant.

Suggested drafting amendment:

"For this purpose, OEs should ~~at least refer to~~ ***assess the relevance of*** the data points listed in the RTS on Article 40(2) of the AMLD, ~~supplemented by any additional relevant quantitative and qualitative indicators such as strategic plan modifications, mergers or regulatory changes.~~ ***in light of their business model, activities and risk profile and, where applicable take into account those data points that are relevant to their identification and assessment of inherent risks."***

Rationale:

The BWRA is intended to be a proportionate, risk-based assessment tailored to the obliged entity's specific risk exposure. Clarification would help ensure a consistent understanding that the reference to the RTS on Article 40(2) AMLD does not require the automatic inclusion of all supervisory data points in every BWRA, but rather their consideration through a risk-based assessment of relevance. This would be consistent with the principles of proportionality and the risk-based approach underpinning the AMLR and these Guidelines.

Q3. ***Do you agree with the proposals for additional sources of information to be taken into account when carrying out the BWRA set out in these draft GLs? (5000 characters maximum).***

If you do not agree, please specify:
(i) the sources you disagree with; and
(ii) the rationale for your position;
(ii) the sources that should be included.

Insurance Europe agrees with the proposed additional information sources. Regarding paragraph 19, Insurance Europe suggests clarifying that the listed sources should be taken into account only where applicable.

Suggested drafting amendment:
19. In this regard, the following non-exhaustive list of additional sources of information is to be taken into account**, where applicable** when preparing their BWRA:

Q4. ***Do you foresee any operational challenges in implementing these GLs?***

If so, please specify:
(i) the provision(s) concerned with clear reference to the paragraph; and
(ii) the rationale for your position.

Comment 1
Provision / Guidelines paragraph: Paragraph 10
Comment (*3000 characters maximum):*

Where distinct business areas require separate assessments, OEs should aggregate them into a single entity-level BWRA. However, separate assessments are carried out where ML/TF risk characteristics differ across business lines. In such cases, the added value of aggregation is unclear.

Furthermore, where separate assessments are carried out for different business lines, Insurance Europe considers that a common core assessment should be identified. Any differences from this common core, including risks that are not applicable to certain business lines within the same entity, should be clearly indicated. In this context, the term "concatenation" would be more appropriate than "aggregation".

Q4. *Within the boundaries of the mandate as defined in Article 10(4) AMLR, do you identify any need to introduce additional provisions? (5000 characters maximum)*

Insurance Europe does not see a need to introduce additional provisions.

Insurance Europe is the European insurance and reinsurance federation. Through its 39 member bodies — the national insurance associations — it represents insurance and reinsurance undertakings active in Europe and advocates for policies and conditions that support the sector in delivering value to individuals, businesses, and the broader economy.