

Subject: Newsletter - EACB Monthly Interviews - n°57 - February/March 2023View this email [online](#) if it doesn't display correctly

*The Co-operative Difference :
Sustainability, Proximity, Governance*

EACB Newsletter

Message from the CEO, Nina Schindler



The Anti-Money Laundering (AML) Package put forth by the Commission in July 2022 is a crucial step towards a more unified effort against money laundering and terrorist financing. This package is an important one for cooperative banks. First of all, because they support the fight against money laundering and terrorist financing and they know they have an important responsibility in it. Secondly, because of the customer dimension related to the work to be done. With around 227 million customers in their books, cooperative banks are very aware that information requests they have to formulate are not always understood by customers and can easily be perceived as an invasion in their privacy. Thirdly, because the past years have seen a steady rise in the resources that are being made available to comply with the legislative requirements and in the fines for non-compliance. The cost factor that comes with the responsibility of banks in the fight against money laundering is considerable. To the EACB, an inclusive and harmonising process guiding the legislative package's realisation will therefore remain a priority. We see great potential for standardisation and carefully controlled information sharing to boost efficiency, improve cross-border customers' experience, and level the playing field. All this while making our financial system safer and guarding our customers' trust. Therefore, we eagerly await that the remaining files in the package regain momentum. In the future, we hope that the package will reach its full potential, such as by centralising monitoring related supervisory and investigative functions under the AMLA.

3 Questions to

Raluca Alexandra PRUNĂ,

Head of Unit, DG for Financial Stability, Financial Services and Capital Markets
Union Unit Financial Crime, European Commission



Raluca Prună works for the European Commission, as Head of Financial Crime Unit in DG FISMA. From 2015 to 2017, she served as Minister of Justice in the Romanian Government. Since 2007, she worked in several Directorate Generals of the European Commission, in various areas as fight against organized crime, financial crime, and free movement of goods. Previously she worked in the Legal Service of the Council of the European Union (2005-2007) and the Delegation of the European Commission in Bucharest (2000 -2005). She is a founding member and former President of Transparency International Romania.

In late July 2022, the European Commission presented an ambitious package of legislative proposals to strengthen the EU's anti-money laundering and counter-terrorist financing (AML/CFT) rules. It harmonises AML/CFT rules across the bloc and proposes the creation of a transnational authority to fight money laundering. Could you please briefly remind us of the background and objective of this proposal?

Money laundering and terrorism financing (ML/TF) pose a serious threat to the integrity of the EU economy and financial system and to the security of its citizens. Europol estimated that around 1% of the EU's annual Gross Domestic Product is

involved in suspect financial activity. In July 2019, following a number of prominent cases of money laundering in the EU, the Commission adopted a Communication on better implementation of the EU's AML/CFT framework and four reports on different aspects of AML/CFT policy. They analysed the effectiveness and efficiency of the current EU Anti-Money Laundering/Countering Financing of Terrorism (AML/CFT) regime, and concluded that reforms were necessary.

Following this, on 7 May 2020, the Commission presented an Action Plan for a comprehensive Union policy on preventing money laundering and terrorism financing. The Action Plan set out the measures that the Commission will undertake to better enforce, supervise and coordinate the EU's rules in this area, with six priorities or pillars:

1. Ensuring effective implementation of the existing EU AML/CFT framework
2. Establishing an EU single rulebook on AML/CFT
3. Bringing about EU-level AML/CFT supervision
4. Establishing a support and cooperation mechanism for Financial Intelligence Units (FIUs)
5. Enforcing EU-level criminal law provisions and information exchange
6. Strengthening the international dimension of the EU AML/CFT framework

While pillars 1, 5 and 6 of this Action plan are being implemented, the others required legislative action, which has been addressed with the 2021 AML package.

Could you please describe this legislative package's components?

The 2021 AML package consists of four legislative proposals: a new Regulation on AML/CFT, a Directive on AML/CFT replacing the existing AML/CFT Directive (Directive 2015/849 as amended), a Regulation establishing an EU AML/CFT Authority, and a recast of the 2015 Regulation on Transfers of Funds (Regulation 2015/847).

The first EU AML Regulation harmonises the rules that apply to private operators, from obliged entities (with a particular focus on customer due diligence), to transparency requirements on the beneficial owners of legal persons and arrangements similar to trusts, to the rules against anonymity such as measures on cash and bearer shares.

The Commission also proposed a 6th AML Directive that strengthens national mechanisms and allows convergence at EU level: from common methodologies for supervisors to rules for joint analyses of FIUs, to the interconnection of the bank account registers.

The proposal for a regulation establishing the future EU AML authority, AMLA, brings together supervision and financial intelligence by acting as an EU supervisor and support and coordinate activities of FIUs in a single agency. The aim is to maximise synergies between the two functions on EU level, while keeping them separated and granting each its own operational and decision-making framework to preserve their specificities.

Finally, a modification to Regulation (EU) 2015/847, which was agreed upon by co-legislators in June 2022, will enter into force together with the MiCA Regulation to allow traceability of crypto-asset transfers and provides for an obligation for all crypto service providers involved in crypto transfers to collect data on the originators and beneficiaries of the crypto-assets transfers they operate, and make them available to the competent authorities in charge of the fight against ML/TF. These new rules will significantly enhance the monitoring and traceability of crypto-asset transfers and ensure compliance with the Financial Action Task Force (FATF) Recommendations.

Could you elaborate on the status of the discussions on the legislative package, and the possible impact that the recent judgement of the CJEU on the disclosure and

publication of specific information on the beneficial owners on the further timeline for the adoption of the package?

The AMLA Regulation, AML Regulation and the 6AML Directive are pending the position of the European Parliament, with trilogues commencing once the Parliament adopts its final report this April. The Swedish Presidency is striving for maximum progress on this package, and the Commission is ready to assist co-legislators to ensure speedy decision-making during trilogues, and adoption of the package towards the end of 2023. The recast of the Transfer of Funds Regulation was already adopted in 2022.

On the judgment of the CJEU, which invalidated public access to personal data held within beneficial ownership registers, it is useful to first highlight that more than 80% of criminal organisations use companies to commit crimes, launder their proceeds, or infiltrate the economic fabric of a territory (Europol 2021 Serious and Organised Crime Threat Assessment). This shows the role that beneficial ownership transparency plays in the fight against crime.

In response to this judgment the Commission immediately indicated that it will work with the Council and Parliament to ensure that the future regulatory framework ensures transparency in line with the Charter of Fundamental Rights and in full compliance with the Court ruling. It is important to note that the Court did not invalidate public access altogether, but reinstated the framework that existed before the 5th Directive, wherein the public must demonstrate a legitimate interest to access data. The Court identified the press and non-governmental organisations linked to the fight against money laundering and terrorist financing as persons for whom legitimate interest can be presumed.

Second Opinion from Annemarie Verkerk,

Manager Global Compliance AML & Sanctions Expertise, Rabobank



Annemarie Verkerk studied law at the University of Amsterdam with a focus on corporate law and governance. She fulfilled different roles in operations, commercial and compliance functions in the Banking sector and now with Rabobank. Annemarie leads to Global Compliance AML & Sanctions expertise team which consists of 30+ dedicated and diverse professionals, responsible for tracking regulatory developments and emerging risk, maintenance of global policy and standards, advice to the compliance global compliance network and specialised first line units.

To cooperative banks, the AML Package, including plans for a centralised EU AML authority, promises much-needed harmonisation and efficiency gains in the fight against money laundering through our shared financial system.

However, to ensure that the package is workable and soundly implemented, we would ideally like to see the European Parliament and the Council be more involved in filling in the package's details. Cooperative banks, amongst other obliged entities, need legal certainty sooner rather than later. Fewer specifications should be postponed and left to, for example, Member States and the Commission.

As practitioners, serving 227 million customers across the bloc, we know that the devil is often in the details, and are therefore well positioned to give valuable input throughout the legislative process.

Exchanging data, for example, is crucial to curbing money laundering across our expansive single market. Besides the information flow between private and public sector operators, an exchange at the operational level is equally necessary. In consideration of data exchange it remains equally important to ensure that privacy safeguards are accounted for. Breaching the gap between AML and Privacy legislation is therefore key. The AMLR and AMLD barely touch upon important, potentially efficiency-enhancing, data streams amongst obliged entities. Standardised know-your-customer and beneficial

owners registers, which presently differ greatly in quality and set-up, could help combat money laundering while improving cross-border customers' experience and levelling the cross-border playing field.

Further, in light of restricted outsourcing under the new AMLR, we see especially the small to medium-sized credit institutions we represent struggling to comply with the increasingly complex AML/CFT requirements. Cooperative banks generally do not host the resources but rely on highly specialised and reliable service providers to guarantee high quality and continued rule fulfilment. For the proposed AML package to achieve its goal, the AMLR might have to abandon this blanket take on outsourcing.

At the same time, we value the potential of technical implementing measures subsequent to the new AMLR to foster regulatory and supervisory convergence. For example, regulatory technical standards on AML transaction monitoring could first harmonise this practice across the EU before supervision and investigation are centralised under the AMLA. The resulting legal certainty and information sharing would bring unprecedented efficiency gains.

With the above reflections in mind, we welcome the amendments put forth by the Council, and, considering the procedural disruption caused by the CJEU's November judgement, trust that Parliament will pave the way for fruitful trilateral negotiations and a quick agreement on the remaining elements of the AML Package.

EACB latest publications:

- [PRESS RELEASE - Key Statistics for Cooperative Banks are out!](#)
- [Cooperative banks' General Assembly members exchange with Evelien Witlox, Programme Manager of the digital euro project at the ECB](#)
- [Co-operatives stand united to mitigate and deal with the impacts of climate change](#)
- [#COOP27 - Co-operative banks call for action on climate adaptation](#)
- [EACB response to the OECD consultation on the review of the G20/OECD Principles of Corporate Governance](#)
- [ESBG and EACB congratulate the Commission's Expert Group on its Report on Open Finance](#)
- [EACB CEO, Nina Schindler, attends IRU meeting in Leuven/Belgium on the occasion of Cera's 130 years anniversary](#)
- [EACB participation in the annual "Dachverbandstagung" of Austrian Raiffeisen Banks](#)
- [Co-operative Banks Speak on Digital Transition at the Global Innovation Coop Summit in Paris](#)

European Association of Co-operative Banks EACB - AISBL

The voice of 2.700 local and retail banks | 89 million members | 227 million customers
Rue de l'Industrie 26-38 1040 - Brussels BELGIUM
+32 (0)2 230 11 24 secretariat@eacb.coop