

Assessing the new AML/CFT framework for guarantee institutions

The **European Association of Guarantee Institutions (AECM)** represents 50 members encompassing private and mutual guarantee schemes as well as national promotional banks and institutions. We welcome the adoption of the new anti-money-laundering rules that will protect EU citizens and the EU's financial system against money laundering and the financing of terrorism. Since all EU-based AECM members are either credit or financial institutions, they will be obliged entities under the Anti-Money Laundering Regulation (AMLR). However, the new AML/CFT framework introduces significant operational and regulatory implications for the daily activity of guarantee institutions. In this context, we would like to share the following considerations with AMLA.

➤ **Background**

AECM members share a common mission: to facilitate access to finance for SMEs by providing guarantees to economically viable enterprises lacking sufficient collateral. By addressing this persistent market failure, they play a vital role in strengthening SME competitiveness and supporting inclusive economic growth. There are two major ways of granting a guarantee: individual guarantees and portfolio guarantees. In the first case, the financed company – in most cases a small or medium-sized company – is the customer of the guarantee institution. In the latter case, the guarantee institution grants a portfolio guarantee to a commercial bank under which the commercial bank then issues loans to its customers. Here, the customer of the guarantee institution is the financing bank. **Naturally, this distinction has important implications on KYC procedures for guarantee transactions.**

➤ **Business relationship**

According to Article 2 of AMLR, a “business relationship” is defined as “a business, professional or commercial relationship connected with the professional activities of an obliged entity, which is set up between an obliged entity and a customer, including in the absence of a written contract and which is expected to have, at the

time when the contact is established, or which subsequently acquires, an element of repetition or duration.” For guarantee institutions operating portfolio guarantees, there should be no confusion or doubt about who exactly is their customer. **It needs to be clear that CDD and other reporting obligations only apply to direct customers and not to the customers of the customer, i.e. in the case of a portfolio guarantee, the CDD should apply to the financing bank which is the customer of the guarantee institution and not to the final beneficiaries that are the customers of the financing bank.** This is crucial in order to avoid an inflationary increase of reporting requirements and a multiplication of reporting on the same business transaction.

➤ **Politically exposed persons**

In the CDD assessment, obliged entities will need to determine if the customer or their beneficial owner is a politically exposed person, a family member of one, or a close associate. In particular, in Article 2 the concept of “politically exposed persons” is widened to include for instance “heads of regional and local authorities, including groupings of municipalities and metropolitan regions, with at least 50 000 inhabitants” while the vast majority of heads of regional and especially local authorities do not qualify as PEP according to the FATF recommendations. As such, AMLR largely increases the circle of PEPs requiring enhanced CDD and consequently leading to a sharp increase in CDD requirements to be fulfilled by obliged entities. Therefore, in their upcoming guidelines, **we call on AMLA to take a sensible approach to classify the level of risk associated with each category of politically exposed person, family member or person known to be a close associate.**

➤ **Identification of beneficial owners**

Chapter IV of AMLR introduces provisions for the identification of beneficial ownership for legal entities. Specifically, Articles 51-54 introduce a new methodology to verify beneficial ownership through ownership interest and control, significantly increasing the number of entities that would need to be reported. This also raises the question on how to update beneficial ownership information for current customers, how much time obliged entities will have at their disposal to comply with the new approach, and how often the information will need to be updated. Therefore, to strike the right balance between the need for transparency and the need to keep the bureaucratic burden at a manageable level, **it should be**

made clear, that for low-risk operations, only beneficial owners that effectively exert a control over the client (direct, indirect and/or accumulated) need to be identified.

➤ **Lower risk factors**

Annex II of the AMLR lays down a non-exhaustive list of factors and types of evidence of potentially lower risk of money laundering and terrorist financing having regard to the specific characteristics of the client and of the business relationship. Specifically, point 2.d identifies as low risk “financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes.” In our understanding, this covers financial guarantees to small and medium sized enterprises that serve as collateral in a loan granting process. **However, AECM members would need further validation and a clear exemption to ensure that promotional guarantees for SMEs are explicitly recognised as low-risk under this provision.** As such, this would enable guarantee institutions to apply simplified due diligence measures for guarantee transactions to SMEs, like performing the analysis of the risks of money laundering and terrorist financing on a group/category of similar customers rather than on an individual basis.

➤ **Conclusions**

While supporting the overall objectives of new AML/CFT framework, we are calling on AMLA to take a more proportional and risk-based approach to prevent guarantee institutions from stringent AML/CFT requirements. Promotional SME guarantees are due to their size, their nature and their way of implementation, highly unsusceptible to being used for purposes of money laundering and terrorist financing. **New obligations for very low risk transactions comes at a high cost for guarantee institutions and ultimately for their clients, SMEs.** At the same time, no additional informational value is created. It is therefore of utmost importance to strike the right balance between the added value of reporting additional information and the increase in bureaucratic burden hampering promotional SME finance.

About us

The **European Association of Guarantee Institutions (AECM)** represents 50 members operating in 32 countries in Europe, and 6 international partners. They are national promotional banks and institutions or private/mutual sector guarantee schemes. Their mission is to support SMEs in getting access to finance. They provide guarantees to SMEs that have an economically sound project but do not dispose of sufficient bankable collateral. This so-called SME financing gap is recognised as market failure. By guaranteeing for these enterprises, guarantee institutions address effectively this market failure and facilitate SMEs' access to finance. The broader social and economic impact of this activity includes the following:

- Job creation and preservation of jobs by guaranteed companies
- Innovation and competition: crowding-in of new ideas leading to healthy competition with established market participants
- Structure and risk diversification of the European economy
- Regional development since many rural projects are supported
- Counter-cyclical role during crises

SME guarantees generally pursue a long-term objective and our members, if public, private, mutual or with mixed ownership structure, have a promotional mission.

AECM's members operate with counter-guarantees from regional, national, and European level. At the end of the year 2024, AECM's members had about EUR 218 billion of guarantee volume in portfolio, thereby granting guarantees to around 6 million SMEs. AECM's members are by far the most important counterparts of the EIF concerning EU counter-guarantees, handling EU (counter-)guarantees from the very beginning in 1998.

Have a look at our [AECM Brochure](#) and at our most recent publications:

[Statistical Yearbook 2024](#)

[Annual Activity Report 2024](#)

[Position papers](#)

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