



Anti-Money Laundering package

forthcoming European Union legislative framework

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Content

- 1. Substantive law ('Rulebook') – new AML Directive ('AMLD6'), AML Regulation ('AMLR'), Transfer of Funds Regulation ('TFR')**
- 2. Institutional reform – new Regulation establishing AML/CFT Authority ('AMLA')**
- 3. Timeline and next steps**

Substantive law (rulebook)

- 1) Allocation of topics between Directive and Regulation
- 2) List of obliged entities
- 3) Internal policies, controls and procedures
- 4) Customer Due Dilligence
- 5) Enhanced due dilligence
- 6) Beneficial owenership transparency
- 7) Reporting obligations
- 8) Anonymous and bearer instruments
- 9) *[Directive topics]*
- 10) Crypto reforms (TFR)

Allocation of topics between AMLR and AMLD6

AML Regulation

- List of Obligated Entities
- Internal policies, controls and procedures
- Customer Due Diligence (CDD)
- Enhanced due diligence cases
- Beneficial ownership information
- Reporting obligations
- Measures to mitigate the risks of bearer instruments

6th AML Directive

- Extend the requirements of the AMLR to other sectors exposed to risk at national level
- Risk assessments
- Registers (beneficial ownership, bank accounts and real estate)
- Financial Intelligence Units
- AML supervision
- Cooperation

List of obliged entities

New sectors

+ proposal for AMLD 6 provides for mechanism to extend the rules to other sectors exposed to risk at national level

CASPs (see also proposal for MiCA Regulation - COM/2020/593 final)

Crowdfunding service providers (except if covered by Regulation(EU) 2020/1503)

Creditors for mortgage and consumer credits and credit intermediaries that are not FIs

Investment migration operators

Traders in precious metals and precious stones (only group of traders in goods maintained as obliged entities).

Internal policies, controls and procedures

Framework to mitigate ML/TF risks to which the private sector is exposed as well as risks of evasion of Targeted Financial Sanctions. Includes:

- Policies to comply with AML/CFT requirements, risk assessment and risk-based approach in business relationships and occasional transactions, audit function as well as screening, training and information of employees.
- Compliance functions:



Customer due diligence

- Trigger: general threshold for occasional transactions lowered to 10.000 EUR, AMLA is tasked to identify where lower thresholds are needed.
- For credit institutions, requirement to apply CDD also when declared failing or likely to fail, under the oversight of the supervisor.
- Harmonisation of provisions on remote onboarding and reliance/outsourcing.
- De-risking: obliged entities required to keep track of steps undertaken + SDD framework clarified.

Enhanced due diligence: focus on third country policy cases

- Distinction between black- and grey-listed countries, with consequences proportionate to the level of risk posed
- Black listed countries: all EDD measures + countermeasures as needed (delegated act)
- Grey listed countries: EDD and (possibly) countermeasures as needed (delegated act)
- Autonomous listing by Commission with consequences that can reflect either grey or black listed countries
- Guidance by AMLA on external risks.

Beneficial ownership transparency

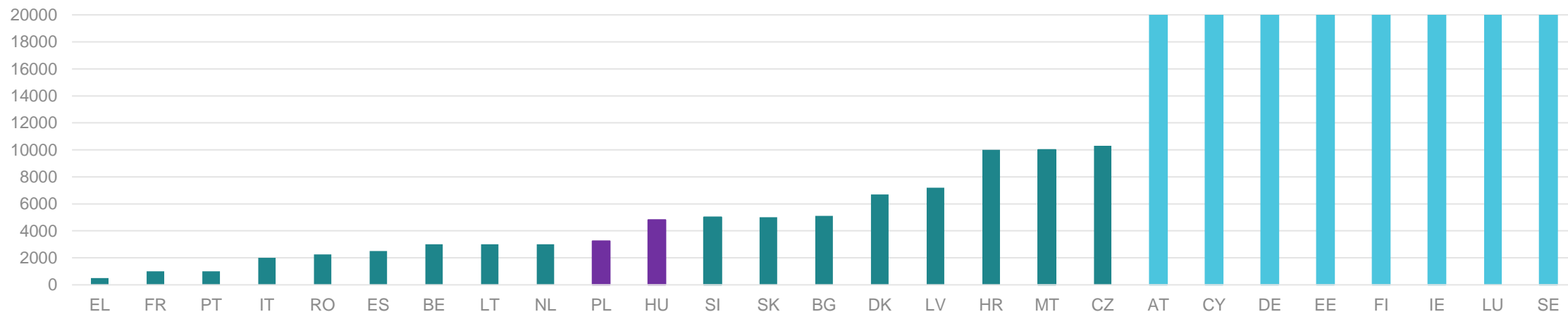
- Harmonisation of transparency obligations for legal entities and arrangements (incl. information particulars to be held and provided, and time-limits).
- Nominees must hold information on their nominator and disclose it and their own status to the corporate or other legal entity > info to be reported to register and for CDD.
- Foreign legal entities or arrangements must report their BO to the registers when entering into a business relation with an obliged entity or acquire real estate.

Reporting obligations

- New deadlines within which an obliged entity has to reply to a request for information by the FIU.
- Clearer criteria as to what suspicion is to be based on.
- AMLA to develop implementing technical standards for format of STRs.
- Disclosure framework unaltered.
- Record retention period reduced to 5 years.

Anonymous and bearer instruments

- Existing bearer shares need to be converted into registered shares (2 years), except for listed companies and companies with shares issued in an intermediated form. Future issuance only in intermediated form.
- Bearer share warrants only to be issued in intermediated form.
- EU-wide upper limit of 10.000€ cash payments for purchases of goods and services, including when payment is carried out in several instalments. Member states can keep lower limits.



Risk assessments

Supranational risk assessment

- Frequency reviewed (every four years) but sectoral assessment can be more frequent.
- Inclusion of requirement to assess risk of evasion of PF-related TFS.

National risk assessment

- Minimum frequency of four years mandated.
- Requirement to assess risks linked to legal entities / arrangements (including foreign ones) and to assess and mitigate risks of evasion of PF-related TFS.

Statistics

- No obligation to estimate ML/TF.
- New: data on FIU-customs cooperation, MLA requests for BOR and BAR and inspections by supervisors and BO Register.
- Harmonised data collection methodology.

Registers

Beneficial ownership

- Central registers able to obtain more information + justification that there is no BO > template for submission of information to registers.
- 14 days for discrepancy reporting.
- Sanctioning + inspection powers.

Bank accounts

- Set up of registers unaltered
- Registers to be interconnected
- FIUs to be granted access to interconnection

Real estate

- Minimum set of information that CAs should be able to access (economic value of transactions, details of the parties)
- No proposal to harmonise / interconnect these registers

Financial intelligence units

- Clarification of FIU's core functions and harmonisation of minimum set of data to which FIUs must have access (administrative, financial and law enforcement information).
- Exchanges with other CAs: obligation of timely response, plus CAs to provide feedback to FIU on use made of the information provided.
- Suspension powers: 48h to impose suspension and 15 calendar days max suspension + new power to suspend the use of a bank or payment account (also on behalf of other FIU).
- Feedback: annual activity reports + feedback to obliged entities (at least once a year) on quality of information, timeliness of reporting, description of suspicion and documentation.
- Use of FIU.net for exchanges of information and AMLA to develop template for disseminations
- Cooperation: time-limit for responses to other FIUs and joint analyses.

Supervision

- Tasks (dissemination of information, assessment of OE risk profile, offsite/onsite inspections, oversight of application of TFS) and powers (compel information, impose remedies) clarified.
- AMLA to develop RTS on methodology for risk assessment of OEs.
- Clearer cooperation obligations (bilateral, colleges).
- Public oversight of self-regulatory bodies.
- Administrative sanctions and measures: on top of criminal sanctions – but how left to Member States. Min. maximum sanction raised to 10m EUR (or 10% of turnover)
- Harmonisation: AMLA to define indicators for the level of gravity of breaches and criteria to set the level of administrative sanctions or take administrative measures.

Traceability of crypto-asset transfers

- MiCA proposal: crypto-asset services can only be provided in the EU by legal entities that have a registered office in a Member State and have been authorised as a CASP by the competent authority of that Member State (home Member State).
- For crypto-asset transfers that are sent or received by a payment service provider, a CASP, or an intermediary payment service provider established in the EU:
 - CASP of the originator must collect and verify information on the parties to the transfer
 - CASP of the beneficiary must verify the information and decide on the execution

The New AML Authority

- 1) **Overview – areas of action**
- 2) **AML/CFT supervisory system**
- 3) ***Direct* supervision of some financial sector entities**
- 4) ***Indirect* supervision – financial and non-financial sectors**
- 5) **Coordination and support of FIUs**
- 6) **Governance**

1) Overview

➤ The new Authority will have two main areas of activity :

AML/CTF supervision

- Establishing a **single integrated system of AML/CFT supervision** across the Union, based on common supervisory methodologies, and convergence of high supervisory standards;
- **Directly supervising** some of the most risky financial institutions
- **Indirectly supervising** financial sector obliged entities and coordinating the supervisory authorities in **the non-financial sector (not SRBs)**

Coordination and Support Mechanism for EU Financial Intelligence Units (FIU)

- **Supporting cooperation and joint analyses by national Financial Intelligence Units**
- Facilitating communication among them, to contribute to better detecting illicit flows of a cross-border nature.

2) AML-CTF supervisory system (1)

Duty of cooperation in the system (Art. 7)

- The system comprises AMLA and *all* supervisory authorities (ie fin and non-fin sector). Duty of cooperation in good faith.

Supervisory methodology (Art. 8)

- Aim – harmonisation, creating a handbook for AML/CFT supervision, with harmonised standards and practices anchored both in level 2 and level 3, covering the assessment of both inherent and residual risk.

Thematic reviews (Art. 9)

- Aim – coordinate national exercises where possible, enable mutual learning and more insightful outcomes. Covers both “Joint reviews” and light-touch coordination

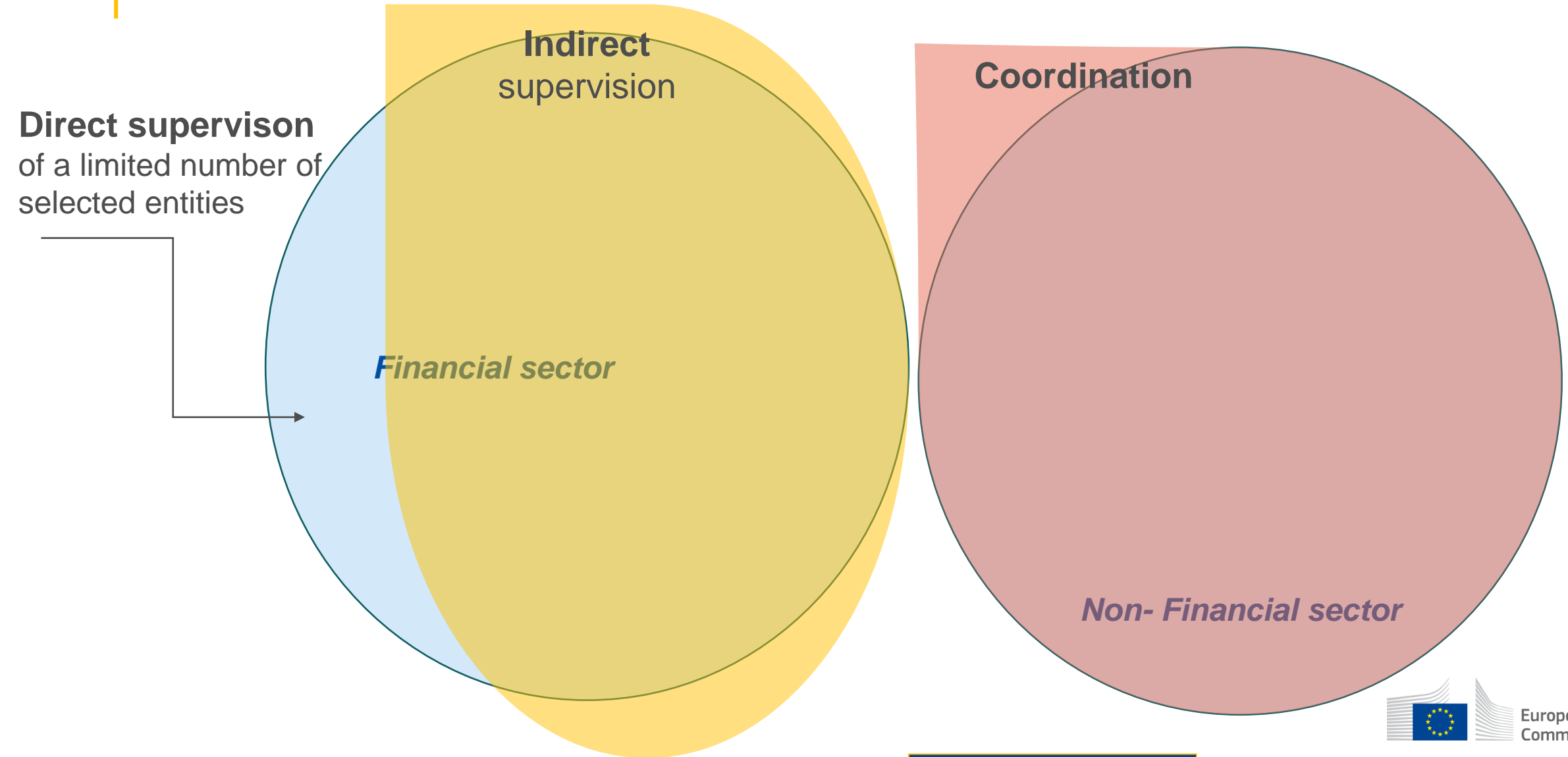
Mutual assistance (Art. 10)

- Establishing a formal mechanism for assistance and cooperation, coordinated at central level (requests relating to sharing of expertise, training and staff exchanges, as well as supervision of fin-sector entities, with appropriate safeguards for access to supervisory information)

Central AML/CFT database (Art. 11)

- Re-calibrating the database which EBA was mandated to develop – information that needs to be collected more clearly specified (hence no need for level 2). Covers *all* key supervisory decisions.
- Given the sensitivity of the data, access on need-to-know basis. For non-AML/CFT authorities, request-only basis.

2) AML-CTF supervisory system (2)



3) Direct supervision – supervisory powers and sanctions

- Cooperation in direct supervision (*Art.14*) and language regime (*Art. 27*)
- Requests for information, general investigations, on-sites and judicial authorisation (*Art. 16-19*)
- Supervisory powers (*Art.20*)

Sanctions

Administrative pecuniary sanctions (*Art. 21 + Annexes I and II*)

- **Maximum amounts** - up to EUR10million or 10% of annual turnover (for category (a) and (b)), whichever is higher

Periodic penalty payments (*Art. 22*)

- To stop on-going violation (as opposed to sanction for past breach in Art. 21)
- For both **natural** (up to 2% of daily income) and **legal** (up to 3% of daily turnover) persons
- Imposed for up to 6 months

4) Indirect supervision of financial and non-financial sectors

FINANCIAL SECTOR

- Assessment of the state of supervisory convergence (Art. 28)
- Coordination and facilitation of work of AML/CFT colleges (Art. 29)
- Requests to act in exceptional circumstances (Art. 30) → *may lead to direct supervision*

NON-FINANCIAL SECTOR

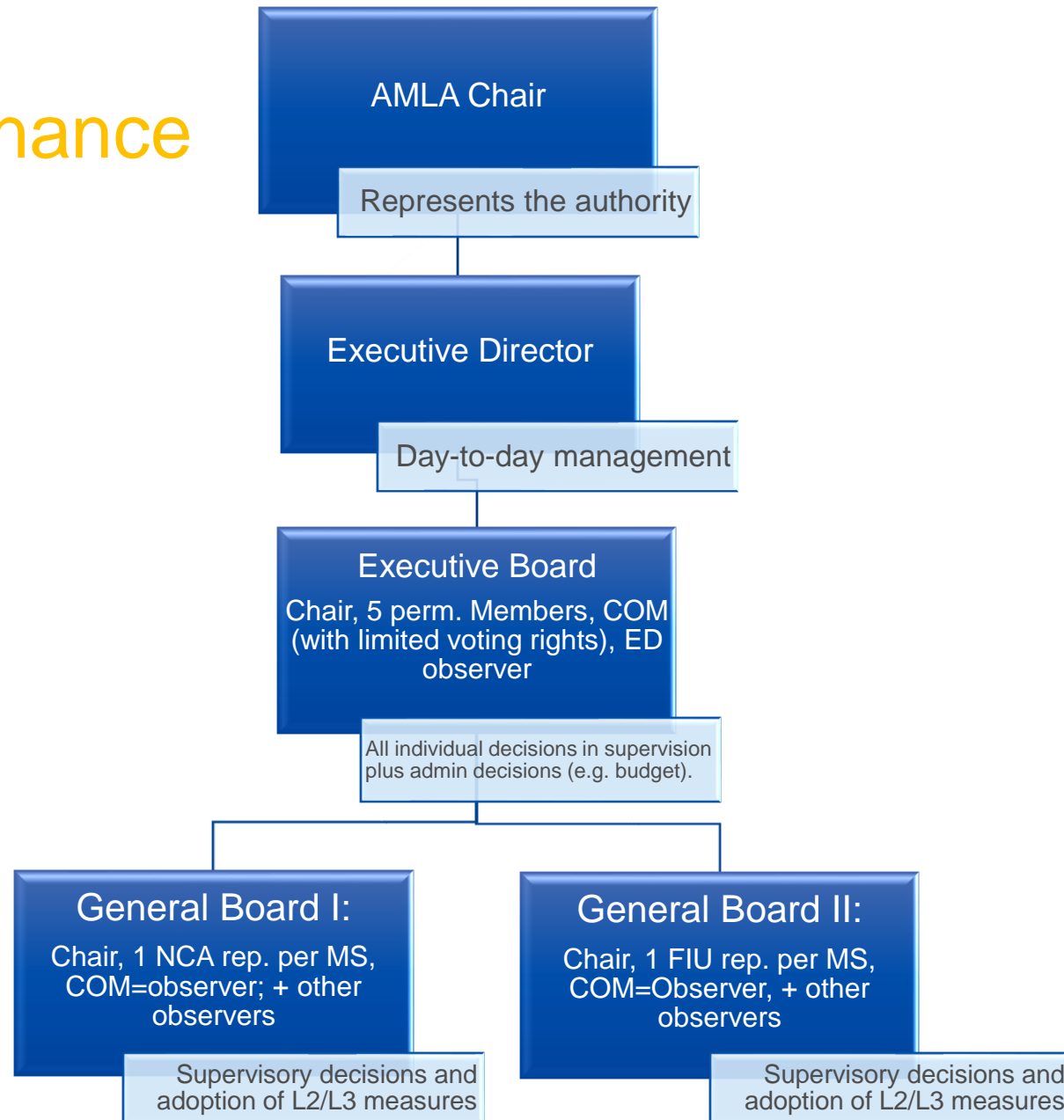
- Peer reviews (Art. 31)
- Breach of Union Law (Art. 32)

+ COMMON TOOLS: THEMATIC REVIEWS, AML/CFT DATABASE, MUTUAL ASSISTANCE MECHANISM

5) Coordination and Support of EU FIUs - tools

- **Conduct of Joint analyses (Art. 33)** → *to enable joint operational analyses (e.g. analyses of transactions reported in several countries with possible links to organised crime groups)*
 - **Review of methods, procedures and conduct of JAs (Art. 34)** → *to enable learning and evolution of the JA tool*
 - **National FIU delegates (Art. 35)** → *“antennas” of EU FIUs at the Authority, to allow participating in all joint analyses*
 - **Mutual assistance in the area of cooperation of FIUs (Art. 36)** → *same as in supervision*
 - **FIU.net (Art. 37)** → *to provide stable hosting, and maintenance of the crucial operational data exchange tool*
- + **Common instruments (RTSs/ITSs/GLs)** → *for developing common template and standards to harmonise the work of FIUs and to make information exchange simpler; for providing guidance to obliged entities*

6) Governance



Timeline and next steps

- Union co-legislators scrutinising legislative proposals as we speak
- There is a political agreement on the Transfer of Funds Regulation already
- The rest of the package hopefully agreed soon
- New rules to be applicable as of 2026
- New Authority may start its operations in 2024 (crucial role in completing rulebook)
- *European Union legal acts take time, which should be used by industry to prepare*

Relevance for Iceland – food for thought

- In order to be applicable in Iceland, the instruments of the package would need to be included in the EEA agreement
- Seemingly straightforward in case of substantive law 6th AML Directive and AML Regulation, but level 2 measures to be developed by AMLA in key areas (CDD, reporting, etc)
- How about institutional reform and AMLA? Experience with ESAs, but governance of AMLA is quite distinct for direct supervision
- Direct supervision of AMLA is a separate topic – SSM experience with non-Eurozone countries?
- Note the emphasis on cross-border groups, could any Icelandic institution qualify

Thank you for your attention