



## EUROPEAN COMMISSION

DIRECTORATE-GENERAL FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL  
MARKETS UNION  
Bank, insurance and financial crime  
Financial crime

# **Commission guidance on the rules applicable to the use of public private partnerships in the framework of preventing and fighting money laundering and terrorist financing**

## **CONSULTATION STRATEGY**

### **1. BACKGROUND INFORMATION**

The effective exchange of information is crucial in the fight against money laundering and the financing of terrorism. This includes not only the exchange of information between public authorities (e.g. Financial Intelligence Units (FIUs), law enforcement authorities and supervisory authorities), but also the exchange of information between authorities from the public sector and private sector entities.

The Commission's Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing<sup>1</sup> notes that in the context of making better use of financial intelligence, the role of public-private partnerships should be encouraged to the extent possible as in some cases the nature of the information might limit its sharing and such sharing must comply with the data protection legal framework and with other rules. Public-private partnerships entail the sharing of information between competent authorities and the private sector and can take various forms. Some are limited to the exchange of information on, for example, typologies, trends and patterns by FIUs to obliged entities, whilst others pertain to the sharing of operational information and intelligence on suspects by law enforcement authorities to obliged entities for the purposes of monitoring the transactions of these suspects.

Due to differences in the legal frameworks and practical arrangements across the EU Member States, the Commission considers it essential to provide guidance and share good practices for public-private partnerships in relation, in particular, to antitrust rules, safeguards and limitations in relation to data protection and guarantees on fundamental rights. In the May 2020 Action Plan, the Commission also announced that it will consider the possibility of requesting the European Data Protection Board (EDPB) to issue an opinion as regards the data protection aspects of public-private partnerships.

### **2. CONSULTATION SCOPE AND OBJECTIVES**

The objective of the consultation will be to collect additional relevant evidence in the form of views and opinions supported, to the extent possible, by facts and figures. The consultation aims to obtain information with regard to, for example, the types of public-private partnerships currently operating in the EU Member States in the area of preventing and fighting money laundering and terrorist financing, the public authorities (e.g. FIUs, law enforcement, supervisory authorities) and private sector entities which

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<sup>1</sup> Communication from the Commission on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing, C/2020/2800, OJ C 164, p. 21 – 33

participate, the types of information exchanged within those partnerships and the measures put in place to guarantee the preservation of fundamental rights. The consultation would also aim to gather input with regard to the mechanisms put in place to measure the effectiveness and success of those partnerships (e.g. key performance indicators (KPIs) or any other performance metrics) and to improve the Commission's understanding of the impacts, benefits and added value of the various public-private partnerships in the fight against money laundering and the financing of terrorism. The call for evidence would also provide an opportunity for the various public authorities and private entities, which take part in public-private partnerships, to explain and elaborate on the challenges faced and what do they pertain to.

The ultimate objective of the consultation is to provide the Commission with sufficient information and evidence for the purposes of preparing the guidance on the rules applicable to the use of public private partnerships in the framework of preventing and fighting money laundering and terrorist financing and issue best practices.

### **3. MAPPING OF STAKEHOLDERS**

The Commission will consult a wide range of stakeholders, including:

- The general public. This would concern both individual citizens and association representing a broad range of citizens (consumer associations, unions, etc.).
- Public authorities of the EU Member States. This would concern, for example, Financial Intelligence Units (FIUs), law enforcement authorities (including through the anti-money laundering operational network (AMON) and the EMPACT priority on criminal finances, money laundering and asset recovery), supervisory authorities, data protection authorities, Ministries of Justice dealing with criminal proceedings and the presumption of innocence;
- Private sector entities. This would concern, for example, entities required to apply anti-money laundering and counter-terrorist financing measures under the Anti-money Laundering Directive (AMLD)<sup>2</sup> and their European or national umbrella organisations;
- EU bodies and agencies. This would concern, for example, the EU Agency for Law Enforcement Cooperation (Europol) and the European Banking Authority (EBA), the Fundamental Rights Agency (FRA), Eurojust;
- Academic organisations, research institutions and think-tanks;
- Non-governmental organisations (NGOs);
- International organisations

### **4. SELECTION OF CONSULTATION ACTIVITIES & THEIR ACCESSIBILITY**

The consultation process and activities will combine tools of a more general and wider reach such as an online public consultation with more targeted consultations of stakeholder groups.

The consultation activities include:

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<sup>2</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, OJ L 156, 19.6.2018, p. 43-74

- An internet-based public consultation on the Commission's action plan for a comprehensive Union policy on preventing money laundering and terrorist financing which took place between 7 May 2020 and 26 August 2020<sup>3</sup>;
- Feedback to the roadmap on the guidance on the rules applicable to the use of public-private partnerships in the framework of preventing and fighting money laundering and terrorist financing;
- An internet-based public consultation of 12 weeks;
- Targeted consultations planned for expert meetings with Member States' authorities as well as targeted discussions with relevant EU bodies and agencies;
- Meetings with other stakeholders from private sector, academia, research institutions in order to obtain their opinions and views;
- A roundtable/workshop on public-private partnerships in the framework of preventing and fighting money laundering and the financing of terrorism to be organised in the third quarter of 2021.

## **5. SUMMARY /OVERVIEW ON CONSULTATION ACTIVITIES BY STAKEHOLDER GROUPS AND INDICATIVE TIMING**

The output of the consultation activities will be summarised and uploaded on the webpage of the online public consultation.

In terms of timing, the consultation activities will commence in the course of June 2021 until the beginning of October 2021. Targeted questions will be sent to national public authorities and EU bodies and agencies in the course of June 2021 and an open public consultation will be launched at the end of June/beginning of July 2021 until end of September/beginning of October 2021. A workshop/roundtable on public-private partnerships in the context of preventing and fighting money laundering and the financing of terrorism will be organised in the third quarter of 2021.

## **6. CONSULTATION WEBPAGE & COMMUNICATION ACTIVITIES**

The Commission will consult the general public, the public authorities and private sector entities particularly concerned through an internet-based open public consultation. The consultation will also be communicated to the relevant stakeholders via social media, information will also be disseminated via various networks in order to inform all stakeholders and stimulate participation.

The duration of the consultation will be 12 weeks. Experts from public authorities and private entities will also be consulted through targeted discussions individually or in groups.

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<sup>3</sup> The outcome of the consultation is available at the following link: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12176-Action-Plan-on-anti-money-laundering/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12176-Action-Plan-on-anti-money-laundering/public-consultation_en).