



EBA REPORT

**ON COMPETENT AUTHORITIES' APPROACHES TO THE
SUPERVISION OF BANKS WITH RESPECT TO ANTI-
MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (ROUND 3 – 2022)**

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Abbreviations

AML	Anti-money laundering
CFT	Countering the financing of terrorism
EBA	European Banking Authority
EEA	European Economic Area
ESAs	European Supervisory Authorities
EU	European Union
EuReCA	European reporting system for material CFT/AML weaknesses
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
IMF	International Monetary Fund
ML/TF	Money laundering and terrorist financing
Moneyval	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MoU	Memorandum of understanding
NRA	National risk assessment
SNRA	Supranational risk assessment
SRA	Sectoral risk assessment
SREP	Supervisory review and evaluation process

Executive Summary

This report summarises the findings from the third round of AML/CFT implementation reviews that took place between January and December 2022. AML/CFT implementation reviews are carried out in line with Article 1, Article 8(1), Article 9a and Article 29(1) and (2) of Regulation (EU) No 1093/2010¹ (EBA Regulation).

During this round, EBA staff reviewed twelve competent authorities from nine EU/EEA Member States that are responsible for the AML/CFT supervision of banks. In total, staff spent 45 working days on-site, assessed more than 1,000 documents and met with 40 local private sector representatives and nine Financial Intelligence Units. Some interviews were carried out remotely.

Each review focussed on how competent authorities assess the ML/TF risks associated with banks under their supervision, and on how competent authorities are using these risk assessments to inform their supervisory practices. It also examined the steps prudential and AML/CFT competent authorities take to tackle ML/TF risks and safeguard the integrity of the financial markets in their jurisdiction. At the end of each review, review teams provided targeted feedback to each competent authority to support their AML/CFT work. This feedback, and the actions review teams recommended competent authorities to take to address inefficiencies, are summarised in this report.

All competent authorities in this round had undertaken work to implement a risk-based approach to AML/CFT but significant differences existed in the way they identified and addressed ML/TF risks in banks. While some competent authorities had redefined their approach to AML/CFT supervision following high-profile ML/TF cases involving banks in their jurisdiction and were now largely effective, most competent authorities had not taken advantage of such opportunities or drawn on the lessons learnt by others, and therefore continued to face the same challenges as competent authorities that were part of the first two rounds of implementation reviews. In particular, EBA staff observed that:

- more than half of all competent authorities' approaches to assessing risks were not conducive to the development of a comprehensive understanding of ML/TF risks in the banking sector;
- more than half of all prudential supervisors in this round were aware of their role in tackling ML/TF risks, but a lack of formalised processes and limited targeted training on ML/TF risks and warning signals meant that opportunities for engagement between AML/CFT and prudential supervisors were sometimes missed;

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 16/2009/EC and repealing Commission Decision 2009/78/EC.

- most competent authorities had adequate enforcement powers, however processes were not sufficiently detailed or documented in more than half of all cases, which created a risk that measures were not applied consistently. It also exposed competent authorities to a risk of legal challenges by banks, ultimately undermining their effectiveness;
- all competent authorities recognised the importance of cooperation and exchange of information at the domestic and international level with competent authorities, FIUs, tax authorities and law enforcement, but few of them took advantage of the opportunities afforded by this to enhance their risk-based approach.

The findings and recommended actions in this report will be relevant to all competent authorities responsible for tackling ML/TF risks in credit and financial institutions across the single market. Competent authorities should consider these findings and recommended actions and adjust their approach to supervision where necessary.

The EBA entered its fourth and last round of implementation reviews of competent authorities. After this round the EBA will publish a final report, which will include an assessment of progress made since 2019.

1. Background and legal basis

1.1. Background

1. The EU has a comprehensive legal framework to tackle money laundering and terrorist financing (ML/TF) risk. This framework is evolving in line with international anti-money laundering and countering the financing of terrorism (AML/CFT) standards and best practices.
2. There has, nevertheless, been a constant stream of high-profile ML/TF cases involving European banks. These scandals, together with findings by international AML/CFT assessment bodies that pointed to deficiencies in some competent authorities' approaches to the AML/CFT supervision of banks, led to suggestions that competent authorities could have done more to ensure that the EU's AML/CFT framework is implemented consistently and effectively.
3. In 2018, the EBA decided to review the effectiveness of national competent authorities' approaches to the AML/CFT supervision of banks, and to use its findings to support individual competent authorities' AML/CFT efforts. The first round of AML/CFT implementation reviews took place from November 2018 to October 2019 and covered seven competent authorities from five Member States. The second round of reviews, during which seven competent authorities from seven EU/EEA Member States were assessed, took place from September 2020 to October 2021. The third round of reviews was carried out from January 2022 to December 2022 and included twelve competent authorities from nine EU/EEA Member States. Of these, two competent authorities were prudential supervisors that carried out AML/CFT inspections on the AML/CFT supervisor's behalf. One review was carried out concurrently with the Council of Europe in the context of the Council of Europe's work to assess compliance, by EU Member States, with the provisions in Directive (EU) 2015/849. Due to restrictions on movement in the context of the Covid-19 pandemic, one review was carried out remotely rather than in person.
4. This report provides a summary of the main findings and recommended actions from this third round of reviews. EBA staff have provided detailed, written feedback to each competent authority that was assessed as part of these reviews.

1.2. Legal basis

5. The legal basis for the EBA's implementation reviews is set out in Articles 1, 8(1), 9a and 29(1) and (2) of the EBA Regulation, which confers on the EBA a duty to ensure effective and consistent supervisory practices, to contribute to the consistent and effective application of Union law and to contribute to preventing the use of the EU's financial

system for ML/TF purposes. To this effect, the EBA can carry out peer reviews and investigate potential breaches of Union law, and it can take other measures such as staff-led implementation reviews to assess competent authorities' responses to particular compliance challenges.

1.3. The obligations of competent authorities

6. Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing aims, inter alia, to bring EU legislation into line with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation that the FATF, an international AML/CFT standard-setter, adopted in 2012.
7. In line with the FATF's standards, Directive (EU) 2015/849 puts the risk-based approach at the centre of the EU's AML/CFT regime. It recognises that ML/TF risks can vary and that Member States, competent authorities, and credit and financial institutions within its scope have to take steps to identify and assess these risks with a view to deciding how best to manage them.
8. Article 48(10) of Directive (EU) 2015/849 requires the EBA to issue guidelines to competent authorities on the characteristics of a risk-based approach to AML/CFT supervision and the steps that competent authorities should take when conducting AML/CFT supervision on a risk-sensitive basis². Through these guidelines, the EBA aims to create a common understanding of the risk-based approach to AML/CFT supervision and to establish consistent and effective supervisory practices across the EU. The guidelines, which were first issued in 2016, characterise the risk-based approach to AML/CFT supervision as an ongoing and cyclical process that consists of four steps, namely: the identification of ML/TF risk factors; the assessment of ML/TF risks; the allocation of AML/CFT supervisory resources based on the outcomes of this risk assessment, including decisions on the focus, depth, duration and frequency of on-site and off-site inspections, and on supervisory staffing needs; and the monitoring and review of both the risk assessment and the underlying methodology. All competent authorities responsible for the AML/CFT supervision of banks indicated that they complied, or intended to comply, with these guidelines.

² Guidelines on the characteristics of a risk-based approach to AML/CFT supervision, and the steps to be taken when conducting supervision on a risk-sensitive basis under Article 48(10) of Directive (EU) 2015/849 (amending the Joint Guidelines ESAs 2016 72) – EBA/GL/2021/16.

2. Methodology

9. AML/CFT implementation reviews are staff-led, qualitative assessments of competent authorities' approaches to the AML/CFT supervision of banks. They do not result in a score, a compliance rating, or a simple 'pass' or 'fail'. Instead, the purpose of these reviews is to identify areas for improvement and to support individual competent authorities' AML/CFT efforts.
10. Each implementation review is carried out in line with a written methodology and on the basis of competent authorities' responses to a set of core questions that are sent to all competent authorities together with requests for documentary evidence. These responses and information obtained from the documentation are complemented by in-depth interviews of AML/CFT and prudential supervisors, as well as relevant external stakeholders including FIUs and a sample of banks, during the on-site visit part of the implementation review. The review takes into account the specific circumstances of each competent authority and Member State while focusing on:
 - a. competent authorities' approaches to assessing ML/TF risks;
 - b. competent authorities' approaches to supervising banks' risk-based approaches to AML/CFT, including supervisory follow-up and the imposition of dissuasive, effective and proportionate sanctions (fines); and
 - c. domestic and international cooperation in relation to AML/CFT, including cooperation between AML/CFT and prudential competent authorities and the extent to which this cooperation supports AML/CFT and prudential competent authorities' work to ensure banks' safety and soundness and the integrity of the banking sector.
11. Wherever possible, and to the extent that this is relevant, implementation review teams also use information that competent authorities have prepared for international AML/CFT assessments, such as those led by the FATF, MONEYVAL, the Council of Europe or the IMF; however, the conclusions of implementation reviews may differ from the conclusions of these assessment bodies due to differences in the methodology and scope, and also the level of intrusiveness. Each implementation review concludes with the review team, based on its findings, providing feedback and recommending specific actions to each competent authority.
12. EBA staff were supported by members of a small network of AML/CFT experts from competent authorities. Members of this network were selected based on their supervisory and policy skills and AML/CFT expertise. They acted on the EBA's behalf for the purpose of these reviews.

13. During this third round of implementation reviews, the EBA's review teams spent 45 working days on-site, met with almost 40 private sector representatives and staff from nine Financial Intelligence Units, and assessed more than 1,000 documents in total. They also conducted off-site interviews which usually lasted one day per Member State.

3. Developments since the last round of implementation reviews

3.1. Progress made since the last round of implementation reviews

15. As part of the implementation review process, the EBA asks competent authorities to report to it the steps they have taken to address the EBA review teams' findings. By May 2023, more than half of the competent authorities that were reviewed during the second round of implementation reviews had submitted their report.
16. All competent authorities that reported back to the EBA had taken steps to address the EBA review teams' findings. They were in the process of reviewing their ML/TF risk assessment methodology and adjusting the frequency and intensity of on-site and off-site supervision to align with the outcomes of their ML/TF risk assessments. Furthermore, most competent authorities had increased the number of specialist AML/CFT staff or adopted training strategies to enhance their AML/CFT supervision capabilities.

Following their implementation review, one competent authority had increased the number of staff dedicated to on-site and off-site inspections. They had increased by 22% the resources allocated to off-site supervision and policy, and by 58% the resources for on-site inspections.

3.2. Other developments since the last round of implementation reviews

17. In January 2022, the EBA put in place a new, central EU AML/CFT database, EuReCA³. EuReCA contains information on 'material weaknesses', i.e. serious deficiencies in individual financial institutions' policies, procedures and governance arrangements that make them vulnerable to ML/TF. It also contains information on the measures supervisors imposed on these institutions to correct those deficiencies. All EU financial sector supervisors have to report their inspection findings into EuReCA if these findings are serious and if they could affect an institution's ability to tackle ML/TF risk. EBA review teams consulted EuReCA to prepare for implementation reviews and assessed whether competent authorities in this round had the processes in place to report.

³ Final report on draft regulatory technical standards under Article 9a(1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein – EBA/RTS/2021/16.

18. In February 2022, Russia's invasion of Ukraine led to the imposition, by the EU, of restrictive measures against Russian and Belarusian interests that are unprecedented in terms of their scale and their scope. Financial institutions responded by shifting resources away from AML/CFT to focus on compliance with these restrictive measures⁴. At the same time, less than half of all competent authorities in this round also had direct responsibilities in relation to restrictive measures, for example because they are the national authority for the enforcement of sanctions. This meant that they had to adjust their 2022 AML/CFT supervision plans.
19. In March 2022, the EBA published the revised Guidelines on common procedures and methodologies for the supervisory review and evaluation process⁵. The revised guidelines set out how prudential supervisors should take ML/TF risks into account and build on changes made to the EBA's guidelines on suitability, governance and authorisation, which were published in 2021⁶.
20. In June 2022, the EBA published a report on the withdrawal of authorisation for serious breaches of AML/CFT rules. The report laid down uniform criteria supervisors should use to assess the seriousness of a breach of AML/CFT rules.
21. EBA review teams referenced these developments but did not assess compliance by competent authorities against standards that were not yet in force.
22. In January 2023, the EBA commenced its fourth and last round of implementation reviews of competent authorities. After this round the EBA will publish a final report on the outcomes of all the implementation reviews carried out from 2019 to 2024. The EBA's work on the implementation reviews is part of the transition toward the new European Authority for Anti-Money Laundering and Countering the Financing of Terrorism.

⁴ Risk Assessment of the European Banking System, December 2022, pp. 90–91.

⁵ Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU – EBA/GL/2022/03.

⁶ Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU – EBA/GL/2021/06; Guidelines on internal governance under Directive 2013/36/EU – EBA/GL/2021/05; Guidelines on a common assessment methodology for granting authorisation as a credit institution under Article 8(5) of Directive 2013/36/EU – EBA/GL/2021/12.

4. Risk assessment

23. Directive (EU) 2015/849 requires competent authorities to have a clear understanding of the ML/TF risks that affect their sector, and individual institutions within their sector. The EBA's risk-based supervision guidelines specify that this means that competent authorities should identify ML/TF risks at the international, domestic, sectoral and institutional levels and assess how these risks affect them. A clear understanding of ML/TF risks is essential because it forms the basis for an effective approach to AML/CFT supervision. It also allows supervisors to allocate adequate resources to ensure that these risks are mitigated effectively.
24. All Member States in this year's round had identified and assessed ML/TF risks at the national level and documented their findings in a national risk assessment (NRA). All competent authorities had contributed to their Member State's NRA but the link between the NRA and competent authorities' own supervisory risk assessments was not always evident, as in more than half of all cases supervisory risk assessments only reflected a limited number of NRA risks. This meant that national and supervisory priorities were not always aligned.

4.1. Sectoral risk assessment

25. In December 2021, the EBA published a revised version of its risk-based supervision guidelines. These guidelines had been amended to provide further detail on the nature and purpose of sectoral risk assessments, and the steps competent authorities should take when assessing sectoral risk.
26. As was the case in previous rounds of implementation reviews, less than half of all competent authorities had carried out their own sectoral risk assessment and taken steps to comply with these guidelines. The remaining competent authorities had not carried out a sectoral risk assessment and relied instead on their Member State's NRA.

4.1.1. Findings

27. Most competent authorities had a partial understanding of ML/TF risk in their banking sector, and almost half were unaware of the purpose of a sectoral risk assessment. This affected their ability to implement an effective risk-based approach.
28. The implementation review team found that:
 - a. where competent authorities relied exclusively on the NRA for sectoral risk assessment purposes, they had not assessed whether it was sufficient to fulfil the information needs of AML/CFT supervisors. This created gaps. For example, in one Member State

the NRA was based on data from 2016. In another case, the NRA had a narrow focus on the risks arising from banks' products and services;

- b. where a sectoral risk assessment was in place, it did not always consider the risks highlighted in the NRA. For example, in one case the NRA emphasised the ML risks arising from the widespread use of cash, but the competent authority had not assessed the impact of this risk on its banking sector. Another competent authority's sectoral risk assessment did not capture risks arising from the widespread ownership of banks by individuals from third countries;
- c. almost half of all competent authorities assessed one or two risk factors only. For example, in some cases, competent authorities focused on foreign risk factors such as cross-border transactions and the number of non-resident customers, but they did not consider other risk factors that were also relevant, including domestic risk factors; and almost half of all competent authorities did not assess TF risks;
- d. almost half of all competent authorities' sectoral risk assessments were largely descriptive. They pointed out that risks existed but did not assess the likelihood of these risks crystallising or the impact crystallised risks would have on the banking sector;
- e. while more than half of all competent authorities used a broad range of information sources, the remainder used a limited number of information sources and were unable to identify and capture new and emerging risks, or changes to existing risks;
- f. more than half of all competent authorities had not documented their sectoral risk assessment methodology. This meant that the rationale underpinning the choice of risk indicators and mitigants as well as their conclusions were at times unclear and often not comparable over time. For example, one competent authority concluded in its risk assessment that the effectiveness of controls in the banking sector was 'medium', but this conclusion appeared to contradict the large number of adverse inspection findings identified by the authority.

One competent authority had not defined key terms used in the sectoral risk assessment, like the term 'non-resident'. The review team found that members of the competent authority's staff interpreted this term differently. Divergent interpretations of this term also existed among representatives of the private sector. This raised questions about the reliability of the risk assessment.

4.1.2. Recommended actions

29. The EBA's risk-based supervision guidelines provide that competent authorities should have a good understanding of the risks to which sectors under their supervision are exposed.
30. To address the review team's findings and to the extent that this was relevant in each case, the review team's recommended actions were that competent authorities comply with the risk-based supervision guidelines, paying particular attention to:
- a. meeting supervisory information needs. The sectoral risk assessment should provide competent authorities with a holistic view of all inherent ML/TF risks to which their sector is exposed, including those risks identified in the NRA. It should also provide them with a view of the relevance of each of these risks for their sector. This will allow them to prioritise their supervisory activities accordingly;
 - b. identifying any information gaps and addressing these gaps in their own risk assessment. An NRA can go some way towards meeting these information needs but must be up to date and comprehensive;
 - c. putting in place a sectoral risk assessment methodology and documenting it. Competent authorities should:
 - i. ensure that the SRA reflects the specificities of the sector and of sub-sectors, if any. The SRA should provide an overview of the types of banks operating in the Member State, and of their customer base, the type of products and services they offer, and the geographic areas they service;
 - ii. identify the information sources necessary to carry out the sectoral risk assessment in line with Section 4.2.2 of the EBA's risk-based supervision guidelines. A comprehensive sectoral risk assessment will not be limited to one source of information, such as information from suspicious transaction reports or the entity-level risk assessment. Consultation with the private sector is useful if the sector is mature;
 - iii. set out how to interpret each risk factor and assess its impact, and the likelihood of it occurring, using criteria to ensure a consistent approach. As part of this, competent authorities should explain how to incorporate qualitative and quantitative information in the risk assessment;
 - iv. provide for the identification of new or emerging risks within the sector.

4.2. Entity-level risk assessment

31. All competent authorities in this round's sample had taken steps to assess the ML/TF risks associated with individual banks. In less than half of all cases, entity-level risk assessments were incomplete because institutions in certain sub-sectors had not been assessed. Where two competent authorities shared responsibility for the AML/CFT supervision of the same banks, risk assessment efforts were not aligned and resulted in different outcomes, but competent authorities in one Member State had started to address this.

4.2.1. Findings

32. All competent authorities devoted extensive resources to the entity-level risk assessment process, including the preparation of annual risk assessment questionnaires and the analysis of data from regulatory returns. In spite of this, almost half of all competent authorities had not understood the purpose of entity-level risk assessments and did not use them to inform their approach. As a result, their AML/CFT supervision was neither risk-based nor effective.

33. The implementation review team found that:

- a. less than half of all competent authorities in this year's sample had considered the link between the NRA, the sectoral risk assessment and entity-level risk assessments. This meant that several risks that would have been relevant had not been assessed;
- b. more than half of all competent authorities obtained data from a variety of sources, including prudential supervisors, banks, the FIU and other competent authorities through AML/CFT colleges. In practice, this information was not always used for risk assessment or other supervisory purposes. For example, less than half of all competent authorities included more than 300 data points in their AML/CFT questionnaires, which feedback from the sector suggested imposed a significant administrative burden on banks. The review team could find no evidence of the subsequent use of all data points;
- c. more than half of all competent authorities found the identification of relevant risk factors challenging and the rationale for selecting some (rather than other) risk factors

One competent authority assessed geographic risk across four out of five risk categories. For example, products and services risk scores were largely determined by the proportion of customers with links to other jurisdictions and the volume of loans granted to customers from other countries, while both customer and geographic risks were scored along similar lines. This meant that the authority's focus on geographic risk was self-affirming, and that other risks were not considered.

was often unclear. For example, they focused on specific risk factors only, such as geographic risk, or prudential risks linked to an entity's size and balance sheet, which meant that the resulting assessment did not reflect the diverse nature of their banking sector or entities' actual risk exposure, while others included too many risk factors, thus losing sight of the overall result;

- d. finding the right balance between the quantitative and qualitative information and incorporating qualitative information into the risk assessment process to achieve residual risk scores remained a challenge for most competent authorities. As was the case in previous rounds, almost half of all supervisors based their assessment of residual risk on banks' own assessment of the quality of their controls but did not test the veracity of banks' responses. In other cases, residual risk was based on 'supervisory judgment' but it was not clear how this was applied consistently, as criteria had not been agreed or formalised;
- e. in almost half of all competent authorities, the methodology was insufficiently documented or did not detail the rationale and logic behind all the steps to be followed during the risk assessment process. They could not explain to the review team how they had allocated weights to different risk factors, making the interpretation of results more difficult and potentially inconsistent over time.

Two competent authorities had recently overhauled their risk-based approach. They had developed a number of good practices such as:

1. an annual data gathering questionnaire that is short and targeted;
2. a comprehensive methodology and process guide;
3. the systematic use of the competent authority's own information and independent information where it exists, rather than information provided by banks, to assess the quality of banks' controls frameworks; and
4. a sufficient level of flexibility in the approach to be able to update factors and weights, which is fundamental to capturing emerging risks.

4.2.2. Recommended actions

34. The EBA's risk-based supervision guidelines state that an entity-level risk assessment is a tool to inform AML/CFT supervision. This is why it is important that competent authorities take steps to ensure that their risk assessment methodology delivers reliable and meaningful results.
35. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
 - a. ensure that they capture ML/TF risks that are significant in the Member State's banking sector as outlined in the NRA and in the authority's own sectoral risk assessment, including any changes to these risks, and that all categories of risks – risks associated with products/services, transactions, geographies, customers and distribution channels – are considered and assessed;
 - b. obtain information from a sufficiently broad range of information sources and consider how to use this information to perform a meaningful risk assessment. Where an annual questionnaire is used, seek feedback from the private sector to generate buy-in from them, ensure a common understanding of the input required and provide aggregate feedback to the sector after each risk assessment round on the quality of the data received;

- c. put in place a documented methodology that describes how different risk factors and their weights, if relevant, impact on the final risk score of banks to ensure that the entity-level ML/TF risk assessment is carried out in a consistent manner;

At the time of the on-site review, a new common risk matrix was being developed jointly by two authorities that shared responsibility for the supervision of banks in their Member State. As a result of effective cooperation between them, both authorities will be able to take advantage of their respective areas of expertise and information sources with a view to having a holistic and harmonised understanding of ML/TF risks in the country and sector.

- d. ensure that qualitative information is interpreted consistently, for example by setting out common criteria in the methodology and putting in place a process to check the veracity and plausibility of responses if qualitative information is provided directly from banks. In some cases, automated quality assurance controls could be implemented into the risk assessment tool.

5. AML/CFT supervision

36. Directive (EU) 2015/849 requires competent authorities to monitor effectively, and to take the measures necessary to ensure compliance with this directive. As part of this, it requires competent authorities to adjust the frequency and intensity of on-site and off-site supervision in line with the outcomes of their ML/TF risk assessments. Step 3 of the EBA's risk-based supervision guidelines clarifies that competent authorities should ensure that staff with direct or indirect AML/CFT responsibilities are suitably qualified and trained to exercise sound judgment with a view to effectively challenging banks' AML/CFT policies and procedures should they give rise to concerns.
37. Following high-profile ML/TF cases involving banks in their jurisdiction, some competent authorities in this year's sample had redefined their approach to AML/CFT supervision, which was now largely effective. Nevertheless, not all competent authorities had taken advantage of such opportunities to revisit their approach or draw on the lessons learnt by other competent authorities, and many therefore continued to face the same challenges as competent authorities that were part of the first two rounds of implementation reviews. This meant that significant differences existed in the way that ML/TF risks in banks were identified, managed and addressed.

5.1. Supervisory strategy and approach

38. Section 4.4.2 of the EBA's risk-based supervision guidelines provides that competent authorities should put in place an AML/CFT supervisory strategy that is based on their sectoral and entity-level ML/TF risk assessment. This strategy should set clear objectives for their approach to AML/CFT supervision and specify what the competent authority will do to meet these objectives within a defined timeframe and with the available resources. They should also set out how they will implement their strategy through successive inspection plans.

5.1.1. Findings

39. Most competent authorities in this year's sample experienced challenges in determining and implementing a longer-term AML/CFT supervisory strategy. These challenges affected the effectiveness of their risk-based approach to AML/CFT supervision of banks.
40. The implementation review team found that:
- a. almost half of competent authorities in this review round had no AML/CFT supervisory strategy in place;

- b. where competent authorities had an AML/CFT supervisory strategy, they had not addressed all points set out in Section 4.4.2 of the EBA's risk-based supervision guidelines. For example, strategies did not always link to the competent authority's ML/TF risk assessment or to the NRA. Almost half of all competent authorities did not define how they would ensure that all banks in different risk categories, including banks categorised as low-risk, would be subject to an appropriate, risk-sensitive level of supervisory coverage. They also did not specify how they were going to meet their supervisory goals or set out their resource needs to implement their supervisory strategy.

5.1.2. Recommended actions

41. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
 - a. comply with Section 4.4.2 of the EBA's risk-based supervision guidelines, which sets out what an AML/CFT supervisory strategy should achieve and entail;

A good practice that the review team observed was a supervisory strategy that set out clear AML/CFT objectives, contained references to sector-wide ML/TF threats and vulnerabilities, and set out how the competent authority would work to tackle these. The review team also found evidence that the competent authority used its sectoral risk assessment in line with this strategy to identify, and act upon, specific vulnerabilities in its banking sector.

- b. develop and, where multiple competent authorities are responsible for the AML/CFT supervision of the same sector, coordinate their AML/CFT supervisory strategy and plan. The latter should reflect the AML/CFT supervisory strategy.

Where multiple competent authorities are responsible for the supervision of the same sector it is important that the competent authorities involved coordinate their AML/CFT supervisory strategy and that their supervisory plans reflect this strategy. The strategy should set out how the competent authorities jointly address the ML/TF risk associated with the sector. The existence of two competent authorities can benefit both (i.e. no duplication of efforts and more effective use of resources) if used strategically. This means that, for example, the sector could be divided between the authorities, or the scope of inspections could be divided so that both authorities inspect the same banks but focus on different aspects of AML/CFT compliance. This should also help to ensure a clear oversight on whether all institutions are adequately supervised by the competent authorities.

5.2. Supervisory tools and techniques

42. Directive (EU) 2015/849 requires supervisors to monitor effectively, and to take the measures necessary to ensure, compliance with this directive. As part of this, it requires supervisors to adjust the frequency and intensity of on-site and off-site supervision in line with their ML/TF risk assessments. The EBA's risk-based supervision guidelines require that, to ensure efficient use of supervisory resources, competent authorities should choose such supervisory tools that are likely to have a greater impact on banks' compliance or allow them to cover a larger part of a sector.

5.2.1. Findings

43. In this year's sample more than half of all competent authorities did not make full use of the comprehensive range of supervisory tools available to them. As a result, competent authorities' approaches to supervision were not always sufficiently intrusive and adequate supervisory coverage of the whole banking sector could not be ensured. Most competent authorities also had in place a supervisory manual, but these manuals did not always ensure the application of supervisory tools and professional judgment in a consistent way. This may prevent competent authorities from gaining a sufficiently holistic view of the effectiveness of controls within the banking sector and root causes may be missed.

44. The implementation review team found that:

- a. more than half of all competent authorities had a comprehensive range of on-site and off-site supervisory tools at their disposal but did not make full use of all these tools. For example, some competent authorities relied to a large extent on one supervisory tool, thus limiting their ability to identify and address vulnerabilities in their banking sector;
- b. more than half of all competent authorities' approaches to supervision were not sufficiently intrusive. For example, some competent authorities did not assess the adequacy of relevant systems and controls during on-site work but instead relied on verbal assurances provided by the bank that the system was working;

From the findings letters from on-site inspections examined by the review team, it was evident that one competent authority focused mostly on mitigating the immediate failures by banks and not on assessing the root cause of those issues. For example, in one case the competent authority identified that some CDD information was not recorded on the bank's core banking system but was stored in pdf files. The competent authority did not appear to have assessed the cause of this shortcoming and whether these customers were omitted deliberately from the system, nor had it examined the consequences of it, like the limited or lack of monitoring that could be performed on these customers.

- c. most authorities had put in place a supervisory manual, but this was not always sufficiently comprehensive or detailed. In particular, manuals did not:

- i. set out criteria that staff should consider when choosing the best supervisory tools for specific supervisory purposes and objectives, for example when to opt for full-scope or targeted inspections;
 - ii. explain how staff should adjust the intensity and intrusiveness of supervision, for example by adjusting the sample size;
 - iii. explain how to assess the effectiveness of banks' AML/CFT systems and controls. As a result, many competent authorities did not challenge institutions' approaches and they did not do enough to satisfy themselves that systems and controls were effective;
- d. where competent authorities used the services of external parties (e.g. consultants or auditors) to implement aspects of their supervisory plan, some parts of the plan or a specific supervisory task, they did not do enough to ensure consistent approaches. This could lead to inconsistent, and at times contradictory, findings and instructions and can impact supervisors' abilities.

One competent authority had a tight on-site control schedule that was complemented by external audits. In spite of this, and previous supervisory action, banks' AML/CFT systems and controls still appeared to be deficient, with little tangible improvement. Feedback from the sector suggested that banks had no time to implement strategic or fundamental changes before the following on-site inspection or statutory audit took place. This meant that banks' remediation strategies were reactive and focused on 'quick fixes' rather than on the root causes of compliance failures. In the review team's view, the tight schedule also contributed to banks in the sector waiting for instructions from the competent authority, rather than taking control of their own ML/TF risk management strategy.

5.2.2. Recommended actions

45. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
- a. put in place a stand-alone comprehensive supervisory manual that is sufficiently detailed and complies with Section 4.4.5 of the EBA's risk-based supervision guidelines. As part of this, the manual should set out the approach for choosing the most effective supervisory tools for specific supervisory purposes and objectives, guidance on how supervisors should assess the effectiveness of banks' specific AML/CFT systems and controls and how to adjust the level of intrusiveness (e.g. by expanding the sample size);
 - b. assess the balance between, and the use of, on-site/off-site inspections and consider whether a different approach, that makes use of the full range of supervisory tools, would be more effective to ensure a better supervisory coverage and support the understanding of vulnerabilities in the banking sector;

- c. ensure that supervision is sufficiently intrusive, in accordance with the risk-based approach. As part of this, competent authorities should ensure that they have in place a robust sampling process, and that, during the on-site inspection, staff assess and effectively test (e.g. by requesting direct access to the banks' IT tools) banks' compliance with all their AML/CFT obligations to develop a holistic view of the banks' overall systems and controls, including the AML/CFT governance arrangements, and ensure that the information provided by the bank is accurate;

One competent authority's inspection reports were comprehensive and provided evidence of the competent authority's willingness to challenge banks and to identify the root cause of compliance failures.

- d. where they use services of external parties (e.g. consultants or auditors) to carry out their supervisory plan, some parts of the plan or a specific supervisory task in accordance with Section 4.4.7 of the EBA's risk-based supervision guidelines, should implement a robust oversight framework to ensure a consistent interpretation of regulatory expectations by external parties and a consistent approach to reviews carried out by these parties. Implementing an oversight framework can also be helpful to ensure a consistent and harmonised approach, for example by putting in place a comprehensive joint AML/CFT supervisory manual, where multiple competent authorities are responsible for the supervision of banks.

5.3. Guidance and outreach

46. The EBA's risk factors guidelines⁷ provide that competent authorities should make available to their sector guidance that sets out how institutions in the sector should implement the risk-based approach. Guidance should help institutions comply with their AML/CFT obligations. In addition, Section 4.4.9 of the EBA's risk-based supervision guidelines clarifies the steps competent authorities should take to identify the need for guidance and how to communicate that guidance to the sector.

5.3.1. Findings

47. Competent authorities should issue the necessary guidance to banks explaining how competent authorities expect banks to implement the risk-based approach in practice and what they are expected to do to comply with their AML/CFT obligations. Although more than half of all competent authorities used a variety of tools to set and communicate supervisory expectations to banks, guidance was often insufficiently pragmatic. In many cases, a strategic approach for communicating with the sector was not in place and almost half of all competent authorities did not engage with the sector when developing supervisory guidance.

48. The implementation review team found that:

- a. more than half of all competent authorities used a variety of tools to set and communicate supervisory expectations to banks, such as meetings with the sector, the competent authority's website, guidelines and seminars. Not all had in place a strategic approach for communicating regulatory expectations to the sector or for assessing whether their guidance was effective. For example, there was neither a methodology nor a formalised approach for assessing the sector's guidance needs and for identifying the most adequate tools to address these needs. Where multiple competent authorities were responsible for the same sector, there was a risk that this lack of a strategic approach could result in diverging guidance and regulatory expectations, which in one instance the review team saw materialise;

One competent authority provided guidance to the sector that was comprehensive but could be directive. It did not leave sufficient room for the development of a risk-based approach. Feedback from the sector suggested that, as a result of this, banks were waiting for the competent authority's instructions on key aspects of their AML/CFT systems and controls, rather than taking ownership of their own approach. A passive approach may hamper the sector's AML/CFT defences.

- b. almost half of all competent authorities did not systematically consult with the sector prior to issuing guidance. In more than half of all cases, the resulting guidance was of a high-level and theoretical nature, insufficiently pragmatic and not specific to the local

⁷ Guidelines (EBA/GL/2021/02) on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849

context (i.e. the activities of banks in that Member State and the ML/TF risk to which they are exposed). The review team also found instances where prescriptive

One competent authority had not taken any steps to communicate to the private sector or other authorities an emerging risk it had identified in a major laundromat case. It justified this inaction by explaining that this will be addressed in an amended version of the NRA. Work on amendments to the NRA had not yet been scheduled.

supervisory guidance led to the unwarranted de-risking of legitimate customers.

5.3.2. Recommended actions

49. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities should be systematic and strategic when providing guidance to and communicating with the sector, in line with Section 4.4.9 of the EBA's risk-based supervision guidelines. As part of this, competent authorities should:
- a. systematically identify areas where more comprehensive, or more targeted, AML/CFT guidance might be necessary, for example by reviewing inspection findings to identify common breaches or by identifying frequently asked questions. As part of this, competent authorities should determine the best guidance tool to serve specific information needs. Competent authorities should also consider providing operative guidance such as information on emerging risks or aggregate inspection findings or by highlighting examples of good and poor practices;
 - b. ensure that their guidance is effective and improves the quality of banks' AML/CFT systems and controls, by testing its application during inspections and making changes where necessary to complement or improve the current framework;
 - c. systematically consult and involve all stakeholders before communicating supervisory expectations to ensure that guidance is well understood and raises awareness of regulatory expectations. This is especially important in Member States where the sector is diverse;
 - d. where multiple competent authorities are responsible for the AML/CFT supervision of the same sector, coordinate effectively to ensure that expectations are consistent and to avoid duplication of efforts. As part of this, competent authorities should consider whether one set of joint guidance would be achievable.

5.4. Resources

50. Section 4.4.2 of the EBA's risk-based supervision guidelines provides that competent authorities should determine the supervisory resources necessary to implement the supervisory strategy and ensure that sufficient resources are available to them.

5.4.1. Findings

51. As was the case in the last round, all competent authorities in this year's sample had set up stand-alone AML/CFT units with dedicated expert staff. Most competent authorities had increased their AML/CFT supervisory resources in recent years and almost half were in the process of hiring staff at the time of the on-site visit. In spite of this, almost half of all competent authorities did not have sufficient human resources to implement their supervisory strategy.

52. The implementation review team found that:

- a. while less than half of all competent authorities were approaching recruitment in a strategic way and targeted specific profiles, most competent authorities were not assessing whether they could fill knowledge and skills gaps through recruitment. For example, some competent authorities only recruited staff from a narrow range of specific backgrounds, for example law and economics degrees, which limited the potential for constructive challenges to existing approaches;

Where competent authorities' selection of staff included staff from different backgrounds, including data and IT specialists, they could benefit from more knowledge and had access to a wider range of skills than competent authorities that recruited from a narrow range of backgrounds only. This allowed them to conduct their supervisory activities in a more effective way.

- b. training was often inadequate and rarely strategic. While more than half of all competent authorities had a training programme for new joiners that included at least basic training on AML/CFT and supervision, the remainder did not have such a programme and instead relied on staff 'learning on the job', which affected new supervisors' ability to carry out their role effectively. Where a training programme was in place, it was insufficient to address staff training needs and existing knowledge gaps. For example, some competent authorities did not provide supervision training even though the majority of staff had no previous supervisory experience;

In one competent authority, none of the new joiners had previous experience in AML/CFT, banking or supervision. The onboarding process did not include any training on these topics. In spite of this, new staff were asked to lead inspections soon after joining, raising questions about their ability to identify AML/CFT failures.

- c. Where competent authorities used external auditors to carry out supervisory tasks, they did not provide adequate training to these external auditors. The review team

found that, as a result of this, auditors' and supervisors' expectations and methods were not always aligned.

5.4.2. Recommended actions

53. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
- a. ensure that the number of staff is adequate and sufficient to implement the supervisory strategy, taking into account the existing level of staff expertise and the maturity, size and complexity of the sector;
 - b. identify new and existing staff's training needs and knowledge gaps, and address these systematically to ensure that they have appropriate knowledge and understanding of the risk-based approach to AML/CFT supervision and are able to exercise sound supervisory judgment in line with Section 4.4.10 of the EBA's risk-based supervision guidelines. Competent authorities should also assess the effectiveness of existing training programmes, for instance by reviewing inspection reports to test the consistent application of the competent authority's in-house guidance;
 - c. should, if using external parties to carry out certain supervisory tasks, extend in-house training to these external parties to ensure that they have appropriate knowledge and understanding of the risk-based approach and carry out the supervisory tasks assigned to them in a manner that is consistent with the competent authority's approach.

6. Tackling ML/TF risks through prudential supervision

54. Directive 2013/36/EU (CRD) requires prudential supervisors to assess ML/TF risk when assessing applications for authorisation and applications for the acquisition or increase of qualifying holdings. It also requires them periodically to review the arrangements, strategies, processes and mechanisms put in place by banks, and to assess the suitability of members of the management body and key function holders at authorisation and on an ongoing basis afterwards. Where an assessment or ongoing review gives rise to reasonable grounds to suspect that ML/TF is or has been committed or attempted, or that there is an increased risk thereof, the directive requires prudential supervisors to adopt measures to mitigate that risk.
55. On 4 November 2020, the EBA published its opinion on how to take into account ML/TF risks in the SREP, to complement provisions in existing prudential guidelines⁸ and to clarify its expectations on this point. The revised SREP guidelines were published on 18 March 2022 and entered into force on 1 January 2023⁹.

6.1. ML/TF risks identified in ongoing prudential supervision and SREP processes

56. The EBA's ongoing efforts to foster a holistic approach to AML/CFT meant that most prudential supervisors in this round were aware of their role in tackling ML/TF risks through prudential means. More than half had developed constructive working relationships with AML/CFT supervisors but, where cooperation was limited, ML/TF risks were not properly identified and acted upon.

⁸ Guidelines on a common assessment methodology for granting authorisation as a credit institution under Article 8(5) of Directive 2013/36/EU – EBA/GL/2021/12; Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units under Directive (EU) 2013/36/EU – EBA/GL/2021/15; Joint guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between competent authorities supervising credit and financial institutions ('AML/CFT colleges guidelines') – JC/2019/81; Guidelines on internal governance under Directive 2013/36/EU – EBA/GL/2021/05; Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU – EBA/GL/2022/03; Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector – JC/GL/2016/01; Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU – EBA/GL/2021/06.

⁹ Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU – EBA/GL/2022/03.

6.1.1. Findings

57. More than half of all competent authorities in this round were integrated supervisors. This meant that the same authority was responsible for the prudential and AML/CFT supervision of banks within their jurisdiction. In most integrated supervisors, cooperation and information exchange between prudential and AML/CFT supervisors was facilitated by physical proximity, integrated information systems and a common supervisory culture. Nevertheless, cooperation was often hampered by limited awareness among most prudential staff of indicators or warning signals that would suggest that the involvement of AML/CFT experts was warranted. With one exception, processes were either not formalised, or insufficiently documented. This meant that a comprehensive approach to tackling ML/TF risk could not be ensured.
58. The implementation review team found that:
- a. cooperation and information exchange between prudential and AML/CFT supervisors were not approached systematically in most cases, and, with one exception, were not duly formalised. This meant that good practices, including the exchange of relevant information before and after on-site inspections, were often dependent on personal relationships or the level of awareness prudential and AML/CFT supervisors had of each other's information needs. It also meant that it was unclear which supervisory findings should be shared and at what stage;
 - b. most prudential and AML/CFT supervisors did not consider whether a coordinated approach to tackling relevant risks would be warranted, though all competent authorities agreed that this would legally be possible. As a result, they operated largely independently from each other, which appeared to limit the impact their actions could have. The review team identified only a few cases where prudential supervisors, in consultation with AML/CFT supervisors, enforced a change in some banks' business models to support AML/CFT objectives;
 - c. competent authorities' approaches to incorporating ML/TF risks in the SREP process varied significantly. On the one hand, almost half of all competent authorities considered ML/TF risks only at a generic, theoretical, level rather than systematically. They could not explain how they used information provided by AML/CFT supervisors or incorporated ML/TF risks into the SREP assessment. They provided limited evidence of how SREP reviews considered ML/TF. On the other hand, the remaining competent authorities had put in place a methodology that set out how ML/TF risks should be considered in the SREP process and what type of information prudential supervisors should receive in that regard. In those cases, AML/CFT expert input was integrated into the SREP assessment through items relating to internal governance, operational risk

and business models analysis. The review team noticed that in those cases ML/TF risks had an impact on the SREP final score in those areas;

One competent authority had integrated its AML/CFT supervisory work and priorities into the SREP cycle. This meant that AML/CFT supervision was no longer risk-based, and that information about ML/TF risks was reflected in the SREP report rather than shared with other AML/CFT supervisors in a timely manner.

- d. as in previous rounds, most prudential supervisors did not benefit from targeted training on ML/TF risks and warning signals, although all said that this would be useful. Where training was offered, its uptake or impact did not appear to have been monitored. During interviews, questions arose about how well equipped prudential supervisors were to identify AML/CFT warning signals that may have an impact on prudential aspects of banks and that should be brought to AML/CFT supervisors' attention. The review team saw examples of cases where prudential warning signals were missed.

In one authority, a prudential supervisor with more than 20 years of experience within the competent authority confirmed that they had never received targeted AML/CFT training and would consider it beneficial for the job.

6.1.2. Recommended actions

- 59. It is important that prudential supervisors are equipped effectively to identify, assess and manage the impact of ML/TF risks on prudential objectives, and to involve AML/CFT experts in a timely manner in the case of concern.
- 60. To strengthen the synergies between prudential and AML/CFT supervision and to ensure that ML/TF risks are considered as part of ongoing prudential supervision, to address the points raised above and to the extent that this was relevant in each case, the implementation review team recommended:
 - a. prudential and AML/CFT authorities should implement the EBA's guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs (EBA/GL/2021/15) and set out, in policies and process guides, the ways in which they will interact and cooperate. Formalising these policies and processes will ensure that they can be applied consistently and effectively over time, including in situations where authorities' staff change;

To enhance cooperation between prudential and AML/CFT supervisors, less than half of all competent authorities had appointed one AML/CFT point of contact and one prudential point of contact for each bank. Where AML/CFT supervisors identified ML/TF risks or concerns which might be of interest for their prudential counterparts, they shared this information with the prudential point of contact. Conversely, where prudential supervisors identified red flags or prudential warning signals, they shared this information with the AML/CFT point of contact.

- b. to develop a methodology, based on the revised EBA SREP guidelines, which sets out with an appropriate degree of granularity how to incorporate ML/TF risks and concerns into the SREP, and the process for involving AML/CFT experts in the SREP process;
- c. to develop and put in place a targeted AML/CFT training programme to ensure that prudential supervisors are aware of ML/TF risks and the impact these risks might have

on prudential objectives, in line with applicable EBA guidelines. Prudential supervisors should know what is expected of them in relation to their work, and how and when they should cooperate with AML/CFT supervisors. Such training should be provided and updated regularly, and its ongoing effectiveness should be tested periodically.

6.2. Authorisations, assessments of qualifying holdings and suitability of members of the management body and key function holders

61. Prudential supervisors are required to conduct preventive assessments when granting authorisation for banks or when approving the acquisition or increase of qualifying holdings by proposed acquirers. Identifying ML/TF risks throughout these processes is key for national competent authorities to properly perform their gatekeeper function.

6.2.1. Findings

62. As was the case for ongoing prudential supervision, AML/CFT experts could be consulted, but their involvement was not always mandatory or expected. Instead, competent authorities relied on prudential supervisors' ability to identify situations where AML/CFT expert input might be warranted.

63. The implementation review team found that:

- a. most competent authorities envisaged that AML/CFT experts be involved during the assessment of applications for the authorisation of banks. In almost half of all competent authorities, the involvement of the AML/CFT experts was always required and formalised. For example, they set up project teams or task forces to process each application and AML/CFT experts were members of these project teams or task forces. In the remaining authorities, AML/CFT experts were consulted ad hoc, on a case-by-case basis, or not at all. As was the case for ongoing prudential supervision, in those authorities requests for AML/CFT input appeared to be based on individual prudential supervisors' personal preference or knowledge, and, together with the absence of targeted training for prudential staff on ML/TF risk indicators, this meant that there was a risk that important warning signals might be missed. The review team found that this risk had crystallised in some cases;

One competent authority could provide no evidence to the review team of the extent to which the AML/CFT experts had been involved in the authorisation process for a large international bank and the impact of their opinion on the final authorisation decision two years ago. Some ML/TF risks have since crystallised, which could potentially have been prevented had the AML/CFT experts been sufficiently consulted at the authorisation stage.

- b. in more than half of all competent authorities, the assessment of ML/TF risk associated with proposed acquisitions of qualifying holdings and with members of the management body and key function holders was limited to criminal record checks. This

meant that persons of questionable integrity were able to own or control financial institutions. Contrariwise, almost half of all authorities had identified triggers for the involvement of AML/CFT experts. For example, one authority involved AML/CFT

One prudential authority had not assessed the ML/TF risk associated with qualifying holdings as the applicant had failed to provide the supporting documentation and the formal assessment process had therefore not been launched. This was in spite of the acquisition dating back several years, and AML/CFT supervisors expressing doubts about the integrity of the shareholder and their impact on the institution's ML/TF risk exposure. The prudential authority later concluded that the qualifying holdings threshold had not been reached and that no assessment was necessary.

experts when the acquisition of qualifying holdings resulted in a change of the institution's business model. Another authority involved AML/CFT experts in situations where the applicant or their source of funds was linked to high-risk jurisdictions;

- c. in respect of the re-assessment of the suitability of shareholders, members of the management body and key function holders on an ongoing basis, the review team noted that no competent authority in this year's sample had robust systems to ensure that ML/TF risks were addressed. This is because most competent authorities appeared to be unclear about the situations that would trigger a re-assessment based on ML/TF risk concerns, and, where a process was in place, it was not applied. For example, one prudential authority had set out in its prudential manual that significant fines for material AML/CFT breaches should trigger a re-assessment, but this had not taken place. Another prudential authority dismissed warnings from AML/CFT supervisors that adverse inspection findings cast serious doubt on the integrity of the bank's senior management's;
- d. in respect of the variety of sources of information used for the assessment of qualifying holdings and the suitability of members of the management body and key function holders, more than half of all competent authorities used a range of information sources, including Google searches, adverse media checks and commercial AML/CFT databases, and information received from foreign competent authorities or from other stakeholders (e.g. law enforcement agencies). These competent authorities reported that they also systematically reached out to the FIU requesting information when doing their assessment. In addition, almost half of all competent authorities reported that they equally seek information from competent authorities in other countries where relevant. Where AML/CFT expert input was not sought systematically, the sources of information consulted were limited and FIU input was not always obtained.

6.2.2. Recommended actions

64. Prudential authorities perform an important gatekeeper function, by making sure that persons that own, control or manage banks are deemed fit and proper and that the conditions for authorisation are met so that the sound and prudent management of applicant banks, and the integrity of the financial system in which the bank will operate, are ensured.

65. To ensure that AML/CFT issues are considered and appropriately acted upon in all relevant cases and to address the points raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
- a. formalise and document the involvement of AML/CFT experts in the authorisation, assessment of qualifying holdings and suitability assessment processes. When documenting these processes, competent authorities should ensure compliance with EBA guidelines, including the EBA guidelines on authorisation¹⁰, the ESAs guidelines on qualifying holdings¹¹, the joint EBA and ESMA guidelines on suitability¹², the EBA guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs¹³, and the EBA and ESMA joint guidelines on cooperation and information exchange¹⁴. Staff should be made aware of these processes and procedures and competent authorities should ensure that they are effectively applied;
 - b. elaborate, in internal process manuals, what criteria prudential supervisors should use to assess ML/TF risks associated with applications for qualifying holdings, authorisations and suitability assessments. As part of this, the manual should set out: (1) situations in which the AML/CFT expert involvement and assessment are triggered; (2) external sources of information the competent authority should consult to ensure that it has the best view of possible ML/TF risks associated with an application for authorisations, the acquisition of qualifying holdings or suitability assessments; and (3) how to resolve situations in which the views of AML/CFT and prudential experts diverge in these processes;
 - c. make the process of the re-assessment of suitability of members of the management body and key function holders more robust and not solely dependent upon the declaration from the financial market participant, in particular where ML/TF concerns are raised. As part of this, competent authorities should establish and subsequently build upon the continuous cooperation between the prudential and AML/CFT supervisors to identify situations where a re-assessment of the suitability could be triggered by AML/CFT shortcomings, based on the ongoing prudential supervisory work;

¹⁰ Guidelines on a common assessment methodology for granting authorisation as a credit institution under Article 8(5) of Directive 2013/36/EU – EBA/GL/2021/12.

¹¹ Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector – JC/GL/2016/01.

¹² Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU – EBA/GL/2021/06.

¹³ Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units under Directive (EU) 2013/36/EU – EBA/GL/2021/15.

¹⁴ Joint guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between competent authorities supervising credit and financial institutions ('AML/CFT colleges guidelines') – JC/2019/81.

- d. implement the EBA's AML/CFT compliance officer guidelines¹⁵ and consider as a good practice whether to require institutions to identify the AML compliance officer as a key function holder, in line with the joint EBA and ESMA guidelines on suitability.

Less than half of all competent authorities conduct a systematic and comprehensive fit and proper assessment not only on the key function holders of institutions under their supervisory remit, but equally on new applicants for the institutions' AML/CFT compliance officer position.

¹⁵ EBA's Guidelines (EBA/GL/2022/05) on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer under Article 8 and Chapter VI of Directive (EU) 2015/849

7. Enforcement and supervisory follow-up

66. Directive (EU) 2015/849 requires sanctions and other supervisory measures to be effective, proportionate and dissuasive. The FATF's guidance on effective supervision and enforcement confirms that, to be effective, corrective measures and sanctions should be proportionate to the breach; change the behaviour of the offending bank and its peers; deter non-compliance; and eliminate financial gain.

7.1. Findings

67. Most competent authorities in this year's sample had powers to take enforcement action or impose corrective measures on banks that were in breach of their AML/CFT obligations. For those competent authorities that did not have such powers, a framework was in place to ensure adequate information sharing and the escalation of the individual cases to the body in charge.

68. Nevertheless, in more than half of all instances the enforcement process and the criteria to determine the severity of a weakness or a breach were not sufficiently detailed or documented, fines were often low, and follow-up was not systematic or envisaged at all. This meant that enforcement was not always effective.

69. The implementation review team found that:

- a. more than half of all competent authorities did not have a comprehensive enforcement and sanctioning policy or procedures in place. They did not document the criteria or factors that staff should consider when determining the severity of a breach and the most appropriate and effective supervisory measures or fines. Instead, they relied on the professional judgment of individual members of staff. As a result, there was a risk that measures were not applied consistently. It also exposed competent authorities to the risk of legal challenges by banks that in practice often resulted in the court reducing the fine imposed by the competent authority. In one Member State, the court suggested that the competent authority's powers to impose fines was unconstitutional;

In one competent authority the process to impose pecuniary measures was overly burdensome and lengthy. For example, the competent authority imposed a fine on an entity in relation to breaches of AML/CFT obligations that occurred more than a decade ago. This hampered the effectiveness of the whole sanctioning process. By contrast, the review team found that in less than half of all competent authorities a clear timeline was established to finalise the sanctioning proceedings.

- b. most competent authorities had adequate enforcement powers but they did not apply them effectively. In most cases, competent authorities used written reprimands or they

imposed an action plan irrespective of the severity of the underlying findings, and where fines were imposed these were often low and not proportionate to the breach. Private sector representatives in more than half of all Member States in this year's sample confirmed that fines were not a deterrent for them. Other types of remedial actions, such as prudential measures, a change in the institution's management or the withdrawal of authorisation existed but were rarely used. Furthermore, in more than half of all competent authorities the possibilities of imposing prudential measures on AML/CFT grounds were not formalised in the procedures related to enforcement;

- c. most competent authorities did not have a policy or process in place to support effective follow-up to check whether the bank had remedied the shortcomings effectively. Less than half of all competent authorities indicated that they would aim to work with the bank to set up an action plan to address the shortcomings/breaches identified in the bank, but they did not always ensure that the action plan included specific timelines or deliverables, which made tracking progress or supervisory challenge difficult.

Contrariwise, less than half of all competent authorities adjusted the intensity of follow-up in accordance with the severity and impact of the breach and also communicated clear action points. For example, one competent authority distinguished high-risk institutions, where the competent authority would follow up directly with the bank to ensure that the right actions were being taken. For lower-risk institutions, the competent authority relied instead on an external audit report;

- d. most competent authorities published on their website information relating to administrative fines. However, not all competent authorities did so systematically, instead relying on exceptions from publication foreseen in the AMLD. The level of detail provided also varied, with almost half of all competent authorities making full use of enforcement as a guidance tool, while others included only limited information as part of their public communication. For example, the rationale of the sanctions was limited to an abstract and generic explanation of the breaches found by the competent authority, such as 'CDD' or 'transaction monitoring'. Where this was the case, the educational and deterrent effect of enforcement was not ensured.

One competent authority publishes all fines and warnings on its website in an accessible and detailed manner. Entries are displayed by bank and remain on the website even after a shortcoming has been remediated, which allows external stakeholders to retrace each bank's compliance history. Each entry contains a summary of breaches committed and the status of the sanction, e.g. whether it is in force or has been appealed. Publications can exceptionally be anonymised if the disclosure of personal data of the natural person may endanger the stability of the financial market.

7.2. Recommended actions

70. To address the issues raised above and to the extent that this was relevant in each case, the implementation review team recommended that competent authorities:
- a. have in place AML/CFT enforcement policies and procedures that set out clearly how, and based on what criteria, they will use different types of administrative measures and penalties to achieve their supervisory objectives. These policies and procedures should be sufficiently detailed and methodologically robust to ensure they can be referred to in case of legal challenges;
 - b. have in place internal documents that specify the criteria they will use to determine the seriousness of a breach, the appropriate and proportionate corrective measures (pecuniary and non-pecuniary) that should be imposed in each situation, the criteria to define the amounts of pecuniary sanctions and the criteria to set up follow-up actions. As part of this, competent authorities should consider the joint ESAs report (ESAs 2022 23) on the withdrawal of authorisation for serious breaches of AML/CFT rules¹⁶, and the RTS setting up an AML/CFT central database¹⁷;
 - c. formalise their follow-up measures and set out what criteria they will consider when deciding on the most appropriate way to satisfy themselves that shortcomings have been addressed appropriately and that the updated AML/CFT systems and controls are effective, bearing in mind the nature and severity of the breach. As part of this, competent authorities should ensure that they include specific timelines and clear objectives and actions in their remediation so that the competent authority can then assess whether the bank has complied;

One competent authority has a clear process in place to follow up on breaches or weaknesses. Once the competent authority has agreed with the bank on deadlines and concrete action points, it assesses progress made against these remediation plans in all cases through regular off-site follow-ups and sample testing, but adjusts the intensity of each follow-up based on the severity of the breach and the extent to which the competent authority considers that the bank will be cooperative. Once remediation is complete, the competent authority mandates an on-site external audit. Where operational restrictions have been imposed, the competent authority will itself carry out an on-site inspection.

- d. ensure that enforcement notices are published, and contain not only the name of the obliged entity and the amount of the fine imposed, but also sufficient information to help other obliged entities understand what went wrong, why it went wrong, and what the obliged entity has to do to address the problem so that they can use that information to carry out a gap analysis against their own AML/CFT policies and procedures with a view to avoiding similar breaches. Where competent authorities are taking supervisory measures that do not require publication under their national laws, they should consider how else they can communicate these measures and

¹⁶ Joint ESA report on the withdrawal of authorisation for serious breaches of AML/CFT rules – ESA/2022/23.

¹⁷ Final report on draft regulatory technical standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein – EBA/RTS/2021/16.

shortcomings to the sector to ensure their deterrent effect, e.g. by publishing them in an aggregated format or in a summary report;

- e. periodically assess whether their approach to enforcement is effective and adjust their approach where this is necessary.

8. Domestic and international cooperation

71. Directive (EU) 2015/849 is clear that cooperation between competent authorities at home and across borders is an integral component of an effective approach to AML/CFT supervision.
72. In December 2021, the EBA published its guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and FIUs, as well as the revised risk-based supervision guidelines. Both guidelines set out how competent authorities should cooperate in the fight against financial crime.

8.1. Findings

73. As was the case in the last round, all competent authorities in this review round's sample acknowledged the importance of cooperation both at the domestic and international level and had put in place mechanisms to exchange information with other relevant authorities at home and abroad.
74. Nevertheless, these cooperation mechanisms did not always extend to all relevant stakeholders, and more than half of all competent authorities were not using them effectively. This meant that they did not have access to information that would have been relevant to the supervision of credit institutions operating in their Member State.
75. The implementation review team found that:
- a. In respect of domestic cooperation:
 - i. all competent authorities in the sample were part of national AML/CFT forums or working groups that contributed to the development of national AML risk assessments, AML/CFT policy or AML/CFT legislation. Less than half of all competent authorities were chairing these groups, or parts of these groups, including in some cases dedicated teams to carry out their Member State's NRA or to follow up on supranational AML/CFT assessments, such as Moneyval assessments;
 - ii. all competent authorities had in place bilateral arrangements to formalise cooperation and information exchange with the national FIU, and more than half of all competent authorities had concluded bilateral cooperation arrangements with other domestic authorities or agencies, especially with tax authorities and law enforcement agencies. Nevertheless, almost half of all competent authorities were not exchanging information with these stakeholders in practice, or in a sufficiently

effective and strategic way. This meant that these competent authorities did not have access to relevant data that could have enhanced their understanding of the ML/TF risks to which certain banks or their Member State's banking sector may have been exposed;

- iii. in more than half of all competent authorities used information from other stakeholders but in other cases, information was obtained and not used, or not obtained at all;
- iv. in almost half of all Member States, two competent authorities were sharing the responsibility for the supervision of the banking sector. With one exception, these competent authorities were not cooperating effectively with each other even though legal instruments were in place to facilitate cooperation between them. This led to inconsistent approaches and undermined the effectiveness of AML/CFT supervision, as supervisory expectations were not consistent and at times contradictory.

In one Member State, two competent authorities had signed an MoU to facilitate cooperation between one another. In practice, however, cooperation and exchange of information between the two authorities were very limited. For instance, the two authorities were not cooperating when conducting the assessment of ML/TF risks associated with individual banks and did not share statistics or typologies. Additionally, there was no coordination of the two authorities' AML/CFT supervisory strategy, there were no plans to leverage on expertise and to avoid duplication of tasks, and it was evident to the review team that the two authorities cooperated only when it was explicitly required

- b. In respect of international cooperation:
 - i. more than half of all competent authorities in the sample highlighted the importance of international cooperation, especially in relation to supervisory authorities of neighbouring countries or in Member States where financial institutions established in their territory had a presence through branches and subsidiaries. Almost half of all competent authorities were participating in multilateral structures in their region, which had been set up to facilitate the exchange of supervisory practices and discuss issues of common concern;
 - ii. more than half of all competent authorities welcomed the establishment of AML/CFT colleges and participated in meetings of AML/CFT colleges. Competent authorities that were 'lead supervisors' had set up AML/CFT colleges for banks within their supervisory remit. For those authorities, evidence provided to the review team showed that relevant information was shared between competent authorities and that the information received from AML/CFT colleges was used to inform competent authorities' supervisory priorities and/or identify ML/TF risks. In almost half of all cases, competent authorities had agreed on a common approach to the supervision of certain credit institutions having cross-border establishments in several Member States and/or coordinated actions in relation to these credit institutions, including joint inspections or other supervisory measures. However, almost half of all competent authorities were not using AML/CFT colleges effectively. For instance, one

competent authority could not explain to the review team how it uses the information gathered in AML/CFT colleges to inform its supervisory approach and risk assessment. Another competent authority was not participating in any AML/CFT college nor having any other engagement with competent authorities from other Member States;

In one AML/CFT college led by a reviewed competent authority, the competent authority did not make sufficient efforts to adjust the functioning of the college based on the risk and effectiveness. As a result, staff told the review team that a meeting was due to take place even though there was no agenda, as no member had anything to share. Even though a joint effort was made to align methodologies and topics, the permanent members of the college were unable to agree on the severity of findings or on a common approach, which undermined the joint supervisory effort.

- iii. in almost half of all cases, the review team found only limited evidence that competent authorities were effectively engaging with AML/CFT authorities from third country jurisdictions to which their banking sector was significantly exposed. Less than half of all competent authorities had not put in place any bilateral cooperation arrangements with these third-country jurisdictions. For example, in one case, an MoU had been signed but the review team could find no evidence that cooperation was happening in practice.

8.2. Recommended actions

76. To address the points raised above and to the extent that this was relevant in each case, the review team recommended that competent authorities:

- a. In respect of domestic cooperation:
 - i. formalise cooperation with other authorities or agencies, including the FIU, other authorities responsible for the supervision of compliance with AML/CFT requirements, tax authorities and law enforcement agencies and set out in internal process manuals when input from these authorities should be sought or information should be exchanged.

One competent authority had developed internal rules and procedures requiring any crime-related information to be sent to law enforcement authorities as well as to certain specific government agencies, depending on its nature.

As part of this, competent authorities should assess how existing domestic cooperation structures could be used more effectively to inform competent authorities' AML/CFT supervision, including by exchanging information more systematically and/or by exchanging more granular information with all other domestic stakeholders, especially other competent authorities (where multiple

One competent authority was actively participating in a working group in which it developed strong working relationships with the domestic tax authorities and supervisors of DNFBPs and met regularly with all relevant AML/CFT stakeholders as part of a dedicated committee led by the Ministry of Justice.

competent authorities are responsible for supervising the banking sector), the FIU, tax authorities and law enforcement agencies;

- b. In respect of international cooperation:
 - i. approach international supervisory cooperation in a more strategic way. As part of this, competent authorities should engage proactively as well as reactively with competent authorities in the EU and relevant third countries to obtain as full a view as possible of the ML/TF risks to which banks within their supervisory remit are exposed. Competent authorities should also consider engaging further with other competent authorities from countries to which their Member State's banking sector is significantly exposed, for example by signing an MoU or, where an MoU is already in place, making more extensive use of that MoU;
 - ii. use the AML/CFT college framework strategically to further enhance competent authorities' understanding of the ML/TF risks to which groups operating on a cross-border basis are exposed in their Member State and abroad. In particular, the review team recommended that competent authorities consider performing joint supervisory measures with foreign authorities, where such measures are likely to be appropriate.

One competent authority was taking advantage of its participation in an international forum bringing together several competent authorities to periodically discuss relevant cases, issues identified and inspection plans, but also to seek and provide advice on immediately relevant questions.

9. Conclusion

77. All competent authorities in this third round had worked to put in place a risk-based approach to AML/CFT. Some competent authorities had made far-reaching changes following high-profile ML/TF cases involving banks in their jurisdiction and their approach was now largely effective. But most competent authorities continued to experience significant challenges, which affected their ability to tackle ML/TF risks through supervision. Specifically, while all competent authorities devoted significant resources to entity-level risk assessments, the results of these assessments were not always conducive to competent authorities developing a reliable understanding of ML/TF risks. In more than half of all cases, competent authorities had not considered important risk factors, or they based their assessment on data that were incomplete or of inferior quality. Just over half of all competent authorities used their risk assessment to inform their supervisory strategy or inspection plan, but this was not the case in nearly half of all competent authorities whose AML/CFT supervision was not risk-based in practice. Other challenges included the strategic use of the right supervisory tools to achieve adequate levels of challenge and intrusion, taking the steps necessary to ensure a consistent approach through, for example, supervisory manuals and training, and providing relevant and targeted guidance to the sector.
78. Many competent authorities in this year's sample had made tangible progress in tackling ML/TF risks through prudential supervision. The EBA's ongoing efforts to foster a holistic approach to AML/CFT meant that more than half of all prudential supervisors in this round were aware of their role in tackling ML/TF risks, and some had begun systematically to include AML/CFT expert input in their SREP processes. At the same time, the general lack of documented processes, methodologies and targeted training on ML/TF risks and warning signals created significant vulnerabilities and meant that a comprehensive approach to tackling ML/TF risks could not be ensured.
79. All competent authorities recognised the importance of cooperation and exchange of information with other authorities at domestic and international level and had put in place mechanisms to exchange information with other relevant authorities at home and abroad. Nevertheless, these cooperation mechanisms did not always extend to all relevant stakeholders, and almost half of all competent authorities were not using them effectively. This meant that they did not have access to information that would have been relevant to the supervision of credit institutions operating in their Member State.
80. Finally, enforcement was not always effective or dissuasive. In more than half of all cases, the sanctioning process and the criteria to determine the severity of a weakness or a breach were not sufficiently detailed or documented, which meant that consistency could not be ensured. Competent authorities were also exposed to the risk of legal challenge by banks,

which materialised in several competent authorities. Where fines were imposed, they were often low and not proportionate to the seriousness of the breach, and follow-up was not systematic or envisaged at all.

81. Overall, while weaknesses continued to exist, all competent authorities in this round were committed and were working to strengthen their approach to supervision. This report and the EBA's guidelines referenced in it can help competent authorities in their ongoing efforts to prevent the use of the EU financial system for ML/TF purposes.

Annex

List of key AML/CFT instruments mentioned in this report

AML/CFT central database	EBA (2021): Final report on draft regulatory technical standards under Article 9a (1) and (3) of Regulation (EU) No 1093/2010 setting up an AML/CFT central database and specifying the materiality of weaknesses, the type of information collected, the practical implementation of the information collection and the analysis and dissemination of the information contained therein – EBA/RTS/2021/16
AML/CFT supervision	EBA (2021): Guidelines on the characteristics of a risk-based approach to AML/CFT supervision, and the steps to be taken when conducting supervision on a risk-sensitive basis under Article 48(10) of Directive (EU) 2015/849 (amending the Joint Guidelines ESAs 2016 72) – EBA/GL/2021/16
AML/CFT systems and controls	EBA (2021): Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the ML/TF risk associated with individual business relationships and occasional transactions ('ML/TF risk factors guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849 (amending Joint Guidelines ESAs JC 201737) – EBA/GL/2021/02
Authorisations	EBA (2021): Guidelines on a common assessment methodology for granting authorisation as a credit institution under Article 8(5) of Directive 2013/36/EU – EBA/GL/2021/12
Cooperation	EBA (2021): Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and Financial Intelligence Units under Directive (EU) 2013/36/EU – EBA/GL/2021/15

	ESAs (2019): Joint guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between competent authorities supervising credit and financial institutions ('AML/CFT colleges guidelines') – JC/2019/81
Governance	EBA (2021): Guidelines on internal governance under Directive 2013/36/EU – EBA/GL/2021/05
ML/TF risk	EBA (2021): Third opinion on the risks of ML/TF affecting the European Union's financial sector – EBA/Op/2021/04
Ongoing prudential supervision	EBA (2022): Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU – EBA/GL/2022/03
Qualifying holdings	ESAs (2016): Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector – JC/GL/2016/01
Suitability	EBA, ESMA (2021): Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU – EBA/GL/2021/06

For a complete list of the EBA's regulatory instruments, opinions and reports on AML/CFT, please refer to the EBA's AML/CFT website at:

<https://www.eba.europa.eu/regulation-and-policy/anti-money-laundering-andcounteringfinancing-terrorism>



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