Response to the AMLA Public Consultation

Draft Guidelines on ongoing monitoring of a business relationship under Article 26(5) of Regulation (EU) 2024/1624

September 2026

About LPEA

The Luxembourg Private Equity and Venture Capital Association ("LPEA") aims at promoting and defending the interests of investors and professionals principally active in the field of Private Equity ("PE") and Venture Capital ("VC").

The Association is the trusted and relevant representative body of PE and VC practitioners with a presence in Luxembourg.

Created in 2010 by a leading group of PE and VC players, with more than 700 members, LPEA plays a leading role locally, actively promoting PE and VC in Luxembourg.

LPEA provides a dynamic and interactive platform, which helps investors and advisors to navigate through latest trends in the industry. International by nature, the Association allows members to network, exchange experience, expand their knowledge and to grow professionally by attending workshops and trainings held on a regular basis.

Response to the Consultation – introduction

Luxembourg, 01 September 2026

The LPEA, represented by the PE and VC market practitioners in Luxembourg, would like to thank the Anti-Money Laundering Authority ("AMLA") for the opportunity that has been given to participate in this public consultation on draft guidelines under Article 26(5) of the Anti-Money Laundering Regulation ("AMLR"). Our members, active in the field of AML/CFT, appreciate the opportunity to share their views on such an important topic.

We wish to emphasize that, while preventing money laundering and terrorist financing remains paramount, alternative asset management companies must retain sufficient flexibility to implement mitigation measures that are proportionate to the actual risk, as envisaged by Section 3.2 "AMLA's approach" of draft guidelines. This risk-based approach allows professionals to account for sector-specific features, the inherent risks of Alternative Investment Funds market, and their own risk assessments, avoiding unnecessary measures that may not be relevant to all entities and could hinder the competitiveness of the EU financial centre.

By promoting proportionality and adaptability in AML/CFT measures, we also support financial inclusion and help prevent the unintended exclusion of specific geographies, industries, or investor groups.

Response to Consultation

Question 1:

Do you consider that Guideline 1 supports a risk-based approach and clearly sets out the core principles that obliged entities should apply to keep customer information up to date?

If you see scope for further clarification, please:

i. **specify the paragraph concerned;**
ii. **explain your rationale; and**
iii. **consider submitting an amendment proposal**

LPEA Response

Comment 1:

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Section 1.1, Paragraph 1

Rationale (3000 character(s) maximum)

While the LPEA welcomes the general concept of cross-sectoral applicability underpinning the Guidelines, it remains important to recognise that some material distinctions need to be taken into account to reflect the specific operating model of the Alternative Investment Funds ("AIFs") industry, and in particular AIFs implementing Private Equity (or similar) strategy, where asset managers operate generally through closed-end Alternative Investment Funds, raising capital from well-informed professional investors and deploying it over a long-term horizon into privately held portfolio companies.

Their activities are embedded in a structured, highly regulated environment involving regulated AIFMs and multiple regulated service providers.

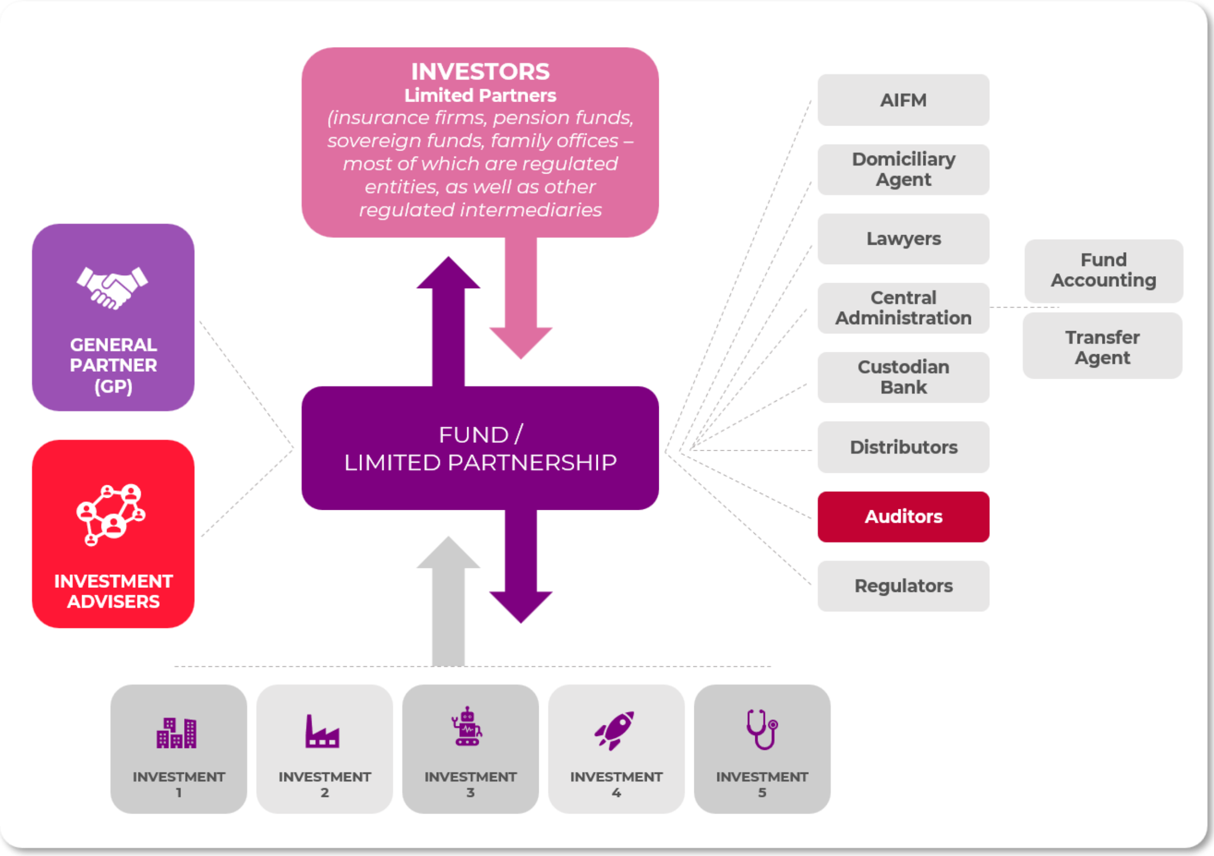
In this context, two distinct operating models could co-exist in practice and should be acknowledged by the Guidelines:

1. The in-house model, where the AIFM (or, where applicable, the General Partner) directly performs AML/KYC due diligence on customers (i.e. investors), including customer identification, verification, and ongoing monitoring, using its own internal compliance infrastructure; and

2. The delegated/reliance model, where the AIFM delegates (and oversees) the AML/KYC obligations, in whole or in material part, to other regulated entities (e.g. Transfer Agents) or relies on other regulated entities to perform AML/KYC obligations on end customers, where, as the case may be, such entities are subject to equivalent AML/CFT requirements and supervisory oversight in their own right.

Both models are well-established within the Alternative Investment Funds industry and operate within the same regulatory perimeter.

Please find hereafter a representation of a typical Alternative Investment Funds ecosystem:



Accordingly, the Guidelines should accommodate these two approaches and ensure that the assessment of ML/TF risk and the calibration of due diligence obligations reflect the respective allocation of responsibilities.

Comment 2

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Section 2.1

Rationale (3000 character(s) maximum)

Certain concepts may be relevant for other business models (e.g. in the banking industry) but should not automatically be transposed to the Fund industry without taking into account its specificities and operating model.

Amendment proposal (optional) (3000 character(s) maximum)

Proposed addition in Section 2.1:

"Certain obligations shall not apply to obliged entities (i.e. Alternative Investment Funds Managers ("AIFMs") in the Fund industry) where they delegate the relevant activities to other regulated entities subject to equivalent regulatory requirements."

Comment 3

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 13

Rationale (3000 character(s) maximum)

Paragraph 12 a) foresees the update of customer information using "reliable and independent sources of information which may include official registers or databases of government and competent authorities".

However, according to paragraph 13, obliged entities shall notably "take necessary steps to ensure that personal data obtained from public and commercial sources is accurate and up to date". In case where the source of information is already an official register or database maintained by a government or competent authority, in order to avoid duplication of efforts, no further steps should be expected to consider that the information so obtained is accurate or up-to-date: obliged entities should be authorised to presume that the information deriving from such sources is reliable, unless there are doubts as to its accuracy and/or other relevant risk factors are identified.

Amendment proposal (optional) (3000 character(s) maximum)

Paragraph 13: Obliged entities should take necessary steps to ensure that personal data obtained from public and commercial sources is accurate and up to date, and that only the information necessary to fulfil their ongoing monitoring obligations is collected and processed. "**With regard to paragraph 12, point a, the information obtained from official registers or databases of government and competent authorities may be considered accurate and up to date, unless there are doubts as to its accuracy and/or other relevant risk factors are identified.**"

Comment 4

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 14

Rationale (3000 character(s) maximum)

We suggest amending paragraph 14, which, in its current form, may create unnecessary burden or inconsistent application for obliged entities. We also believe that the "necessary knowledge" test is difficult to apprehend in practice since obliged entities cannot know with certainty who is best placed at customer level to opine on the data accuracy. On the contrary, the power of representation is an objective element to assess and can be easily verified.

Amendment proposal (optional) (3000 character(s) maximum)

Par. 14: (...) obliged entities should assess if they have the necessary ~~**knowledge and**~~ power of representation to confirm or provide such information.

Comment 5

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 20

Rationale (3000 character(s) maximum)

We suggest amending paragraph 20 as per the proposal below to better reflect in this case as well the application of the risk-based approach. This is indeed of particular relevance for the Investment Funds industry, where a number of business relationships may remain in place over time without any new activity, subscription, redemption or service. Where, in such case, the customer (i.e. investor) is itself a regulated and supervised entity, an extensive periodic review of the due diligence file is of limited relevance in terms of ML/TF risk mitigation.

Amendment proposal (optional) (3000 character(s) maximum)

Where, in a business relationship, the same activity continues without any change, obliged entities may adjust the depth and intensity of periodic reviews **~~for low-risk customers)~~** **for non-high-risk customers, following a risk-based approach**. For example, such review could mean checking business registries and other reliable and independent sources, conduct PEP and adverse media screening, and review internally whether anything has changed in the nature or purpose of the business relationship.

Comment 6

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 21

Rationale (3000 character(s) maximum)

We suggest amending paragraph 21 c), which, in its current form, is not relevant for and does not take into account the specificities of the Fund industry, where the purpose of the relationship is by default to invest in a Fund in order to maximize returns.

Amendment proposal (optional) (3000 character(s) maximum)

c) **Where relevant,** an up-to-date understanding of the purpose and intended nature of the business relationship (...).

Question 2:

Do you foresee any challenges in applying Guideline 1, taking into consideration the differences in obliged entities' nature, risks and complexity of their business, as well as their size?

If you see scope for further clarification, please:

i. **specify the paragraph concerned;**
ii. **explain your rationale; and**
iii. **consider submitting an amendment proposal**

LPEA response

Comment 1

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 12

Rationale (3000 character(s) maximum)

As also depicted in our response to Question 1, certain aspects of Guideline 1 that may be relevant for other business models (e.g. in the banking industry) should not automatically be transposed to the Fund industry without taking into account its specificities and operating model.

Amendment proposal (optional) (3000 character(s) maximum)

We suggest clarifying in paragraph 12 that the assessment of "authenticity and accuracy" should be understood as an assessment of whether the overall set of data is coherent, rather than as imposing strict expectations of authenticity and accuracy, as, ultimately, these aspects can only be assessed on a best effort basis by the obliged entity. Accordingly, we suggest replacing the terminology "authenticity and accuracy" with "**consistency with the global set of information collected**."

Comment 2

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 17

Rationale (3000 character(s) maximum)

The current wording of paragraph 17(b) does not, in our view, sufficiently support a proportionate and risk-sensitive application of the Guidelines.

Amendment proposal (optional) (3000 character(s) maximum)

In paragraph 17 b), we propose the following amendment:

"The risk associated with ~~the issuing country~~ **the higher risk of either the issuing country or the nationality**;"

Comment 3

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 27

Rationale (3000 character(s) maximum)

The Guidelines should clarify that the relevance of each trigger event listed in paragraph 27 should be assessed on a risk-based approach and in light of the business activities actually carried out by the obliged entity, since not all trigger events listed in paragraph 27 are necessarily relevant to all obliged entities.

We also suggest that paragraph 27 clarifies that the listed events apply on a risk-sensitive basis according to the business model, and that, where the customer is itself an obliged entity or intermediary, the triggers to be monitored are those relating to its status, ownership, control and AML/CFT controls.

Amendment proposal (optional) (3000 character(s) maximum)

Proposed addition in Paragraph 27:

<u>The events listed in this paragraph should apply on a risk-sensitive basis according to the business model. In particular, where the customer is itself an obliged entity or intermediary, the triggers to be monitored are those relating to its status, ownership, control and AML/CFT controls.</u>

Comment 4

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 29

Rationale (3000 character(s) maximum)

Paragraph 29(f) suggests, from among the elements to identify events or circumstances that trigger a review, the "use of information shared among entities belonging to the same group". This should be strictly qualified by the application of professional secrecy or other confidentiality rules, which might restrict or prohibit such information sharing.

The Guidelines should also clarify that – with reference to Article 26.1, al. 3 of AMLR, and noting the reference in this Article to taking into account, for the purpose of monitoring a business relationship, business relationships that the customer of a given obliged entity may have with other group entities, including non-obliged entities – this obligation would be deemed fulfilled through mere and appropriate exchange of information (to the extent not prevented by professional secrecy or confidentiality rules), without imposing any due diligence or ongoing monitoring on non-obliged entities. This could be achieved for instance through a dedicated paragraph inserted in this subsection "Processes to detect relevant events or circumstances that may trigger a customer information review".

Amendment proposal (optional) (3000 character(s) maximum)

Proposed addition in Paragraph 29:

Para. 29.f): Use of information shared among entities belonging to the same group,: **subject to applicable professional secrecy or other confidentiality rules, which might restrict or prohibit such information sharing.**

Comment 5

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 32

Rationale (3000 character(s) maximum)

Paragraph 32 provides that the relationship should be terminated where the obliged entity is "ultimately" unable to comply with its due diligence obligations. The meaning of ultimately in this context is unclear – the guidelines should clarify that, depending on the obliged entity's RBA and knowledge of relevant customer, this should be considered in terms e.g. of number of (unfruitful) attempts to reach out to the customer, responsiveness of the customer and/or length of time that the KYC file remains incomplete.

Additionally, it must be noted that in the context of the collective investment sector, the termination of an investor relationship (as would be done in the banking sector) is not always legally or operationally feasible. In practice, such termination may only be possible under specific circumstances and where the relevant contractual documentation expressly provides for this possibility (e.g. specific provisions in the Funds Articles or management regulations).

As a result, additional guidance on how this requirement should be applied in the collective investment context would be beneficial. It should therefore be clarified that "termination" should be considered only where this is assessed as the appropriate, and legally/contractually permissible remedy. In particular, for an obliged entity such as an Investment Fund, it should be clarified and acknowledged that, in practice, failure to complete / update the KYC file may result in mandatory redemption and blocking on a segregated account of the redemption proceeds – noting that exiting such amounts to a third party institution in charge of handling those assets ultimately depends on local legislation and, in practice, might be impossible as such institution may impose conditions such as relevant KYC file being complete and up-to-date.

In addition, paragraph 32 further requires obliged entities to "make every effort" to obtain and update relevant KYC documents. Such intensity in the obligation to gather KYC documents appears incompatible with the fact that, ultimately, their collection remains, in practice, dependent on the willingness of a third party to provide them. Thus, the obligation should rather be to "make reasonable efforts to obtain and update such documents, data, or information".

Amendment proposal (optional) (3000 character(s) maximum)

Proposed amendments in Paragraph 32:

Obliged entities should take all reasonable measures and make **~~every~~ reasonable** effort to obtain and update such documents, data, or information as soon as possible. The suspension or restriction of transactions and activities should be understood as a temporary measure, to be applied only where an obliged entity has taken repeated and reasonable steps to request and obtain up-to-date customer documents, data or information, and only until the obliged entity obtains the necessary documents, data or information from the customer. Termination should follow where the obliged entity is ultimately unable to comply with its obligations, **notably taking onto account the obliged entity's risk-based approach and knowledge of relevant customer, and considering elements such as the number of (unfruitful) attempts to reach out to the customer, responsiveness of the customer and/or length of time that the KYC file has remained incomplete.**

Termination should be considered only where this is assessed as the appropriate, and legally/contractually permissible remedy. In particular, for an obliged entity such as an Investment Fund, in practice, failure to complete or update the KYC file may result in mandatory redemption and blocking on a segregated account of the redemption proceeds – exiting such amounts to a third party institution in charge of handling those assets ultimately depends on local legislation and, in practice, might be impossible as such institution may impose conditions such as relevant KYC file being complete and up-to-date.

Question 3 – Compared to your current ongoing monitoring process, what impact would *Guideline 1: Keeping customer documents, data or information up to date* have on your compliance costs and operational processes?

LPEA response

Estimated impact on compliance costs

Considering the operating model of the Alternative Investment Funds industry as described above, AIFMs might not be best placed to assess or quantify the impact of Guideline 1 on compliance costs. Regulated entities such as Transfer Agents are better placed to assess any operational and cost implications arising from Guideline 1. While the direct impact would be borne by the delegated regulated entities responsible for performing the AML/CFT-related functions, any additional operational or compliance costs arising from the implementation of Guideline 1 would also ultimately be reflected in the costs of the Fund.

Question 4:

Do you foresee any challenges in applying Guideline 2? In your view, does the guideline provide sufficient clarity and is applicable across your products and services to support effective, risk-based monitoring of unusual or suspicious transactions and activities?

If you see scope for further clarification, please:

i. **specify the paragraph concerned;**
ii. **explain your rationale; and**
iii. **consider submitting an amendment proposal**

LPEA response

Comment 1

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 37

Rationale (3000 character(s) maximum)

Consistent with paragraphs 108 and 111 of the FATF Guidance for a Risk-Based Approach for the Securities Sector (2018), the Guidelines could further allow obliged entities, on a risk-sensitive basis, to take into consideration the ongoing controls and monitoring undertaken by institutional intermediaries. In particular, Paragraph 37 could further recognise that, in intermediary-driven distribution models, monitoring frameworks may appropriately take into account the AML/CFT controls performed by regulated intermediaries. This would be consistent with a risk-based approach and with the practical realities of cross-border Fund distribution, while preserving the obliged entity's responsibility for the effectiveness of its monitoring framework. In this context, based on its current wording, paragraph 37 would not be practicable for the Investment Funds industry, as ensuring access to the data necessary for monitoring is unattainable in intermediated distribution, where the Fund has no relationship with the underlying investor and disclosure may be barred by data-protection and data-minimisation rules, by the intermediary's professional secrecy and by third-country restrictions. It must be underlined that there is no delegation of the transaction monitoring activities to the financial intermediary, in the sense that there is no obligation for the AIF/AIFM to conduct transaction monitoring at the level of the underlying investors (provided the conditions for reliance / enhanced due diligence are met): rather, the obligation to monitor the transactions sits at the level of the transactions carried out by its customer, i.e. the financial intermediary itself, as investor of record. Therefore, paragraph 37, to the extent resulting in imposing monitoring of transactions and access to information regarding the underlying investors, appears disproportionate and negating such reliance principle.

A clearer distinction between reliance on third parties and outsourcing arrangements should be made under this paragraph, as the case may be cross referring to the (forthcoming) guidelines on outsourcing to be adopted pursuant to Article 18.8 AMLR.

Comment 2

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 38

Rationale (3000 character(s) maximum)

Consistent with paragraphs 108 and 111 of the FATF Guidance for a Risk-Based Approach for the Securities Sector (2018), the Guidelines could further allow obliged entities, on a risk-sensitive basis, to take into consideration the ongoing controls and monitoring undertaken by institutional intermediaries.

Amendment proposal (optional) (3000 character(s) maximum)

Proposed addition to paragraph 38:

Where a customer acts as an intermediary - whether as an obliged entity or as another entity processing transactions and activities on behalf of underlying customers - obliged entities should ensure that their monitoring framework takes into account the risks arising from that intermediary role. This includes considering the intermediary's business model, the characteristics of its client base, and the nature of the transaction or activity flows it processes.

In such case, taking the client base of the intermediary into account means understanding its type and aggregate risk profile, and not identifying the underlying clients (and monitoring their own transactions) individually.

Comment 3

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 39

Rationale (3000 character(s) maximum)

In paragraph 39, further clarification would be beneficial regarding the reference to "more complex products, services or business models". In the Alternative Investment Funds sector, ownership and investment structures may involve multiple layers or jurisdictions for legal, regulatory or investor-related reasons. Such structures may appear complex but do not necessarily indicate elevated ML/TF risk. Further clarification that complexity should be assessed on a risk-sensitive and case-by-case basis would support more consistent application. Also, the wording itself "[...] exposed to more complex products, services or business models, including relationships with non-bank financial institutions, correspondent banking, trade finance, or investment and wealth management activities [...]" seems to imply a presumption of higher risk for certain business activities and relationships. However, consistent with the risk-based approach, the risk associated with such activities should be assessed on the basis of their specific characteristics and mitigating controls rather than through predefined assumptions.

Comment 4

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 44

Rationale (3000 character(s) maximum)

Paragraph 44 lists certain factors that obliged entities should ensure their monitoring framework can detect. In line with the proportionality principle, this paragraph should clarify that the factors should be taken into account only if appropriate.

Amendment proposal (optional) (3000 character(s) maximum)

Proposed amendment in Paragraph 44:

“This **may** include**s**, but is not limited to:”

Comment 5

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraph 61

Rationale (3000 character(s) maximum)

Paragraph 61 requires obliged entities to carry out pre-transaction and pre-activity screening where they “have the ability to assess or intervene prior to a transaction or activity being carried out or completed”. Such requirement should not be based only on the (practical or technical) ability of an obliged entity to actually intervene, but also, based on the proportionality principle (notably based on the additional costs that such controls may represent), on the own obliged entity’s assessment that such intervention is proportionate.

Amendment proposal (optional) (3000 character(s) maximum)

Proposed amendment in Paragraph 61:

Where obliged entities, taking into account their role, business model and access to relevant information, have the ability to assess or intervene prior to a transaction or activity being carried out or completed, **<u>and they consider it proportionate to do so</u>**, they should apply pre transaction and pre activity monitoring to detect unusual or suspicious transactions and activities.

Question 5:

Do you consider that the provisions on the use of automated or advanced analytical tools are sufficiently flexible and do not favour specific technologies?

If you see scope for further clarification, please:

i. **specify the paragraph concerned;**
ii. **explain your rationale; and**
iii. **consider submitting an amendment proposal**

LPEA response

Guidelines paragraph (please add the specific paragraph/s number you are referring to e.g. 3,4,5): Paragraphs: ALL/87

Rationale (3000 character(s) maximum)

The LPEA welcomes the general statement of technological neutrality.

Amendment proposal (optional) (3000 character(s) maximum)

In order to ensure this full technology neutrality in practice, it would be helpful to reinforce that:

- effectiveness should be assessed based on outcomes (i.e. identification and escalation of ML/TF risks), rather than the specific technological approach used;
- obliged entities should retain flexibility to determine appropriate combinations of rules-based systems, risk indicators, alert-based monitoring, analytical tools, and human review; and
- reliance on third-party tools should remain permissible where adequate understanding, governance, and oversight arrangements are in place.

This is particularly relevant in institutional and wholesale markets where monitoring systems are typically hybrid and evolve continuously to reflect changing risk profiles and typologies.

Question 6:

What impact would the design and implementation of the transaction and activity monitoring framework described in Guideline 2 have on your compliance costs?

LPEA response

Considering the operating model of the Alternative Investment Funds industry as described above, AIFMs might not be best placed to assess or quantify the impact of Guideline 2 on compliance costs. Regulated entities such as Transfer Agents are better placed to assess any operational and cost implications arising from Guideline 2. While the direct impact would be borne by the delegated regulated entities responsible for performing the AML/CFT-related functions, any additional operational or compliance costs arising from the implementation of Guideline 2 would also ultimately be reflected in the costs of the Fund.

Question 7:

Do you identify any further opportunities for simplification or measures that could further support proportionality across the guidelines?

· **If so, please provide concrete drafting proposals and explain why the specific measures you propose would be more appropriate.**

LPEA response

5000 character(s) maximum

Further simplification could be achieved by reinforcing and clarifying the application of the risk-based approach throughout the Guidelines, particularly in institutional and intermediary-driven market contexts.

In particular, the Guidelines could be strengthened to:

- explicitly recognise that reliance on regulated intermediaries forms a valid and important component of ongoing monitoring frameworks;
- allow the use of aggregated, behavioural, or intermediary-level data as a legitimate basis for monitoring where appropriate;
- extend the proportionality principle in paragraphs 9 and 10 to the requirements, provided throughout the Guidelines, in terms of formalisation and documentation of the controls, in order to avoid a mere “tick-the-box” approach, negating any proportionality. In this regard, these paragraphs could e.g. clarify that the form and level of detail of documentation should be commensurate with the ML/TF risk and with the nature, size and complexity of the obliged entity and its activities.

LPEA