DUFAS Response to the consultation of the draft Guidelines on ongoing monitoring of a business relationship

To	AMLA
From	DUFAS (the Dutch Fund and Asset Management Association)
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DUFAS (the Dutch Fund and Asset Management Association) welcomes the opportunity to respond to the public consultation on draft Guidelines on ongoing monitoring of a business relationship, as published by AMLA on 3 June 2026. Our consultation response should be viewed in conjunction with the consultation response provided by the European Fund and Asset Management Association (EFAMA).

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?

Paragraph 20:
Together with EFAMA, DUFAS welcomes the reference to a risk-based approach and proportionality throughout the draft Guidelines, which are necessary to enable obliged entities to conduct ongoing monitoring in a manner commensurate with their operational and business realities. At the same time, there are areas in the draft Guidelines where those principles could be further emphasised to ensure that operational realities of sectors such as the asset management industry are properly considered. Further clarification on certain elements would also be beneficial, providing obliged entities with greater clarity regarding supervisory expectations.

Regarding the depth and intensity of reviews, we welcome the recognition of instances where no new activity occurs. In those scenarios, the risk of overlooking any ML/TF threat is indeed mitigated, and it is justified for obliged entities to allocate their resources elsewhere. At the same time, we believe that **paragraph 20** and the possibility to adjust the depth and intensity of review in such instances should not only apply to low-risk customers. This is justified in view of Art. 20(2) AMLR, which allows obliged entities to decide on the extent of CDD measures, taking into account the individual analysis of ML/TF risk of the business relationship. If this is foreseen for the initial CDD, it should also be allowed during its reviews. The adjustment of the depth and intensity of reviews should also not be confused with the adjustment of their frequency, which is allowed in case of simplified CDD under Art. 33 AMLR.

Therefore, greater clarity in the Guidelines on what "reduced depth and intensity" means in practice would be welcome, for example by further and non-exhaustive examples of proportionate review measures that entities could apply according to their own risk-based assessment. We welcome the example already provided, explaining that absence any trigger events and adverse findings, the periodic review may consist of checking reliable public registers or regulatory databases, screening for PEP/adverse media changes, and checking whether anything has changed in the nature or purpose of the business relationship. It should, however, not be limited to low-risk scenarios and should further emphasize that this should not involve automatic re-collection of all documents already held.

Moreover, we would like to draw attention to points (b) and (e) in the list of factors, as we do not believe that every new activity or transaction should be immediately treated as a trigger event that would require immediate review. In fact, a new transaction can represent the continuation of the same activity that should justify the adjusted depth and intensity of periodic reviews, rather than an immediate review.

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?

Paragraph 3:

We believe it is important that interpretation on what constitutes a business relationship is clarified, by adding a definition of 'customer' in paragraph 3. Article 2, paragraph 1, sub 19 AMLR defines a business relationship as a business, professional or commercial relationship connected with the professional activities of an obliged entity, *which is set up between an obliged entity and a customer*, including in the absence of a written contract and which is expected to have, at the time when the contact is established, or which subsequently acquires, an element of repetition or duration. It does, however, not provide a definition of customer. The Interpretive Note on the identification of provisionally eligible obliged entities pursuant to the draft ITS under Article 15(3) AMLAR provides a definition of customer specific for asset management companies as the person mentioned in the shares/units register of the collective investments undertaking (CIU) for which the asset management company is designated AIFM or UCITS management company. To ensure a sounder legal basis and that this definition of customer for asset management companies applies throughout the AMLR regime – including ongoing monitoring – we suggest this inclusion in the definitions paragraph of these guidelines.

This is important as not clearly delineating what a business relationship with a customer means for asset management companies could result in discussions with AML supervisors about other relationships asset managers may hold (e.g. with suppliers, brokers, custodians, depositaries, fund administrators, transactional counterparties and other types of contractual counterparties). Excluding other types of business, professional or commercial relationships that an obliged entity may hold as part of its professional activities outside those where it provides its services to customers does not mean that no due diligence and monitoring apply at all, as other relevant legislation will govern such requirements (e.g. prudential requirements, sanctions or DORA). In those cases, however, it falls outside the CDD/monitoring-regime from the AMLR and the design and application of due diligence measures is left to the obliged entities.

Paragraph 7:

Together with EFAMA, DUFAS broadly with the training requirement for staff involved in ongoing monitoring and monitoring of transactions or activities. This is necessary to ensure that the right conclusions are drawn and that personal data is handled properly. At the same time, to avoid disproportionate obligations, it is crucial to correctly identify which members of staff are involved in activities with a clear AML/CFT link and therefore should undergo training. In the financial sector, staff who "oversee products and services", among others, could refer to portfolio managers who build investment strategies for investment funds and manage the fund's assets to benefit the fund's investors. As such, in many funds (particularly retail-oriented UCITS funds), they would not have a view on the customers' transactions, and their activities lack AML/CFT link. As such, while being aware of the AML/CFT requirements, these teams should not be the primary target of enhanced training. On the contrary, other staff with direct client contact, such as sales personnel, have a pivotal role in gathering customer information throughout the business relationship and identifying update triggers. While we understand that the Guidelines apply to a broad and diversified range of obliged entities, coming both from financial and non-financial sectors, it is important to avoid instances where general rules would lead to disproportionate results for some of the industries in scope. Therefore, we would welcome clarification that it is up to the obliged entity to decide which members of the staff should be covered by the training obligation, considering their link to AML/CFT responses of the obliged entity.

Paragraph 19:
This paragraph references Article 26(2) AMLR. Article 26(2)(a) AMLR requires a one-year cycle for customer information updates for "higher risk customers to which measures under Section 4 of this Chapter apply". Measures in Section 4 include the mandatory EDD measures on business relationships involving PEPs (including relatives and close associates) and high-risk third countries. However, the application of EDD measures on these business relationships does not always result in the determination of higher risk by the obliged entity. The fact that the risks associated with different categories of PEPs can differ is even explicitly mentioned in article 42(2) AMLR. During the public hearing on 2 July 2026, AMLA was asked to confirm that the one-year review cycle only applies to the higher risk customers as per an institution's own risk rating methodology and not for business relationships for whom mandatory EDD is applied but are not deemed a high-risk customer. This was confirmed with the remark from AMLA staff that obliged entities could decide to apply more frequent update cycles to meet the requirement of enhanced monitoring, but that it is up to the entity (how often) to implement it. We would appreciate this interpretation to be documented in the guidelines to avoid future discussions with AML supervisors.

Paragraph 32:
Together with EFAMA, we would like to point out that paragraph 32 on the point "[t]he suspension or restriction of transactions and activities should be understood as a temporary measure (…)" or "[t]ermination should follow where the obliged entity is ultimately unable to comply with its obligations.", provides in fact less flexibility to obliged entities than Art. 21 AMLR. According to the third and fourth subparagraphs of Article 21(1) AMLR "Where an obliged entity has a duty to protect its customer's assets, the termination of the business relationship shall not be understood as requiring the disposal of the assets of the customer", and based on the example of life insurance "obliged entities, where necessary as an alternative measure to terminating the business relationship, refrain from performing transactions for the customer, including payouts to beneficiaries, until the customer due diligence measures (…) are complied with". This caters particularly to industries such as asset management, where suspension and restriction of transactions or the termination of a business relationship is not as straightforward as in other cases. This is connected to the asset manager's fiduciary duty to act in the best interest of investors, as well as other practical and legal constraints. We would therefore suggest that additional flexibility be included in paragraph 32 to address situations that are clearly understood under the Level 1 rules. In particular, changes should be introduced to the two parts of paragraph 32, mentioned above, to underscore that while this might be the approach in many cases, exemptions are necessary for sectors such as asset management, which require alternative measures than termination.

Question 3a:
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? Please provide the estimated percentage increase or reduction in annual compliance costs:

- **Increase of compliance costs and operational processes – Below 25%**
- Reduction of compliance costs and operational processes
- No effect

Please explain the basis for your assessment, including the methodology used and any supporting evidence:

As an industry association and not an obliged entity, DUFAS is unable to provide an exact assessment of the cost increase. The assessment provided is based on professional judgment made by our members. The increase is particularly driven by the expansion of the customer documents, data or information to be obtained as part of the customer due diligence process (especially for beneficial owners) and which are required to be kept up to date; the requirement to build an extensive risk assessment framework around the

re-collection of expired identity documents, passports or equivalent. It is furthermore driven by the lack of clarity in the guidelines and the challenges raised in our answers to questions 1 and 2.

Question 3b:

Please rate the expected impact (very positive; positive; neutral; negative; very negative) on the following operational processes:

	Very positive	Positive	Neutral	Negative	Very negative
periodic customer information review including document re-collection	☐	☐	☐	☒	☐
event-driven reviews;	☐	☐	☒	☐	☐
implications for staff;	☐	☐	☒	☐	☐
other (please specify)	☐	☐	☒	☐	☐

Question 4:

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

Paragraph 34(c):

Together with EFAMA we support the objective of ensuring that monitoring is informed by a comprehensive understanding of customer activity, yet flag that the requirement that monitoring frameworks should cover "all products and services" may be challenging to implement in the asset management sector. Asset management companies frequently offer a diverse range of products, including both public and private asset strategies, which are characterised by different investor profiles, transaction patterns, and risk indicators. Furthermore, transaction monitoring activities are often performed by multiple delegated service providers, such as transfer agents which may be different companies depending on the product's (fund's) specificities, resulting in customer and transactional data being held across different systems and entities. In this context, a literal interpretation of the requirement could imply extensive data aggregation obligations that may not be proportionate to the ML/TF risks involved. We therefore suggest clarifying that obliged entities should consider all relevant products and services to the extent necessary and proportionate to their business model, customer relationships, and risk exposure, taking into account the use of outsourcing arrangements. We also understand that the reference to "all products and services" is limited to those provided by the particular obliged entity, and not by its broader group.

Paragraphs 35-36:

Together with EFAMA, we appreciate the recognition in paragraphs 35-36 that some obliged entities have structurally limited access to data on transactions and activity and that this should be reflected in their monitoring frameworks. This would often be the case for obliged entities from the asset management industry. Therefore, we believe that alternative measures should not only be aligned with the entity's business-wide risk assessment, but also its business model and actual ability to obtain relevant information, as well as the volume, frequency and complexity of transactions. We would therefore suggest clarifying paragraph 35 accordingly, including by introducing the following sentence: "Where obliged entities have limited visibility of underlying transactions due to the structure of the business model, reliance on customer due diligence reviews, investor activity reviews, ownership reviews, source of funds assessments and event-

driven monitoring may constitute sufficient ongoing monitoring, where supported by the business-wide risk assessment.".

Paragraphs 34(e), 37, 38:
Guideline 2 on transaction and activity monitoring refers on a few occasions to "intermediaries", however without further specifying this term. Together with EFAMA, DUFAS understands the horizontal nature of the guidelines, but note that more clarity in this context would be necessary to avoid disproportionate outcomes for the asset management sector. As already explained in previous EFAMA responses on the draft RTS on CDD, intermediaries that are regulated entities (e.g., banks, investment firms, brokers, or independent financial advisors) are heavily involved in the distribution of investment funds both in the EU and in third countries. Those intermediaries, who are themselves obliged entities, do not act on behalf of the asset manager but rather in their own name and on behalf of or for the benefit of their clients. In many cases, they are prevented from sharing information about their underlying customers with investment funds. As such, we believe that paragraph 37 should not apply to those types of relationships, in particular as it requires "access to the data, information, and documents necessary to perform ongoing monitoring", which won't be possible for asset managers. As EFAMA has explained in its response to the AMLA consultation on the Draft RTS on CDD – and Article 17 specifically – the expectation that intermediaries will share information on their underlying customers with asset managers would have a significant negative impact on the industry, limiting the distribution of EU investment funds both locally and in third countries, to the detriment of investors and the EU real economy.

While paragraph 38 is more aligned with the specifics of the asset management industry, it would only apply to instances where such an intermediary would be considered the fund's customer, which is not always the case. Moreover, together with EFAMA, DUFAS does not believe that the characteristics of its client base should be regarded an additional risk factor, as the intermediary's risk assessment should focus on its controls and mitigating measures. Paragraph 38 also refers to information on the nature of the transaction or activity flows, which regulated financial intermediaries won't be able to share either. This is due to professional secrecy obligations, as well as the design of their transaction monitoring systems, which will not allow for selective extraction of transaction data associated with a particular investment fund.

Together with EFAMA, DUFAS believes that transaction and activity monitoring should consider the specific distribution structure and the level of ML/TF risk associated with the relationship, which in the cases where the intermediary is a regulated financial institution, would be highly mitigated. Above all, the Guidelines should refrain from requiring access to data, information, and documents that the intermediary may be unable to share. DUFAS supports the concrete suggestions offered by EFAMA in its consultation response.

Paragraph 39:
Paragraph 39 refers to "non-bank financial institutions" as an indicator of more complex products, services or business models. We agree with EFAMA that this is a very broad, ill-defined term that encompasses any financial institution not subject to banking regulation. Among others, it would cover asset managers and investment funds, which are highly regulated financial institutions under EU and national laws. Particularly in the case of UCITS funds, which are simple and widely accessible products, this would lead to disproportionate outcomes. More generally, together with EFAMA, DUFAS believes that the examples of complex products put forward would not always be true. This classification depends on additional factors beyond the type of product, and an in-depth analysis is necessary, as indicated in the paragraph. We would therefore refrain from putting forward the proposed examples. DUFAS supports the concrete suggestions offered by EFAMA in its consultation response.

Paragraph 46:
The guidelines recognise that manual monitoring may be appropriate for entities with lower transaction volumes and less complex business models. However, supervisory expectations may still evolve towards larger institution standards. A more explicit acknowledgement that manual controls can be fully sufficient,

where supported by a documented risk assessment, would improve proportionality for smaller firms and newly captured AMLR sectors. Together with EFAMA, we would propose the following sentence to be added to paragraph 46: "Where the nature, scale and complexity of the business do not justify automated monitoring, manual controls and periodic risk-based reviews should be regarded as equally valid approaches, provided they are capable of identifying and escalating relevant ML/TF risks.".

Paragraphs 64-65:
Paragraphs 64-65 rightfully recognise that, in the case of some obliged entities and business relationships, the application of pre-transaction, pre-activity, or real-time monitoring would not be possible. This would be particularly relevant to the asset management industry, where the ability to implement such monitoring is highly limited. At the same time, together with EFAMA, DUFASW would suggest further clarification of the proposed provisions so that obliged entities in that particular situation are aware of the expectations placed on them. Particularly paragraph 64, which refers to controls that should be applied "prior to (…) the carrying out of an activity", raises questions as to what instances are referred to here. Additionally, the expectations regarding those entities, established under paragraph 65, require further changes. Given that these entities are not able to apply pre-transaction and pre-activity monitoring, it is questionable that they would be able to apply CDD measures before entering into a transaction or providing a service. Instead, they should be obliged to take action only once they become aware of any activity taking place. Therefore, we would propose the notion of "carrying out of an activity" to be further clarified and support the concrete suggestion offered by EFAMA in its consultation response.

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?

Together with EFAMA, DUFAS considers that the provisions on the use of automated and advanced analytical tools are broadly technology neutral, proportionate, and flexible. Clarifications are, however, beneficial to ensure that innovation is not inadvertently constrained and that obliged entities are able to take advantage of emerging analytical tools.

The draft guidelines rightfully acknowledge that (i) the use of advanced analytical tools is not mandatory; (ii) effectiveness should be assessed based on outcomes rather than technology deployed; (iii) manual, semi-automated and automated approaches may all be appropriate depending on risk, scale and complexity; and (iv) safeguards should be proportionate to the role and impact of the tool within the monitoring framework. We believe, however, that several provisions could be interpreted conservatively by supervisors or obliged entities. DUFAS refers to EFAMA's proposed suggestions to paragraphs 78, 90 and 95 offered in its consultation response.

Question 6a:
What impact would the design and implementation of the transaction and activity monitoring framework described in Guideline 2 have on your compliance costs?

- **Increase of compliance costs and operational processes – Below 25%**
- Reduction of compliance costs and operational processes
- No effect

Please explain the basis for your assessment, including the methodology used and any supporting evidence:

As an industry association and not an obliged entity, DUFAS is unable to provide an exact assessment of the cost increase. The assessment provided is based on professional judgment made by our members. The

increase is particularly driven by the lack of clarity in the guidelines and the challenges raised in our answers to questions 4 and 5, particularly the issue identified in relation to paragraphs 37-38.

Question 6b:

Please rate the expected impact (very positive; positive; neutral; negative; very negative) on the following operational processes:

	Very positive	Positive	Neutral	Negative	Very negative
processes and controls;	☐	☐	☐	☒	☐
implications for staff;	☐	☐	☒	☐	☐
other (please specify)	☐	☐	☒	☐	☐

Question 7:

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

Paragraphs 1, 2, 4, 58, 59:

Together with EFAMA, DUFAS believes the notion of "ongoing monitoring" could be improved to better reflect not only proportionality but also the risk-based approach. The currently proposed wording, and especially paragraphs 58-59, could be interpreted as requiring obliged entities to reassess and revalidate customer information on an ongoing basis and whenever new information becomes available. This would happen irrespective of materiality, and the level of ML/TF risk the business relationship at hand represents. In our opinion, such an approach would be disproportionate and not in line with Article 26 AMLR. Therefore, the wording of the Guidelines should be improved to clarify that the aim of "ongoing monitoring" is not to require a continuous re-performance and re-validation of the full CDD information and measures. When monitoring identifies a specific change, alert, or risk indicator, obliged entities should be able to assess the ML/TF significance of that event and take proportionate follow-up action, rather than performing a full analysis and reassessment each time.

Paragraphs 16-18:

DUFAS deems it important that the requirements in relation to the re-collection of expired passports, ID documents and equivalent become more proportionate (paragraphs 16-18). The current proposal requires obliged entities to develop an extensive risk-based approach to determine whether expired passports, identity documents or equivalent are required to be re-obtained, and whether this should be treated as an event trigger or be done during a periodic review. This is a lot of work for obliged entities and may even require more work than re-collecting expired documents by default. This is not desirable. As (natural) person's identities do not change with the issuance of a new passport, ID or equivalent, the re-collection of passports, IDs or equivalent should only be done when risk relevant – meaning that absent any other red flags risk relevant to the identity of the customer, person(s) purporting to act on behalf of the customer, or beneficial owner(s) (incl. senior managing officials), no re-collection of expired documents, passports or equivalent is expected for low- and standard risk-customers. In cases of red flags (e.g. adverse media, doubts about the previously verified identity) and for high-risk customers, the proposed risk assessment framework can be applied to decide the course of action in individual cases. We would welcome a revision of paragraphs 16-18 to this effect to enable a true risk-based approach and to minimise the burden on customers as well.

DUFAS: Dutch Fund and Asset Management Association
Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers who invest Dutch pension and insurance assets to smaller, specialist asset managers. DUFAS increases awareness of the social relevance of investing, helps to develop sector standards and represents the sector in the implementation of new laws and regulations. In addition, DUFAS is committed to a single European market with equal regulations.

More information
Would you like to respond, or should you have any questions? We would be pleased to hear from you. Please feel welcome to e-mail Melissa van den Broek, interim Manager Regulatory Affairs AML & Sanctions, at mvdb@dufas.nl.