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## Issues for Effectiveness and International Coherence Concerning the Financial Crime Reform Efforts of the European Union

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### Executive Summary:

*Financial crime is both a contributor to societal harm and a threat to financial stability, financial inclusion, and national/international security. In order to better address this problem, greater emphasis needs to be placed on bolstering the efforts of law enforcement with the help of the private sector and ensuring the legal and regulatory framework and financial crime risk management toolkit are enhanced to enable stakeholders to achieve better outcomes. With numerous financial crime compliance reform initiatives underway around the globe, there is fresh opportunity to examine how changes across key priorities can help tackle internationally related issues.*

*As the public institutions and authorities of the European Union (“EU”) continue their own work designing and implementing financial crime reform through deliberations concerning the package of legislative proposals put forward by the European Commission (the “Commission”)<sup>1</sup>, this white paper outlines areas for consideration on how those efforts can achieve a more effective EU framework. Since addressing illicit financial flows is well recognized as a global problem, this paper specifically considers issues where international coherence with global standards should be prioritized and how addressing gaps in the financial crime rulebook can help catalyze further effectiveness across the EU and enable improved cooperation with third countries.*

### Background:

The Institute of International Finance (“IIF”) has long engaged at the global level and with countries around the world on key elements of financial crime risk management reform. As part of those efforts, the IIF very much supports the objectives of the EU in its efforts to prevent of the misuse of the financial system for the purposes of criminal activity. In particular, we welcome the Commission’s legislative proposals concerning anti-money laundering and countering the financing of terrorism (“AML/CFT”) (the “proposals”)<sup>2</sup> as a sound basis for the wider discussions on reform in this area amongst the EU institutions and authorities, alongside work underway at the Financial Action Task Force (“FATF”) and across jurisdictions globally.

The Commission’s previous communications on this subject point to significant gaps in the effectiveness of the EU AML/CFT regime.<sup>3</sup> As such, we very much agree that there is an urgent need to ensure all relevant authorities effectively

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<sup>1</sup> European Commission, *Anti-money laundering and countering the financing of terrorism legislative package*, July 2021: [https://ec.europa.eu/info/publications/210720-anti-money-laundering-countering-financing-terrorism\\_en](https://ec.europa.eu/info/publications/210720-anti-money-laundering-countering-financing-terrorism_en)

<sup>2</sup> IBID

<sup>3</sup> *Inter alia*, European Commission, *Communication: Towards a better implementation of the EU's anti-money laundering and countering the financing of terrorism framework*, July 2019 and European Commission, *Action plan for a comprehensive Union policy on preventing money laundering and the financing of terrorism*, May 2020.

and consistently address the risks arising from money laundering and terrorist financing and that the harmonization of the EU rulebook for AML/CFT is of paramount importance. This work, coupled with wider endeavors on a more coordinated framework for implementation and oversight of measures used in combating new and existing threats to financial integrity, are timely and imperative.<sup>4</sup>

The IIF has appreciated the opportunity to provide its iterative feedback on these issues to the EU and to the public sector worldwide where there is engagement on similar efforts at reform.<sup>5</sup> In order to assist with the finalization of this new European framework through the deliberations of the Commission, the European Parliament (“the Parliament”) and the Council of the European Union (“the Council”) (and, collectively, the “EU Institutions”), we are pleased to offer the following observations and recommendations, particularly as they relate to the international aspects of the restructuring.

Specifically, we encourage the EU Institutions to prioritize a directional shift in how to address illicit financial flows. This includes moving away from a purely technical or “tick the box” approach concerning compliance, to one guided by enablers of a better system. **These enablers continue to include 1. operational information exchange and public/private cooperation, 2. the application of the risk-based approach, risk prioritization, and harmonization of standards, 3. the utilization of technology, and 4. enhanced international cooperation.**

We believe a clear focus on these issues - coupled with a **truly coherent AML/CFT single rulebook and work on addressing the scope and role of supervisory oversight** through an effective and risk-based EU financial crime authority, in line with the FATF Recommendations<sup>6</sup> – would benefit the EU’s AML/CFT framework along with the broader international efforts to combat illicit use of the global financial system.<sup>7</sup>

#### Key Messages:

- 1. Information sharing:** It is well recognized that proper management of risk in AML/CFT efforts can be improved by permitting and encouraging the more effective sharing of financial crime information, both domestically and internationally. Without adequate and timely insights by financial institutions, law enforcement, and intelligence agencies into the funding of illicit activities, efforts to stop criminals, terrorists, and rogue states from inflicting further damage globally will be increasingly inhibited in light of the growing sophistication of criminal schemes. As such, the following issues should be considered as the proposals are finalized in law:

**a. sharing information within/between financial institutions and across borders:** The proposals reflect upon the issue of information sharing to an extent through updates to beneficial ownership transparency standards<sup>8</sup>, reporting obligations<sup>9</sup>, supervision and cooperation<sup>10</sup> and – in certain areas – undertakings concerning data protection obligations<sup>11</sup>. The proposals also make the positive step of recognizing group-wide policies, controls and procedures for financial institutions should also include gateways for sharing information within the financial institution group for AML/CFT purposes.<sup>12</sup>

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<sup>4</sup> We note that the positions outlined in this paper are primarily directed at the proposal for a Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (“Regulation”), the proposal for a Directive on the mechanisms to be put in place by the member states for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (“Directive”), and the proposal for a Regulation establishing a new AML/CFT authority and how those issues will be finalized into law through the deliberations of the EU Co-Legislators.

<sup>5</sup> Please see, *inter alia*: IIF, RE: *COMMUNICATION FROM THE COMMISSION on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing*, August 2020 and IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021.

<sup>6</sup> FATF, FATF, *The FATF Recommendations*, Updated March 2022.

<sup>7</sup> We note that these issues of reform are generally homogeneous in many ways across the world, and many are also being considered at the same time by other jurisdictions: Please see: IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021 for a comprehensive overview of global efforts at reform: [https://www.iif.com/Portals/0/Files/content/Regulatory/11\\_15\\_2021\\_fin\\_crime\\_deloitte\\_iif.pdf](https://www.iif.com/Portals/0/Files/content/Regulatory/11_15_2021_fin_crime_deloitte_iif.pdf)

<sup>8</sup> Regulation Art. 42-49

<sup>9</sup> Regulation Art. 50-54

<sup>10</sup> Directive Art. 45-52 and Art. 29-37

<sup>11</sup> Regulation, Art. 55-57

<sup>12</sup> Regulation Article 13.1

However, a fulsome approach to this issue is lacking in the proposals and group-wide information sharing policies could still be impeded by the legal basis of data protection policy. In addition, the critical issue of sharing information on financial crime matters between financial institutions remains absent.<sup>13</sup> We strongly believe updates to the framework via a regulation should adopt further provisions which allow for the sharing of critical financial crime data and should also address issues whereby such information can be adequately shared outside the Union and vice versa, when relevant to financial crime detection and prevention.

We emphasize at the outset when discussing this issue that data protection and data privacy remain critical when dealing with the concept of sharing information. Whilst the protection of customer/personal data and the right to privacy are of unquestioned importance, the upholding of such principles with adequate safeguards is not mutually exclusive with exchanging information on illicit financial activity where necessary to limit its furtherance.

The FATF recognized this point in February 2018, when it adopted revisions to FATF Recommendation 2 on national cooperation and coordination. The amendments expanded the Recommendation to include information sharing between competent authorities, and emphasized that cooperation should include coordination with the relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy (“DPP”), secrecy rules and other similar provisions (e.g., data security/localization).<sup>14</sup> The purpose of the change was to help improve the compatibility, coordination and cooperation of AML/CFT and DPP rules in order to assist in facilitating exchanges of pertinent data.<sup>15</sup>

As such, further consideration should be given on to how to ensure there is a mechanism for dialogue in place between AML/CFT supervisory authorities (and where applicable, prudential authorities<sup>16</sup>) and the relevant data protection and privacy authorities across the Union. This will help ensure that information important to an incident of financial crime under consideration by authorities can be fully examined by those with a legitimate interest in the matters at hand. This mechanism should be mandated at member state level including reconciliation with local data protection and privacy rules and also coordinated centrally for the Union in relation to the role of the European Data Protection Board (“EDPB”) and the European Data Protection Supervisor (“EDPS”).

Central coordination on this would also benefit from a wider degree of assurance in relation to the interpretation of the General Data Protection Regulation (“GDPR”) in the context of AML/CFT. This will help address a balance between legal gateways on sharing information which should be considered in a Regulation (as noted above) and adequate protections for customer privacy.<sup>17</sup>

**b. public/private cooperation:** We note that a legal basis for the exchange of data between financial institutions, competent authorities and law enforcement is also absent from the proposals. The lack of such an initiative may prove detrimental to the formation and effectiveness of Public-Private Partnerships (“PPP”) across the EU and with third countries.

The PPP is a collaboration between financial institutions, law enforcement, policy makers and the regulatory community to tackle financial crime. They have increasingly become a critical and growing component in global financial crime frameworks. Not only are PPPs an important first step in the ability to deliver

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<sup>13</sup> Although mentioned in Recital 84, information sharing between obliged entities is not addressed in the Single Rulebook Regulation.

<sup>14</sup> FATF, *Outcomes FATF Plenary, 21-23 February 2018*

<sup>15</sup> Please see: IIF, *Economic and Financial Crime Risk and the Sharing of Intelligence: Updating and Enabling International and Domestic Cooperation in Combatting Illicit Financial Flows*, October 2020 for further information on issues concerning implementation of FATF Recommendation 2: <https://www.iif.com/Publications/ID/4125/IIF-Staff-Paper-on-Financial-Crime-Intelligence-Sharing>

<sup>16</sup> Please see: Basel Committee on Banking Supervision, *Sound management of risks related to money laundering and financing of terrorism: revisions to supervisory cooperation*, July 2020 and IIF, *Re: Introduction of guidelines on interaction and cooperation between prudential and AML/CFT supervision*, February 2020.

<sup>17</sup> Specifically, a determination of AML/CFT information being regarded as of “public interest” or of “important public interest ground” within the meaning of GDPR (Articles 6.1.e and 49.1.d.5) would assist in an EU-wide approach to this matter, avoiding fragmentation of interpretation across member states.

operational benefits and efficiency gains, but they can also provide a framework to build the relationships and dialogue between stakeholders to help coordinate and catalyze coherent reform of the wider AML/CFT system.<sup>18</sup>

We understand that this issue will be addressed to an extent through guidance from the European Commission in response to their consultation on EU rules for PPPs<sup>19</sup>; however, there is significant opportunity to go further than guidance alone by providing the legal underpinning for this type of exchange through the finalization of the proposals. At a minimum, enhanced legal gateways on information exchange for national Financial Intelligence Units (“FIU”), financial institutions, and law enforcement should improve the exchange of *both* strategic (typologies and geographic indicators, for example) and tactical (underlying case data) information, while at the same time prioritizing coordination with third countries in this area.

Creating a firm legal gateway for the public/private exchange of information would benefit domestic PPPs alongside the Europol Financial Intelligence Public Private Partnership (“EFIPPP”).<sup>20</sup> EFIPPP is the first truly multilateral PPP and is meant to provide an effective, operationally focused environment for cooperation and information exchange between Europol, law enforcement authorities, FIUs and other competent authorities, as well as regulated financial services entities, under applicable law. It seeks to improve vertical and horizontal communication and to play a role as a strategic preventive arm of the AML/CFT regime across the globe.

Though EFIPPP has been very successful in bringing together diverse international stakeholders in dialogue on sharing strategic level information, it has been prevented from effective sharing on tactical data. A stronger focus in the finalization of the proposals on ensuring such data exchange can occur between EFIPPP members – both public and private – would help address operational challenges in tackling cross-border financial crime.

**c. suspicious activity reporting reform:** We believe there is an inherent need for the public sector to develop better lines of communication with the private sector, whereby the private sector receives regular feedback on information shared via FIUs and related law enforcement bodies, alleviating ambiguity in regard to objectives and processes that will help enhance the effectiveness of outcomes for both sides. The relevant FIU should also be adequately resourced to meet the demands they are expected to cover.

As recognized by the Commission, there is currently too much of a one-way-street between financial institutions and FIUs. After SARs are filed, there is generally no feedback by the FIU or other government entity. While we are cognizant of the sensitivities around investigations of potential money laundering cases by the FIU and the risk of potential tipping-off, if an FIU more proactively and specifically highlights which typologies of ML/TF issues it prioritizes within a given timespan and indicates whether the SAR has added value, the industry will be able to prioritize its efforts on filing more meaningful SARs and investigative time for the financial institution and FIU could be rededicated to high priority cases.

We are therefore grateful that the proposals include requirements that member states ensure that FIUs provide financial institutions with feedback on the submitted SARs at least once per year<sup>21</sup> However, providing feedback at such a lengthy interval may diminish the overall effectiveness of the requirement.

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<sup>18</sup> Please see IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021 for examples of PPPs being developed across the EU and around the world.

<sup>19</sup> European Commission, *Preventing money laundering and terrorist financing – EU rules on public-private partnerships (PPPs)*, July 2021 and IIF, RE: Consultation on European Union Rules on Public/Private Partnerships, November 2021: <https://www.iif.com/Publications/ID/4674/IIF-Responds-to-the-European-Commission-Consultation-on-Public-Private-Partnerships>

<sup>20</sup> The concept of EFIPPP was originally formed in October 2017 at a High-Level Forum of the Law Enforcement, Regulatory and Banking Sectors convened by Europol and the IIF.

<sup>21</sup> Regulation Article 21(2)

Information received from FIUs can be used to enhance existing controls at financial institutions in order to embed a more targeted, proactive approach; however, it should be clear in the final standards that such information should be timely, consistent, and legally based in order to maximize value and should also leverage the work of PPPs across the Union.

**c. beneficial ownership reporting and transparency:** Identifying the true beneficial owner or individual exercising control in a business relationship is critical for both the public and the private sector in the fight against international financial crime and entree to current, reliable, verified, and accessible beneficial ownership information remains a global priority. This issue has been magnified recently by the role opaque beneficial ownership regimes can play in disrupting international sanctions in relation to the Russian invasion of Ukraine.

We are therefore grateful that the proposals include the concept of a Commission Implementing Act on the format for the submission of beneficial ownership registers.<sup>22</sup> Standards such as this will help make such registers more transparent and more effective. Further provisions which require legal entities holding information on beneficial ownership to provide the data to financial institutions when undertaking customer due diligence measures is also a step forward.<sup>23</sup> However, we believe there is opportunity to further strengthen the beneficial ownership regime for Union through greater harmonization, interoperability (both across the EU and with third countries) *and* enhancements to standards on collection and access to data.<sup>24</sup>

Specifically, the finalization of the proposals should place increased emphasis on requiring the legal entities *themselves* to be more forthcoming in a verifiable, public way to satisfy Customer Due Diligence (“CDD”) requirements. Independent and reliable registries should be encouraged, actively policed, backed by governments as a reliable source of due diligence information and appropriate sanctions should be determined for legal entities that provide incomplete or false data. Access to the data should first and foremost be available to those with who have a legitimate purpose for needing this information, such as FIUs, regulatory bodies, law enforcement and financial institutions.

Governments should also stand by the contextual reference data they provide, ensuring it is a source upon which the regulated sector can rely both practically and legally. This approach is more likely to support consistency of information available to both financial institutions and government authorities, as well as help contain compliance costs that are factored into the commercial decisions that impact financial inclusion.

Lastly, alignment with standards at the FATF<sup>25</sup> which can help allow for interoperability globally in terms of access to beneficial ownership information ultimately kept in registers should be prioritized. Inconsistencies in national or regional approaches to beneficial ownership information reporting and access create significant barriers to effectiveness and impede the value and potential of information sharing for the purposes of detecting and preventing financial crime.<sup>26</sup>

- 2. The risk-based approach, risk prioritization, and harmonization:** It is becoming increasingly well recognized that moving from technical compliance to a more risk-based, intelligence-led, framework for financial crime matters is a key component of effectiveness in AML/CFT. The proposals, however, still generally follow a

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<sup>22</sup> Regulation, Art. 10-16

<sup>23</sup> Regulation, Art. 45

<sup>24</sup> In addition to current work on beneficial ownership transparency standards, this could be expanded to also include further work on developing an EU Know Your Customer (“KYC”) registry for legal entities for the storage and verification of KYC documents to allow financial institutions access and use this information upon authorization of the affected customer. For further information on such data utilities please see: IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021.

<sup>25</sup> We note that FATF R.24 and its interpretive note were recently updated by the FATF: FATF, *Outcomes FATF Plenary*, 2-4 March 2022: <https://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-march-2022.html>

<sup>26</sup> For further information, please see: IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021.

rules-based system which is too prescriptive when adjudicating risk-based measures. A greater balance between the urgent need for further harmonization of enforced standards across member states and the application of the risk-based approach as set out by the FATF is, in our view, needed as the proposals are finalized in law. Otherwise, higher risk jurisdictions may be under-protected, and lower risk jurisdictions overburdened by the legal requirements.

We emphasize that greater harmonization of EU standards (and addressing regulatory fragmentation) is not mutually exclusive with consideration of greater alignment of the regulation with the risk-based approach through EU-wide risk-based principles, which themselves could be based on harmonized standards applied to the particular risks of the subject business. Indeed, international and Union level harmonization of standards in line with the FATF Recommendations will benefit cross-border efforts to tackle criminal activity in the global financial system.<sup>27</sup> The EU should also ensure FATF standards and guidance are made directly applicable in the EU to avoid issues of interpretation and consistency.<sup>28</sup>

A key component of this shift is the development of prioritization in risk. In jurisdictions with more mature financial crime frameworks, there is a growing consensus that establishing priorities - which are the money laundering and terrorist financing risks that a country or bloc is exposed to - will help shift the primary focus for AML/CFT programs from maintaining technical compliance to a more risk-based, outcomes-oriented approach. As the EU reforms progress, considerations such as these should naturally follow, and such a shift should be supported at the international level, including through the FATF.

There is also a need to ensure supervisors examine financial institutions by using a risk-based approach focused on law enforcement priorities rather than solely on technical requirements. Strengthening the feedback loop and information sharing on the priorities, including both what is of higher priority and what is of lower priority, between the private sector and law enforcement, needs to continue to be a focus of EU reform efforts. This prioritization also needs to be harmonized between law enforcement and prudential regulators charged with examining financial institution compliance and there needs to be an adjustment of risk assessment processes to concentrate more on threats associated with the higher priorities.

Lastly, there is a need to develop a shared understanding with the public sector on how AML/CFT programs will be evaluated based on the priorities and there should be a way to provide a platform to pilot, evaluate and refine the implementation of priorities into AML/CFT programs. Taken together, these efforts will assist in ensuring risk prioritization can lead to a modernized and more effective Union wide AML/CFT system and these issues should be addressed by the EU Institutions when finalizing the legislative reforms.

### 3. The use of technology to improve AML/CFT efforts

An issue that is not as well considered in the proposals as it could be relates to the use of new technologies to enhance the efficacy of financial crime risk management. From machine learning and data analytics to digital identity, it is clear that the potential to change the day-to-day approach to these matters is significant.<sup>29</sup> We believe it would be a missed opportunity for the EU Institutions not to fully incorporate it as part of the work on AML/CFT reform.

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<sup>27</sup> For further information, please see: IIF, *Response to EBA Consultation on Revised Guidelines on Money Laundering/Terrorist Finance Risk Factors*, July 2020: <https://www.iif.com/Publications/ID/3989/IIF-Comments-on-EBA-MLTF-Risk-Factor-Guidelines>.

<sup>28</sup> For further information on the role of FATF, please see section 4 of this paper and section 5 of this paper for the role of the AMLA.

<sup>29</sup> Please also see: IIF/Deloitte, *The Effectiveness of Financial Crime Risk Management Reform and Next Steps On a Global Basis*, November 2021.

Specifically, further work and leadership at the EU level to foster new technologies and review regulatory impediments to innovation is needed. The final EU framework should adopt processes that encourage innovation in financial regulatory technology in order to assist in compliance with AML/CFT regulations. The regulatory environment must keep pace with technological change; this will help move from the current structure of AML/CFT compliance to a more dynamic intelligence-led financial crime risk management model. To do so, a focus on some of the key areas we outline in this paper – including enhanced information sharing and regulatory coherence – will be critical.

In addition, there should be promotion of regulatory responses that are clear, actionable, and consistent across member states. In the United States, for example, the Financial Crimes Enforcement Network (“FinCEN”) and its regulatory partners have issued a joint statement to encourage financial institutions to take innovative approaches to combating money laundering, terrorist financing, and other illicit financial threats.<sup>30</sup> This recognizes that private sector innovation, including new ways of using existing tools or adopting new technologies, can help banks identify and report illegal financial activity by enhancing the effectiveness and efficiency of compliance programs. Such an approach should be considered at an EU-wide level in coordination with member states (and third countries where possible) and must be followed up with effective guidance on which financial institutions can rely.<sup>31</sup>

#### 4. International cooperation and coordination

Inconsistencies in the application of AML/CFT measures and broader anti-financial crime matters across jurisdictions continues to impede the prevention and mitigation of illicit financial flows and this impacts reforms across all areas referenced in this paper. Regulators, supervisors, and law enforcement should be able to trust the fact that rules, along with penalties for non-compliance, are generally congruous domestically and internationally. This would make it harder for criminals to engage in regulatory arbitrage, exploiting gaps in financial crime protections in one jurisdiction, and would thus eliminate one of the incentives criminals have to channel their operations through jurisdictions they know are less resilient than others.

The work in the proposals on harmonization of rules across the Union for AML/CFT and efforts to reflect a supervisory and enforcement landscape which allows for greater consistency in hierarchical powers for oversight/enforcement is imperative. Likewise, the greater coordination between member state regulatory and supervisory bodies and FIUs to avoid unnecessary layering and duplication should be prioritized in the finalization of the proposals in law. These issues are further discussed in Section 5 of this paper in relation to the scope and role of supervisory oversight. However, at the same time, there is ample opportunity to bring about greater *global* consistency in financial crime risk management standards through EU and member state leadership.

This begins first and foremost at the FATF, where we believe the EU and member states should continue to take an active role in developing common, high standards which are consistently and coherently implemented in an effective manner across the globe. Coordination between member states and the Commission at the FATF can help advance areas of reform being considered (or which should be considered) in the context of the proposals. Specifically, where the issues outlined herein in relation to PPPs, information sharing, beneficial ownership transparency, SARs reform and expanding the use of technology have not been addressed at the FATF, the EU collectively should help lead in FATF efforts at reform in order bring about better standards which are internationally consistent.

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<sup>30</sup> Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, Office of the Comptroller of the Currency, *Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing*, December 2018.

<sup>31</sup> We note the work undertaken already by the European Banking Authority (“EBA”) on guidelines for remote customer onboarding and the work of the European Commission on Digital Identity, both areas where greater Union level leadership and coordination on innovation is indeed beneficial.

There also needs to be greater bilateral and multilateral cooperation globally focused on delivering specific areas of consistent reform across jurisdictions in an expedited fashion. As such, alongside efforts at global fora like the FATF, the EU should enhance cross-border dialogue with third countries on areas of mutual concern and examine ways to deliver broadly similar outcomes through methods such as equivalence or mutual recognition determinations, memorandums of understanding (MOU) or enhanced mechanisms of international regulatory and supervisory cooperation with third countries.

For example, dialogues currently exist in the area of financial services more broadly across countries with the EU. These should be leveraged to focus on specific issues where areas of cooperation could be maximized, such as methods of exchanging financial crime information and coordinating interoperability of beneficial ownership registries. Though the limitations arising from different legal, regulatory, or supervisory regimes are recognized, where comity can be advanced it should be considered a priority of international dialogue as this can help address the speed at which effective reforms can be undertaken. We believe the EU Institutions have a valuable opportunity to collectively address the role of greater international and third country connectivity as the proposals are finalized.

## 5. The scope and role of supervisory oversight

In alignment with the discussion in this paper on international cooperation, harmonization of rules, and a focus on a risk-based single rulebook, we agree with the establishment of common EU-level supervision to ensure that the rules are consistent, and the single rulebook is properly enforced across the EU. The new EU AML authority (“AMLA”)<sup>32</sup> should also promote convergence of supervisory practices – including such issues as the harmonization of transaction monitoring practices - and high supervisory standards across the EU and beyond the pool of entities under direct supervision, assisting national supervisors in the development and implementation of the financial crime risk management framework.

The regulation for the AMLA should be clear on its supervisory scope, especially in comparison with prudential supervisors and with whom the AMLA should align to avoid conflicting communication or duplicative requirements. The AMLA should not be an additional layer to national authorities but there should be a clear allocation of roles and responsibilities to guarantee that the new AMLA becomes a centerpiece of an effective and integrated AML supervisory system consisting of the central authority itself and the national authorities with an AML supervisory mandate.

The methodology for deciding on which selected obliged entities should be supervised directly at EU level should be clear and predictable, with a streamlined selection process based on harmonized criteria. In order to allow selected obliged entities to review their processes and governance, a twelve months’ notice (like for the establishment of the Single Supervisory Mechanism) should be considered and stability over time would be welcomed to avoid ‘cliff-edge effects’.

Finally, on top of the existing powers, which we think are fit for purpose, consideration should be given to empowering the AMLA to implement the FATF recommendations and guidance directly, through regulatory standards. In doing so, it would establish a “dynamic rulebook” which is key to keeping the EU legislative framework aligned with international developments and ensuring European economic operators are not put at a competitive disadvantage because of an un-level playing field. It could also contribute to Europe’s competitiveness in making Europe a safe place to do business based on global norms and standards.

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<sup>32</sup> European Commission, *Proposal for a Regulation Establishing a new AML/CFT Authority*, 2021.