

Call for input on ‘de-risking’ and its impact on access to financial services

The call for input on “de-risking” forms part of the EBA’s work to lead, coordinate and monitor the EU financial sector’s AML/CFT efforts. Its objective is primarily to understand why financial institutions choose to de-risk instead of managing the risks associated with certain sectors or customers. This call for input is of interest to stakeholders across the financial sector and its users, as the EBA wants to hear from all groups affected by de-risking.

HIDEBACKGROUND INFORMATION FOR RESPONDENTS

Financial institutions, including credit institutions, have to put in place and maintain policies and procedures to comply with their legal obligations. These include policies and procedures to identify and manage the risks to which they are exposed, for example the risk that they may be used for money laundering and terrorist financing (ML/TF) purposes or credit risk. Where a financial institution considers that it cannot effectively manage those risks, it may decide to restrict access to or withdraw from providing a particular financial product or service, or servicing a particular customer or category of customers. This is referred to as ‘de-risking’.

The ESAs’ Joint Risk Factors Guidelines (published in 2017 and currently being revised) indicated that a risk-based approach does not require financial institutions to terminate business relationships with entire categories of customers that they associate with higher ML/TF risk, as the risk associated with individual business relationships may vary, even within one category.

The EBA has collected anecdotal evidence that across the EU:

- some respondent banks have had their Correspondent Banking Relationships (CBRs) terminated because of their risk profile. As a result, some have in turn closed customers’ accounts to mitigate these risks, while others have lost access to for e.g., dollar clearing;
- certain categories of customers or businesses that are associated with higher ML/TF risks, for e.g. NGOs or faith organisations, customers who are asylum seekers from high risk jurisdictions, or businesses operating in sectors associated with a higher incidence of corruption and other predicate offences have experienced difficulties in accessing banking services;
- some segments of the financial sector (e.g. payment institutions and electronic money institutions) have seen their access to banking facilities restricted.
- This Call for Input aims at identifying the scale of the issue and the challenges caused to a variety of interested parties as a result of de-risking at EU level. In particular, we need to understand why financial institutions choose to de-risk instead of managing the risks associated with certain sectors or customers. We also want to hear from groups affected by de-risking. Therefore, this Call for Input is of interest to stakeholders across the financial sector and its users (e.g. banks, payment institutions and electronic money institutions, NGOs, etc.).

The feedback gathered from this Call will feed into the EBA’s next Opinion on the risks of money laundering and terrorist financing affecting the Union’s financial sector that the EBA is mandated to issue under Art. 6(5) of Directive (EU) 2015/849 that will be published in Q1, 2021. It may also inform other EBA policy outputs.

Submission of responses

To submit your answers, click on the 'send your comments' button and submit your responses by 11 September 2020. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the electronic form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

Disclaimer

The questions asked in this call for input are preliminary and will not bind in any way the EBA in the future development of its legal instruments. They are aimed at eliciting discussion and gathering the stakeholders' opinions at an early stage of the process.