

## Building bridges

Belgian AML Private-Public Partnership

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Introduction: Importance of collaboration in AML matters



Public-private partnerships: Domestic Sanction Screening



Private-private partnerships: Guidelines for a risk-based analysis – NPO's



Conclusion





# 1. Introduction



## The importance of collaboration in AML matters

FATF report 2022 recommends:

→ **Relevant public sector AML/CFT decision makers to**

- Take an active role in facilitating private-private information-sharing initiatives;
- Examine the need for specific legal gateways for such information-sharing;
- Develop an AML information sharing strategy;
- Support innovation and sandbox initiatives; and
- Explore the feasibility of public sector support for a specific secure platform for private sector information sharing to take place within.

→ **Private sector stakeholders to**

- develop collaboration innovation, including through the application of privacy enhancing technologies and strengthening data interoperability
- pursue 'data-protection by design' and prevent excessive or unwarranted de-risking through collaboration.

Source: [FATF report](#)



## Future of Financial Intelligence Sharing (RUSI – March 2025)

- Between 2023 and 2024, the UK, Singapore, **the EU**, Canada and Australia **passed legislation to enable private-to-private sector** collaboration to detect economic crime risk.
- Key conclusions & challenges
  - **Almost all money laundering**, of any organised nature, **is cross-border**. However, **the legislative response** explored in this paper is still **largely domestic**.
  - Most of the **legal gateways created are voluntary** and, at present, largely inconsequential for AML supervisors.

Source – [Rusi/FFIS report](#)

## Public-Private Partnerships

### — Between

- Obligated entities and regulators, policy makers, legislators, FIU's...

### — Objectives:

- Exchange of information, typologies, trends, ... to further enhance the fight against money laundering
- striking a balance between the rules and their practical application

### — BE examples:

- ✓ BE AML Platform (CTIF, BNB, FSMA, Assuralia, Febelfin, PayBelgium, Judicial Police, Public prosecutor's office, ...)
- ✓ **Domestic Sanctions Screening contract (*Febelfin-Banks-NBB*)**

## Private-Private Partnerships

### — Between

- Obligated entities
- Financial sector & other sectors

### — Objectives:

- Exchange of information, typologies
- Legal interpretation of rules, speak with one voice, ...
- raise more awareness of the AML rules that financial institutions must follow towards non-financial sectors and to facilitate financial inclusion

### — BE examples:

- ✓ Exchange of information between BE banks in accordance with AML law
- ✓ Febelfin Working Group AML
- ✓ **Risk Based Guidelines for Non-Profit Sector (*Febelfin-Non profit sector*)**





## 2. Private-Public partnerships

# Domestic sanction screening contract (« DSS »)

*A creative alternative solution emerging from consultation between the financial sector and the NBB*



Background information



Contract – minimum standards



Key figures and impact on participating banks



Future developments

**EXAMPLE**



## DSS Contract – Background information

### — BNB Horizontal letter: application of financial sanctions regime (Counter terrorism financing) – 6/12/2016 ([link](#)) :

- Banks not only have to screen their new customers and periodically review their existing customers database against both Belgian and European sanctions lists,
- but the BNB also expects the institutions to **ex-ante screen the information available about their customers' counterparties** against the sanctions lists, and, if there is a match, to freeze the funds or economic resources of these persons or entities.
- This obligation is applicable to all - SEPA (EU) and SWIFT (global) - transactions, regardless of the fact that these transactions are being settled between accounts held at Belgian Banks (so-called “**domestic payments**”).

### — Market practice for most Belgian banks was to filter:

- their customer database against sanctions lists, including periodic review;
- their clients' counterparties against sanctions lists but this is often limited to **cross-border transactions**.
- Generally, most Belgian banks **did not screen domestic payments** (i.e transactions between accounts held at Belgian banks) **on an ex-ante basis** (i.e. before their settlement)
  - a minority of banks did screen ex-ante in line with the horizontal letter
  - Others screen from a certain threshold, or screen these transactions ex-post, ...

# DSS Contract – Background information

## — Reasons for this standstill of the implementation of the rule since 2016

- **Operational burden** of controlling all these transactions between Belgian banks on a daily basis given the huge volume
  - risks seriously disrupting the current control tools put in place to control “real” embargoes
  - may significantly slow down day-to-day banking operations which would negatively impact the speed of "instant payments" processes.
- **No IT tools available** that would make this daily national ex-ante screening possible and the development of such tools would be costly.
- **Limited risk of not being able to freeze the funds** or economic resources of these persons or entities following a BE-BE transaction, as all Belgian banks are supposed to screen all their clients at the moment of onboarding and also periodically during the client relationship.
- **Unlevel playing field in Europe:** the requirement to screen these domestic payments ex-ante is not harmonised

## — Alternative solution agreed upon between Febelfin and the NBB (May 2022)

- **Reliance-based** interbank system
- Setting (among others) **sectoral minimum standards** for client portfolio screening
- Via which the issuing bank “**outsources**” the ex-ante counterparty screening for domestic payments to the beneficiary bank.

➤ **Entry into force of the multilateral DSS contract : January 2024**

## — Type contract

- A **multilateral outsourcing contract** (of a critical or important function - cf. [EBA guidelines 2019/02](#))
- **However: pragmatic application for certain terms of outsourcing guidelines:** certain flexibility for the registration and notification of the contract

## — Liability :

- Each **Participant remains fully and solely responsible for violations of the Sanctions** relating to Applicable Law, including when this violation is directly or indirectly caused by the poor performance of this Agreement by another Participant on which it relies
- There is **no right of recourse** against other Participants for the damages or penalties they may have incurred as a result of these breaches, except in the case of fraud or willful misconduct

## — Governance

- Participant Forum, Audit rights, ...
- **CEC-UCV** as Contract Manager



## — Obligations for participating banks

### 1. Customer Screening:

- **Legal framework:** Participants agree to apply and maintain a client screening system that complies with all relevant legal requirements (and thus screen against **UN, EU and Belgian sanctions lists**).
- **Frequency :**
  - *New customers* : before entering a business relationship or before carrying out an outgoing Domestic Transaction.
  - *Existing customers* : within **1 Business Day** after changes in the database or after the entry into force of any new Assets Sanction

### 2. Processing of possible hits and reporting:

- The Participant's Customer Screening System shall be able to establish, within 3 Business Days, whether a Hit is a False Positive or a Positive Hit.
- When a Participant detects a match between a Customer and a Sanctioned Person he
  - Reports to the Treasury in accordance with applicable law
  - Ensures the implementation of asset sanction (i.e. obligation to freeze the funds),
  - Prevents the initiation of a domestic Transaction
- In the **event of an incoming transaction on an account subject to an asset freeze**, the **beneficiary bank informs the originator's bank** (hit notification).

## — Obligations for participating banks

### 3. Monitoring & Incident management:

- Definition : Incident means any event, occurrence, issue or change in conditions that:
  - results in a **Participant's inability to comply with its obligations and/or the Assets Sanctions**;
  - is not remediable within one Business Day or has not been remedied within one Business Day; and
  - affects the ability of other Participants to rely on the Participant.
- As soon as a Participant identifies an Incident, it shall without delay provide a (first) **notification** (including a description of the Incident) **to the other Participants**.
- The Participant shall use its best efforts to resolve the Incident and shall **notify** (via a second notification) **the other Participants as soon as the Incident is resolved**.
- Each Participant shall remain solely responsible, upon receipt of the (first) notification, to implement its own ***fallback solution*** in respect of Domestic Transactions to and from such other Participant until it has received the (second) notification.

# DSS Contract - Key figures and impact after one year entry into force



**21** Number of participating banks

**95%** Percentage of domestic payments covered by the contract

**3** Incidents notified

**4** Hits reported

**5** Meetings of the Participation Forum



# DSS Contract – Future developments



- **Impact Instant Payments Regulation (IPR) on DSS contract**

- IPR introduces (a.o) specific rules for sanctions screening of instant payments
- General approach and objectives are similar to these of the DSS contract (= avoid ex-ante screening), but the scope & modalities differ, a.o.

	DSS contract	IPR
<u>Scope</u>	<b>Different types of domestic transactions</b> (direct debits, payment through a payment card, credit transfers, paper cheques, ...)	<b>Instant Payments from all PSUs in the European Union</b>
<u>Customer screening timing</u>	Customer screening within <b>1 Business Day</b> after modifications to database or after entry into force of new sanctions (DSS)	Customer screening “ <b>immediately</b> ” after the entry into force and at least once every calendar day
<u>Sanctions lists</u>	BE, EU, UN	EU
<u>Incident management, reporting &amp; audit</u>	Yes	No

➤ **Next steps:**

- Modification of the contract ongoing to find correct legal application of DSS & IPR

### 3. Private-Private partnerships



# Cooperation with a wide range of sectors that may present an increased risk of money laundering

## — Banks are gatekeepers and need to detect and prevent money laundering:

- Contractual freedom vs. societal expectations
- AML obligations (risk-based approach)

## — Constructive dialogue with:

- embassies
- football clubs
- sex workers
- diamond merchants
- high-risk third countries
- ...

## — Objectives:

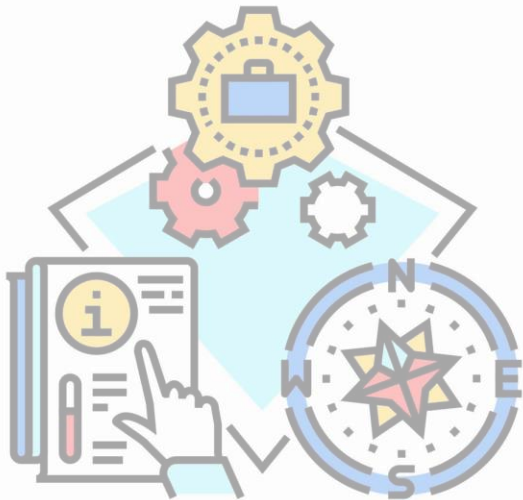
- Initiatives to raise awareness of AML rules
- Promote best practices
- Ensure financial inclusion



# Guidelines for a risk-based analysis – NPO's

*A practical guide to striking a balance between financial inclusion and proper management of the risks associated with terrorist financing and money laundering*

## GUIDELINE



Context



AML framework



Guidelines: risk factors & practical examples



Next steps

**EXAMPLE**

## — **Broad & important sector:**

- This sector brings together non-profit organizations whose common characteristic is to carry out tasks in the service of the community.
- However, the areas covered are very broad, including healthcare, social work, and the socio-cultural sector.
- Complaints from NPO sector regarding access to bank accounts increased last couple of years

## — **A balance must be struck between financial inclusion and adequate risk management**

- Banks are obliged to know their customers and conduct a sufficiently detailed risk assessment commensurate with the identified risks.
- Non-profit organizations must also be aware of banks' obligations and cooperate sufficiently by providing documents (for example on UBO's,...) , information, and evidence.

# Guidelines NPO's – AML Obligations & Practical samples

- Since **cooperation** between the financial sector and the non-profit sector is **essential**, the guidelines aim to explain the Belgian AML legislative framework.
  - Information and documentation
  - Risk factors
    - **factors indicating potentially lower risk** : regular submission of annual accounting statements, transparency on the identity of decision-making bodies, long-term relationship, ...
    - **factors indicating potentially higher risk** : complex ownership structure, lack of information on UBOs, links with high-risk sectors, links with high-risk countries, ...
  - Individual risk analysis of each client
- To make the rules more concrete for representatives of non-profit organizations, the Guidelines develop certain practical cases which illustrate the obligations of banks.
  - Example 1: A well-known international NPO with branches in a large number of countries, active worldwide in providing assistance to refugees.
  - Example 2: An individual has set up an NPO. The NPO is funded in part by contributions from the local community. Its purpose is to send medical equipment to several countries in North Africa.



## Guidelines NPO's – Status of the document

- These Guidelines aim to illustrate **good practices** and the application of **the risk based approach** for NPO's in more details
  - The Guidelines do not create any rights for either party.
  - The principle of freedom of enterprise remains applicable.
  - If a company has difficulties obtaining a bank account, it can ask the FPS Economy to designate a credit institution which will provide it with a basic banking service in line with the **basic banking service legislation**
- It provides practical examples for various scenarios, elaborating on the associated risk factors and possible mitigation measures.

## Guidelines NPO's – Next steps



- Finalisation of guidelines by Febelfin and representatives of the non-profit sector
- Approval by organisations' governance (Febelfin, ImpactCoalitie & UNISOC) and discussion with supervisor (NBB)
- Publication & communication before summer break

## 4. Conclusion

# Conclusion



- International governmental bodies **recommend private-public cooperation** in order to enhance the fight against Money Laundering
- International reports show **significant progress on legislative front**, but **fragmentation through different jurisdiction and the voluntary nature of rules** could hamper effectiveness
- The Belgian AML Public – Private collaboration has taken first important steps with the creation of the **AML Platform in 2021**, but **this platform could have an even bigger impact if the conclusions of our work & recommendations could be shared publicly with all stakeholders**
- Febelfin is reaching out to all stakeholders, both public and private, to **intensify this collaboration and jointly fight money laundering even more effectively** (for example via the opportunities foreseen in the new AML Package (art. 75 AMLR))

Q & A





Belgian Financial Sector Federation

[www.febelfin.be](http://www.febelfin.be)