Fondbolagens förening
SWEDISH INVESTMENT FUND ASSOCIATION

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The Swedish Investment Fund Association's Letter to AMLA on EBA's Draft RTS on CDD - Why the proposed article 17 conflicts with the Swedish fund distribution model

The Swedish Investment Fund Association (SIFA) wishes to bring AMLA's attention to the EBA's proposal for Article 17 of the "Draft RTS on Customer Due Diligence under Article 28(1) of Regulation (EU) 2024/1624". The proposal would oblige fund distributors – credit institutions and investment firms – to reveal their customer registers to the managers of the distributed funds. We have strong concerns since, if effected, it would dismantle the current Swedish fund distribution model, under which fund management companies are not entitled to access the customer registers of credit institutions and investment firms.

Even though the proposed Article 17 is intended as a simplified measure (as outlined in recital 13), it will in practice interfere with the successful Swedish fund market to the detriment of retail clients, without improving customer due diligence (CDD) and money laundering detection. Fund managers cannot meaningfully perform CDD on individuals they have no relationship with. It would further run counter to the Commission's ambitions under the Savings and Investments Union, which aims to strengthen retail access to financial products, improve competition, and reduce unnecessary regulatory burdens.

We therefore suggest that Article 17 be subject to further clarification.

1) It should be clarified that the measures laid down in Article 17 aims at situations where the credit institution or investment firm does *not* act in its own name and under its own responsibility.
2) Where distribution of shares or units of a collective investment undertaking is performed by a credit institution or an investment firm acting in its own name and under its own responsibility, that relationship should be regarded in the same way as a correspondent banking relationship. The distributor should be seen as the customer of the collective investment undertaking, which should conduct CDD on the distributor, but not on the distributors' customers.

The Swedish fund market

One of the features of the Swedish fund market is that credit institutions and investment firms market funds from a wide range of fund managers, and not only funds that are managed in-house (within its own group). The marketing of funds through these distributors is structured in the same way as stock trading. This has proven very beneficial for retail investors who can easily access a wide range of funds in a cost-efficient way. Distributors act independently from the fund management companies. It is the full responsibility of the distributor to conduct CDD on its customers. There is no customer relationship between the fund management company and the customers of the distributor. Instead, the distributor – acting in its own name – is the customer of the fund management company and is consequently registered in the shareholder register. Fund management companies routinely verify and monitor that the distributor, in turn, has the necessary procedures in place to prevent money laundering and the financing of terrorism.

In Sweden, the Financial Supervisory Authority license investment firms and credit institutions to be registered in the shareholder register.[1] According to Swedish law there is no legal right for the fund manager to gain access to the distributor's customer register. This has been a fundamental prerequisite for the development of the successful Swedish fund market. Distributors will for obvious reasons not accept handing over their customer register to a competitor. Should they be required to do so they will simply not market funds from a wide range of fund managers. This is why Swedish legislation explicitly prevents fund managers from accessing distributors' client registers.

Requiring distributors to provide information about their customers would fundamentally disrupt the Swedish fund distribution model — a structure that enables one of the highest levels of retail fund participation in Europe and is consistently highlighted by the European Commission as exemplary.

The Commission has repeatedly pointed to the Swedish market in both the Retail Investment Strategy (RIS) and the Strategy for a Savings and Investments Union (SIU), particularly for its ability to support broad and sustained household saving. It is therefore especially concerning that the proposed Article 17 risks undermining precisely the kind of well-functioning market that EU policy elsewhere seeks to promote.

The fund manager – distributor relationship is equivalent to a correspondent banking relationship

The relationship between the fund management company and the distributor should be understood in the same way as a correspondent banking relationship. In the Swedish model, the distributor acts in its own name, is the contractual counterparty to the investor, and carries full responsibility for CDD. The fund manager has no direct relationship with the distributor's customers and therefore lacks both the legal basis and the practical possibility to perform any meaningful CDD on them. There is no contractual relationship between the fund management company and the distributor's client, nor is there necessarily an agreement between the fund management company and the distributor itself. Accordingly, the distributor does not act on behalf of the fund management company, but independently and in its own name. This principle has recently been reaffirmed in both the UCITS Directive (Article 13[3]) and the AIFMD (Article 20[6a])[2], which explicitly state that marketing functions "performed by one or several distributors who are *acting on their own behalf* [...] shall not be considered to be a delegation."

This mirrors the established structure in correspondent banking. FATF has recognised that correspondent banking relationships are essential to the global payment system and "vital to international trade and the global economy as a whole" (FATF Guidance on Correspondent Banking Services)[3]. The investment management industry plays a similarly crucial role in the European financial ecosystem, and fund distribution is the mechanism through which millions of retail investors access financial markets.

Although distribution models vary between Member States, the structural logic is the same. However, the impact of the proposal will be more severe in a mature retail market as the Swedish one.

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[1] License to be registered as manager of units or shares | Finansinspektionen

[2] Directive (EU) 2024/927 of the European Parliament and of the Council of 13 March 2024 amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services and loan origination by alternative investment funds.

[3] GUIDANCE ON CORRESPONDENT BANKING SERVICES

FATF confirms that correspondent banks do not have direct relationships with the customers of respondent banks. The same principle applies in fund distribution: the distributor maintains the customer relationship, while the fund manager provides the product through the distributor, not directly to end-investors.[4] The customer of the fund management company is the distributor — not the distributor's customers. The Basel Committee makes the same point in its Revised Annex on Correspondent Banking[5]: "*Correspondent banks execute and/or process transactions for customers of respondent banks. Correspondent banks generally do not have direct business relationships with these customers […] Thus the customers of the correspondent bank are the respondent banks.*"

Conclusion

In line with FATF and Basel Committee guidance on correspondent banking services, CDD responsibilities must remain with the distributor, who has the customer relationship and is the only actor capable of performing effective CDD. Distributors should not be obliged to provide information about their clients to a fund management company. Such information would nevertheless not allow the fund management company to perform any meaningful CDD.

The proposal's negative consequences would be considerable, while offering virtually no benefit in preventing money laundering or terrorist financing. It contradicts the risk-based approach underpinning the EU's AML/CFT framework and the aims of the Savings and Investment Union. It must therefore be revised.

THE SWEDISH INVESTMENT FUND ASSOCIATION

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4 According to a recent survey made by the Swedish Financial Supervisory Authority, almost 85 percent of private fund savings consisted of funds that retail investors had purchased through a bank. The share of private fund savings held via online brokers has increased from 9 to 16 percent over the past five years. Avgifter och distribution på den svenska fondmarknaden

5 Revised annex on correspondent banking