

Undesirable consequences of **de-risking** for customers and banks

An analysis by the Dutch Banking Association (NVB),
with assistance from PwC



Table of Contents

1	Introduction and summary	3
1.1	Introduction	3
1.2	Summary	5
2	Analysis design	8
2.1	Relevance	8
2.2	Objective	8
2.3	Scope	9
2.4	Analysis subject	9
3	Wwft background information	10
3.1	Wwft background	10
3.2	A risk-based approach	10
4	Problem analysis	13
4.1	Problem definition	13
4.2	Side-effects for corporate clients	13
4.3	Side-effects for banks	15
5	Underlying factors	19
5.1	Insufficient knowledge and information available for optimal risk assessment	19
5.2	Limited options for risk management	20
5.3	Dialogue needed in addition to supervision	21
5.4	Lack of clarity on conditions for terminating customer relationships	21
6	Potential solutions	23
6.1	Communication, harmonisation and education	23
6.2	Legal options and guidelines	26
6.3	Joint facilities	27

1 Introduction and summary

1.1 Introduction

Safeguarding the integrity of the financial system is of major social importance. In recent years, there has been increasing public and political attention to the prevention and combating of financial crime in the Netherlands and abroad. Money laundering and terrorist financing have great social impact, which undermine the rule of law and damage the economy.

Banks are the gatekeepers of our financial system. In this role, banks want to contribute to an effective response to this type of crime, by preventing abuse of the financial system. It is important here that the legal options for a risk-based approach are utilized in practice. Bank customers with a business bank account can thus rely on an appropriate service, based on controlled and predictable processes for risk assessment and risk management. This can preserve the balance between two key pillars of the financial system: financial integrity and financial inclusion.

This balance is not maintained in all cases. This is a consequence of the current approach to compliance with the Dutch Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*, or Wwft). Based on intrinsic motivation – but also due to increased supervisory and regulatory pressure and increasing public expectations – banks are taking more stringent measures to further reduce potential integrity risk. This is known as ‘de-risking’ [1].

De-risking can have negative economic and social consequences, as among other things has become apparent through ongoing media coverage and discussions in parliament. It is the corporate clients of banks that are experiencing the most adverse impact. Limited differentiation of risk in the implementation of the Wwft is leading to increasing administrative costs for customers, and also to limitations, or reduced access, to financial services.

The NVB has been calling for attention to problems in the provision of services to customers in the performance of this role for some time. A recent report from De Nederlandsche Bank (DNB) devotes specific attention to this issue: *‘Van herstel naar balans. Een vooruitblik naar een meer risicogebaseerde aanpak van het voorkomen en bestrijden van witwassen en terrorismefinanciering’*.

1 De Nederlandsche Bank (DNB) defines de-risking as follows: De-risking means that a financial institution avoids risks by excluding or terminating relationships with entire groups of customers for integrity reasons, without performing individual risk assessments. The FATF likewise defines de-risking as ‘terminating or restricting business relationships with categories of customers’. Source: DNB brochure ‘Good Practice Integrity Risk Appetite’. See p. 8.

We are pleased to see that in its supervisory role, DNB also recognises that these problems exist. We endorse DNB's conclusion that use of risk-focused flexibility in the implementation of the Wwft is an important public-private mission. This can increase efficiency and effectiveness in the prevention of financial crime. It can also reduce the problems that customers and banks are currently experiencing.

Our central research question is: how can a risk-based approach be implemented adequately and proportionately so that the undesirable effects of de-risking are kept to a minimum, the impact on customers is reduced and integrity risk is managed effectively?

Public and private parties have to work closely together, by joining forces to make the prevention of abuse of the financial system more efficient and effective. None of the parties in the chain can resolve this problem on their own. First of all, there needs to be a shared understanding of the nature and scale of the issue. Studies and analyses, such as this one from the NVB and the report from DNB, contribute to this. After that, it is important that all the relevant actors endorse and rank potential solutions on the basis of a shared vision and purpose, and develop and implement these collectively.

Building on the observation by DNB that greater coordination is needed, and that clear priorities have to be established for this, the NVB in this report lists potential approaches to solve this issue.

1.2 Summary

Protecting the financial system is a collective responsibility of the public and the private sector, from the government to the supervisory authorities and from banks to their customers. The role of institutions that are subject to the Wwft – known as the gatekeepers – is to prevent abuse of the financial system for the purpose of money laundering and terrorist financing.

But protecting the integrity of our financial system must not be at the cost of financial inclusion, though, unfortunately, the chances of this occurring cannot be ruled out. This affects corporate clients and banks. It also has economic and social consequences. Good access to the financial system is crucial for economic and social participation.

The NVB's aims with this qualitative analysis are:

- to identify the undesirable side-effects of de-risking for corporate clients and banks, through a description of the issue and the underlying causes;
- to create a shared understanding of the issue among all stakeholders, and thus initiate and accelerate a cooperative approach to finding solutions;
- to propose solutions to arrive at a more proportionate and efficient implementation of the Wwft for both customers and banks.

A risk-based approach is central to the Wwft. An open standard applies with regard to how this is interpreted. In other words, how a gatekeeper should design its policy, procedures and measures to achieve adequate and proportionate risk management is not specified. Each institution subject to the Wwft formulates its own policy with respect to the relevant risks posed by relations, products and transactions. They design their mitigating measures in proportion to the established risk profile.

There has been increasing attention to money laundering and terrorism financing in recent years, both in the Netherlands and abroad. Banks have accordingly opted to further reduce potential integrity risk. In practice, this may lead to limitations or reduced access to banking services. This is a good thing when abuse of the financial system can thus be prevented. However, it becomes counter productive when bona fide customers frequently start encountering barriers. Customer due diligence has become a longer process and involves a greater administrative burden and expense because its design has not been sufficiently risk-based. Two important principles in the Dutch financial system – financial integrity and financial inclusion – are thus not always properly balanced.

Banks are experiencing undesirable consequences as a result of this imbalance. The burden and expense of compliance has increased. In some cases, banks face a dilemma between their special duty of care and other statutory obligations. Banks sometimes terminate customer relationships as a result of their obligations under the Wwft. If a civil court rules that a bank has to re-accept a customer under its duty of care, this leads to complex legal proceedings with high costs. And if it is obliged to re-accept a customer, a bank then is at risk of acting in contravention of the Wwft.

Banks are also finding it difficult to establish how a risk-based approach should be applied correctly: when are the customer due diligence process and the application of risk-mitigating measures in proportion to the (potential) integrity risk? In other words: when are banks doing enough to prevent abuse of the financial system whilst at the same time avoiding unnecessary consequences for their customers?

The origin of the uncertainty among institutions subject to the Wwft regarding the right way to apply the open standard is that they are not experiencing enough opportunities for a continuous dialogue with their supervisory authority regarding adequate risk assessment and management. This uncertainty has led to a stricter customer acceptance policy. The conditions for an adequate and proportionate termination of customer relationships by these institutions are also not clear in some cases.

[This issue has several underlying causes.](#) Firstly, not all institutions subject to the Wwft have sufficient knowledge and information for an optimal assessment of the risks of their customer base. Besides banks' reliance on material provided by the customer, the limited possibility for sharing of information and cooperation between parties in the chain is also a factor. Furthermore, a continuous dialogue between the supervisory authority and banks are lacking in banking supervision. For some banks, there is also uncertainty as to the conditions under which they have to or may terminate a customer relationship. And lastly, the options available to banks for mitigating risks are limited.

[Based on its analysis, the NVB suggests various possible approaches to this issue. A successful outcome will require cooperation and a common commitment by the chain, from government to the supervisory authority, and from bank to business owner.](#) Banks are a link in this chain. Based on the definition of their specific role, banks are committed to applying a risk-based approach in a proportionate manner. This will potentially reduce undesirable side-effects while effectively managing integrity risk.

We suggest three potential approaches:

Communication, harmonisation and education

- Better communication and explanation to customers, so that expectations with respect to customer due diligence are made clearer in advance. Banks have an important part to play here.
- Continuous dialogue with the supervisory authority, in addition to assessment ex-post, so that banks can make proportionate choices in their Wwft policy, using a risk-based approach.
- Regular consultation between industries, gatekeepers, DNB and the government for sharing of knowledge and insights with regard to risk. In parallel to this, consultation between the various Wwft supervisory authorities for greater convergence, efficiency and knowledge-sharing.

Legal options and guidelines

- Expansion of possibilities for sharing of information between chain partners, including exchange of information between gatekeepers, to make risk assessment more effective and due diligence possibilities more efficient, allowing for less customer impact.
- Transparent, detailed agreements on specific risk indicators, expected transaction behaviour and workable product conditions, with the aim of mitigating sector risks.
- Creation of a minimum offer of financial services to corporate clients, within permitted frameworks.

Joint facilities

- Study of a joint facility for performing an enhanced and/or in-depth customer due diligence investigation, with a view to achieving efficiency for customers and gatekeepers by bundling of knowledge, expertise and capacity of parties in the chain.
- Joint exploration by chain parties of alternatives for the provision of financial services to customers that have difficulty in obtaining services from commercial banks because they have an exceptionally high risk profile. International examples could serve as a starting point for this.

2 Analysis design



2.1 **Relevance** | Jointly working towards an integrated approach

Crime has a disruptive effect on society. It is also a threat to national security and causes material and immaterial damage to people, companies and society as a whole. Financial crime, such as the laundering of illegally obtained money or terrorist financing, involves organised crime and undermining activities.

Institutions subject to the Wwft and professional groups that are gatekeepers, such as lawyers, civil-law notaries and banks, have a role to play in the prevention of financial crime and creating barriers to abuse of the financial system for illegal purposes. Together with the government, the supervisory authorities and business owners and their representatives, gatekeepers have an important role: to arrive at an integrated approach to money laundering and terrorist financing. The prevention of abuse of the financial system is a shared responsibility of both public and private parties.

But protecting the integrity of our financial system must not be at the cost of financial inclusion, something that is currently a real possibility. This is an obstacle for corporate clients and banks, and also has economic and social consequences. Good access to the financial system is crucial for economic and social participation. The analysis in this report, followed by an analysis of the underlying causes, should lead to steps to find a solution, so that the parties in the chain can arrive at an integrated approach.

2.2 **Objective** | Insight and shared understanding

The NVB's intention with the qualitative analysis is:

- to identify the undesirable side-effects of de-risking for corporate clients and banks, by describing the problem and its underlying causes;
- to create a shared understanding of the issue among all stakeholders, and thus initiate and accelerate a cooperative approach to finding solutions;
- to propose solutions to arrive at a more proportionate and efficient implementation of the Wwft for both customers and banks.

2.3 Scope | Business customers

This analysis concentrates on the undesirable effects of de-risking for the provision of services to corporate clients as a result of obligations under the Wwft [2]. So-called wholesale activities for large corporate clients are not within scope.

2.4 Analysis structure | Broad

The NVB, assisted by PwC, has consulted a wide range of stakeholders on the de-risking issue. The qualitative study includes information gathered from the following stakeholders in bilateral interviews. Workshops were also organised with representatives of banks, and the NVB held interviews with representatives of various industries. Multiple sources and documents were also consulted.

Parties consulted

- Banks (ABN AMRO, ING, Rabobank, Triodos)
- The Belgian Financial Sector Federation (Febelfin)
- De Nederlandsche Bank (DNB)
- The European Banking Federation (EBF)
- International KYC experts at PwC
- The Dutch Ministry of Finance
- Dutch employer organisations [3]
- The Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland (RVO))

-
- 2 Other possible motives for reduced access to the financial system, such as ESG considerations at individual gatekeepers, have not been studied.
 - 3 Participants in the debate: Bouwend Nederland, BOVAG, Federatie Goud & Zilver, Hogiaf, Holland Quaestor, InRetail, Koninklijke Horeca Nederland, Koninklijke Notariële Beroepsorganisatie, Nederlandse Beroepsorganisatie voor Accountants, Nederlandse Vereniging van Makelaars, NSO Retail, Raad Nederlandse Detailhandel, SRA, Transport & Logistiek Nederland, Trucks & Trailers, Vakcentrum, Vereniging Schadevoertuighandel, VNO-NCW and MKB-Nederland.

3 Wwft background information

3.1 Wwft background

The first Money Laundering and Terrorist Financing (Prevention) Act, or Wwft, came into force in 2008. [The Act aims to prevent abuse of the financial system for financial crime, including money laundering, predicate offences and terrorist financing.](#) The Wwft has since been amended on several occasions due to the implementation of various European Directives [4] and national developments. This has led to an increase [5] in the obligations and scope for various actors, including the gatekeepers [6].

3.2 A risk-based approach

[A risk-based approach is central in the Wwft.](#) Among other things, this means that banks have to adequately identify, assess and mitigate the risk of facilitating money laundering and terrorist financing to which they may be exposed. For this, they use customer due diligence and continuous monitoring. Banks must also implement appropriate risk-mitigating measures in accordance with the identified risks [7]. They must also report unusual transactions to the Financial Intelligence Unit of the Netherlands [8].

[The Wwft uses an open standard for interpretation of a risk-based approach.](#)

This means that the Act does not specify how a gatekeeper has to design its policy, procedures and measures to achieve adequate and proportionate risk management. Each gatekeeper formulates its own policy regarding the relevant risks posed by its relations, products and transactions, and applies mitigating measures in accordance with the established risk profile. Banks therefore have to take enhanced measures in situations involving higher risk. There is room for a proportionate, less intensive approach to situations involving less or a normal degree of risk [9].

4 Including the 4th and 5th European Anti-Money Laundering Directives, AMLD IV and AMLD V.

5 One of the stricter requirements appears in this [Explanatory Memorandum of 2019](#), in which the risk-based approach is described.

6 Or: 'Institutions subject to the Wwft'. These include banks, insurers, civil-law notaries, tax consultants, auditors, real estate agents, traders and pawnbrokers.

7 The responsibilities of institutions subject to the Wwft are described in the [Guide to the Wwft and Sw](#) published by De Nederlandsche Bank. See for example p. 9.

8 Source: [FIU-Nederland website](#).

9 According to the Financial Action Task Force (FATF), this enables a more effective and efficient use of resources. See inter alia [the guidance](#) offered by the FATF.

Banks classify the risk posed by a customer. They are expected to take account of a number of risk factors, as shown in the illustration below. Among other things, banks base this risk assessment on the recommendations and guidelines of authoritative institutions such as the Financial Action Task Force (FATF), the European Banking Authority (EBA) and De Nederlandsche Bank (DNB). The supervisory authorities then check that banks are complying with their legal obligations in the implementation and execution of their policy, procedures and measures with the aim of managing the risk of facilitating money laundering and terrorist financing [10].

Overview of the risk assessment process

The bank uses a number of risk factors when establishing a risk profile

- Customers
- Services
- Products
- Transactions
- Delivery channels
- Country or geography

In its risk analysis, the bank then considers

- Sectors or professions
- Residency
- Assets
- Source of income
- Tax-related integrity risk

European and other governments and authorities state what they see as risks

- DNB reviews sectors it considers to be high risk with an annual integrity risk questionnaire.
- FIU notifies stakeholders about risks it identifies and encounters in cases in practice.
- European Banking Authority (EBA) points out risks.
- National Risk Assessment.

Analysis is continually amended by means of

- Continuous obtaining of knowledge.
- Taking account of authoritative government and other sources.
- Keeping up to date with developments, including instances of money laundering.
- Keeping abreast of adverse media in relation to customers.

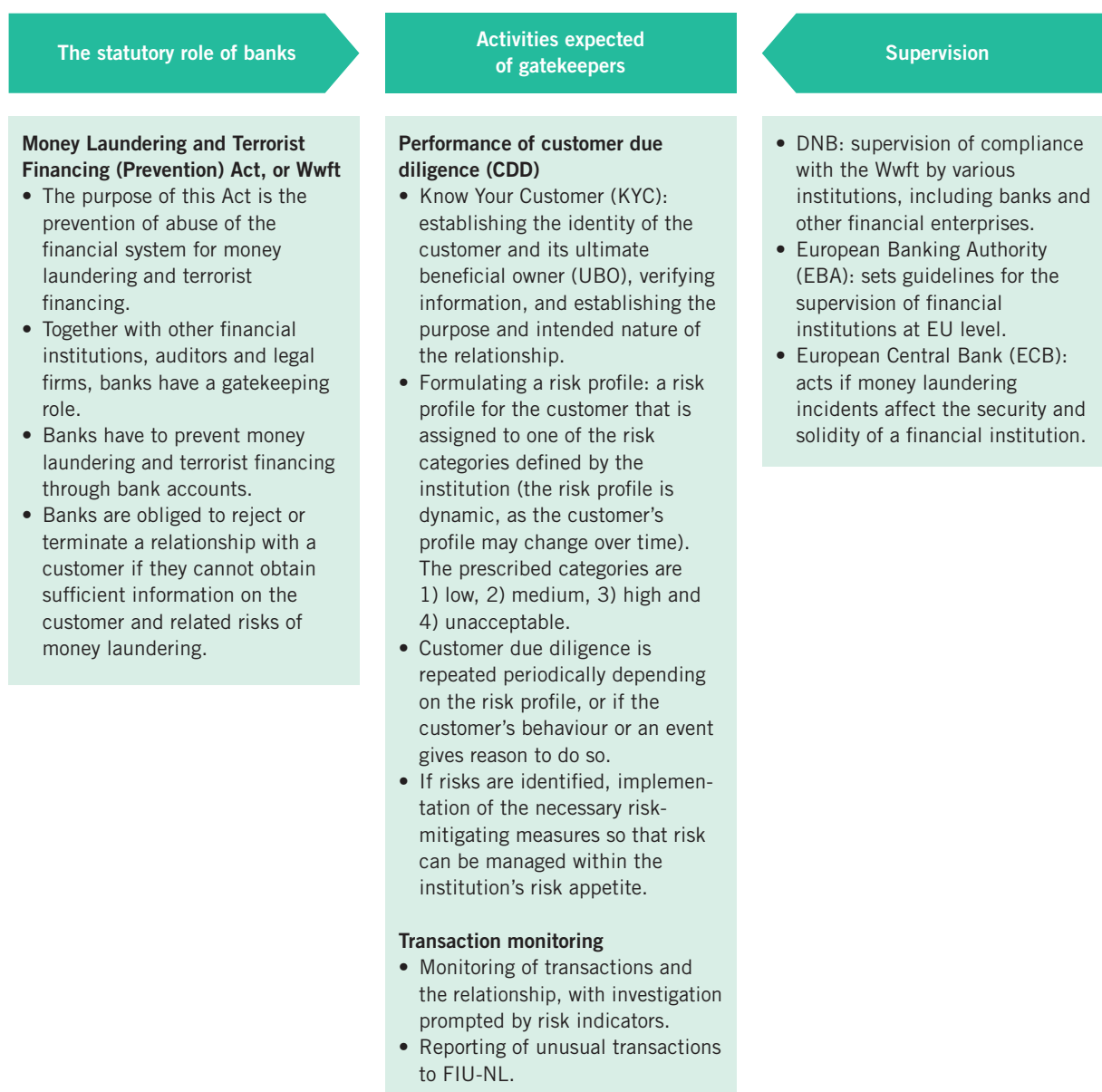
What you should know about the gatekeeping activities of banks

- In the Netherlands, around 13,000 bank employees are engaged in gatekeeping activities.
- This is between 15% and 20% of all bank employees.
- It involves an annual cost of € 1.4 billion for the sector [11].

10 For more information on the Wwft, see [this web page from DNB](#).

11 These figures include the recovery programmes implemented by banks to improve their controls.

Overview of banks' responsibilities under the Wwft and supervision thereof



4 Problem analysis

4.1 Problem definition | De-risking can have a negative impact

In recent years, there has been increasing public and political attention to the prevention and combating of financial crime, in the Netherlands and abroad [12]. For example, there is now stricter legislation in the fifth European Anti-Money Laundering Directive, as a result of which the efforts of the gatekeepers have been intensified [13]. As institutions subject to the Wwft, banks are obliged to prevent abuse of the financial system for financial crime, such as money laundering and terrorist financing.

Based on intrinsic motivation – but also due to increased supervisory and regulatory pressure and increasing public expectations – banks are taking more stringent measures to further reduce potential integrity risk. [This so-called de-risking \[14\] can have negative economic and social consequences.](#) Two important principles in the Dutch financial system – financial integrity and financial inclusion – are thus not always properly balanced [15].

4.2 Side-effects for corporate clients

Currently, corporate clients are experiencing an imbalance between the effort to ensure financial integrity and the safeguarding of financial inclusion. [Banks' implementation of obligations under the Wwft can in some situations lead to undesirable side-effects for customers.](#) Customer due diligence or mitigating measures by banks in these cases are disproportionate, onerous and/or excessively frequent in relation to the customer risk. The interviews conducted by the NVB for this analysis reveal that organisations with a business bank account are affected by this in various ways. We cite some of these side-effects experienced by these customers.

No or limited access to banking services

Corporate clients are experiencing barriers to their access to (a full range of) banking services. For example, limitations on the use of cash or international transactions. Business owners are also faced with refusal or termination of the relationship by their bank. [If this occurs at various or all banks active in the Netherlands, there is a lack of alternatives for customers with residual risk \[16\] that is greater than the risk appetite of the banking sector.](#)

12 The Dutch Foundation for Society and Security (Stichting Maatschappij en Veiligheid) recently [reported](#) that the Dutch financial system is particularly vulnerable to fraud and money laundering.

13 Het Financieele Dagblad, 5 July 2022 – [‘Financiële inlichtingendienst: sterke toename aantal ongebruikelijke transacties’](#) (Financial Intelligence Agency: sharp increase in number of unusual transactions).

14 See footnote 1 for DNB's definition of de-risking.

15 Trouw, 27 November 2021 – [‘Banken zitten in een spagaat tussen justitie en klagende ondernemers’](#). (‘Banks face a dilemma between the law and complaints from business owners’)

16 The extent to which potential or actual Wwft risks posed by a customer after mitigating measures still exceeds a bank's risk appetite.

Long processing times and complex administrative processes

Corporate clients frequently experience lengthy processing times if they wish to open a new bank account or apply for new products or services. Money transfers to high-risk countries can also be delayed due to enhanced customer due diligence. Banks' procedures for questions and answers also take a long time. Processing times are increasing further due to strains in risk assessment and acceptance systems. [This can cause problems for daily activities of corporate clients and lead to an increased workload \[17\]](#).

Reversed burden of proof and lack of understanding of actions by institutions subject to the Wwft

It is an important legal principle that a natural or legal person is innocent until proven guilty. The burden of proof rests with the accuser, not the accused. [Bona fide corporate clients sometimes have the impression that they have to prove that they are not guilty of money laundering or terrorist financing when applying to open a bank account.](#)

Many of them also have the feeling that their bank does not support them, or no longer supports them, and does not communicate with them as fully as it should. For instance, it is not always clear to customers why their bank is asking for certain information, or how much information a bank needs to adequately assess the risk of money laundering. This exchange of information is frequently experienced as disproportionate, and the process as inefficient. This impression is reinforced in cases where a company has to provide the same or similar information to multiple institutions subject to the Wwft. Receiving a list of new questions from the bank that have to be answered every year is seen by many customers as a nuisance. Customers frequently do not know that new information or new transactions can lead to new questions from their bank.

Increased administrative burden and costs

When entering into a banking relationship, it is not only banks that have a duty in relation to risk assessment and management; customers also have to contribute to the integrity of the financial system. In the first place, by supplying the information that banks need for their customer due diligence. [For the customers however, this is often still a complex, time-consuming and expensive process, especially for those involved in a customer segment with increased integrity risk.](#)

Customers say that bureaucratic processes lead to a greater administrative burden. The fact that customer due diligence and the related requests for information are repeated regularly is experienced as a nuisance. In addition, customers with a business bank account are seeing the costs of doing business as a result of gatekeeper activities rise to as much as € 2,000 a year, due to the increased administrative workload and/or higher bank charges [18]. Organisations with a business bank account also fear they may be subject to reputational risk if they are subjected to enhanced customer due diligence.

17 See for example [this letter to the Minister of Finance](#) from Goede Doelen Nederland and other non-profit organisations.

18 PwC estimate of work by business customers based on experience that companies need around 10 hours per bank account to provide all the requested information. This equates to costs between € 800 and € 2,000.

4.3 Side-effects for banks

Banks are also experiencing negative consequences as a result of the Wwft and supervision thereof. The side-effects for banks are as follows:

Higher compliance costs and workload

The costs of compliance for banks have risen exponentially in recent years as a result of increased efforts to prevent money laundering and terrorist financing. This has involved hiring staff and investing in intelligent software and improved automated solutions for activities such as transaction monitoring [19]. In today's tight labour market, it is a challenge for banks to recruit (and retain) sufficient qualified people to be able to meet their obligations under the Wwft.

For banks, the costs of risk management for the prevention of money laundering and terrorist financing have risen to roughly 40 hours or € 4,000 per customer per year [20]. If these costs exceed income over a long period of time, this can lead to de-risking [21].

Dilemma between the special duty of care and other statutory obligations

Banks are reducing their integrity risk so as to comply with their obligations under the Wwft, and therefore choosing to offer high-risk customers a reduced range of services in some cases, or even deciding to terminate existing customer relationships due to integrity risk. This occurs for instance when banks do not have enough information to successfully complete their customer due diligence, or when the identified risks in relation to a customer cannot be adequately mitigated [22].

This clearly has significant consequences for the corporate client in question. *In addition to other statutory obligations, banks have a special duty of care in relation to financial inclusion. Banks see this as their public responsibility, too.* Proportionate and effective action is a condition that institutions subject to the Wwft have to take into account. It is not always clear for banks whether, and if so, when, a decision to terminate a relationship is proportionate. Banks' obligations under the Wwft can thus sometimes conflict with their special duty of care towards their customers.

.....
19 According to a [previous report from KPMG](#), 15% of bank staff are involved in combating financial crime.

20 PwC estimate of the average costs for banks per customer per year, taking account of a) assumed frequency of CDD; b) assumed workload per customer of 40 hours per case for high-risk customers, 20 hours for customers with average risk and 10 hours for low-risk customers; c) assumed hourly costs of: € 20-100 per hour, depending on the location where the work is performed (in NL or near/offshore).

21 This was also cited in a [recent EBA report](#) (January 2022) as a factor that can contribute to problems with de-risking.

22 DNB's ['Guide to the Wwft and Sw'](#) requires banks to refuse or terminate customer relationships in such cases.

Customers can resort to the courts to test whether their rejection or closure of their current bank account meets the requirements of reasonableness and fairness, and whether the bank's actions contravene its special duty of care [23]. If a bank terminates a customer relationship due to its obligations under the Wwft and a civil court rules that a customer has to be re-accepted, this leads to complex legal proceedings with high costs for all the parties involved [24]. And being obliged to re-accept a customer may mean that the bank is at risk of acting in contravention of the Wwft.

Application of a risk-based approach

The previous section gave further details of the open standard used in the Wwft in relation to a risk-based approach [25]. Banks sometimes have difficulty in finding the right balance between the application of risk management measures and a proportionate application of customer due diligence and continuous monitoring.

In other words, how can a bank avoid either not doing enough and thus potentially missing integrity risk (underperformance) or disproportionately meeting its obligations under the Wwft (overperformance)? The undesirable consequences of such overperformance for both customer and bank are described here.

23 See for example the [answer to Parliamentary questions](#) from member Grinwis (CU) by the Minister of Finance. See also judgments in preliminary relief proceedings on this issue, including [ECLI:NL:RBAMS:2021:3337](#) and [ECLI:NL:RBMNE:2021:3990](#).

24 Estimated at an average of € 200k per termination. Source: interviews with banks and PwC.

25 The '[Algemene leidraad Wet ter voorkoming van witwassen en financieren van terrorisme \(Wwft\)](#)' (General Guide to the Money Laundering and Terrorist Financing (Prevention) Act) says on this: "*Customer due diligence may not in any case be omitted, however the intensity of application of CDD measures should be in line with the risk associated with type of customer, product, service, transaction and delivery channel and with countries or geographical regions.*"

Overview of side-effects for customers

No or limited access to banking services	Long waiting times and complex processes	Higher business operating costs
<ul style="list-style-type: none"> • Barriers to access to (a full range of) banking services, such as restrictions on the use of cash or international transactions. • Rejection or termination of customer relationship. • A feeling that the bank does not support (or no longer supports) the customer and fails to communicate with the customer adequately. 	<ul style="list-style-type: none"> • Long processing times for opening an account. • Required documentation is extensive and complex. • Slow procedures for information requests. • Long waiting times due to an overburdened customer acceptance process. 	<ul style="list-style-type: none"> • Bureaucratic processes lead to higher administrative workload (and costs) for customers with potentially higher risk. • Higher costs for banking services. • Potential reputational risk, such as credibility towards business partners and customers. • New questions each year from banks.

Case studies of side-effects for various customer groups

<p>Charitable institutions</p> <ul style="list-style-type: none"> • Difficulty in providing sufficient proof of source of funds or in identifying and verifying UBOs. • Due to these challenges, this customer group does not fit into the risk appetite of all banks. There may also be longer waiting times. • No access to essential banking services constitutes a threat to these organisations' continued existence. 	<p>Businesses in which payment is frequently in cash</p> <ul style="list-style-type: none"> • Certain sectors represent a higher risk of money laundering due to extensive use of cash. • Banks apply enhanced due diligence and restrictions on the use of cash to mitigate risk. • This increases administrative workload and customers experience restrictions in the use of cash, which hampers the operation of their business.
<p>International trade</p> <ul style="list-style-type: none"> • Challenges with transactions due to insufficient documentation, and/or integrity risk in relation to letters of credit. • The extent to which cash payments are normal practice varies from one country to another. • The amount of legislation that has to be taken into account with international trade is increasing, including sanctions legislation. • Banks may become more cautious regarding product offering or customer acceptance as a result. 	<p>Foreign companies, international transactions</p> <ul style="list-style-type: none"> • Foreign companies wishing to open an account in NL may experience difficulties in the onboarding process (also due to lengthy processing times and complexity of required documentation). • Businesses trading internationally may be restricted in execution of international transactions. • They may consider using another EU Member State as their base as a result – this affects the climate for business in the Netherlands.

Overview of compliance costs related to the Wwft

Type Customer	Required screening / monitoring measures	Customer		Bank	
		Per bank per year Effort	Cost	Per customer per year Effort	Cost
High risk	Annual and event-driven CDD checks;	> 20 hours	€ 800-2,000	> 40 hours	€ 800-4,000
Medium risk	CDD checks every 2-3 years	5 hours	€ 400-500	7-10 hours	€ 150-700
Low risk	CDD checks every 3-5 years	2-3 hours	€ 200-300	2-3 hours	€ 50-200

The above estimates take no account of the efforts needed for continuous monitoring, event-driven reviews and IT.

5 Underlying factors



The previous chapters explain how two important principles of the financial system, integrity and inclusion, are not in balance at all times. We then listed the undesirable consequences of this for corporate clients and banks. This chapter deals with the underlying factors in this dynamic. These do not occur in isolation; they reinforce each other or are interrelated.

5.1 Insufficient knowledge and information for optimal risk assessment

For a proper assessment of risk and customer behaviour, specialist knowledge of risk indicators, red flags and variations between customer groups and business sectors is needed. For example, what constitute normal transaction patterns in international or cash transactions may vary from one sector to another [26].

Acquiring this specific knowledge requires a significant commitment, due to the many and varied manifestations and transaction patterns of financial crime. [Banks wish to further improve their risk assessment processes in order to offer customers appropriate services – with processes that are controlled and predictable \[27\]. In some cases, this is hindered due to insufficient possibilities for sharing of information and knowledge and cooperation between public and private parties in the chain.](#)

Financial crime operates in networks throughout the financial system. But institutions subject to the Wwft have to operate mainly in isolation. For example, institutions subject to the Wwft cannot exchange information on corporate clients with an already identified integrity risk. Government registers that manage the completeness and quality of data securely and effectively offer only limited availability and accessibility, or are still incomplete [28]. This is the case at both the national and international level, while financial crime mostly operates across national borders.

The collection and verification of customer data is mostly performed by each institution individually, although the availability of information held by other parties in the chain could lead to a better risk assessment [29]. An individual bank sees only a part of a customer's behaviour and transaction pattern. This may mean that it misses integrity risk or indeed the plausibility of transactions.



26 Examples of sectors difficult to screen: venture capital, brokers and crypto service providers.
27 This problem is particularly acute for customers in the high-risk segment.
28 For example, the UBO register and the Key Register of Persons (BRP).
29 This point is also cited in the [EBA report](#) (January 2022).

Better cooperation between private and public stakeholders could also lead to more focused risk assessments for sectors and other risk factors. There are currently not enough good platforms where relevant actors can meet regularly to share knowledge and identify possibilities for cooperation, or governance and consultation structures are not optimally structured.

[In summary financial crime is a macro issue, while gatekeepers have only a micro view of risk.](#) Given the increased scope of and obligations under the Wwft and expectations regarding the prevention of money laundering and terrorist financing, banks are introducing more stringent policies for customer acceptance in some cases.

It is also apparent that customers are not always sufficiently aware of the information and documentation that gatekeepers need for a risk assessment, what the statutory obligations of the gatekeepers are, or why mitigating measures are necessary [30]. Limited or fragmented communication from banks may lead to reduced cooperation by the customer, as a result of which the customer due diligence breaks down more often than is necessary.

5.2 Limited options for risk management

For banks, the starting point for risk assessment and management is to offer customers an appropriate service with controlled processes. This is why banks apply mitigating measures where necessary to manage integrity risk within their risk appetite.

There are limitations to the risk management options available to banks. In some cases, risks identified in relation to a customer cannot be effectively mitigated. In these cases, termination of the relationship is usually the only option for risk management. In cases where the available options for risk management are not sufficient, this means an unacceptable residual risk for banks. They are responsible if the risk materialises and they are legally obliged to terminate the customer relationship.

Gatekeepers do not have any duty of enforcement or investigative powers. When fulfilling their statutory duty, banks have to establish a customer's potential risk indicators, assign a risk classification and take risk-mitigating measures. [The answer to the ultimate question of whether a customer is bona fide or not is outside the scope of their duty and authority. The consequence is that the measures taken by banks can also affect bona fide customers \[31\].](#) This leads to an undesirable situation in which they have difficulty in obtaining access to banking services.

30 Cf. [From recovery to balance: A look ahead to a more risk-based approach to the prevention and combating of money laundering and terrorism financing](#), p.4.

31 *ibidem.* p.15.

5.3 Dialogue needed in addition to supervision

The Wwft makes room for a risk-based approach, and uses an open standard. Institutions subject to the Wwft make decisions and apply measures in this context on the basis of their information on and knowledge of the customer at that time. [The open standard may result in differences of interpretation between a bank and the supervisory authority regarding what is adequate and proportionate in a specific situation.](#)

The supervision of a bank's actions happens ex-post, and is based on changing insights. In some cases, banks experience limited options for discussing interpretations of and measures against integrity risk with the supervisory authority on an ongoing basis. There may be significant legal and reputational consequences for a bank if in the opinion of the supervisory authority or the Public Prosecution Service it has not taken adequate action to prevent money laundering or terrorist financing [32]. [This may cause banks to adopt a more strict or inflexible interpretation of the open standard and a strict customer acceptance policy.](#)

5.4 Lack of clarity on conditions for terminating customer relationships

In chapter 4, we explained that banks sometimes face a dilemma between financial inclusion and other statutory obligations. If it is not possible to take measures to bring a customer within its risk appetite, a bank must terminate the relationship.

[But the conditions in which a bank has to or may terminate a customer relationship are not always clear.](#) What is an appropriate approach if a customer's integrity risk cannot be reduced to an acceptable level? When is a decision to terminate a relationship justified, and when does this conflict with the bank's special duty of care?

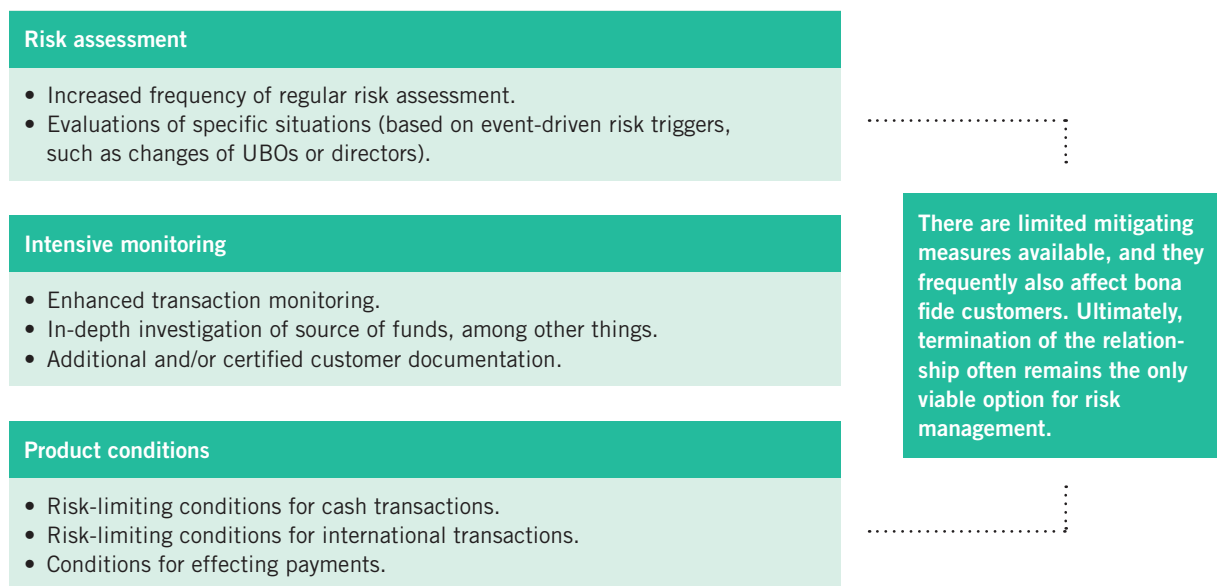
If a bank terminates a customer relationship due to its obligations under the Wwft and a civil court rules that a customer has to be re-accepted, this means that the bank is contravening the Wwft. This conflicting legislation creates uncertainty, which can lead to high legal costs for all the parties involved [33]. In view of the legal consequences of terminating a relationship [34], banks are forced to take a stricter attitude with respect to entering into customer relationships.

32 See for example [this message from the Public Prosecution Service on a settlement with ING](#) in 2018.

33 A bank's cost of each termination is estimated at an average of € 200k. Source: interviews with banks and PwC.

34 Including legal proceedings or reputational damage.

Overview of potential controls by banks to mitigate integrity risk



Examples of contradictions between the Wwft and civil law



6 Potential solutions



The previous sections discuss the de-risking issue and its causes. This section aims to answer the following question: how can a risk-based approach be implemented adequately and proportionately so that the undesirable effects of de-risking are kept to a minimum, the impact on customers is reduced and integrity risk is managed effectively? We list a number of potential solutions. Briefly, these concern:

- Communication, harmonisation and education
- Legal options and guidelines
- Joint facilities

The potential solutions we suggest are divided into short-term and longer-term options. The former category can be applied by those directly involved more quickly and within current legislation and regulation. For the longer-term solutions, stakeholders need first of all to jointly explore their desirability and feasibility. In addition, it has to be noted that there is no 'one size fits all' solution. The various directions and initiatives address only parts of the issue.

The conclusion of the NVB is that no single party in the chain can solve this problem on its own. So it is important first of all that there is a shared understanding of the nature and causes of these undesirable side-effects. After that, all the relevant actors need to endorse and rank potential solutions on the basis of a shared vision and purpose, and further develop them collectively. [When identifying potential solutions, we have not based our analysis solely on the point of view of banks. Cooperation and clear definition of roles and responsibilities are essential for a successful solution to the problem.](#)

6.1 Communication, harmonisation and education

Better communication and explanation to corporate clients

Some of the difficulties experienced by corporate clients concern the communication and explanations provided by banks. Customers experience these as incomplete or not sufficiently customer-oriented. While we see differences between one sector and another, it is not always made clear to customers what information a bank needs to perform adequate customer due diligence, or why a bank requests documentation. This lack of understanding causes irritation and makes customers less willing or less prepared to cooperate with the customer due diligence process.

The NVB is [working with its members on an improvement programme](#). The programme aims firstly to formulate an approach to the problems stated in this report that result from inadequate explanation. And secondly, on better cooperation with customer due diligence.

In any case, the programme will have these two principles:

- Timely and proactive communication with customers on the reasons why the information and documentation required is needed, the process and expectations so that there can be smoother interaction with customers.
- Customers featuring a higher degree of risk will be informed of the requirements for an appropriate service, including the time period within which the required information has to be provided to the bank.

Banks will also continue to work on training their employees to keep customer contact both pleasant and effective. Relevant expertise will also be increased. [The NVB will explicitly call for cooperation with stakeholders on the further development of the improvement programme. The potential for improving customer communication is not restricted to banks.](#) Other actors, such as the government and Wwft supervisory authorities, the Chamber of Commerce and sector and other business organisations have a role in disseminating the substance of the Wwft and the various roles and responsibilities. This will contribute to a shared understanding of what is expected from each party.

Continuous dialogue between supervisory authority and institutions subject to the Wwft

We have already mentioned the open standard for a risk-based approach in the Wwft. This means that there may be differences of interpretation between the supervisory authority and the gatekeepers regarding what is adequate and proportionate. [For banks, a continuous dialogue with the supervisory authority would be a valuable addition to the current ex-post supervision: here, problems in the implementation of the Wwft could be discussed and the supervisor could give specific guidance.](#)

This would give banks better understanding of how to assess integrity risk. It would also help them to design practical controls for specific customer risk, and to formulate better answers to questions including when a particular measure is appropriate and when mitigation is sufficient. DNB has offered the potential for this. In a recent publication it wrote:

“We will increasingly emphasise a risk-based approach in our policy communications and documents, and provide scope for innovative solutions. We support institutions by providing guidance on what we expect from them. Wherever possible, we will work with supervised institutions to analyse situations resulting in low or high risk, and investigate how confidence can be both given and obtained that the right measures are being taken for the risks identified.” {35}

Expanded and intensified multilateral stakeholder dialogue

Another area of improvement concerns the cooperation between private and public parties to arrive at a proportionate and efficient assessment of risk indicators and customers. For example, there is still some unused potential for cooperation between sector organisations and gatekeepers in the Wwft domain.

.....

35 Source: ‘[Van herstel naar balans: \(From recovery to balance\) Een vooruitblik naar een meer risicogebaseerde aanpak van het voorkomen en bestrijden van witwassen en terrorismefinanciering](#)’ (A look ahead to a more risk-based approach to preventing and combating money laundering and terrorism financing). See p.5.

Sector organisations, with their expertise on their sector and contact with their membership, can give important support to banks in making their risk assessment as accurate and complete as possible. Together with their membership, they can provide insight into what constitutes normal and abnormal financial or economic behaviour in their particular sector.

It has become apparent from the interviews conducted for this analysis with business owners and their representatives and banks, that there is a perception that a tripartite structure for regular consultation between DNB, sector organisations [36] and banks needs to be put in place. In addition to cooperation between the sectors and banks, it is important that the supervisory authority is present in these consultations to offer specific guidance. This would for instance involve reaching common insights with regard to potential risks, expected transaction behaviour and exploration of proportionate measures that banks and/or business owners can take. Permanent cooperation in such a constellation would assist a risk-based implementation of the Wwft.

DNB agreed with this in a recent publication:

“In order to increase the effectiveness and efficiency of activities to prevent and combat financial crime, it is important to consider how the efforts of the sector can become truly risk-based and how our own risk-based supervisory activities can contribute to this development. We also intend to discuss the findings of this report during round-table meetings with the sector and other stakeholders.” [37].

DNB adds:

“We see clear added value in public-private partnerships. We therefore welcome our participation in public-private initiatives, in which we endeavour to take on a driving, advisory or catalysing role. We are also receptive to participating more actively in specific collaborative projects, provided that these are in keeping with our supervisory task.” [38].

Chain parties and sectors talk to each other on a regular basis, in a variety of networks. Nonetheless, as yet there is no integrated Wwft consultation structure: a platform on which all the relevant public and private parties meet regularly to share knowledge and insights and explore and leverage opportunities for cooperation. Such a consultation structure could be created, or formed within existing bodies such as the Financial Expertise Centre council. It is important that there is a responsible and constructive sharing of information in inherent risks and insights into each other's interests and working practices.

It would also be useful if the various Wwft supervisory authorities meet regularly in parallel in order to share knowledge and promote supervisory convergence. This would improve clarity and efficiency. The interviews between the NVB and fellow gatekeepers in the context of this analysis show that there appears to be some discrepancy and differences of interpretation, and thus different expectations from different supervisors with respect to parties subject to their supervision.

36 Especially sector organisations representing a large number of customers with a high risk profile.

37 Source: ‘Van herstel naar balans: (From recovery to balance.) Een vooruitblik naar een meer risicogebaseerde aanpak van het voorkomen en bestrijden van witwassen en terrorismefinanciering’ (A look ahead to a more risk-based approach to preventing and combating money laundering and terrorism financing). See p.7.

38 ibidem. See p.29.

6.2 Legal options and guidelines

Increased possibilities for cooperation and sharing of information between chain partners

In the experience of gatekeepers currently there aren't sufficient opportunities for information sharing within the chain. [Initiatives for information sharing ensure more effective risk assessment and management, thus improving the balance between financial integrity and financial inclusion.](#) Banks would for instance benefit from more and specific feedback from the FIU-NL on the nature and risk indicators of those transactions that have been identified as being suspicious. Banks could also improve their prevention and risk assessment if they received more contextual information from investigative agencies on criminal financial business practices. It is also worth considering whether there is a possibility for institutions subject to the Wwft to perform more checks on entities that represent unacceptable integrity risk. This could prevent the current 'waterbed' effect, whereby a bank terminates a customer relationship due to integrity risk, after which the customer seeks shelter with another financial services provider.

[Banks are pleased to see that other recent studies on the practical implementation of the Wwft recommend information sharing and cooperation as potential solutions.](#) For example, DNB has given a positive advice regarding the legal possibilities for feedback from the FIU-NL and initiatives such as Transactie Monitoring Nederland (TMNL) [39].

In a report published in 2022, the Dutch Foundation for Society and Security stated: *"In order to make prevention and combating of money laundering more effective, closer and better cooperation between private and public parties is needed at the national, international and local level. To facilitate this, the possibilities for sharing specific information need to be expanded and international cooperation needs to be streamlined."* [40].

[In interviews with organisations such as the Confederation of Netherlands Industry and Employers \(VNO-NCW\), the Dutch Federation of Small and Medium-Sized Enterprises \(MKB-Nederland\) and fellow gatekeepers, it was mentioned that it would be beneficial if gatekeepers were able to exchange information more frequently.](#) This requires a platform that facilitates proportionate and secure exchange of information. This could for instance involve the creation of a joint facility for good data protection and screening. This could include verified customer documents, such as a verified copy of proof of identity, a checked copy of a salary statement, address details checked by the Key Register of Persons (BRP) or information from the Land Registry. With the customer's permission, a subsequent gatekeeper could be allowed access to information already submitted. Besides simplifying the risk assessment, this would offer an efficiency gain for both business customers and gatekeepers. Customers would experience less interference from various customer due diligence processes and requests for information.

39 ibidem. See p.35.

40 Source: ['Poortwachters tegen witwassen: \(Gatekeepers against money laundering\) Naar een gatekeepersfunctie van banken die beter bijdraagt aan voorkoming en bestrijding van witwassen'](#) (Towards a gatekeeping function by banks that contributes more effectively to the prevention and combating of money laundering) from the Dutch Foundation for Society and Security (Stichting Maatschappij en Veiligheid). See p.50.

Agreements with sectors on product conditions

Together with sector organisations representing relatively many high-risk customers, banks would like to explore whether specific and transparent agreements can be made that would lead to workable product conditions. This would make it possible to mitigate risks that are inherent to a specific customer group in a sector. The logical next steps:

- Application of knowledge and expertise of sector representative organisations to determine risk indicators and expected transaction behaviour.
- Definition of risk indicators based on these practical insights and application of effective controls (such as specific workable product conditions).

Specific agreements between banks and DNB on standardisation

Ideally, banks and the supervisory authority would arrive at a shared overview of the information needed for the request for information and documentation for various sectors that inherently involve higher sector risk. For instance, a Know Your Customer taxonomy that could be standard for Dutch banks. A taxonomy that also provides sufficient flexibility for a bank's individual risk appetite. This would give customers clarity and predictability with respect to requests for information. It would also reduce their administrative costs and workload.

Establish a minimum offering for corporate clients

Building on the former point, this could be a specific solution for banks, government and the supervisory authority to reach agreements. Agreements on what a potentially appropriate minimum offering (product range and features) could be for corporate clients who do not fit within the risk appetite of the commercial banks. There is already a similar solution for retail clients. Banks are currently studying the legal obligations and possibilities in this area. They also want to put forward guidelines. If changes to legislation or supervision are needed for this solution, banks expect to be able to hold constructive discussions with the government, supervisory authorities and any other stakeholders.

6.3 Joint facilities

The first requirement for these potential solutions is a collective orientation with regard to desirability and feasibility.

A joint facility for performance of complex and/or enhanced customer due diligence

We recommend that chain parties together explore the desirability of and possibilities for a joint facility for customer due diligence. Such a body could consider complex situations that require enhanced customer due diligence. A bundling of the knowledge, expertise and capacity of chain partners could increase efficiency for both customers and gatekeepers.

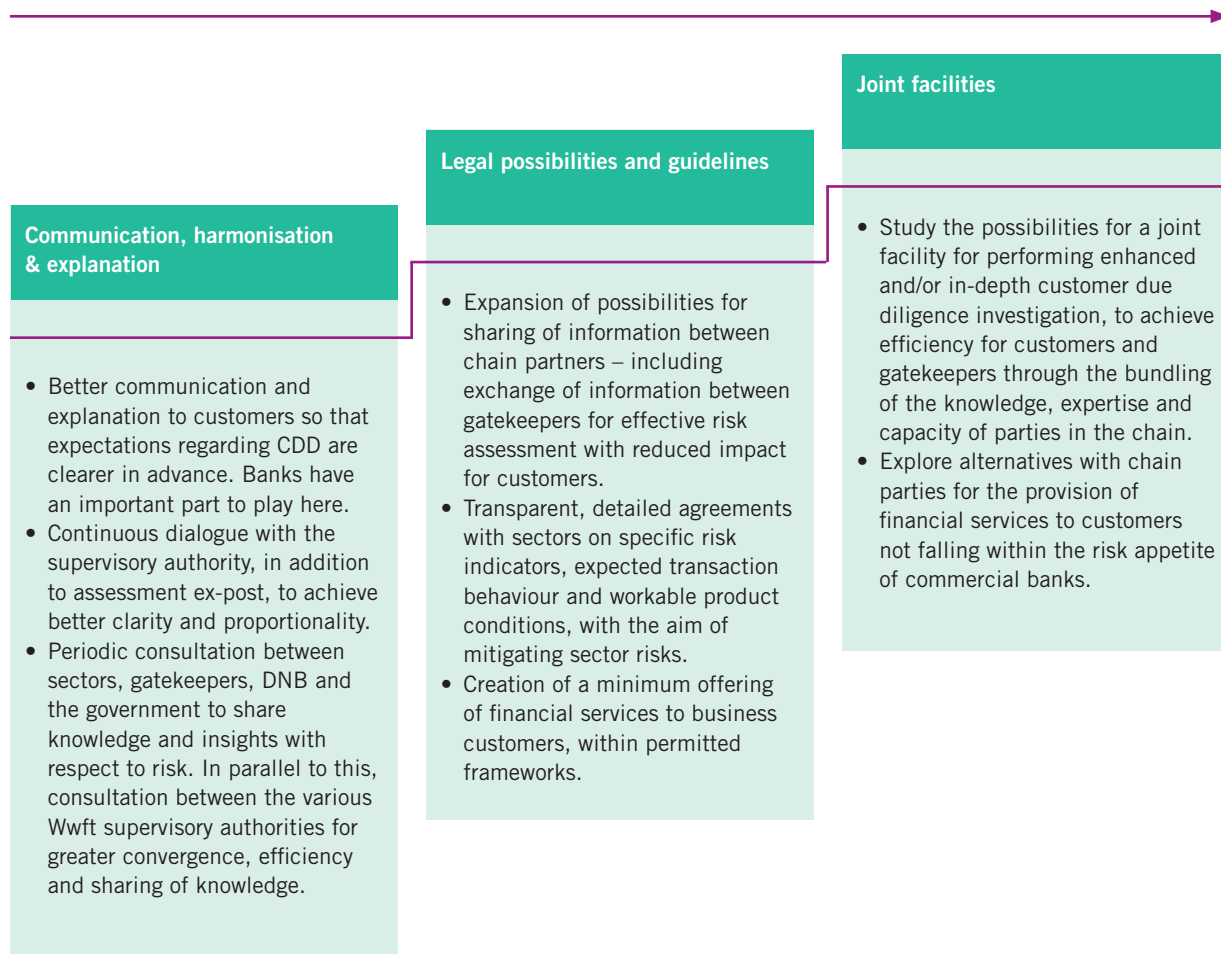
Alternatives for exceptionally high-risk customers

In addition, the chain parties could collectively explore alternatives for the provision of financial services to customers that have difficulty in obtaining services from commercial banks because they have an exceptionally high risk profile. A starting point could be found in international examples.

Overview of potential solutions to the de-risking issue

Can be implemented immediately

Requires further effort and cooperation



© September 2022
Dutch Banking Association
Gustav Mahlerplein 29-35
1082 MS Amsterdam
+31 20 550 28 88
www.nvb.nl