



Brussels, 20 September 2013

**Position of the EFBS on the consultation of the Basel Committee on Banking Supervision  
on „Sound management of risks related to money laundering and financing of terrorism“**

The European Federation of Building Societies (EFBS) appreciates this opportunity to provide comments on the consultation paper of the Basel Committee on Banking Supervision "Sound management of risks related to money laundering and financing of terrorism".

The European Federation of Building Societies brings together credit institutions and institutions which promote and support the financing of home ownership. It pursues the aim, in a politically and economically converging Europe, of promoting the idea of the acquisition of home ownership. The concept of saving-for-home-ownership is based on the idea of making available to a group of savers, by pooling their savings, the necessary funds to finance home ownership within a shorter time than would have been possible for a saver acting individually. For this, the customers of the Bausparkasse conclude a Bauspar agreement for the savings amount required. They thereby undertake to make regular savings deposits (between 3‰ and 10‰ of the agreed savings amount). If, after about seven years, 40% or 50% of this savings amount has been saved, the savers under the saving-for-home-ownership scheme are entitled to a Bauspar loan amounting to the difference between the savings amount and the credit balance saved. This Bauspar loan serves exclusively to finance owner-occupied residential property or to finance housing measures.

The Bauspar business is already systemically totally unsuitable for money laundering activities. The sums saved under the individual agreements are relatively small, however: the average savings amount is less than EUR 30 000. Moreover, the loans may be paid out only if there is evidence that they are to be used for housing. The Bauspar customers are predominantly natural persons who only exceptionally come from abroad.

As credit institutions which operate in mass-market business, Bausparkassen dispose of the necessary systems and processes in order to comply with the numerous obligations of the revised recommendations of the FATF, the EU provisions and the national anti-money laundering acts. Thus, the EFBS welcomes the efforts of the Basel Committee to determine globally via the guidelines how banks should integrate the risks of money laundering and financing of terrorism in their overall risk management. Yet, the following aspects should be taken into account in the guidelines.

**1. Adequate IT Systems**

According to para 26 of the consultation paper banks should dispose of IT monitoring systems which are adapted to the risk of money laundering which affects them. Yet, in para 27-29 the functions of the IT Monitoring systems of the bank are enumerated irrespective of the relative risk of money laundering. These provisions are however only justified when it comes to payment accounts. Only on these accounts typical circumstances which would suggest money laundering activities can be detected by relevant computer programs, such as cash deposits of numerous small sums, the frequent deposit of sums just below the threshold for reporting (smurfing) or other suspicious transactions. However, unordinary transactions cannot be undertaken without further ado on (Bauspar) savings accounts as they usually do not operate in payment activities. On the one hand, Bausparkassen do not accept cash deposits of their customers; therefore deposits on the Bauspar

account derive only from accounts which were already identified in compliance with the anti-money laundering provisions. On the other hand, it is usually savings of the customer which can predominantly be registered on the Bauspar accounts whereas extraordinary payments result usually from the contractual relationship with the customer (e.g. the repayment of the Bauspar loan) which are therefore directly noticed by the staff of the Bausparkasse. Furthermore, the Bausparkassen mainly dispose of domestic customers, therefore only few foreign payments can be recorded. Against this background, the installation of electronic monitoring systems would not be suited to detect suspicious transactions in Bausparkassen.

The EFBS therefore calls for a modification of the requirements of para 27-29 on IT monitoring systems: they should only be introduced where they can really fulfill their purpose of uncovering suspicious transactions.

## **2. Record keeping**

Para 48 inter alia claims that banks record the documents they receive when identifying the customer (such as passports, ID cards, driver's licenses – cf. para 36). National laws and the EU provisions have considered sufficient that banks only transcribe the data of the ID documents electronically. The correctness of data is demonstrated by the presentation of the identification document. The presentation is registered.

In practice it is clear that the electronic registration of the customer data taken from the identification documents is totally sufficient for the activities of the investigative authorities. It would be an unjustified extra burden for the institutions if they had to record the copies of identity documents.

It is especially the case for credit institutions which do not dispose of subsidiaries but enter into contact with clients via independent sales representatives. The latter would be obliged to carry mobile copy machines in order to copy the identification document.

Further, it would require a considerable effort of record keeping which would entail further unjustified costs.

According to the EFBS it would therefore be imperative to delete the provision asking credit institutions to record the copies of identity documents the banks are provided with when verifying the identity of the customer or the beneficial owner.

## **3. Exchange of information in mixed financial groups**

Para 79 of the consultation paper proposes that there should be an exchange of customer identification data as well as data on their transactions and account activities between financial institutions of a mixed group (consisting of banks, insurances, etc.). However, in some countries the exchange is opposed by general obligations of confidentiality and strict data protection rules. These requirements should be accommodated by the following wording:

"Mixed groups should have the ability to monitor and share information on the identity of customers and their transaction and account activities across the entire group **in accordance with their respective national laws**, and be alert to customers that use their services in different sectors, as described in paragraph 76 above."

Moreover, it should be acknowledged that an institution which has to apply customer due diligence may adopt the customer identification data of an institution with which it cooperates in sales, provided that the institutions are subject to the same anti-money laundering provisions.