



FEDERATION
BANCAIRE
FRANCAISE

FBF COMMENTS ON THE BASEL COMMITTEE CONSULTATIVE DOCUMENT RELATED TO SOUND MANAGEMENT OF RISKS RELATED TO MONEY LAUNDERING AND FINANCING OF TERRORISM.

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorized as banks and doing business in France, *i.e.* more than 500 commercial, cooperative and mutual banks. They employ 500,000 people in France and around the world, and serve 48 million customers.

Assessment, understanding, management and mitigation of risks

The FBF is in full agreement with the Basel Committee consultative document (BCCD) related to risk assessment and risk understanding. This is a preliminary exercise that should be conducted *a priori*, to analyze the potential risk carried out, in particular by countries, products, distribution channel and clients. This understanding shall be populated by internal and external information collected during the running of the business.

The three lines of defense are effectively implemented in French Financial institutions (FIs). However, we are not sure to understand clearly the words "A bank should have adequate policies and processes for screening prospective and existing staff to ensure ethical and professional standards for hiring staff" (19). We underline that social laws protect employees screening.

We would like to clarify that the permanent control is responsible for the fulfillment of the review of the AML process. It should be distinguished from the AML officer's duties and from the sample testing and policies and procedures fulfillment. This comment applies on paragraph 20 and 73.

Paragraph 28, for more clarity we suggest to replace "that" by "and" and to delete "then", in order to read the penultimate sentence as follow : "*Parameters of the IT systems should allow for generation of alerts of unusual transactions **and** should be subject to further assessment by chief AML/CFT officer*".

Customer acceptance policy

The FBF is in full accordance with this paragraph.

3 octobre 2013

Customer and beneficial owner identification, verification and risk profiling

We do not agree with the given definition of customers, which refers to business relationship or financial transaction. A customer is not a financial transaction and the definition of "customer" shall be limited to *"any person who enters into a business relationship with the bank."* (paragraph 32)

The FBF underline with satisfaction that the BCCD enable bank to require customers to complete a written declaration of the identity and details of the beneficial owner. Actually, it is important, to involve the customer in the fight against money laundering and to make them having a liability if the information related to the BO is inaccurate or incomplete. However, States should also be involved and provide banks with the ability to access beneficial ownership information through public registers. (paragraph 34)

It does not seem to be appropriate to have an understanding of the occasional customer's profile and behavior as describe in (35). There is a discrepancy between a customer relationship and an occasional customer and policies should take this into account and provide for two separate procedures. For example risk criteria a very different for a regular customer and an occasional transaction.

Mechanism describe in paragraph 40 related to the risk estimated for the client is only feasible if FIs are entitled to transfer information at the request of the FI accepting the customer.

Ongoing monitoring

As of today, it is very difficult to monitor relationship across lines of business and perform aggregation within the bank due to data protection and professional secrecy regulation. States should provide the legal framework enabling FIs to do so. This comment may be accurate for paragraphs 46, 64 and 70.

Reporting of suspicious transactions and asset freezing

Paragraph 55, the words « in cooperation with law-enforcement agencies or the FIU » shall be deleted, since the review of the relationship and the risk classification is of the responsibility of the FI and cannot be shared with law enforcement agencies or FIU.

Global process for managing customer risks

It is of the State responsibility to get the caveat lifted and make sure that all jurisdiction enable banks to transfer data (63)

Risk assessment and management

At the moment it is not possible to impose to FI to identify customer that pose a higher AML risk across the group. This would imply a centralized database containing identification data of all the client of all the entities of a group. Beside the technical and legal barriers preventing the group to build such a list, it would raise serious security concerns related to any breach of the database. (64)

Consolidated AML/CFT policies and procedures

The consolidated AML/CFT policies and procedures imply a centralization of means. It could be more adequate to modulate this paragraph in order to adapt the rules to various organizations, especially if decentralized.

Annex 1 : Using another bank, financial institution or third party to perform customer due diligence

FBF would like to underline that it is of the utmost importance to maintain the recognition of the reliance of third parties and the possibility for a FI to fully rely on another entity which is regulated and supervised.

It could be clearly established that only identity of the customer and the beneficial owner and the purpose and intended measure of relationship are required at the outset of the relationship.

Annex 2 : correspondent banking

The last sentence of paragraph 2 should be deleted as shell banks are prohibited. However, the risk base approach should help to graduate vigilance measures on correspondent banking relationship, particularly when the bank is located in a jurisdiction listed by FATF.

We underline that statements on paragraph 7 are not specific to correspondent banking but are taken into account in the global risk base approach implemented by FIs. It might be useful to add the words “on a risk base approach” after the word “consider” on the first line of the paragraph.

On the seventh bullet point on paragraph 7 after the word “detection” add the word “framework”.

On the eighth bullet point it does not seem appropriate to exchange CDD processes between FIs. It should be the supervisor’s responsibility to control CDD procedure and its application.

Ninth bullet point : “third party entities” are much too wide in this context as it could involve all clients of the respondent bank. This point should be clarified.

Paragraph 10 : in this paragraph, we do not support the mention of a meeting with local regulator/ supervisor/ FIU/ relevant governmental agencies. Only the respondent bank shall have relationship with its authorities. If a bank is authorized in a jurisdiction it shall be assumed that the FIs comply with local regulations and specifically with AML regulation. If it is a good practice to elaborate an appropriate level of CDD of the respondent bank, there is no justification to local authorities meetings. Another solution might be to request the supervisor to publish a list of FIs AML compliant.

The approval by a senior level of correspondent bank should be subject to the risk based approach.