

Committee on Payments and Market Infrastructures
Via email: cpmi@bis.org

7th December 2015

CPMI Consultative report – Correspondent Banking

Dear Sir/Madam,

Introduction

The Association for Financial Markets in Europe¹ (AFME) welcomes the opportunity to comment on the Consultative Report. AFME supports the objectives outlined in the Consultative Report, namely to alleviate some of the costs and concerns connected with corresponding banking activities. As the Consultative Report does not raise direct questions on which the Committee seeks views, AFME offers its comments on some matters which reflect the current thinking of its Members, namely;

****The use of KYC utilities**

****The use of the LEI in correspondent banking**

****Information sharing initiatives**

The use of KYC utilities

The Committee correctly identifies a number of advantages on the use of such utilities; (i) they provide a mechanism for respondent banks to speedily update relevant information provided to their correspondent banks, (ii) the costs of issuing such information to correspondent banks will be greatly reduced, (iii) the utilities may promote greater standardisation of information and (iv) greater speed is brought to the process of the dissemination and collection of information.

However, the use of KYC utilities does not resolve some of the challenges that correspondent banks face when offering such services. Firstly, the Financial Action Task Force recommendations which set the global standards for anti-money laundering (AML) laws and financial regulation do not permit a correspondent bank to delegate responsibility to a third party in regard to its AML systems and processes. Accordingly, correspondent banks will have to continue to assess whether the information provided by the respondent bank, via a KYC utility, meets its own information standards. Furthermore, the correspondent bank will still have to assess whether or not the information means that the respondent meets the correspondent's particular risk appetite in order for the correspondent to provide services.

¹ AFME represents a broad array of European and global participants in the wholesale financial markets, and its members comprise all pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA), through the Global Financial Markets Association (GFMA) to communicate the industry standpoint on issues affecting the international, European and UK capital markets.

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Secondly, whilst KYC utilities afford the opportunity to provide an agreed minimum of information by the respondent, we have seen, for many years, that although each jurisdiction sets out its own minimum information requirements for KYC across a number of products and services, financial institutions frequently interpret these requirements differently and, hence, request further and diverse information from their customers. Thus, there will be, in many cases, frequent bilateral discussions between a correspondent and respondent about further information.

Thirdly, there is no agreed standardised set of information requirements specified by the KYC utilities. Many utilities indicate that the information requirements which they specify are based on a combination of an analysis of legal requirements across many jurisdictions and discussions with correspondents. Fearful of potential breaches of competition laws, the respective utilities may be reluctant to engage with one another with a view to establishing a common standard.

Fourthly, we suggest that with greater standardisation of information there is a risk that once a respondent has provided the minimum standard of information via the utility the correspondent may assume the respondent has automatically met the correspondent's risk standards. AFME is aware that some regulators have criticised some correspondents for adopting a policy of absolute reliance on a widely used industry questionnaire when assessing a respondent.

The use of Legal Entity Identifiers (LEI)

AFME through its associated organisation, the Global Financial Markets Association, has closely monitored the development of LEIs since they were first suggested as one possible response to the financial crisis. The Committee correctly identifies that the use of LEIs in correspondent banking may assist correspondents in the identification of respondents and the respondents' underlying customers.

Nevertheless, there remain a number of underlying challenges associated with the use of LEI's. Firstly, given the requirement for correspondents to use "independent and reliable" information when assessing a potential respondent and given that the associated information for an LEI is provided by the respondent without the information being independently verified, the scope for its use by correspondent is somewhat limited.

Secondly, the original purpose for LEI's was to assist regulators understand, at any given time, the aggregate exposure that a creditor or issuer has across a market. Those charged with designing the LEI and its subsequent implementation were very concerned that the LEI not be used for other purposes as they were sensitive to competing demands by other users, with different intentions, may result in a diminution of the successful implementation of the LEI's core objective.

Thirdly, the information underlying an LEI is extremely limited. This information includes legal name, national registration number, registered address and ultimate parent company. It therefore excludes details of an organisation's ultimate beneficial owner. This particular

piece of information is often critical for a bank in assessing the deemed AML or terrorist financing risk associated with any one organization.

Finally, the current usage of LEIs is somewhat limited. It may be many years before there is widespread and comprehensive use of LEIs by users of financial markets and products.

Information sharing initiatives

The Committee successfully identifies some of the main challenges in the provision of correspondent banking services including the absence of any legal relationship between a correspondent and the respondent's underlying customers. Should a correspondent seek further information about a particular transaction, it has to contact the respondent, who in turn, may have to contact its own customer for the relevant information. It is not the experience of AFME Members that they are frequently impeded in their request for transaction information by the application of data privacy laws in the jurisdictions where their respondents operate.

Nevertheless, AFME supports the suggestions made by the Committee to increase the sharing of information.

Conclusion

We would be pleased to discuss the issues covered in this submission with the Committee or to provide any further information on these issues if that would be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Denis O'Connor', followed by a long horizontal line.

Denis O'Connor
Managing Director