22nd October 2015

EBIC comments on the consultative document titled "General guide to account opening" of the Basel Committee on Banking supervision of July 2015

Dear Madam, dear Sir,

The European Banking Industry Committee (EBIC) would like to thank you for providing it with the valuable opportunity to comment on the consultative document titled "General guide to account opening" of July 2015 which is a revised version of the "General guide to account opening and customer identification" first published in 2003.

As a first general comment, EBIC would like to draw your attention to the fact that the European Supervisory Authorities will soon publish guidelines on the expectations and requirements for implementation for the 4th EU Anti-Money Laundering Directive. EBIC is concerned about a possible lack of consistency between the FATF Standards, EU law and other guidance in key areas such as AML/CTF requirements. EBIC therefore suggests it may be more appropriate to delay the Basel Committee Guidance until the EU Guidelines have been finalised. Coherence between the various EU and international guidance is in our view very important especially for global banks seeking to set group wide policies.

In the meantime EBIC would like to share a few concerns. EBIC indeed considers that the consultative document appears to duly reflect the revised standards of the Financial Action Task Force (FATF) as well as the practices prevalent in the banking industry. However EBIC regrets that the nature of the banking industry which is changing with many digital/paperless efficient services to customers was not taken into consideration sufficiently. The consultative document, to be truly in line with global technological changes, needs in our view to better reflect digital and paperless approaches.

In addition EBIC regards some of the recommendations to go beyond the scope of the currently applicable requirements. This concerns in particular the proposed provisions concerning the verification of customers, which would ultimately result in a higher level of due diligence implementation costs.

As a first example EBIC would like to highlight paragraph 13 which presents the listed elements as minimum requirements for identification purposes. Although current practice in many financial institutions, in most jurisdictions many the collection of the suggested specific elements of identification such as a complete permanent address, date of birth and place of birth is not set as a legal minimum requirement. Consequently, EBIC suggests to renaming the “at a minimum” category to “Possible Identifiers”. Presenting these elements of as minimum requirements could – in some – countries lead to certain official identification documents (e.g. driving license) no longer being accepted.

Another reference is made to paragraph 14 which requires banks to obtain information concerning income and occupation of the customer or any public positions held with a view to developing an initial customer risk profile. Even if the corresponding footnote no. 4 states that not all this information may be required in lower-risk situations the classification of the “income” of a customer in the left hand column of the table (see page 4) under “key attributes” suggests that “income” constitutes an indispensable piece of information. EBIC, therefore, suggests including information concerning income, occupation and any public positions held in the right hand column of the aforementioned table, since such information should be obtained with a clearly focused risk-based perspective. It is also not clear whether to the lower-risk situations in footnote 4 refer to situations requiring normal CDD measures or Simplified Due Diligence.

Paragraph 15 recommends banks to record the e-mail address and landline or mobile telephone numbers of the customer in order to deal with the corresponding risks. Against the background of frequent changes in phone numbers and not verifiable e-mail addresses in our times EBIC believes that such information is hardly adequate to counter the risks mentioned above.

Paragraph 15 (last sentence) highlights verification processes of an equivalent nature that could be used to satisfactorily confirm a customer’s identity. Against the background of the European Commission’s Single Digital Market Strategy, let alone the accelerating speed of technical development, EBIC advocates for accepting appropriate digital identification tools (e.g. Biometrics) as being of such an equivalent nature.

Furthermore, paragraph 15 (a) concerning verification of the identity of natural persons recommends the confirmation of the permanent address on the basis of official documents, at least where applicable (see remark above). However, the case in which verification of the permanent address is carried out on the basis of an official ID is not included in list. Nevertheless the veracity of a customer’s address is ensured by the mailing of bank documents or banking cards. Therefore, in our opinion obtaining additional documents as stated in paragraph 15 (a) should be required only in high risk situations (see paragraph 15 (b), first bullet point). Furthermore, besides “telephone” or “by letter” EBIC suggests mentioning also “other digital channels”.

Paragraph 22 mentions the “official identification number” (i.e. company registration number or the tax identification number) as a piece of information to be obtained for identification purposes. However, in practice legal persons do not necessarily possess such an identification number. The requirement should be modified so as to include as an addendum the words “where available”.

Finally we would like to point out that – contrary to what is suggested in paragraph 36 – the general provisions concerning clarification/identification of beneficial owners are also applicable and equally important in case of cooperatives as is the issue of exercising control or significant influence over the organization's assets.

We would very much appreciate if the Basel Committee could consider our comments while finalising the document.

Should you require further information concerning the issues stated above please do not hesitate to contact the EBIC Secretariat.

Yours sincerely,

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