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EBF high level remarks on the Bank for International Settlements Committee on Payments and Market Infrastructures (BIS CPMI) consultative document on Correspondent Banking

The EBF welcomes the opportunity to send high-level comments on the important issues related to correspondent banking. The EBF acknowledges the importance of correspondent banking services for economic activities, and international trade. The availability of correspondent banking cross-border payment and transactions services through different banks across various jurisdictions is also essential in order to support financial inclusion.

The EBF notes that there is currently no one universally accepted definition of “correspondent banking” at international level. Correspondent banking may therefore cover different types of arrangement and include different services, such as international funds transfers, cash management services, check clearing, loans and letters of credit or foreign exchange services. Correspondent banking is therefore to be considered as a complex and multi-faceted issue.

Although acknowledging some global international banks' withdrawal from some correspondent banking relationship, the EBF considers it also important to look at the issue from a more global perspective (not only EU or U.S. / global transactions banks) as correspondent banking relationship may also develop from more regional banks and from other jurisdictions than EU or US. Viewed in this light a more accurate and complete picture may be obtained.

Correspondent banking is indeed changing. As a consequence of the current, legal, regulatory requirements and expectations, coupled with reputational legal and regulatory risks, some banks have sometimes decided to cease correspondent banking services or to maintain simply a limited number of correspondent banking relationships.

It has to be noted in this respect that for a number of years, correspondent banking has been seen by regulators as a high-risk business activity for financial crime purpose. This is the case both at international level (e.g. FATF Recommendations) as at European level (e.g. recent consultation of the Joint Committee of the European Supervisory Authorities on AML/CFT Risk Factors Guidelines).

Given the increase in requirements imposed on banks for Anti-Money Laundering and the fight against Financing Terrorist (AML/CFT), banks have to dedicate more time and effort assessing risks in order to be compliant with due diligence. In specific situations, banks are adopting a



risk-based approach when at the same time weighing possible profitability. The fear of sanctions and reputational damage are also being considered carefully. Importantly, uncertainties are persisting on the regulatory requirements and expectations from supervisors, in particular on the extent banks need to know their customers' customers ("KYCC") or on conflicting requirements between different jurisdictions (e.g. EU and U.S. sanctions)

As the consultative document acknowledges, it belongs first to the banking industry itself to manage its costs and revenues and identify and implement solutions that will increase the efficiency of correspondent banking as necessary. However, owing to the foreseen negative impact on the entire market, public authorities wish to encourage the implementing of solutions to reduce uncertainty and increase the overall efficiency of correspondent banking.

In line with the BIS CPML recommendations, the EBF agrees that rising costs and the uncertainty of what is expected from banks in due diligence (ensuring regulatory compliance), including on "KYCC" and financial sanctions, are the main reasons for cutting back on correspondent banking relationships.

Regarding KYCC, point 3.4 of the consultative document states notably that "under certain circumstances, such as with jurisdictions or customers that are seen as higher risk for money laundering, the correspondent bank's due diligence obligations go beyond KYC on the respondent bank (i.e. the direct customer of the correspondent bank). In some cases correspondent banks would need to know with whom and where its respondent does business, possibly including the identity of its respondent bank's customers, both at account and payment level. Consequently, correspondent banks should monitor in depth and thoroughly understand the underlying transactions.

The EBF deems the KYCC to be particularly challenging matter for banks as it generates considerable uncertainty and is most of the time impracticable. Importantly, the EBF is not yet sure whether this requirement is included as such in the FATF recommendations or at European level the recently adopted AML Directive.

For these reasons, the EBF would welcome any common guidance from authorities at an international level which would provide additional clarity on due diligence requirements for banks. The banking industry is therefore pleased by recent FSB action plan which notably call, as a matter of priority, for clarifying regulatory expectations, including more guidance by the FATF on the application of standards for AML/CFT to correspondent banking.

From the EBF's perspective there is now, more than ever, a need to bring in line the different objectives of the AML/CTF prevention. On the one hand, the banks need to facilitate international finance and trade, and on the other, need to be compliant and mitigate risk. Banks are keen to support this process, initiated by the relevant political and regulatory bodies. The banking industry is committed to supporting solutions and wishes to engage in this matter with the relevant competent authorities.

Other tools such as the use of "KYC utilities" to support a standardised common approach for respondents to gather required information on correspondents might be considered as well if supported by a robust cost-benefit analysis. A "KYC Registry" as a utility used by banks would



appear indeed to reduce the workload while not removing responsibility. Important to note however the time potentially needed to set up an international “KYC Registry”.

A first step could therefore be a clear “Best Practice Standard” for KYC measures in correspondent banking. The EBF would indeed welcome a single standard set of questions to be answered once and for all and made available to other banks to scrutinise. Additionally, this could include and supplement the existing Wolfsberg/ Patriot Act approaches.

As for the Legal Entity Identifier (LEI) mentioned in the consultative document, the EBF considers essential to conduct a thorough cost-benefit analysis (huge database, impact on the use of the BIC code, etc.) on a possible implementation of the LEI for correspondent banking across the industry and within individual institution's payments' systems.

Looking at the recommendation related to information sharing the EBF believes that the intended outcome of “Information Sharing” would be well received. Nonetheless, the EBF's concern is that the national and international privacy framework (as well as the banks' duty of customer/client confidentiality) would make this impractical. What is more, information sharing will not resolve the degree of uncertainty banks face as to what exactly constitutes compliance with the requirements.

Finally, with regard to the fourth recommendation, the EBF would support the proposal for the Wolfsberg Group (in cooperation with other more representatives associations - as the Wolfsberg Group is only representing a few large banks - such as the EBF) to review whether the MT103/MT202 COV approach is achieving the intended effect.

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