HIGH-LEVEL COMMENTS ON THE CONSUTLATIVE REPORT ON CORRESPONDENT BANKING BY CPMI[1]

General comments

1. **FATF welcomes the work of CPMI on the payment system aspects of correspondent banking,** their technical assessment of the advantages and limitations of measures that could facilitate the provision of correspondent banking services, and the balanced tone of the report.

2. **De-risking is a priority for the FATF.** De-risking is having a significant impact in certain regions and sectors in particular and, although there is currently no evidence that de-risking is adversely impacting global financial stability, it represents a serious concern for the FATF as de-risking may drive financial transactions underground which creates financial exclusion and reduces transparency, thereby increasing money laundering (ML) and terrorist financing (TF) risks.

3. **The issues surrounding the withdrawal from correspondent banking relationships in certain jurisdictions by certain financial institutions are complex and multifaceted.** The extent to which AML/CFT is driving de-risking remains unclear and most of the analytical work to date is based on surveys which are, by definition, limited to what the banks are willing to say about what is driving their behaviour. For example, several correspondent banks reported to CPMI that the following factors are driving de-risking: increasing costs related to regulatory compliance—including anti-money laundering and counter-terrorist financing (AML/CFT) regulation, profitability concerns, reputational risk, lower risk appetites of banks; etc.

4. **Proper customer due diligence (CDD) in accordance with the risk-based approach (RBA) is crucial to ensuring that banks can identify and understand the risks that they face in the course of entering into, maintaining and exiting a correspondent banking relationship.** The FATF is developing guidance that will further clarify the interplay between the FATF standards on correspondent banking and other intermediated relationships, CDD and wire transfers. The aim is to complete this guidance in 2016. The FATF would welcome the CPMI's engagement in that process, and is inviting the Secretariat of the CPMI to the next meeting of its Policy Development Group (PDG) which will be held in Paris on 15 and 16 February 2016.

Comments on specific sections of the report

5. **Section 1 (*Introduction*), page 5, last sentence*:* It is not clear what is meant by "a formal liaison to increase the coordination between the various work streams and the relevant authorities seems necessary…"** There is already a lot of engagement among the international standard setting bodies and financial institutions. For example, the Basel Committee, IOSCO, IAIS, IMF and World Bank all provide direct input into FATF work in their capacity as FATF observers. Likewise, the FATF provides direct input into the work of the Basel Committee's AML Experts Group (AMLEG) in its capacity as an observer to that body. The FATF Secretariat provides informal input into the work of CPMI and FSB, as needed, and the CPMI and FSB Secretariats are being invited to the next meeting of the FATF's PDG to further facilitate coordination and engagement on these issues. What additional *formal liaison* is envisaged, taking into account limited resources and the undesirability of creating a mechanism which duplicates existing efforts?

[1] Comments are due to the CPMI Secretariat by 7 December 2015 (cpmi@bis.org).

6. **Section 1 (Box 1 on *Initiatives on correspondent banking*), page 5, 3rd bullet: We suggest adding the following text (which is consistent with the FATF's October 2015 statement) to reflect the outcomes of the October 2015 FATF Plenary meeting:**

> "In October 2015, the FATF issued a public statement which: confirms that de-risking will remain a priority for FATF; introduces new risk-based approach guidance on effective supervision and enforcement; highlights the FATF's ongoing work to clarify regulatory expectations to ensure that AML/CFT measures are being implemented in line with its risk-based approach; and reiterates its commitment to continuing engagement with other international bodies, countries, the private sector and civil society on this important issue. To facilitate coordination and engagement on de-risking, the FATF will invite the Secretariats of the CPMI and the FSB to the next meeting of its Policy Development Group which will be held in Paris on 15-16 February 2016.
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> In addition to the FATF's work to develop guidance on correspondent banking (which was announced in June), the FATF is also working on three additional projects that are particularly relevant to de-risking and which are expected to complete in 2016: guidance for money or value transfer services, best practices on customer due diligence in the financial inclusion context, and a revised standard for non-profit organisations."

7. **Section 3.4 (*Information sharing*), page 19, 4th paragraph: The report notes that the FATF has committed to providing guidance on effective supervision and enforcement. We suggest adding the following text (which is consistent with the FATF's October 2015 statement), to reflect that this guidance was just issued by FATF:**

> "In October, the FATF issued *Guidance on the Risk-Based Approach for Effective Supervision and Enforcement by AML/CFT Supervisors of the Financial Sector and Law Enforcement*. This guidance reiterates the existing expectation that regulators and supervisors should use a risk-based approach when supervising financial institutions' compliance with AML/CFT measures. This is not a "zero failure" or "zero tolerance" approach which means that, when failures are detected, the regulator or supervisor should apply actions that are appropriate and proportionate, taking into account the nature of the failure. Regulators and supervisors should also ensure that financial institutions are taking a risk-based approach to implementing AML/CFT measures, without prejudice to rules-based measures such as targeted financial sanctions. Implementation by financial institutions should be aimed at managing (not avoiding) risks. What is not in line with the FATF standards is the wholesale cutting loose of entire countries and classes of customer, without taking into account, seriously and comprehensively, their level of money laundering and terrorist financing risk and applicable risk mitigation measures for those countries and for customers within a particular sector."

8. **Section 3.4 (*Information sharing*), page 23, 2nd paragraph: This paragraph implies that the FATF standards require KYCC as a matter of course, in addition to requiring "enhanced information should there be a need". This is not the case. We suggest adding the following text (which is consistent with the FATF's June 2015 statement)** to clarify that, when establishing correspondent banking relationships, the *FATF Recommendations* require banks to perform normal CDD on the respondent bank, and to gather sufficient information about the respondent bank to understand its business, reputation and the quality of its supervision, including whether it has been subject to a ML or TF investigation or regulatory action, and to assess the respondent bank's AML/CFT controls. Although there will be exceptions in high risk scenarios, the *FATF Recommendations* do not require banks to perform, as a matter of course, normal CDD on the customers of their respondent banks when establishing and maintaining correspondent banking relationships. In future, the FATF will continue to further clarify this guidance.

9. **Section 3.4 (*Information sharing*), page 22, second last paragraph 23, 3rd paragraph: Data protection authorities also play an important role in this process, and the FATF has already had some engagement with them on these issues. We suggesting adding the following text (which is consistent with the FATF's March 2014 public summary of that meeting) at the beginning of the second last paragraph on page 22:**

> "The FATF organised a one-day seminar (hosted by the European Commission in Brussels on 25 March 2014) with data protection authorities and representatives from financial institutions to exchange views on the interplay between data protection laws and AML/CFT requirements, map commonalities, including on existing good practices, and to foster a dialogue between all relevant experts and the national, supranational and international level."

10. **Annex 2 (*Glossary*), definition of *customer due diligence (CDD):* The current definition should be clarified to reflect that the FATF Recommendations are being referred to, and to include a specific reference to FATF Recommendation 10 on CDD. We suggest changing the final sentence of the paragraph as follows:**

> "Financial institutions should be required to apply each of the CDD measures under (a) to (d) above, but should determine the extent of such measures using a risk-based approach (RBA) in accordance with the FATF Interpretive Notes to FATF Recommendation 10 and FATF Recommendation 1".

11. **We suggest adding a reference to the 4th paragraph of page 3 of the CPMI report** (Recommendations). Specifically, subsection (i) of the 3rd bullet point refers to *"the use of information-sharing mechanisms* ***(if they exist in a given jurisdiction and data privacy laws allow this)*** *for knowing your customers' customer could be promoted as the first source of information by default…"*. We suggest that a recommendation for the authorities to promote the exchange of information among financial institutions within a country and with foreign financial institutions should be added. In other words, in those jurisdictions where they have current limitations due to privacy laws, the authorities should aim to solve the limitations in order to improve transparency and trust.