FIRSTRAND

Commentary on Revised Annex on Correspondent Banking

1. General Comments

In general, the proposed revised annexure on correspondent banking is a useful and practical document. Together with the applicable FATF guidance, these documents significantly de-mystifies the compliance requirements for correspondent banking and serves to standardise both requirements and approaches to complying with such requirements.

2. Comments on Specific Sections

The following comments pertain to specific sections of the revised Annexure 2, as set out below:

Section	Text	Comment
II. Risk-based approach in the context of providing correspondent banking services		
Par 7.(2)(e)	(e) the respondent bank's management and ownership (including the beneficial owners) and whether they represent specific ML/FT risks (eg politically exposed persons (PEPs));	Additional guidance is required on the expectation for UBO details. Correspondent banks are currently applying varying shareholding / controlling interest percentage requirements in terms of UBO identification. It would be helpful if guidance could be given as to an acceptable minimum standard – even if this varies from a threshold and related guidance contained in respective domestic legislation. It is furthermore not clear whether understanding the shareholding and control structure of a bank actually and significantly reduces the risk posed by a respondent bank – apart from the identification of Politically Exposed Persons. Guidance is therefore required on risk identification in the analysis of a bank's shareholding and control structure – i.e. what should be identified in such an analysis, apart from PEPs and sanctioned individuals? Such guidance would enhance the focus of the EDD on prospective and/or existing correspondent banking relationships.

Section	Text	Comment
Par 7.(2).(g)	(g) whether any civil, administrative or criminal actions or sanctions, including public reprimands, have been applied by any court or supervisory authority to the respondent bank.	Guidance is required on how the past imposition of a civil, administrative or criminal action or sanction on a bank should be interpreted and how the impact of such an action or sanction should be assessed. How should the nature of the action or sanctioned be quantified in terms of the risk assessment? It is also recommended that any required remediation on the part of the bank – whether on-going or already completed –also be included in the risk assessment, as a mitigating factor.
Par 7.(3).(j)	(j) the quality and effectiveness of banking regulation and supervision in the respondent's country (especially AML/CFT laws and regulations) and the respondent's parent company country when the respondent is an affiliate.	Guidance is required on how such an assessment should be conducted, as this often poses significant practical challenges – especially for jurisdictions within Africa.
Par 7.(1)(c); 7.(3)(I); 10; 11; 13 & 14	Various sections relating to "nesting" / downstream clearing, with specific reference to terms used such as "have access to the account" and "direct access".	It is recommended that these terms and concepts be defined.
Par 12	Providing access to third-party foreign financial institutions that are not the customer of the correspondent bank, and so not necessarily known, can obscure financial transparency and increase ML/FT risks.	It is recommended that a distinction be drawn between (1) affiliates or subsidiaries of the respondent bank that utilises the same services of the correspondent bank and (2) completely separate or unlinked financial institutions utilising the correspondent banking services that are provided to the respondent bank in question, and that guidance be provided on the different treatment recommended for each of these two categories.
Par 14	(d) types of services the respondent offers to nested banks (proprietary only or customer services such as correspondent banking);	Clarification is required on what is meant by proprietary services that could be offered to nested banks.
Par 20	20. In assessing whether to enter into a correspondent banking relationship, the correspondent bank should also consider relevant information on the jurisdiction in which the respondent operates, for instance from international bodies or other sources listed in paragraph 25 of the FATF guidance. Where deficiencies are identified in certain jurisdictions, correspondent banks	It is also recommended that the apparent challenges most countries still face in complying with certain specific FATF Recommendations be considered as relevant to the assessment of country risk. Considering the Mutual Evaluation Reports of countries recently reviewed under the revised FATF methodology, compliance with FATF Recommendations 12 on PEPs, 13 on Correspondent Banking, and 16 on Wire Transfers are generally low, even for high capacity countries such as the USA, Canada and Australia.

Section	Text	Comment
	should also take into account the corrective measures under way to strengthen the jurisdiction's AML/CFT controls, as well as efforts by domestic authorities to instruct respondent banks on how to strengthen their controls and mitigate ML/FT risks. This would be relevant especially where a correspondent bank is considering whether an existing correspondent banking relationship could be subject to additional monitoring or restrictions, rather than termination.	

3. Specific Requests for Comment

The following comments pertain to requests for comment contained in the three respective text boxes, as set out below:

3.1. Box 1: Information from KYC utilities on respondent banks' overall customer base or types of customers

It is agreed that this information could be useful. As a respondent bank we are generally requested to provide this information to correspondents via bespoke questionnaires. This will assist to streamline and standardise the information set. However, it is unlikely that the information would realistically be available, given the different maturities of financial institutions, especially in emerging markets.

In light of this current restraint, it may be more useful to focus on the actual transactional activity that is going to be occurring – i.e. understanding what the majority of the funds flowing through the account are in respect of, for which customers etc. The correspondent should build a repository of this information as this will help it identify where the risks lie and in respect of which customers.

3.2. Box 2: Assessment of a respondent bank's AML/CFT programme

Agreed that this guidance should remain principle-based, and that the content of paragraphs 21 – 22 is sufficient in this regard.

3.3. Box 3: Quality of payment messages

It is recommended that the content already included in paragraphs 37–40 of the 2009 publication should be added to the annex.

Additional clarification is required regarding developing international practices relating to the content of payment messages – specifically with reference to the inclusion of the physical address for both the originator and the beneficiary. Despite the flexibility of FATF Recommendation 16 and the Interpretive Note to Recommendation 16, it is increasingly being required by correspondent banks that the physical address of both these parties be included in the message, typically for sanctions screening purposes. Additional guidance in this regard is important considering the practical challenges some countries face in respect of obtaining and verifying residential addresses.

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