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February 22, 2017

To The Basel Committee on Banking Supervision

Japanese Bankers Association

Comments on the Consultative Document: *Revised Annex on Correspondent Banking*

We, the Japanese Bankers Association ("JBA"), would like to express our gratitude for this opportunity to comment on the consultative document: *Revised annex on correspondent banking*, issued on November 23, 2016 by the Basel Committee on Banking Supervision ("BCBS").

We respectfully expect that the following comments will contribute to your further discussion

1. Comment on Annex 2 "Correspondent banking"

(1) "II. Risk-based approach in the context of providing correspondent banking services"

(i) Paragraph 7

When correspondent banks assess their ML/FT risks, it should be noted that, depending on the law of the country (jurisdiction), certain information needed to make an assessment may not be provided. It should be specified that, under these circumstances, unavailability of information should not be a factor for assessing the relationship as "high-risk."

(ii) Paragraph 7 (1) (b)

It would be beneficial to clarify what is meant by "have access to." Specifically, clarification is requested as to whether nested account relationships are being referred to or whether it is "payable through" type access that is being targeted.

These two are exposed to different risk. The nested account is with less risk than the "payable through" type access, provided that the respondent bank is adequately monitoring the intra-group accounts.

(iii) Paragraph 7 (1) (c)

○ Given that the "nested" relationship is further explained in "B. Nested (downstream) correspondent banking," it should be specified that, when using the "nested" relationship as a risk indicator, the statements in "B." should be considered. Nesting (Downstream Correspondent Banking) should be treated carefully from a De-Risking perspective, as it has a significant impact across developing countries and small-sized local financial institutions.

○ "Nested" relationships and "payable through"accounts should be treated separately in order to enhance risk-based decision making as they have differing risk profiles.

(iv) Paragraph 7 (2) (d)

It should be specified that "overall types of customers" of the respondent bank does not serve for KYCC purposes, and rather for gaining a high-level understanding of the Respondent Bank's customer base. It should be made clear that this does not serve for KYCC purposes, which is also considered to be a de-risking factor.

(v) Paragraph 7 (3) (j)

It would be useful if the guidance provides benchmarks (eg, not on FATF's black/grey lists) with respect to "the quality and effectiveness of banking regulation and supervision" in order to align the due diligence expectation levels of various regulators.

(vi) Paragraph 14

When assessing the ML/FT risks associated with nested relationship, it should be noted that, depending on the law of the country (jurisdiction), certain information needed to make an assessment may not be provided. It should be specified that, under these circumstances, unavailability of information should not be a factor for assessing the relationship as "high-risk."

(2) "VIII. Risk management"

(i) Paragraph 37

- ○ It would be useful for the readers of the guidance if concrete examples are provided for the requirement: "business relationships should be formalised in written agreements that clearly define the roles and responsibilities of the banking partners."
  Example: "provide KYC (due diligence/enhanced due diligence) information as requested, and reply within XX days to RFIs regarding payments."
- ○ Clarification of what is meant by "roles and responsibilities" should be provided. The example of "notice periods for terminating or limiting the business relationship", though important, is not "roles and responsibilities."
- ○ While the guidance requires that "business relationships should be formalised in written agreements", some types of correspondent banking relationships are not based on bilateral documentation. An example would be Relationship Management Application on SWIFT. Given this, such business relationships should not necessary be limited to written agreements. Furthermore, the guidance should not contradict or deny standard industry practice unless it is the BCBS's intention to do so. In this view, the guidance should specify that "it is not necessarily required to formalise business relationships in written agreements provided that there is already an established standard industry practice." Even if the BCBS intends to make changes that would contradict or deny standard industry practice, discussions with industry bodies to avoid disruption to the global payments flow should preceed any such changes.

(3) Box 1

○ If information on respondent banks' overall customer base is in fact available on KYC utilities, further details of such information would be welcome. Nevertheless, the availability of such data should be confirmed before deciding to include such details. If such details are to be given without confirming the availability, the guidance should clearly state that the guidance is applicable only "if detailed information is available."

○ Although we understand the usefulness of KYC utilities, it should also be noted that they would not serve all purposes and have limitations. For example, it is difficult to acquire information (i) to (iii) described in box 1 at least from the currently-used third-party databases. Furthermore, it might become rather inefficient if more than one third-party databases exists.

○ "(iii) Whether certain high-risk categories (such as PEPs) are over-represented in the customer base compared to the general population" is included as an example of "useful information on respondent bank customer types." However, this information may not be appropriate. Assessment results will vary, as each entity has its own criteria for "high-risk" or "over-representation." It is therefore not considered appropriate to gather this type of volatile information through KYC utilities.

○ "The analysis of the flow of messages" should be deleted as it is likely that such an analysis will often not properly function as a KYC utility (e.g. only consists a partial flow of messages). (This is not to deny the use for specific purposes such as transaction monitoring of the respondent bank.)

(4) Box 2

○ Paragraphs 21-22 are sufficient for the guidance regarding a correspondent bank's assessment of a respondent bank's AML/CFT policies and procedures. Overly detailed guidance could be taken by some regulators that the use of such information sources are mandatory. If, nonetheless, the BCBS determines to elaborate further on this requirement, the detailed guidance should be viewed as an example because, in addition to the above-mentioned reason, it may be difficult to acquire some information from the respondent bank (e.g. although the guidance refers to the use of internal audit reports as an example, some banks are considered to treat such reports as confidential information).

○ The examples in paragraph 21, "for example, receiving a description of the respondent bank's AML/CFT procedures and systems… " may be overly descriptive, and includes unpractical measures. Assessing the respondent bank's AML/CFT procedures and systems can be replaced with a more general description, such as, verifying the existence and the operational status of main AML policies, or appropriately checking the regular review status of the internal audit function.

(5) Box 3

A list of specific information to be included in the payment message, and meta-data requirements that needs to be taken into account would be helpful. Examples of information to be included in payment messages are: originator and beneficiary full legal name; and address with country name. Examples of meta-data considerations for "country name" are: full name; short name; and 2 or 3 character code as set forth by ISO.

2. Comment on Annex 4 "General guide to account opening"

(1) "I. Introduction"

(i) Paragraph 6bis.

There is value in using KYC utilities, when an appropriate threshold for usage is in place, and it is used as a supporting tool for performing CDD. It is important to clearly note that CDD requirements cannot be fulfilled by solely relying on the use of KYC utilities in order to avoid misunderstanding.