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Basel Committee on Banking Supervision
Bank for International Settlements
Centralbahnplatz 2
4051 Basel
Switzerland

22 February 2017

Dear Sirs,

Correspondent banking – revisions to the guidelines on the "Sound management of risks related to money laundering and financing of terrorism"

At Standard Chartered, we believe that correspondent banking is the cornerstone of transaction banking; facilitating cross-border flows of goods and services, and connecting banks with customers around the world. We have, therefore, been deeply concerned about the current threat that de-risking represents, and welcome efforts by the Basel Committee on Banking Supervision (the "Committee") to discourage it.

While de-risking can emerge from strategic risk management decisions, at times driven by market conditions, we believe it is often an unintended consequence of the increasing complexity of diverse regulations, uncertainty around interpretation and implementation, and the risk of significant penalties for non compliance. We, therefore, fully support the Committee's overarching goal of clarifying regulatory expectations and reducing inconsistencies. You can read more about our views on the steps required to halt the decline of correspondent banking here: http://growthcrossings.economist.com/article/halting-the-decline-of-correspondent-banking/.

Thank you for providing an opportunity to comment on the proposed revisions (the "Revisions") to the Committee's guidelines on the "Sound management of risks related to money laundering and financing of terrorism". The Revisions are comprehensive and helpful, and we believe will help reduce inconsistencies of expectations. While we do not request any fundamental changes to the direction or focus of the Revisions, we do have a number of suggested amendments that we believe will help "fine tune" the Revisions.

1. ***Definitions***. The definition of correspondent banking has a fundamental impact on the applicability of the Revisions. There are a number of points on the definitions that we ask the Committee to take into account:

   - *Avoid an unintentional expansion of scope*. The Revisions adopt the Financial Action Task Force ("FATF") definition of correspondent banking. Although we agree that the definitions used in all relevant guidance should be aligned, the current FATF definition is very broad and incorporates a number of services that are not universally regarded as correspondent banking. These include, for example, securities trading on recognised

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exchanges and payments within a respondent's group in the same jurisdiction. Using a narrower definition would facilitate a focus on higher risk services, in line with the goal to encourage a risk-based approach. We therefore ask the Committee to consider adopting the Wolfsberg definition and reconsidering some of the examples of correspondent banking set out in Paragraph 7.(1)(a) in particular.

Domestic versus cross-border relationships. A number of banks use correspondent relationships to access their own domestic clearing facilities, as well as for international purposes. However, in line with FATF guidance, the Revisions focus primarily on "cross-border" correspondent banking risk. We believe some comment on domestic correspondent banking risk which, is considered much less risky in most markets, could be an area to cover.

- *Miscellaneous. We suggest that the Revis*ions use the definition "Affiliate" consistently, rather than referring to "different entities of the group" (see, for example, paragraph 7.1(b)), and use one of "TF" and "FT" as the acronym for terror finance, not both.

2. ***Intended audience and creating a more equitable balance of responsibilities***. We ask the Committee to be more explicit about the intended audience of these Revisions. In practice, the weight of compliance is primarily borne by the correspondent bank. A correspondent bank will exit a relationship if it does not receive satisfactory engagement with, and responses from, the respondent bank and determines it is unable to positively influence a respondent bank. We urge the Committee to help respondent banks and their regulators and supervisors to understand that taking a more balanced portion of responsibilities would be in their own interests and those of their respective economies.

   For example, the Revisions provide an ideal opportunity to emphasise to respondent banks (and their regulators and supervisors) the role of respondent banks in proactively providing the information set out in paragraphs 12 and 16-20. Paragraph 26 is a good example of encouraging respondent banks to provide information.

3. ***Risk-based approach, including risk indicators and risk assessment***. We completely agree with the Committee's focus on encouraging a risk-based approach and its recognition that not all correspondent banking relationships bear the same level of risk. In particular:

   - *Risk factors.* With respect to risk factors noted in paragraph 7.(2)(d), we suggest that there is explicit reference to whether the respondent's client base is purely domestic or whether it has (material numbers of) non-domestic clients, and whether its clients or target markets are in high risk geographies.

     Paragraph 7.(3) would be clearer if it referred to the inherent risk of jurisdictions, by reference to their susceptibility to money laundering, terror finance and corruption. It should be noted that while "emerging countries" largely fall into the category of countries with overall higher risks, the volume of criminal activity and proceeds of crime generated & facilitated in those countries are actually small, particularly if compared to G20 countries, largely considered as low or medium risk.

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- *Risk mitigation factors.* We believe that, in addition to the controls of the respondent and correspondent, correspondent banks can legitimately manage their risk by adapting their product offering or limiting the volume of activity with a particular respondent. We, therefore, ask the Committee to refer to this point expressly.

4. ***Downstream clearing / nesting***. We are pleased that the Revisions refer to downstream clearing, which we see as being a core element of correspondent banking. However, we would recommend that the Committee refers to "downstream clearing" rather than to "nesting", given the current negative connotations of the latter phrase.

   Downstream clearing is an increasingly important element of correspondent banking, while the use of "payable through accounts" is diminishing. We also suggest that paragraph 7.(1)(c) is divided into two distinct paragraphs: one for payable through accounts; the other for downstream clearing.

   - *Increasing transparency.* We are pleased to see the new requirement, in paragraph 12, for respondent banks to disclose the existence of downstream clearing. However, we suggest that the wording is adjusted to clarify that the correspondent only needs the respondent to disclose the downstream banks whose transactions will flow through the respondent, rather than the respondent's entire portfolio of downstream banks.

     We believe that the presence of downstream clearing should not obscure financial transparency. Paragraph 13 suggests that the degree of transparency provided by a respondent bank should be treated as a risk factor. When downstream relations are disclosed, KYC standards should prompt the correspondent bank to conduct an assessment of the entity utilising downstream services, using public sources and through information provided by the respondent.

5. ***Information gathering including KYCC and KYC utilities.***

   - *Meaningful assessment of risk.* In line with current regulations, we completely support the position that obtaining copies of a respondent bank's policies and procedures is not necessary as this can encourage a "tick box" mentality and limit a full assessment of the respondent's controls. We agree with the position in the guidelines that correspondent banks should meaningfully assess the adequacy of the respondent bank's control environment. Many banks have introduced questionnaires to do so, for example, the Wolfsberg questionnaire which is regularly reviewed and we hope a revision will be available later this year. We request that paragraph 17 is rephrased to emphasise this point.

   - *KYC utilities.* We are pleased to see the reference to KYC utilities, which we believe hold great promise in promoting clarity and transparency, and thereby protecting the functioning of correspondent banking. In response to the specific questions in the Revisions:

- Box 1 on page 5 – Yes, it would be useful for the Revisions to detail the sort of information a correspondent bank could acquire from a KYC utility. We see these utilities as important future enablers of efficient correspondent banking but, at present, there is a lack of consistency around the reliability of the emerging utilities which may impede the speed at which they gain traction.

- Paragraph 6ter on page 12 – We agree with the principle that the ultimate responsibility for conducting Customer Due Diligence ("CDD") remains with the bank. We suggest this paragraph is adjusted to differentiate between the different levels of integrity and reliability of the multiple emerging KYC utilities.

6. ***Assessment of the respondent bank's AML/CFT controls.*** We agree with the approach outlined in section III, especially encouraging direct liaison between the correspondent and respondent bank. We find such direct liaison particularly informative, and welcome efforts by the Committee to encourage greater openness and responsiveness from respondent banks. In particular:

- *Focusing on core control indicators.* Banks' control frameworks vary. It would be unrealistic to expect small banks from "emerging countries" to have as comprehensive and as generously resourced financial crime compliance frameworks as larger banks in more "developed countries". However, section III currently implies that banks from emerging countries should be assessed against the standards of banks from developed countries. We believe that section III should be redrafted to emphasise that banks need to adhere, at the very least, to certain minimum standards. If these standards are not met, then access to correspondent banking should be denied. The standards need to be transparent, consistent and objective.

  In our view, this would mean focusing on preventative controls and complete information which would ensure: adequacy of CDD, payment transparency, responsiveness to Requests for Information ("RFIs"), transparency around the evolution of a bank's financial crime compliance framework, and (where downstream clearing is permitted), compliance with applicable guidelines (like those of Wolfsberg and BCBS) relating to correspondent banking.

  We have included information at the end of this letter on our additional proposal for achieving consistent, objective and transparent minimum standards through the use of a "Registration Statement".

- *Use of internal audits.* The word "checking" in paragraph 21 could imply a degree of testing that would not be practicable. We ask the Committee to be cautious about mandating the use of internal audits or other testing methodology: while liaison and reviews are operationally practicable, onsite testing and auditing is not.

- Box 2 on page 6. Yes: we see the assessment of a respondent bank's control effectiveness as a really critical component and the more specificity the Committee can provide on how this assessment should be conducted, the better. Clarifying the standards to be adopted and obtaining a uniform regulatory interpretation and application approach will be a major contributor to consistency and transparency. We recommend that the Revisions refer to the use of tools to enable a meaningful and objective assessment of controls, such as the Wolfsberg Questionnaire – please see our comments in section 5, above.

7. ***Ongoing monitoring***. We support the concept of ongoing monitoring of respondent banks and associated activities. However, we suggest a number of adjustments to section V:

- *Paragraph 26*. We would welcome further guidance in relation to what "full and accurate originator and beneficiary information" would comprise. We suggest this includes the name and address of the originator and the beneficiary. Although, we appreciate that setting such a standard is complex, e.g. a person or entity can have multiple addresses, and there are limited character spaces in certain message types. Additionally, we propose the inclusion of a reference to any applicable KYC document on a shared utility, the required transaction reference information, and confirmation from the beneficiary of the invoice or other documentation driving payment. Taking this further to require the transaction reference information to state the economic purpose of transaction would provide a large amount of transparency and further enable post transaction surveillance detection to resolve inquiries. However, with more information available in payment messages, it would be important to recognise that not all such information would be screened or need to be screened.

- *Paragraph 27*. This paragraph appears to only apply to payable-through accounts. We believe that, for payable-through accounts only, a correspondent bank should conduct CDD on the entities that have direct access, because they are essentially operating as a customer of the correspondent bank.

- *Paragraph 29*. We agree with this statement and it aligns with our comments regarding paragraph 9. We would enhance the sentence to expressly state that a risk-based approach should be taken and also include the limitation of certain higher-risk products, services, downstream clients or transaction types.

- *Paragraph 30*. We suggest this paragraph, which covers items of governance rather than monitoring, is moved to section IV on "Customer acceptance and retention". We agree that senior managers should be involved in decisions around withdrawal from or retention of higher-risk clients, and should be informed of the highest risk relationships. However, consistent with applying a risk-based approach, this level of oversight should not be required for other relationships.

8. ***The role of banks processing cross-border wire transfers.***

- *Paragraph 32*. We do not think that "[information] consistent with straight through processing" is the appropriate standard. To complete straight through processing, a bank only needs information on the beneficiary bank and account number, which is

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significantly less information than is required for transparency from an anti-money laundering and sanctions screening perspective.

- *Paragraph 35.* Please clarify or qualify what "manifestly meaningless" and "incomplete" would mean in practice. We have seen examples of information provided that did not correlate to the actual transaction, and the use of incomplete and even fictional names.

- *Box 3 on page 8* – Yes: (i) it would be useful to insert the content of paragraphs 37-40 of the 2009 publication, and (ii) it would be helpful to make mandatory the provision of information on country and to define some standards for the format, such as the use of ISO alpha 2 code. We understand that SWIFT is intending to make further rules in this area, but these are at an early stage of development only.

9. ***Additional comments.*** The Revisions contain limited commentary on how to manage risk arising from affiliate entities and on sanctions-related controls. We would welcome further clarity on these separate points, particularly as historical enforcement actions primarily focused on controls for a bank's affiliates rather than on controls for third party customers.

10. ***Registration Statement.*** The concept of the "foreign bank certification" or "registration statement" is to introduce a standard correspondent bank certificate that contains clear statements about a bank's financial crime compliance programme, such that the certification facilitates the provision of correspondent bank services to that institution. The questions or statements within the Statement would represent regulatory approved minimum standards for participation in a currency clearing arrangement with a correspondent bank. The concept requires the head of financial crimes compliance (or equivalent officer) of a bank to certify the accuracy of the Statement (not unlike the current signing of USA PATRIOT Act Certificates). As an additional strengthening part of the process, the Statements could be signed by the home regulator of the bank in question. While the concept of the Statement could work for even a single using jurisdiction, the concept will gain additional strength if supported by other major financial centres. The Statement itself would not negate the requirement for banks providing correspondent banking services to perform their KYC process but it could be used as part of that due diligence. Equally, the completion of the Statement would not guarantee that a bank signing such a Statement would be provided correspondent banking services, although it would be presumed to be an advantage in this regard.

    The primary benefits of the overall concept are to reduce threats of financial instability from de-risking and financial exclusion, impacting both major financial centres and emerging economies.

    The benefits for banks trying to gain access to major financial centres is a clear statement with respect to regulatory approved minimum standards and a strong basis for initiating dialogue with prospective providers.

    The act of defining and creating transparency around these agreed minimum standards will serve as means of informing and educating participating banks of required standards. This can also act as a springboard for more detailed dialogue on control standards.

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The benefits for the banks providing correspondent banking services would depend on the degree to which they could put some reliance on the information provided in the Statement. On the basis of regulatory endorsement of the standards, and signed Statement by a bank and by its primary regulator, it would be presumed that using banks could take some reliance on statements made, notwithstanding that this would fall short of "safe harbour". As well as the risk mitigation aspect, there would additionally be an efficiency aspect of due diligence, both for the banks providing and using correspondent banking services.

We have developed an example Registration Statement, that draws upon questions asked in our internal correspondent banking CDD process as well as from in the Wolfsberg Due Diligence Questionnaire, SWIFT KYC Registry and USA PATRIOT Act Certification, which is available on request.

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The guidelines on the "Sound management of risks related to money laundering and financing of terrorism" are very important guidelines that fundamentally influence the effectiveness of correspondent banking globally. We greatly appreciate the steps the Committee is to improve the clarity of these guidelines and thereby strengthen the foundations of correspondent banking.

Standard Chartered's commitment to the fight against financial crime is an integral part of our strategy and an essential component of our brand promise, Here for good. We set out more information on the work we are doing to fight financial crime on our website: https://www.sc.com/fightingfinancialcrime/. We have provided these views for your consideration and, should you require more detail in relation to any of these points, please do not hesitate to contact me.

Yours faithfully,

John Cusack
Global Head, Financial Crime Compliance