



Mr Luis Urrutia
FATF President
FATF / GAFI
2, rue André Pascal
75775 Paris Cedex 16

e-mail: fatf.consultation@fatf-gafi.org

22 September 2011

Ref.: AML/KSI/PWE/MBR

Dear Mr President,

Re: FEE Comments on the FATF Consultation June 2011 Second Public Consultation "The Review of Standards - Preparation for the 4th Round of Mutual Evaluations"

FEE (the Federation of European Accountants) is pleased to provide you below with its comments on the FATF Second Public Consultation Paper "The Review of the standards - Preparation for the 4th Round of Mutual Evaluations".

FEE (Fédération des Experts-comptables Européens – Federation of European Accountants) is an international non-profit organisation based in Brussels that represents 45 institutes of professional accountants and auditors from 33 European countries, including all of the 27 EU Member States. FEE has a combined membership of more than 700.000 professional accountants, working in different capacities in public practice, small and big accountancy firms, businesses of all sizes, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

FEE commends the FATF for having put in place a consultation of stakeholders on its proposals to amend the Recommendations through the consultation. It welcomes the opportunity to provide written comments.

Our positions are influenced by the fact that the European Union approved the Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, generally referred to as the Third Anti-Money Laundering Directive, that implements and in some instances goes further than the 40+9 FATF Recommendations. In transposing the Directive in their national legislation, some EU Member States already put in place measures that are proposed in the consultation.

We understand that the current review aims at maintaining the necessary stability in the standards while addressing new or emerging threats and any deficiencies or loopholes in the current FATF standards. We also noted in paragraph 5 of the consultation paper that substantive feedback will be provided on adoption of revised standards in February 2012.

1. Beneficial Ownership: Recommendations 5, 33 and 34

1.1 Recommendation 5

We note that in paragraph 8 that an assumption is made that in all cases the identity of the beneficial owners of legal persons and legal arrangements should be subject to verification. This would appear to be counter to a risk-based approach as, whilst we agree in all cases the identity of the beneficial owners requires to be established, the nature and extent of the measures necessary to achieve this should be determined on a risk-based basis.

1.2 Recommendation 33 – Legal Persons

We would support the FATFs consideration of requiring companies to hold both basic information and information about their beneficial ownership. As well as improving accessibility of information to competent authorities, this would also provide significant efficiency gains for financial institutions and DNFBSs in conducting customer due diligence. This should supplement the routes suggested in bullet (b) of paragraph 10.

We broadly support the other proposals made in paragraph 10 and 11. Better recording of information in the public domain should be required but we also respect the legitimate rights to confidentiality of natural persons. As such, we do not support compulsory public disclosure of beneficial ownership but support the mechanisms described that require companies and similar arrangements to have access to, and record, this information.

1.3 Recommendation 34 – Legal Arrangements

We broadly support the proposals made in paragraph 12 and 13. Again, better recording of information in the public domain should be required but we also respect the legitimate rights to confidentiality of persons. As such, we do not support compulsory public disclosure of beneficial ownership but support the mechanisms described to enable other legal arrangements to have access to and record this information.

2. Data Protection and privacy: Recommendation 4

The issue identified of conflict between data protection and privacy with AML/CFT measures is a practical issue for many businesses. Whilst ideally countries should be encouraged to exempt from data protection and privacy laws movement of legitimately held data for AML/CFT purposes within groups of businesses regulated for AML/CFT, this is likely to be complex. Interim solutions are likely to continue to rely on those groups of businesses including in their terms and conditions clauses to obtain customer consent to move information for this purpose.

3. Group-wide compliance programmes: Recommendation 15

We agree in broad terms with the FATF considerations but unless support is forthcoming from the authorities referred to in paragraph 15, FEE believes that barriers to achieving these aims will inevitably persist.

4. *Special Recommendation VII (Wire Transfers)*

We make no comment on this matter.

5. *Targeted financial sanctions in the terrorist financing and proliferation financing contexts*

We agree in broad terms with the FATF considerations.

6. *The Financial Intelligence Unit: Recommendation 26*

We agree in broad terms with the FATF considerations.

7. *International cooperation: Recommendation 40*

We agree in broad terms with the FATF considerations.

8. *Other issues included in the revision of the FATF standards*

8.1 Adequate/inadequate implementation of the FATF Recommendations

We endorse the proposals contained in paragraph 27, and in paragraph 28, provided the additional countermeasures are expressed as genuine examples and options, and not as a compulsory list of measures.

8.2 Risk-based approach in supervision

We endorse the position taken in paragraph 29.

8.3 Further consideration of Politically Exposed Persons

We agree with the FATF considerations concerning international organisations, and family members and close associates. However, we maintain the opinion as set out in our response to the first round of public consultation that all PEPs should be treated in the same way, i.e. there would be a presumption that enhanced CDD measures would be required whether domestic, foreign or international, but that the CDD required could be reduced on a justifiable risk appraisal in respect of both foreign and domestic PEPs.

At this stage, FEE has no other comments on proposed amendments to the 40+9 Recommendations.



For further information on this letter, please contact Ms Petra Weymüller (petra.weymuller@fee.be, +32 (0)2 2 85 40 75) from the FEE Secretariat.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philip Johnson', is written over a horizontal line. The signature is stylized and extends to the right.

Philip Johnson
FEE President