

POSITION PAPER



**FATF draft guidance paper on AML/CFT
and financial inclusion**

**WSBI Comments and proposals for
adjustment**

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The World Savings Banks Institute (WSBI) welcomes the initiative taken by the FATF to develop a Guidance paper on AML/CFT in a financial inclusion context. For some years¹, WSBI has called the attention on the challenges posed by the implementation of AML/CFT rules in an emerging and developing country context where, for example, the identification of people or their address is not formally organized. In a number of cases, this has acted as a disincentive both for unbanked groups to access the formal financial system, and for financial institutions to serve this market segment.

However, WSBI members are fully convinced that financial inclusion and AML/CFT pursue mutually supportive and complementary objectives: the definition of measures which enable more citizens to use formal financial services increases the reach and the effectiveness of AML/CFT controls. WSBI therefore supports the development of well balanced and proportionate frameworks, which reconcile the goals of encouraging the provision of formal financial services to the largest part of the population, including to the low-income categories, and designing efficient and effective AML/CFT provisions, in compliance with the FATF Recommendations.

WSBI is pleased to bring its contribution to the FATF initiative, which will hopefully enable all interested stakeholders to work in an enhanced legal certainty environment yet level playing field.

General comments

FATF and financial inclusion

WSBI understands that the Guidance is being developed in parallel to the review of the FATF Standards, and cannot anticipate on the changes which will be brought to the reference framework. This Guidance should therefore only be a 1st step. Given the accelerated market developments and the need to build on the experiences which will be further developed at national level, WSBI calls on FATF to continue working on financial inclusion, and help all interested stakeholders, and mainly national regulators and market players, to define AML/CFT regimes conducive to financial inclusion.

WSBI also encourages FATF to actively present and promote the main recommendations and lessons of the Guidance to its members, to its Associate members, to the FSRBs and raise further their awareness on the flexibility of the FATF Recommendations, on the basis of the examples provided by the Guidance.

Impact of the Guidance

WSBI welcomes the examples provided by the Guidance of countries' AML/CFT regulatory practices, or market players' processes, which illustrate how the Recommendations can be read and implemented in a flexible manner in a financial inclusion context, yet ensuring full

¹ http://www.wsbi.org/uploadedFiles/Position_papers/0565%20updated.pdf

compliance with the FATF requirements. Sharing these practices will be useful to give interested parties a better idea of how the AML/CFT requirements can be balanced with financial inclusion objectives.

WSBI understands that such experiences can only be “validated” at the occasion of the Mutual Evaluation procedures. However, the Guidance would bring additional value to these case studies if, without going as far as endorsing them, it would encourage users to replicate or get inspired by these good practices. The document would then fully meet its objective of providing guidelines for regulators and market players. This would also create certainty around the acceptable level of flexibility of the Recommendations for financial inclusion purposes.

Agent banking

WSBI fully supports the ongoing initiatives to optimize the potential of innovation for the delivery of financial services to the most vulnerable parts of the population. The opportunities offered by technology, and in particular mobile phones and the development of branchless banking solutions, mainly through retailers, are promising routes to provide competitive and adapted services to clients and enlarge the outreach to the unbanked and underserved segments.

WSBI welcomes FATF’s willingness to encourage and facilitate agent banking. It will be important though that the CDD applicable regime is implemented in a proportionate manner, with a view to prevent putting some undue restrictions to the ongoing development of agent networks and avoid creating a new barrier to financial inclusion. WSBI supports the principle that all market participants who are involved in enabling, delivering or supporting the services are submitted to some sort of oversight, but clarifications will be needed as to which entities should be licensed or registered, and which ones should be supervised or monitored. The issue of regulatory and supervisory resources will also need to be assessed, especially in low capacity countries to make sure that the selected approach will be efficient and reach its dual objective of financial inclusion and market integrity. Besides, the KYC requirements expected from agents should take into account the technical and logistical means which they can reasonably have access to, given their location or the size of their business.

From the perspective of the WSBI Payments Practice

Scope

The document would greatly benefit from more clarity as to its scope. The underlying message of the Guidance Paper is that a more proportionate approach to AML and CFT rules could be conducive to advancing financial inclusion. One of the key issues with AML/CFT rules highlighted by the Guidance Paper is identification of customers, for which the paper suggests that risk-based approaches be considered.

The implications of this suggested approach on the scope of the paper must be taken into consideration. The title of the Guidance Paper suggests that it is about financial inclusion, which would generally be understood as spanning account management and payments, savings, borrowing, and insurance products. However relaxing identification obligations as suggested will seriously challenge the feasibility of access to several products (provided through formal channels): savings products generally require a proper identification of the beneficiary (also in order to ensure proper transmission), borrowing is difficult to fathom in the absence of a savings/credit history, insurance certainly requires a strong link with a physical person (and assets).

Hence it should be clear that in effect the scope of the Guidance Paper – on the basis of the working assumption referred to above, which we support – is payment and account management services.

“Providers”

What should be central when assessing providers is the function that is being exerted, and not the type of institution. In line with the remark above, this function is the capability of opening and maintaining (regardless as to where and how) an account from which payments can be made and also received (regardless of the instrument and channel used to do so).

A fundamental requirement however is that on one side there is adequate supervision and regulation of this function and the entities which deliver the related services (at least for the part supporting the said services), on the other side that a level playing field be guaranteed between entities according to the risk profile of the service(s) they deliver.

The Guidance Paper will of course acknowledge that such entities have many options for delivering their services. Whenever they do not deliver services directly – i.e. whenever they outsource the performance of part of their value proposition to one or more third parties, and in particular where they outsource a customer-facing aspect of the value proposition – then the underlying principle must be that the outsourcer always remains fully accountable towards supervisors, regulators, and customers or the provision of the service(s) in general, and in particular with respect to compliance with AML/CFT obligations.

Products

Not all payment and/or account products should require the application of all FATF rules in a narrow acceptance. Products should be exempted from the application of a number of obligations according to several risk-based variables. These are notably:

- Accounts and transactions which are only accessible/can only be performed within a country, or a region thereof;
- Accounts and transactions which do not exceed a certain amount, either at any given point in time, or cumulative over a given period. Such amounts should be commensurate to the average revenues and monetary consumption patterns of the targeted population in any given country.
- In particular products which cater to “closed user groups” should be considered for exemption. Such closed user groups should include as beneficiaries, in addition to family members, those parties to which payments are to be made for day-to-day life.

Identity

The working principle which should be retained in the context of the above risk-based on a product basis approach is that a customer should always be “identifiable” – even when not identified on the basis of a formal document issued by a formal entity. What should definitely be prevented is that service providers build up any significant assets and/or transaction volume between parties which would remain anonymous. How a customer can be “identifiable” is a matter for each legal and geographic environment to specify, in the context of a given product proposition.

The Guidance Paper should address the specific case of undocumented migrants, as migration is and will remain a continuing pattern, and as migrants have a standing requirement for remitting money. The approach to be promoted in this respect by the Guidance Paper is the one

implemented in the US with the “matricula consular”. The point that the necessity of having migrant remittances transmitted through formal channels far outweighs compliance with immigration legislation and taxation considerations should be clearly made in the Guidance Paper, in order to establish the principle of clear separation at country level between tax and immigration authorities on the one side, and financial and banking authorities on the other, including with respect to data which has to be transmitted from the latter to the former.

Finally the Guidance Paper should feature a section about the “previously included” segment. In particular in developed countries negative career developments or other life accidents may lead previously banked customers to lose this status. The Guidance Paper should encourage market responses (on a self-regulatory basis) to cater to this segment.

Monitoring and reporting

Proper monitoring and reporting by savvy supervisors and regulators is essential. However this activity can lead to substantial costs for service providers. The working principle should therefore be that there is an inverse relationship between the level of formal document-based KYC that can be performed by service providers and the level of reporting required and monitoring performed by supervisors and regulators.

Specific comments

Proposals for adjustment and specific comments were directly inserted as track changes in the draft Guidance, available on request from WSBI.



About WSBI (World Savings Banks Institute)

WSBI (World Savings Banks Institute) is one of the largest international banking associations and the only global representative of savings and retail banking. Founded in 1924, it represents savings and retail banks and associations thereof in 90 countries of the world (Asia-Pacific, the Americas, Africa and Europe - via ESBG, the European Savings Banks Group). WSBI works closely with international financial institutions and donor agencies and facilitates the provision of access to financial sectors worldwide – be it in developing or developed regions. At the start of 2009, assets of member banks amounted to almost € 9,000 billion, non-bank loans to € 4,300 billion and non-bank deposits to 4,600 billion. Together the member banks conducted operations through 160,000 outlets.

WSBI members are typically savings and *retail* banks or associations thereof. They are often organised in decentralised networks and offer their services throughout their *region*. WSBI member banks have reinvested *responsibly* in their region for many decades and are a distinct benchmark for corporate social responsibility activities throughout the world.



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