



**Plenary**

**PUBLIC STATEMENT REGARDING THE NEW FATF RECOMMENDATIONS**

**15-17 February 2012, OECD Conference Centre, Paris, France**

*FATF-XXIII*

*Please bring this document with you to the meeting as no paper copies will be available at that time*

*The information in this document has been provided for your information and to assist delegations in responding to queries directed to them.*

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## PUBLIC STATEMENT REGARDING THE NEW FATF RECOMMENDATIONS

### *Information note by the Secretariat*

1. The adoption of the revised FATF Recommendations is an opportunity to raise awareness of the FATF and the issues of money laundering, terrorist financing and the financing of proliferation, and to publicise the revised Recommendations. Following adoption of the revised Recommendations, the FATF will issue a press release, and the FATF President will hold a press conference on the morning of Thursday 16 February on the revised Standards. It is expected that further press enquiries will be directed to the FATF and to delegations in subsequent weeks.
2. The FATF has prepared a media narrative and a question and answer briefing, as the basis for the Secretariat to respond to media enquiries and also to assist delegations in responding to queries directed to them. Following comments from delegations, revised versions of the media narrative and Q&A briefing are attached as Annexes 1 and 2. The narrative and the Q&A briefing are also intended to encourage a consistent response on any technical questions concerning the revised Recommendations and the wider work of the FATF – though delegations are of course free to respond to press enquiries in whatever way they wish.
3. The arrangements for issuing the revised Recommendations and for the Press Conference are as follows:
  - **Wednesday 8 February**, Media advisory (in English and French) was sent to journalists, this was a notification about the press conference and an invitation to register for the press conference.
  - **Friday 10 February**, an under embargo copy (until 16/02 @ 11h00) of the media narrative will be provided to the members of the press at their request.
  - **Wednesday 15 February**, an under embargo copy (until 16/02 @ 11h00) of the revised FATF Recommendations can be provided to the members of the press at their request, *i.e.*, after approval by the Plenary.
  - **Thursday 16 February**,
    - **Press conference** at 11h00. Interpretation will be available. The press conference will be screened in the Plenary room. The press conference will be recorded and suitable fragments could be published on our website. Journalists will receive a copy of the Recommendations, and media narrative.
    - **Press release** will be issued at 11h00 and published on [www.fatf-gafi.org](http://www.fatf-gafi.org) in English and French.

- ***Publication on the website*** of the revised FATF Recommendations at 11h00. The aim is to have both the English and the French version available at that time.
- **Friday 17 February**, Delegates will receive a printed version of the FATF Recommendations before the end of the Plenary.

FATF Secretariat

9 February 2012

## ANNEX 1

### **Revised FATF Recommendations: Draft Media Narrative**

*This narrative sets out the main message and key points which the FATF could give to the media and other outside stakeholders at the time the Revised FATF Standards are adopted and published.*

#### *Headline Messages:*

Money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction are serious threats to security and the integrity of the financial system. The FATF is the global standard-setter for measures to combat these threats. The FATF's standards (the FATF Recommendations) are applied by over 180 countries, through a global network of AML/CFT regional bodies, as well as the IMF and the World Bank.

The FATF Standards have been revised to strengthen global safeguards and further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime while. At the same time, these new standards will address new priority areas such as corruption and tax crimes.

The revision of the Recommendations aims at achieving a balance:

- On the one hand, the requirements have been specifically strengthened in areas which are higher risk or where implementation could be enhanced. They have been expanded to deal with new threats such as the financing of proliferation of weapons of mass destruction, and to be clearer on transparency and tougher on corruption.
- On the other, they are also better targeted – there is more flexibility for simplified measures to be applied in low risk areas. This risk-based approach will allow financial institutions and other designated sectors to apply their resources to higher risk areas.

The FATF Recommendations are the basis on which all countries should meet the shared objective of tackling money laundering, terrorist financing and the financing of proliferation. The FATF calls upon all countries to effectively implement these measures in their national systems.

#### *Key Changes to the Standards (the FATF Recommendations):*

- *The Risk-based approach:* Countries need to clearly understand the money laundering and terrorist financing risks which affect them, and adapt their anti-money laundering/countering the financing of terrorism (AML/CFT) system to the nature of these risks – with enhanced measures where the risks are higher and the option of simplified measures where the risks are lower. The FATF has established the risk-based approach which will enable countries to target their resources more effectively detect financial crime and take enforcement action and apply preventative measures

that correspond to the risks of particular sectors or activities. A well-implemented risk-based approach means that the AML/CFT system will be more effective and less costly.

- *Transparency*: Lack of transparency about the ownership and control of legal persons and legal arrangements, or about the parties to electronic funds transfers, makes those instruments vulnerable to misuse by criminals and terrorists. The FATF has strengthened transparency requirements in these areas. This means requiring that there is reliable information available about the beneficial ownership and control of companies, trusts, and other legal persons or legal arrangements. It also means more rigorous requirements on the information which must accompany electronic funds transfers. Measures to improve transparency, implemented on a global basis, will make it harder for criminals and terrorists to conceal their activities.
- *International Cooperation*: With the increasing globalisation of money laundering and terrorist financing threats, the FATF has also enhanced the scope and application of international cooperation between government agencies, and between financial groups. The revised Recommendations will mean more effective exchanges of information for investigative, supervisory and prosecutorial purposes. This will also assist countries in tracing, freezing, confiscating and repatriating illegal assets.
- *Operational Standards*: the FATF Recommendations concerned with law enforcement and Financial Intelligence Units have been expanded significantly. The revisions clarify the role and functions of the operational agencies responsible for combating money laundering and terrorist financing and set out the range of investigative techniques and powers which should be available to them, e.g., to obtain and analyse financial information about a suspected criminal's accounts and transactions
- *New Threats & New Priorities*: The FATF is addressing new and aggravated threats and responding to the priorities set out by the international community, e.g. through the G20. The key issues addressed are:
  - *Financing of Proliferation* - The proliferation of weapons of mass destruction is a significant security concern, and financial measures can be an effective way to combat this threat. The FATF has adopted a new Recommendation aimed at ensuring consistent and effective implementation of targeted financial sanctions when these are called for by the UN Security Council.
  - *Corruption & Politically Exposed Persons* - The FATF Recommendations strengthen the requirements on financial institutions to identify politically exposed persons (PEPs) – who may represent a higher risk of corruption by virtue of the positions they hold. The requirement to apply enhanced due diligence to foreign PEPs has been expanded with new requirements applied to domestic PEPs and international organisations, and to the family and close associates of all PEPs – reflecting the methods used by corrupt officials and kleptocrats to launder the proceeds of corruption.
  - *Tax Crimes* - The list of predicate offences for money laundering has been expanded to include tax crimes. This will bring the proceeds of tax crimes within the scope of the powers and authorities used to investigate money laundering. The smuggling offence has also been clarified to include offences relating to customs and excise duties and taxes. This will contribute to better coordination between law enforcement, border and Tax authorities, and remove potential obstacles to international cooperation regarding tax crimes.
- *Terrorist Financing* – The financing of terrorism remains a serious concern for the international community, and remains a major focus of the FATF Standards. The FATF's nine Special Recommendations on terrorist financing have been integrated fully within the Forty Recommendations, reflecting both the fact that terrorist financing is a long-standing concern, and

the close connections between anti-money laundering measures and measures to counter the financing of terrorism.

- *Clarifying obligations*: The FATF has updated its Recommendations to reflect changes in the financial sector (e.g. to set out clearer requirements for financial groups) and to apply the experience gained from the implementation of the FATF Recommendations by countries (e.g. by clarifying customer due-diligence requirements where countries have had practical difficulties with implementation).
- *Inclusive* – The FATF Recommendations have been updated to respond to issues raised by the private sector and civil society, and the revisions have been developed on the basis of extensive public consultation.

#### *The FATF and the FATF-Style Regional Bodies (FSRBs)*

The FATF is the global standard-setter for measures to combat money-laundering, terrorist financing, and (most recently) the financing of proliferation. It is an intergovernmental body with 36 members, and with the participation of over 180 countries through a global network of FATF-style regional bodies.

The FATF Recommendations require all countries to have effective systems for preventing and addressing money laundering, terrorist financing and the financing of proliferation. The Recommendations set out the measures that countries should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and other businesses and professions; measures to ensure transparency on the ownership of legal persons and arrangements; the establishment of competent authorities with appropriate functions, and powers and mechanism for cooperation; and arrangements to cooperate with other countries.

The FATF Recommendations set clear requirements. These are supported by rigorous and objective assessments of how these requirements have been implemented in countries AML/CFT systems, through Mutual Evaluations. The FATF has stringent follow-up and enforcement mechanisms, with sanctions for countries which fail to implement adequate measures. The FSRBs also have their own follow-up mechanisms.

The work of the FATF and FSRBs has driven a profound change in global efforts to combat money laundering and terrorist financing:

- In almost all countries AML/CFT systems have now been set up or are in the process of being set up – and in particular in developing countries, strengthening their own defences against crime and corruption and building a global AML/CFT system.
- The FATF's global network has expanded – the FATF works with a global network of eight FATF-style regional bodies, through which countries in each region assess implementation of the FATF Standards, and conduct work on regional money-laundering and terrorist financing threats.
- FATF and FSRBs' Mutual Evaluations and Follow-Up Reports show sustained improvements in all the countries which have been assessed.
- The public identification of high-risk and non-cooperative jurisdictions has resulted in 34 countries recently enacting law to strengthen their legal frameworks for combating money laundering and terrorist financing. The FATF will continue its systematic review of high-risk and non-cooperative jurisdictions.

*Implementation of the revised Recommendation*

The FATF will begin a new round of evaluations on the Recommendations of its member countries in 2013 and will focus much more intensively on assessing how effectively countries have implemented the Standards.

**ANNEX 2**

**QUESTIONS AND ANSWERS**

**ON THE REVISIONS OF THE FATF RECOMMENDATIONS**

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## 1. *General Questions and Background to the FATF*

### 1. **What is the FATF?**

The FATF (Financial Action Task Force) is the global standard-setter for measures to combat money laundering, terrorist financing and more recently, the financing of proliferation. It is an inter-governmental body with 36 members, and with the participation of over 180 countries through an international network of FATF-style regional bodies, and other international organisations, including the International Monetary Fund (IMF) and World Bank.

### 2. **What are the FATF Recommendations?**

The FATF Recommendations are the international standards set by the FATF to combat money laundering, terrorist financing, and more recently, the financing of proliferation.

It covers the comprehensive set of measures that countries should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and other businesses and professions; measures to ensure transparency on the ownership of legal persons and arrangements; the establishment of competent authorities with appropriate functions, and powers and mechanism for cooperation; and arrangements to cooperate with other countries.

### 3. **The AML system was fine – why change it now? *or* Why were the FATF Standards changed? *or* Were the current Standards not effective?**

Governments' defences against money laundering and terrorist financing have strengthened over recent years, but the threats posed to the international financial system have also evolved significantly. The revised FATF Recommendations provide Governments with stronger tools to take action against these financial crimes while at the same time addressing new priority areas.

### 4. **Most countries still have very low levels of compliance with the 2003 Recommendations. Instead of creating new Standards, why not focus on helping everyone implement the existing ones?**

By revising the FATF Recommendations, the FATF has significantly improved the clarity of the Standards. They are more cohesive, less duplicative, and better take into account the challenges that countries face with implementation which were lessons learned during the last round of FATF mutual evaluations. They are also better targeted and allow for more flexibility in lower risk situations. All of this makes the standards easier to understand and will facilitate their implementation. Going forward with the next round of evaluations, the FATF will focus even more on how effectively countries are implementing the new standards.

### 5. **How effective have the FATF been in combating money laundering and terrorist financing – What proof is there that the FATF is making a difference?**

- The FATF has been very successful in this area, as is demonstrated by the following examples.
  - Since the FATF was first formed in 1989, over 180 countries have joined the global network to combat money laundering. The FATF Recommendations have also been endorsed by the G20, the United Nations Security Council, and the Executive Boards of the World Bank and IMF.

- In the beginning, only the FATF was involved in AML/CFT efforts. There is now a global network of 8 FATF-style regional bodies whose members have all committed to implementing the FATF Recommendations.
- The FATF standards originally only applied to banks, but now cover a full range of financial institutions, and other business and professions providing financial services.
- The FATF mutual evaluation reports and follow-up reports have also shown sustained increase in the number of money laundering prosecutions, and the amounts seized as proceeds of crime over the years.
- The measures introduced as part of the FATF Standards, and closer co-operation between FATF members and the private sector, are also helping to facilitate asset recovery. This was shown during the Arab Spring when millions of dollars of stolen assets were frozen in a matter of days.

**6. Are the FATF Standards too weak / soft on crime?**

Even though the FATF Standards set out minimum requirements for measures against money laundering and terrorist financing, they are far-reaching and comprehensive. They thus provide an effective framework to combat these illegal activities.

Countries are best placed to judge the risks of money laundering and terrorist financing that affect them, and can implement additional measures appropriate to the risks.

**7. Why is an anti-money laundering organisation involved in the work against financing proliferation? What mandate do you have?**

The international community has been focusing in recent years on the serious threats posed by the illicit proliferation of weapons of mass destruction. The FATF has proven expertise in combating money laundering and terrorist financing, and that same expertise can be leveraged against the financing of other types of illegal activities, such as financing of proliferation.

The FATF has been very careful not to duplicate the role of other bodies. The FATF is focused on the financing of proliferation, whereas other international bodies are primarily focused on the physical proliferation of Weapons of Mass Destruction.

**2. *Structure of the Standards***

**2.1 Changes to the Structure**

**8. What has changed in the FATF Recommendations? or What are the main changes in the Standards?**

A number of significant and important changes have been made to the FATF Recommendations. These have strengthened the standards in the following key areas:

- The risk-based approach to implementing AML/CFT measures has been clarified and more fully elaborated within the Standards. This would allow countries to adopt an effective and appropriate response commensurate to the risks.

- The requirements to ensure timely access to adequate and accurate information on the beneficial ownership of legal persons and arrangements have been strengthened and clarified.
- Tax crimes have been made predicate offences for money laundering.
- The powers and responsibilities of law enforcement and the FIU have been elaborated and the scope for international cooperation strengthened.
- The definition of politically exposed persons (PEPs) has been broadened to include domestic PEPs and PEPs from international organisation. The requirements will also apply equally to family members and close associates of all PEPs.
- The scope for financial group (or consolidated) controls and supervision has been elaborated and enhanced.
- The requirements on transparency of wire transfers have been enhanced.
- A new standard has been added concerning the implementation of targeted financial sanctions related to the proliferation of weapons of mass destruction.

**9. What is the main purpose/background of the revision this time? or How different is the revised Standards from the previous revisions?**

The global response against money laundering and terrorist financing has strengthened over recent years, but the threats posed to the international financial system have also evolved significantly. The revised FATF Recommendations provide governments with stronger and more focused tools to take action against financial crime while at the same time addressing new priority areas.

The revisions have also significantly improved the clarity of the standards. They are less duplicative, more cohesive, and better take into account the challenges that countries face with implementation and lessons learned during the last round of FATF mutual evaluations. They are also better targeted and allow for more flexibility in lower risk situations. All of this makes the standards easier to understand and will facilitate their implementation. Going forward, the next round of evaluations will focus even more on how effectively countries are implementing the new standards.

**2.2 Merging the 9 Special Recommendations**

**10. The Special Recommendations have gone. Do you still care about terrorist financing? or Why are the Recommendations reduced from the 40 + 9 to 40 Recommendations?**

Terrorist Financing is a fundamentally important issue for the FATF. All of the requirements of the Special Recommendations on terrorist financing have been retained – and some have been strengthened. For comprehensive and consistent implementation in the fight against terrorist financing, the 9 Special Recommendations have been fully integrated with the measures against money laundering. This has resulted in a stronger and clearer set of standards. Further, there is a section in the revised Standards which focuses especially the FATF Recommendations which are particularly relevant to terrorist financing.

**11. Why have the 9 Special Recommendations been merged into the 40 Recommendations now?**

The international community's understanding and awareness of terrorist financing has developed significantly since the FATF Recommendations were revised in 2003. It is now well accepted that the tools used to combat money laundering are also complementary and essential to countering terrorist financing. Maintaining the distinction between AML and CFT measures had become artificial and, at times, confusing. It is thus the right time for the FATF to issue a single, comprehensive and consolidated set of standards to tackle both issues.

**12. Why did the FATF not merge the terrorist financing and money laundering Recommendations during the previous update of the FATF Recommendations in 2003?**

It was too soon to undertake a full merger of the FATF Recommendations in 2003. Terrorist financing was still a new issue; the Special Recommendations had only just been issued in 2001. At that time, it was important to maintain a clear set of separate Recommendations on countering terrorist financing. This raised awareness and drew greater attention to this important issue.

**3. *Technical Issues and the Risk-Based Approach***

**3.1 The Risk-Based Approach**

**13. Would the risk-based approach be a license for countries to weaken their AML/CFT requirements? or What is a risk-based approach?**

A risk-based approach enable countries, financial institutions and DNFBPs to allocate their resources where they will do the most good, and adopt the most appropriate measures commensurate to the risks involved. If it is implemented properly, a risk-based approach is both more effective and efficient, and leads to a clearer understanding of the risks and challenges. This would lead to stronger implementation of the FATF Standards, particularly in the higher risks areas.

The FATF has a rigorous assessment process, which will look at how countries have implemented the risk-based approach, and make sure decisions to apply simplified measures in low risk cases are based on a sound judgement about the risks.

**14. Must the risk-based approach be always applied? or Can a rules-based approach be used?**

Countries should implement a risk-based approach. However, there is flexibility on how the risk-based approach should be applied. In implementing the risk-based approach, countries should identify, assess and understand the money laundering / terrorist financing risks for the country and take into account the relevant risks, nature and size of the business and AML/CFT experience of the sector involved. In cases of higher-risks, countries should require enhanced measures to be adopted. When the conditions are satisfied, simplified measures and exemptions may also be provided for lower-risks scenario. The appropriate measures may be implemented through the use of laws, regulations, or guidance.

Financial institutions and DNFBPs should also be required to identify, assess and take effective actions to mitigate their money laundering and terrorist financing risks.

**15. What are higher-risk activities?**

The revised FATF Standards provide illustrative examples of higher-risk factors relating to customer risks, product, service, transaction or delivery channel risks, and country risks which may be considered by financial institutions and DNFBPs when assessing their money laundering and terrorist financing risks. For example, higher-risk activities may involve a customer who adopts an excessively complex ownership structure given the nature of the customer's business.

Additional measures would also have to be taken with regard to specific customers and activities, such as politically exposed persons, correspondent banking, money or value transfer services, new technologies and wire transfers.

**3.2 Inclusion of Tax Crimes as Predicate Offences****16. Why is tax crime included as a predicate offence to money laundering?**

Through the experience gained from the 3rd round of mutual evaluation, typologies observed by the FATF and FSRBs, as well as international developments, it was noted that serious tax crimes has emerged to be a source of money laundering, and had led to an important loss of legitimate revenue for national authorities. It is therefore important to include serious tax crimes as a predicate offence to combat money laundering.

**17. What is the scope of (serious) tax crime which has to be included as predicate offence to money laundering?**

Countries have discretion to decide what should be included as serious tax crimes to predicate offences to money laundering. The approach is similar to that which the FATF has taken consistently in defining the minimum range of predicate offences for money laundering as serious offences. Further, the smuggling offence has also been clarified to include offences relating to customs and excise duties and taxes.

**3.3 Targeted Financial Sanctions related to Terrorism and Terrorist Financing****18. What is new about targeted financial sanctions in the revised FATF Recommendations?**

The FATF Recommendation on targeted financial sanctions related to terrorism and terrorist financing has been updated to take into account successor resolutions to United Nations Security Council Resolutions 1267 and 1373 which have been issued since 2003 (when the FATF standards in this area were last revised).

In addition, the requirement to implement targeted financial sanctions has been moved to a separate Recommendation from the requirement to take provisional measures and confiscation action in a criminal investigation or prosecution. This change clarifies and highlights the distinction between these two very different contexts.

**19. Why has the FATF made this change to the standards?**

Experience in the FATF's 3<sup>rd</sup> round of mutual evaluations showed that many countries confused the implementation of targeted financial sanctions with the freezing of terrorist-related assets in the context of a criminal investigation or prosecution. However, the two sets of requirements are very different. This fundamental misunderstanding resulted in poor global implementation of

targeted financial sanctions related to terrorism and terrorist financing. The revised standards clearly separate these requirements, thereby enhancing clarity and helping countries to improve implementation.

**20. What is the difference between implementing targeted financial sanctions, and taking freezing action in the course of a criminal investigation or prosecution?**

A targeted financial sanction is an obligation to freeze the assets of a designated person or entity, and prohibit persons from dealing with such assets. International law requires countries to implement targeted financial sanctions pursuant to relevant United Nations Security Council Resolutions. Targeted financial sanctions are both preventative and punitive, and are aimed at depriving terrorists and terrorist networks of the means to conduct future terrorist activity, and maintain their infrastructure and operations.

A freezing (or seizing) action in the course of a criminal investigation or prosecution is a preventative measure aimed at preventing such assets from being transferred, hidden or dissipated before they can be confiscated. Such assets may become subject to confiscation, depending on the outcome of the criminal investigation or prosecution which is related to terrorism or terrorist activity.

**21. Is the FATF planning any additional work on targeted financial sanctions at this time?**

Following the adoption of the revised Standards, the FATF will consider whether the current Best Practices Paper on the former SR.III (Targeted Financial Sanctions for Terrorist Financing) would be updated.

**3.4 New Standards on the Financing of Proliferation - Targeted Financial Sanctions for Financing of Proliferation**

**22. Why has the FATF decided to extend its standards to cover financing of proliferation?**

In recent years, the international community has been focusing on the very serious threat posed by the proliferation of weapons of mass destruction (WMD). The financing of such activity is an area where the FATF is able to substantially contribute to the global effort. The FATF has proven expertise in combating money laundering and terrorist financing, and that same expertise can be leveraged against the financing of other types of illicit activities, such as financing of proliferation.

**23. There are many international treaties, conventions, and UN Security Council Resolutions that address non-proliferation. What value does the FATF add?**

In undertaking this work, the FATF has been very careful not to duplicate the role of other bodies. The FATF is focused on the financing of proliferation, whereas other international bodies are primarily focused on the physical proliferation of WMD. Now that this issue has been incorporated into the FATF Standards, the FATF will go on to assess countries' implementation of these requirements. The FATF has a robust assessment process, including mechanisms for taking action in relation to countries which are unable to demonstrate an adequate level of compliance.

**24. How has the FATF incorporated the financing of proliferation into its standards?**

The FATF has a new standard on implementing the United Nations Security Council Resolutions (UNSCR) which imposes targeted financial sanctions in this area. The FATF has proven

expertise with targeted financial sanctions in the terrorism & terrorist financing context, and that same expertise can be leveraged to assist countries in their implementation of targeted financial sanctions in the proliferation context.

The FATF also now requires countries to have effective mechanisms in place to enable domestic cooperation, at the policy and operational level, on these issues. The need for good domestic co-operation is particularly relevant for the implementation of UNSCR 1540. In addition to incorporating this aspect into the standards, the FATF has issued a new best practices paper on this topic which will assist countries in their implementation of these requirements.

**25. Is there any difference between targeted financial sanctions in the terrorism/terrorist financing context and the proliferation context?**

There are many similarities between implementing targeted financial sanctions in the terrorism/terrorist financing context and the proliferation context, and in many countries the regulatory framework, mechanisms and authorities involved will be the same. However, there are differences in the procedures for designating persons and entities, the applicable designation criteria, and the mechanisms for handling challenges to a designation. Different underlying United Nations Security Council Resolutions (UNSCR) apply and different committees of the UN Security Council are involved. See, for example, UNSCR 1267, UNSCR 1373 and related successor resolutions in the terrorism/terrorist financing context, and UNSCR 1718 and UNSCR 1737 and related successor resolutions in the proliferation context.

**26. Why do we need 2 separate Recommendations when there are many similarities between implementing targeted financial sanctions in the terrorism and proliferation contexts?**

As the financing of proliferation is a relatively new issue, there is a benefit in maintaining a separate Recommendation on implementing targeted financial sanctions in the proliferation context. This will help raise awareness and draw greater attention to this important issue, and also enhance clarity.

**27. Why is financing of proliferation important for domestic co-operation?**

FATF has focused efforts over the past few years to assist in enhancing global compliance of United Nations Security Council Resolutions against the financing of proliferation of weapons of mass destruction. Examples include existing guidance by the FATF on relevant United Nations Security Council Resolutions.

The need for domestic co-operation to fight financing of proliferation is one of the areas that is particularly relevant for the implementation of United Nations Security Council Resolution 1540 (2004), and that has not been picked up by any other international body (avoiding duplication is an important principle for FATF). Guidance on domestic co-operation in relation to financing of proliferation can be found in the new Best Practice Paper on this topic.

### **3.5 Customer Due-Diligence Measures**

**28. What are the changes on Customer Due-Diligence Measures?**

The Recommendation has clarified the CDD measures that should be adopted to identify and verify customers and beneficial owners. This would include the requirement to always identify and verify the identity of the customer, identify the beneficial owner, and to take reasonable measures to verify the identity of the beneficial owner. The CDD measures that should be taken

in relation to legal persons and legal arrangements have also been elaborated in the revised Recommendation.

The risk-based approach has also been specifically endorsed within the Recommendation, and illustrative examples of higher and lower risks factors are provided within the Interpretative Notes. A range of enhanced or simplified measures that could be adopted have also been included to provide additional clarity.

**29. Are there any changes on the CDD measures for beneficiaries of life insurance policies?**

The revised Standards clarify the distinction between a beneficiary of a life insurance policy, and a beneficial owner. Following feedback provided from the private sector, the revision also clarify that the verification of the identity of the beneficiary should occur at the time of the payout.

**30. What are the enhanced measures that should be adopted?**

The range of enhanced measures that could be adopted should take into account the nature and purpose of the relationships, as well as the money laundering and terrorist financing risks that may be specific to the country or sector.

Examples of enhanced measures could include:

- Obtaining additional information on the customer (occupation, volume of assets, information available through public databases, internet, etc.) and updating more regularly the identification data of customer and beneficial owner.
- Obtaining additional information on the intended nature of the business relationship.
- Obtaining information on the source of funds or source of wealth of the customer.
- Obtaining information on the reasons for intended or performed transactions.
- Obtaining the approval of senior management to commence or continue the business relationship.
- Conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied and selecting patterns of transactions that need further examination.
- Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.

**3.6 Politically Exposed Persons (PEPs)**

**31. What is new about PEPs in the revised FATF Recommendations?**

The new Recommendation covers domestic PEPs and PEPs from international organisations, and require jurisdictions to take into account the associated risks of doing business with them. And, as before, the Recommendations continue to require enhanced customer due diligence measures to be taken when doing business with foreign PEPs. As well, it has been clarified that the family members and close associates of PEPs are also to be treated as PEPs.

**32. Why has the FATF broadened its standards to include domestic PEPs?**

In June 2003, the FATF became the first international standard setter to impose requirements in relation to foreign PEPs. Since then, the international community has widened its focus. By broadening its standards to include domestic PEPs, the FATF has brought the Recommendations to take into account international developments and concerns in this area, including the United Nations Convention against Corruption, and the G20's call for the FATF to enhance enforcement efforts on PEPs to deter corruption in 2009.

**33. Will the revised standard include family members or close associates of PEPs?**

The same measures will apply to family members and close associates of all PEPs (i.e. domestic and foreign PEPs, as well as PEPs from international organisations) as they are frequently misused to launder the proceeds of corruption and other offences.

**34. Who is a family member or close associate?**

The definition of a family member or close associate is dependent on both the common usage of the term as well as the culture and circumstances of different countries. There is therefore some flexibility for the respective countries to define the appropriate scope for a family member or close associate, as well as allow financial institutions and DNFBPs the ability to adapt to the appropriate local circumstances, and the precise nature of the business relationship. The FATF is also considering whether additional guidance on this would be helpful.

**35. What is the relevance of measures concerning PEPs for anti-corruption efforts?**

PEPs hold prominent public functions and often have access to public funds, procurement processes and political power—all of which places them at a high risk for corruption. This is not to say that anyone who is a PEP is corrupt or a criminal. On the contrary, most are not. However, financial institutions, and designated businesses and professionals do need to take these factors and risks into account when doing business with PEPs.

**36. Is the FATF planning any additional work on PEPs at this time?**

The FATF is already working to develop a best practices paper which focuses on practical implementation of the new PEPs requirements, by both governments and the private sector. As part of the FATF action plan on corruption, this paper will also highlight the links between PEPs and corruption, taking into account recent typologies studies.

**3.7 Money or Value Transfer Services (MVTs)****37. What is new about money or value transfer services in the revised FATF Recommendations?**

The Recommendation has not changed significantly. What has changed is how it is presented and its underlying Glossary terms. Also, the Recommendation and its Interpretative Note have been shortened significantly. This change was made for the purpose of minimising repetition within the Recommendations, as the requirements applicable to money or value transfer services are already set out, for the most part, in other Recommendations.

**38. Why is there a separate Recommendation for money or value transfer services, but not separate Recommendations for other types of financial institutions?**

When the FATF Recommendations were last revised in 2003, it was considered important to highlight the issue of MVTs, and raise awareness of the fact that many countries were not taking sufficient action to regulate money remittance activity outside of the banking sector. Consequently, a separate Recommendation and interpretative note on MVTs was maintained. The results of the FATF's 3<sup>rd</sup> round of mutual evaluations show continued low levels of compliance and continued level of risks in this area. As a result, the separate Recommendation and Interpretative Note have been retained.

**39. Is the FATF planning any additional work on money or value transfer services at this time?**

The FATF is currently considering money or value transfer services in the context of its work on new payment methods. As new payment methods and business models emerge for conducting remittance activity, the FATF will continue to consider whether its standards adequately address the related risks of money laundering and terrorist financing, or whether further policy adjustments are needed.

**3.8 Transparency of Wire Transfers**

**40. What are the key changes to the FATF Recommendations for Wire Transfers?**

A number of changes have been introduced to clarify the Recommendation: (i) serial and cover payments are now expressly covered, (ii) cross-border wire transfers are now required to contain both originator and beneficiary information, and (iii) the responsibilities of the ordering, intermediary, and beneficiary financial institutions are clarified.

**3.9 Reliance and Financial Groups**

**41. Why did the FATF not allow for complete third party reliance? or Why should I still be responsible for the AML/CFT requirements if I had relied on a (regulated) third party on a *bona fide* basis?**

Pursuant to feedback from the private sector, the FATF has reviewed and broadened the conditions for financial institutions and/or DNFBPs to apply 3<sup>rd</sup> party reliance. For instance, country risks may be mitigated if the 3<sup>rd</sup> party is part of the same financial group which applies group-wide AML/CFT measures. It is however important that the relying party is still responsible from a regulatory perspective, especially since an effective CDD process is an essential component for an institution taking on a business and more so, in a cross-border context.

**42. What are the main changes to the FATF Recommendations to Financial Groups?**

In recognising the international nature of financial institutions, the revisions require financial groups to implement group-wide AML/CFT programmes. This would strengthen the implementation of the AML/CFT policies amongst the group's foreign branches and subsidiaries and is consistent with principles on consolidated KYC management and group supervision.

In addition, the revised Standards merged the 2003 Recommendations on "Internal Controls" and "Foreign Branches and Subsidiaries" to streamline the requirements of the Recommendation.

### **3.10 Transparency of Legal Persons and Arrangements**

#### **43. What are the key changes to the transparency and beneficial ownership requirements for legal persons?**

The revised Standards require countries to utilise company registries to record, at minimum, basic information such as the company's name, proof of incorporation, legal form and status of the company, basic regulating powers, its directors, which should be available to financial institutions and DNFBPs in a timely manner. The revision also require countries to take measures to ensure that nominee shareholders and directors to be licensed or to disclose their status to the company and relevant registry.

A more flexible approach is adopted with regard to maintaining beneficial ownership information, and the manner in which such information could be accessed. This is intended to take into account the regulatory regime, the operational realities, and allow countries to adopt the most effective manner to address the issues, taking into account the risks.

#### **44. What are the key changes to the transparency and beneficial ownership requirements for legal arrangements?**

Pursuant to feedback from the private sector, the revised Standards place an emphasis on the obligations of trustees. This is consistent with trustee's general duties of care and includes the obtaining and maintaining of information related to the trusts. Further, trustees should disclose relevant information to the financial institutions and DNFBPs pursuant to their business relationships.

Countries, which allow trustees to operate, should ensure that there are clear responsibilities on the trustees, although this would not require these countries to explicitly recognise trusts or to legislate it in their laws.

#### **45. Did the FATF go far enough on company transparency/beneficial ownership?**

The revisions are a significant improvement in that they clarify and enhance the requirements. It will ensure sound basic information is always available; increase the existence of information on beneficial ownership; require countries to cooperate; and greatly improve transparency with regard to bearer shares, bearer share warrants and nominees.

Important progress has been made to prevent and disrupt the misuse of corporate entities for money laundering and terrorist financing. We believe these improvements achieve a good balance between, (i) the risks that legal persons (and arrangements) will be misused (which are different in each country), (ii) the costs and burden on governments, and companies implementing the additional safeguards and (iii) allowing for a range of other effective tools that countries may adopt to comply with the requirements.

There will also be more work underway in the FATF, including the effective implementation of these requirements, assessing countries compliance and applying measures for poor implementation.

### 3.11 DNFBPs

#### 46. What are the changes to the Recommendations to DNFBPs?

The risk-based approach is applicable to the DNFBP sector, and DNFBPs would have to identify, assess and take effective actions to mitigate their money laundering and terrorist financing risks. Further, the DNFBP Recommendations made references to other FATF Recommendations (e.g. Customer Due-Diligence measures, specific measures for PEPs, Reliance on Third parties) which have been amended, and these changes are equally applicable to DNFBPs.

#### 47. Will there be additional guidance and/or engagement of the DNFBP sector?

The FATF remains committed to engage the private sector, including the DNFBP sector. There are plans to continue to engage the relevant DNFBP sector, and to update and enhance the relevant guidance that was previously released by the FATF.

#### 48. Based on the low level of compliance by many countries in the 3<sup>rd</sup> round, why was there not more effort done in enhancing and clarifying the Standards for DNFBP? or Why was there not more emphasis on reviewing the FATF Standards for DNFBPs?

The 4<sup>th</sup> round review is intended to be a targeted exercise that focuses on key areas which should be clarified or enhanced to strengthen the global implementation of the FATF Standards. While the review did not focus specifically on the DNFBP sector, the revisions to important elements such as those relating to the risk-based approach and customer due-diligence measures etc. would apply equally to the DNFBP sector.

This would allow countries and the relevant DNFBP sector to strengthen their implementation of the FATF Standards while allowing a degree of flexibility by taking into account the risks specific to the relevant DNFBP sector.

### 3.12 Law Enforcement, FIUs and Cash Couriers

#### 49. What are the changes to the Recommendations on Law Enforcement and FIUs?

The revisions seek to clarify the responsibilities and scope of powers available to law enforcement authorities. For instance, FIUs should be able to obtain and use additional information from reporting entities as needed to properly perform its analysis, and law enforcement authorities should develop pro-active parallel financial investigation, and when necessary, make use of multi-disciplinary groups specialised in financial or assets investigations.

#### 50. What is new about cash couriers in the revised FATF Recommendations?

The requirement for countries to implement a declaration or disclosure system has been further elaborated. In particular, the different types of declaration system which might be chosen are described in some detail. The new language provides greater clarity which should make it easier for countries to understand the requirements, and therefore enable better compliance.

#### 51. Why is the Recommendation on cash couriers not included in the section of Recommendations which address specific terrorist financing issues?

Although the Recommendation on cash couriers was previously labelled as a Special Recommendation on terrorist financing, it was always focused more generally on the illicit cross-

border transportation of currency and bearer negotiable instruments. This is an issue for both money laundering and terrorist financing, and the new position of this Recommendation within the overall structure of the standards better reflects that

### **3.13 International Cooperation**

#### **52. What are the changes to the Recommendations on International Cooperation?**

The scope for international cooperation have been clarified and expanded. This would include requirements for:

- Countries to render mutual legal assistance notwithstanding the absence of dual criminality if the assistance does not involve coercive measures.
- Countries to ensure that a broad range of powers and investigative techniques available to their law enforcement are also available in response to requests for mutual legal assistance, when this is consistent with the domestic framework.
- Countries should be able to respond to request made on the basis of non-conviction based confiscation proceedings and related measures, unless this is inconsistent with fundamental principles of law.

#### **53. What are the significant changes to other forms of international (informal) cooperation between competent authorities?**

The scope for other forms of international cooperation between competent authorities have been expanded and clarified to facilitate cooperation between counterparts performing similar responsibilities functions, and regardless of their respective nature or status. Countries should also permit their competent authorities to exchange information indirectly with non-counterparts. Information exchanged should also be subject to adequate safeguards of confidentiality and used for the specific purposes which it was requested for.

### **4. *Implementation of the 4<sup>th</sup> Round Standards***

#### **54. When will the new Recommendations come into effect / apply to the countries?**

The revised Standards will come into effect immediately, and countries are encouraged to implement them as soon as possible. Countries may however need a reasonable amount of time to review and fully implement the changes in the Standards, which they will be assessed from late 2013 onwards.

#### **55. How do you know countries are actually going to implement the Standards?**

The FATF Recommendations are backed-up by rigorous and objective assessments of how the requirements have been implemented in countries' AML/CFT systems through Mutual Evaluations conducted by the FATF and FSRBs and through assessments conducted by the IMF and World Bank as part of the Financial Sector Assessment Program (FSAP) or a stand-alone assessment. The FATF will begin a new round of mutual evaluations from late 2013 onwards.

The FATF also has an effective follow-up and enforcement mechanism, with sanctions and eventually blacklisting for countries which fail to adequately implement the measures. Further, the FATF's partners such as the IMF, World Bank and other donors have developed effective technical assistance tools and other mechanisms as part of their respective mandates to assist and encourage countries in implementing the AML/CFT standards.

**56. How would this affect the work of the FATF-styled regional bodies (FSRBs)? or Would this be adopted by the FSRBs?**

The FSRBs have been actively involved in the revision of the Standards in the past two years, and we are confident that the revised Standards will be fully endorsed by all the FSRBs. In fact, a number of the FSRBs such as the EAG, ESAAMLG have already indicated their endorsement of the revised FATF Standards.

**57. How would the 4<sup>th</sup> Round be implemented? or Will there any difference between the 3<sup>rd</sup> round of the mutual evaluations and the 4<sup>th</sup> round of mutual evaluations? or Who will be assessed based on the new Recommendations / 4<sup>th</sup> round of mutual evaluations?**

FATF member countries are expected to review and strengthen their AML/CFT regime in compliance with the revised Standards, where applicable. The revised Standards are also expected to be implemented by member countries from the FSRBs.

Although the exact procedures and nature for the next round of assessments have not yet been set, there is a consensus among FATF members that the next (4<sup>th</sup>) round should continue to be a peer review and have a greater focus on how the FATF standards are being implemented, and whether its implementation is effective.

**58. When are you expecting to start the mutual evaluation of the new Recommendations / 4<sup>th</sup> round of mutual evaluations?**

The next step is for the FATF to develop a Methodology for assessing compliance with the new Recommendations, and to review and enhance the nature and scope of the 4<sup>th</sup> round process. This will be a main focus of the FATF in the coming year. Once this work is completed, the next round of FATF assessments will begin. This is expected to commence from late 2013 onwards.

**59. How long will it take to complete the mutual evaluations of all (major) jurisdictions/ countries/ FATF members?**

The FATF will be working to review and enhance the nature and scope of the 4<sup>th</sup> round process. Depending on the precise start date of the 4<sup>th</sup> round, we are optimistic that the 4<sup>th</sup> round of mutual evaluations could be completed before 2020, and most likely earlier.

**60. Will the reports of the mutual evaluations be published?**

As with the 3<sup>rd</sup> round of mutual evaluation, the mutual evaluation reports will be published, and would be available at the FATF website.

The FATF also intends to conduct further consultation and review on the format and usefulness of the reports, and explore other ways to provide more relevant and up to date information.

**61. How would the timing of the 4th round of mutual evaluations interact with the requirement that countries undergoing an FSAP assessment also undergo an AML/CFT assessment module?**

The FATF is working closely with the IMF and the World Bank to ensure that there is synergy and flexibility between the timing of the 4<sup>th</sup> round of mutual evaluations of the revised FATF Standards and countries' obligations to undergo an AML/CFT assessment as part of their FSAP.

**5. *Other Issues***

**5.1 Corruption (G20 Call)**

**62. Why is the FATF getting involved in corruption?**

Combating money laundering is a cornerstone of the broader agenda to fight organised and serious crime – including corruption - by depriving criminals of ill-gotten gains. Corruption and bribery have been part of the FATF requirements - as predicate offences for money laundering – since 2003.

Responding to the G20's request at the Pittsburgh summit in 2009, the FATF is seeking to use AML/CFT systems more effectively to fight corruption, with changes to strengthen and clarify the international standards on customer due diligence, politically exposed persons, beneficial ownership and transparency.

**63. Why does FATF suddenly focus on corruption?**

The current focus of the FATF on corruption began with a request from the G20 Leaders (meeting in Pittsburgh in September 2009) for the “FATF to help detect and deter the proceeds of corruption by prioritizing work to strengthen standards on customer due diligence, beneficial ownership and transparency”.

**64. Did the FATF ever work on corruption before being requested to do so by the G20?**

The issue of corruption has been on the FATF radar for some time. The 2003 version of the FATF Recommendations identify corruption and bribery as predicate offences for money laundering. In practical terms this means that FATF has long required countries to criminalise corruption and bribery, make them predicate offences for money laundering, and be able to confiscate the proceeds generated directly or indirectly from these crimes. One of the priorities of the South African Presidency of FATF (2005–2006) was to support global efforts against corruption, and as a result the FATF began looking more closely into the links between AML/CFT and corruption issues through a joint FATF/APG project group. During its third round of assessments, the FATF considered whether countries had implemented a solid framework of measures to prevent and combat corruption through respect for transparency, good governance principles, and high ethical and professional requirements. Through the recommendations of the joint FATF/APG project group, increased attention has been paid in consideration of anti-corruption efforts as part of this framework.

**65. What is the link between money laundering and corruption? or How can the implementation of an effective AML system help to combat corruption?**

Corruption offences, such as bribery and theft of public funds, are generally committed for the purpose of obtaining private gain. Money laundering is the process of concealing illicit gains that

were generated from criminal activity. By successfully laundering the proceeds of a corruption offence, the illicit gains may be enjoyed without fear of being confiscated.

An effective AML system helps in the fight against corruption by: increasing transparency in the financial system; safeguarding public sector integrity; protecting the private sector; facilitating the detection, investigation and prosecution of money laundering and related predicate offences such as corruption and bribery offences; and enabling the recovery of stolen assets. At the same time corruption can undermine the effective implementation of an anti-money laundering system. Consequently, there are clear synergies between anti-money laundering and anti-corruption efforts.

**66. What has the FATF achieved in the fight against corruption?**

The revised FATF Recommendations strengthen and clarify the international standards on customer due diligence, beneficial ownership and transparency. Their adoption and endorsement by the global AML/CFT network is a major achievement that will be reported to the G20. The FATF has also recently issued a typologies report on *Laundering the Proceeds of Corruption*.

**67. Is the FATF planning any additional work on corruption at this time?**

In response to the G20 request, the FATF has put in place a comprehensive work plan against corruption. Going forward, the FATF will, among other things: continue to study relevant methods and trends through its typologies process; issue best practices on how countries may leverage their AML/CFT regimes in the fight against corruption; consider how corruption may impact the effective implementation of AML/CFT measures; and continue its active participation in the G20 Anti-Corruption Working Group.

**68. How does corruption fit into the FATF mandate?**

The FATF's mandate is primarily focused on anti-money laundering, counter-terrorist financing, and (most recently) the financing of proliferation. Its mandate also allows it to take appropriate action in relation to other serious and emerging threats to the global financial system, such as corruption. Consequently, the FATF approaches the issue from an AML perspective by supporting the use of AML/CFT systems to fight corruption, and taking into account how corruption impacts the implementation of AML/CFT measures.

**5.2 ICRG and Higher Risk Countries**

**69. What happens to countries that are still in the follow-up process, and will the new Recommendations apply to them?**

The FATF will be reviewing its 4<sup>th</sup> round process and procedures pursuant to the adoption of the revised Standards. The issue of follow-up process will be considered in greater details then. Nonetheless, member countries are expected to implement the revised Standards as soon as possible.

**70. What impact do the changes in the Standards have on the FATF's process to review potentially non-cooperative and high-risk jurisdictions? or What are the consequences of the revised FATF Recommendations on the FATF's work on identifying high-risk and non-cooperative jurisdictions? (Will the new Recommendations apply?)**

For now, the process for the countries under review will remain the same. Since 2007, the FATF's International Co-operation Review Group (ICRG) reviews and monitors a number of

potentially non-cooperative and high-risk jurisdictions and recommends specific action to address the ML/TF risks emanating from them in order to protect the integrity of the international financial system. The procedures for review were enhanced in 2009. The FATF will continue monitoring the progress made in all identified jurisdictions, and will continue to review potentially non-cooperative and high-risk jurisdictions using the same process and identify jurisdictions with strategic AML/CFT deficiencies.

**71. When will the FATF be considering changes to its ICRG procedures based on the new standards?**

Currently, initial referral to the FATF is based primarily on the results of a jurisdiction's mutual evaluation. Therefore, as the FATF develops its assessment methodology for the new standards in view of assessing countries using this methodology, the FATF will be considering potential changes to its procedures.

**5.3 Other Private Sector Issues**

**5.3.1 Applying the Risk-Based Approach**

**72. Are the burdens of the FATF requirements on the industry too high / disproportionate?**

Money laundering, terrorist financing, and the financing of proliferation are serious threats to security and growth, and the integrity of the financial system. The crimes they enable have enormous costs to people and economies. As such, the effective combating of these illegal activities has a positive economic benefit.

The FATF has worked hard – in consultation with the private sector – to make sure the burdens of the FATF requirements are balanced and proportionate; and the risk-based approach will help countries and financial institutions use their resources more efficiently, with less unnecessary box-ticking.

**5.3.2 Private Sector Consultation and Guidance**

**73. You didn't consult industry enough? or Why could the FATF not consult the industry earlier or more? or The industry consultation appears to be an after-thought and did not sufficient take into account proposals from the industry.**

Working with the private sector and civil society is a priority for the FATF and we have a good, cooperative relationship. The FATF held full public consultations on the proposed changes, and sat down on several occasions to discuss the details with representatives of the private sector and NGOs. We have listened to them, and taken-up many of their suggestions, which have improved the FATF Standards. Moreover, the FATF intends to continue to consult the private sector, and this would include further engagement to update the industry guidance, and how the FATF reports could be enhanced to be more useful to the private sector.

[*Note:* The FATF's Response to the Public Consultations will also be published on the FATF's website subsequent to the approval of the FATF Standards.]

### 5.3.3 The FATF Standards and Data Protection

74. **What should a financial institutions (or DNFBP) do when compliance with the FATF Standards causes it to breach the laws or regulations in other countries? or There are other laws (e.g. data protection or financial secrecy provisions) that prevents me from effectively implementing the FATF Standards.**

Countries have to ensure that the relevant competent authorities and supervisory authorities cooperate domestically and with their international counterparts for the effective implementation of the FATF Standards. In appropriate cases, financial institutions (or DNFBPs) should also inform and work with the relevant authorities to resolve any potential conflicts.

75. **Data protection and privacy rules are preventing financial institutions (or DNFBPs) from complying with the FATF Standards (e.g. those relating to implementation of financial group policies).**

Countries have to ensure that the relevant competent authorities and supervisory authorities cooperate domestically for the effective implementation of the FATF Standards.

Further, the FATF is committed to working with the relevant authorities and international bodies to enhance to consistent implementation of the FATF Standards and those relating to data protection and privacy.