



To the members of the
European Federation of Building Societies

Brussels, 4 May 2012

Consultation on the application of the Third Anti-Money Laundering Directive

Dear member,

The European Commission has published on the 11 April 2012 a report on the application of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Third Anti-Money Laundering Directive). With regard to the review of the directive by means of a legislative proposal, it has invited concurrently stakeholders to reply to a consultation. Yet, the proposal shall not only take into consideration the results gained by the European Commission during the process of revision but also the revised recommendations of the FATF released in February 2012 (cf. Circular letter of the European Federation of Building Societies (EFBS) of 8 March 2012).

The European Commission has noticed in its report, that an elementary modification of the Third Anti-Money Laundering Directive will not be necessary. However, the following matters – also of relevance for the Bausparkassen – could be incorporated in a proposal of the European Commission:

1. Classification of tax crimes as a predicate offence to Money Laundering

The European Commission is assessing whether the currently existing “all serious crimes” approach should cover tax crimes or whether a separate category needs to be incorporated in Article 3 § 5 of the Third Anti-Money Laundering Directive. Also it verifies whether a further definition of tax crimes is required.

2. Real Estate Agents

The report points out that hitherto, according to Art. 2 § 1 (3) (d) only real estate agents were affected by the scope of the directive. Nevertheless, the European Commission would like to assess if letting agents represent a risk of Money Laundering. They have not been included in the recommendations of the FATF. In conclusion, in the future not only the sale/ purchase of residential property could be affected by the directive but also the procurement of rentable residential properties. The EFBS will advocate that Customer Due Diligence measures only impose themselves to real estate agents when these are involved in a financial transaction during the procurement of residential property.

3. Customer Due Diligence (CDD)

a. Regular CDD

The 15,000 € threshold of Article 7 (b) in respect of occasional transactions shall be reduced. The threshold of 1,000 € for electronic fund transfers as mentioned in Regulation 1781/2006 shall as well

be lowered. In this context, the harmonization of the requirements of identity documents shall be considered. Possibly, an EU-wide list of approved documents could be established.

b. Enhanced CDD

It will be assessed at what stage of risk the application of enhanced CDD is required and which measures would need to be applied in order to meet the respective risk. It shall as well be considered if non face-to-face situations automatically imply a higher risk.

c. Simplified CDD

The European Commission has noticed that simplified CDD is operated differently on a national basis from one country to another. When a low risk prevails some Member States grant their institutions a full exemption of the application of the CDD whereas others require a proof of a minimum level of CDD measures. To the opinion of the Bausparkassen, which cooperate in the process of sale with other institutions (such as savings banks or co-operative banks), it is of importance to know whether simplified CDD measures could be applied while opening a business relationship to another financial institution in the EU or in a third country submitted to equivalent standards.

4. Politically Exposed Persons (PEPs)

According to the report of the European Commission the definition of PEPs, their family members and close associates has proved itself to be most difficult. This is also valid for the availability of information on PEPs. Therefore, it will be significant to achieve the introduction of practicable criteria, which enable the detection and the handling of PEPs in the business practice of credit institutions.

5. Beneficial Ownership

The threshold of 25 % as mentioned in Art. 3 § 6 of the Third Anti-Money Laundering Directive, and which allows the determination of the "beneficial owner" will possibly be examined. Yet, according to its own statement, the European Commission does not see a need for modification (cf. Annex, no. 2.6.1).

The EFBS would like to take part in this consultation. Therefore, the above mentioned issues will be implicated in a position paper.

If you would like to raise further aspects which need to be considered in the paper, please feel free to contact us until **Friday, 1 June 2012**. Please find enclosed the consultation paper.

For further questions, please do not hesitate to contact us.

Yours sincerely,



Andreas J. Zehnder
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European Federation of Building Societies

Annex

- Consultation Paper of the European Commission