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RESPONSE TO THE EUROPEAN COMMISSION'S PUBLIC CONSULTATION ON AN ACTION PLAN FOR A COMPREHENSIVE UNION  
POLICY ON PREVENTING MONEY LAUNDERING AND TERRORIST FINANCING

## PART 1 – Ensuring effective implementation of the existing rules

**Question 1: How effective are the following existing EU tools to ensure application and enforcement of anti-money laundering / countering the financing of terrorism rules?** (Please rate each blank proposal and comment if you do not agree with proposed solution)

[no comment]

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Infringement proceedings for failure to transpose EU law or incomplete/incorrect transposition						
Country-specific recommendations in the context of the European Semester						
Action following complaint by the public						
Breach of Union law investigations by the European Banking Authority						
New powers granted to the European Banking Authority						

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**Question 2: How effective would more action at each of the following levels be to fight money laundering and terrorist financing?**

 (Please comment if you do not agree with proposed solution)
 

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	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
At national level only				X		
At national level with financial support and guidance from the European Union				X		
At the level of the European Union (oversight and coordination of national action) (1)						
At international level		X				
No additional action at any level					X	

(1) Please refer to the answer provided by the European Banking Federation, our member at EU level

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**Question 3: Should other tools be used by the EU to ensure effective implementation of the rules?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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In terms of other tools to ensure effective implementation of the rules, EU reform can support private sector initiatives and public-private partnerships. Harmonisation of national legislation and alignment with international best practice on information sharing can support more effective collaboration against ML/TF. Examples include support for utilities for KYC and transaction monitoring, and reliable and accessible beneficial ownership registries.

It is important to recognise that the benefits of EU reform would not be limited to initiatives and partnerships within the EEA. Harmonisation and alignment with international best practice could also facilitate global campaigns against cross-border threats such as human trafficking and the illegal wildlife trade. It could also provide an enabling and inter-operable environment for the exchange and cross-fertilisation of innovative approaches to tackling illicit finance, supporting new technological solutions as well as wider cross-sector collaboration.

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**Additional comments** (5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)

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The Commission's analysis of major cases illustrates how money laundering and terrorist financing (ML/TF) are typically international in nature and quickly adapt to exploit inconsistencies between national rules and gaps in regional and international cooperation. National-level action is necessary but not sufficient and needs to be supported by both EU-level and international-level action. . EU harmonisation is an opportunity to look beyond consistent transposition by Member States and seek to implement international best practice from FATF and other global standard setters for the fight against illicit finance. EU reform is also an opportunity to support the strategic review of FATF and promote EU innovation and best practice.

Aligning EU and FATF reform in this way would support more effective global action against cross-border threats, both by reducing international regulatory fragmentation and by providing a supportive environment for collaboration and cross-fertilisation of new initiatives

**PART 2 – Delivering a reinforced rulebook**


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**Question 1: The Commission has identified a number of provisions that could be further harmonised through a future Regulation. Do you agree with the selection? (Please comment if you do not agree with proposed solution)**

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[no comment]

	Yes	No
List of obliged entities		
Structure and tasks of supervision		
Tasks of financial intelligence units		
Customer due diligence		
Electronic identification and verification		
Record keeping		
Internal controls		
Reporting obligations		
Beneficial ownership registers		
Central bank account registers		
Ceiling for large cash payments		
Freezing powers for financial intelligence units		
Sanctions		

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**Question 2: What other provisions should be harmonised through a Regulation?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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Harmonisation of AML/CFT provisions should support the risk-based approach and help obliged entities target financial crime risk rather than compliance risk.

EU-level guidance and directly applicable requirements should align to FATF standards and best practice in allowing obliged entities appropriate flexibility to apply proportionate and risk-sensitive measures. Harmonisation could support consistent implementation of these risk-sensitive measures by harmonising the criteria for triggering key AML/CFT procedures, such as simplified due diligence, enhanced due diligence and review of customer information. Harmonisation could also support simplification of cross-border policies and controls by addressing unnecessary inconsistencies in the definition of key AML/CFT terms and requirements, such as PEPs, beneficial ownership and duration of record keeping.

Rules-based requirements should be minimised to a limited group of higher risk situations and should be targeted to mitigate the specific risks of these situations, such source of wealth checks for PEPs, their close family and known associates. Rules-based requirements can add disproportionate cost to legitimate financial flows, deter innovation and damage financial inclusion. This includes where obliged entities are prevented from applying simplified due diligence to low-risk customers or are even required to apply enhanced due diligence to low-risk customers.

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**Question 3: What provisions should remain in the Directive due to EU Treaty provisions?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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[No comment]

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**Question 4: What areas where Member States have adopted additional rules should continue to be regulated at national level?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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[No comment]

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**Question 5: Should new economic operators (e.g. crowdfunding platforms) be added to the list of obliged entities?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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See the recommendation from the IBFed report 'Banking and Big Tech'.

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**Question 6: In your opinion, are there any FinTech activities that currently pose money laundering / terrorism financing risks and are not captured by the existing EU framework? Please explain** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method) (please provide examples of activities)*

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See the recommendation from the IBFed / Oliver Wyman report 'Big Banks, Bigger Tech?'

**Given the asymmetries in the implementation of global standards, policymakers should consider strengthening the regulatory framework in particular for non-financial sectors in line with Financial Action Task Force guidelines, such as establishing clearer mandates and powers for AML and CFT regulation and supervision. For all sectors, including the financial sector, improvements are also required in the risk-based approach to ensure effective understanding of risks, controls, data, and reporting, and better monitoring and enforcement by supervisors.**

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**Question 7: The Commission has identified that the consistency of a number of other EU rules with anti-money laundering / countering the financing of terrorism rules might need to be further enhanced or clarified through guidance or legislative changes. Do you agree?** (Please rate each blank proposal and comment if you do not agree with proposed solution)

**[No comment]**

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Obligation for prudential supervisors to share information with anti-money laundering supervisors						
Bank Recovery and Resolution Directive (Directive 2014/59/EU) or normal insolvency proceedings: whether and under what circumstances anti-money laundering grounds can provide valid grounds to trigger the resolution or winding up of a credit institution						
Deposit Guarantee Schemes Directive (Directive 2014/49/EU): customer assessment prior to pay-out						
Payment Accounts Directive (Directive 2014/92/EU): need to ensure the general right to basic account without weakening anti-money laundering rules in suspicious cases Categories of payment service providers subject to anti-money laundering rules						
Integration of strict anti-money laundering requirements in fit & proper tests						

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**Question 8: Are there other EU rules that should be aligned with anti-money laundering / countering the financing of terrorism rules?** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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AML/CFT and data privacy public policy goals are not mutually exclusive and should be balanced to help protect customers and society from illicit finance. AML/CFT goals serve significant national security and public interest objectives and should be pursued vigorously, in a way that is balances an individual's rights to protection of personal data and privacy.

In particular, EU rules on AML/CFT and on data privacy should be aligned to support operational data sharing. This would support more effective, intelligence-led approaches including public-private partnerships and innovative technological solutions such as utilities for KYC and transaction monitoring.

**PART 3 – Bringing about EU-level supervision**

**[No comment]**

**PART 4 - Establishing a coordination and support mechanism for financial intelligence units**

**[No comment]**

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**Additional comments** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

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EU reform should support cross-border information sharing, including through enabling cross-border utilities and other innovative technological solutions and through enabling collaboration between both national-level and regional-level public-private partnerships.

## **PART 5 - Enforcement of EU criminal law provisions and information exchange**

**Question 1: What actions are needed to facilitate the development of public-private partnerships?** (Please **highlight** your response(s) and comment if you do not agree with proposed solution)

Public-private partnerships should be supported to share operational data as well as typologies on general risk indicators and aggregated data on risk trends. In this way public-private partnerships can support international campaigns against cross-border threats, such as money mules, human trafficking and the illicit wildlife trade.

As noted above, EU rules on AML/CFT and on data privacy should be aligned to support operational data sharing and a smarter, intelligence-led approach.

As noted above, EU reform should also support cross-border information sharing, including through enabling cross-border utilities and other innovative technological solutions and through enabling collaboration between both national-level and regional-level public-private partnerships.

## PART 6 - Strengthening the EU's global role

**Question 1: How effective are the following actions to raise the EU's global role in fighting money laundering and terrorist financing?** *(Please comment if you do not agree with proposed solution)*

[No comment]

	Very effective	Rather effective	Neutral	Rather ineffective	Not effective at all	Don't know
Give the Commission the task of representing the European Union in the FATF						
Push for FATF standards to align to EU ones whenever the EU is more advanced (e.g. information on beneficial ownership)						

**Additional comments** *(5000 characters maximum, including spaces and line breaks, i.e. stricter than the MS Word characters counting method)*

As noted above, EU harmonisation is an opportunity to look beyond consistent transposition by Member States and seek to implement international best practice from FATF and other global standard setters for the fight against illicit finance. EU reform is also an opportunity to support the strategic review of FATF and promote EU innovation and best practice.

Aligning EU and FATF reform in this way would support more effective global action against cross-border threats, both by reducing international regulatory fragmentation and by providing a supportive environment for collaboration and cross-fertilisation of new initiatives