

June 2, 2017

Mr. Juan Manuel Vega-Serrano
President
Financial Action Task Force (FATF)
2, rue André-Pascal
75775 Paris Cedex 16,
France



Dear Mr. Vega-Serrano:

Re: Future Industry Information Sharing Review Efforts - Data Protection

The Institute of International Finance (the “IIF” or the “Institute”) appreciates the many continuing opportunities to work constructively with the Financial Action Taskforce (the “FATF”) to address key issues facing the global financial community. We are particularly grateful for the close attention of the FATF to information sharing, which is one of the areas where we see important opportunities for improving the anti-money laundering and counter-terrorist financing (“AML” and “CFT”) framework globally.

As has been stressed in the past, there remain barriers to information sharing between the private sector and governments, between firms within the private sector, and within banking groups. The industry believes that proper management of risk in anti-money laundering and counter-terrorist financing efforts can be improved by better information exchange, both domestically and internationally. Such improvements would assist with the effectiveness of the current system on which the FATF assesses risk. This effort is critical to well-functioning policies which fulfill the goal of protecting global finance from criminal incursion.

The G-7 recently stated that they “...are committed to enhance information sharing, domestically and internationally, among relevant authorities and strengthen cooperation with the private sector.”¹ The Institute values the fact that this issue is well recognized by the international community. At this time, crucially, the FATF - as an international standard setter - has the ability to pursue a coherent and consolidated global approach to combatting known and identifiable impediments in this area. Absent action from the FATF, we risk limited or fragmented engagement on a global scale which would defeat the G-7 goals.

The results of the recent IIF survey on information sharing² provided a clear evidence base concerning legal and regulatory barriers to the proper exchange of data for the purposes of identifying and eliminating illicit activity in the system. Individual country laws often prevent cross-border sharing of information and information shared within a banking group can be treated by some countries as third party sharing. This limits the effectiveness of bank systems and can impair the analytical capabilities available to law enforcement.

The survey also pointed to the application and interpretation of data protection laws. This is a vital component of the discussion and it has been recognized that inconsistent legal frameworks for data

¹ COMMUNIQUÉ, G7 Finance Ministers and Central Banks’ Governors Meeting ,Bari, Italy, May 12-13, 2017, Paragraph 6.

² IIF, *Financial Crime Information Sharing Survey Report*, February 2017. A summary copy can be found here: https://www.iif.com/system/files/iif_information_sharing_survey_final_2017.02.09.pdf

protection and privacy across different jurisdictions can act as an impediment to information exchange. The industry would like to emphasize that we understand that in some cases what may be seen by the financial community as a barrier to information sharing may be viewed as important for data protection, privacy or security reasons. We do not believe, however, that the goal of information sharing by financial institutions for the purposes of detecting and preventing financial crime and the safeguarding of proper privacy protections are mutually exclusive. Indeed, there is a need for a fresh look at data protection laws to examine how such protections can act as a safeguard to customers, while also enabling certain information sharing to protect the integrity of the financial system. The same issues arise in the related area of cybersecurity.

The IIF is committed to assisting the FATF in the examination of how information exchange can be facilitated with careful attention toward safeguarding the personal data of customers. As such, we will shortly be preparing additional analysis to review the enabling of information sharing within current data protection regimes and identifying where such frameworks may need appropriate adjustment.

While this additional analysis is important, it should not delay the efforts of the FATF in agreeing upon next steps on action in this crucial area. We respectfully encourage the FATF to approve a way forward on improving information sharing at its June plenary in line with the recommendations outlined in our survey report.³ A crucial component of this is an update to the FATF Recommendations⁴ to provide regulatory clarity and certainty in this area. As the FATF Recommendations offer a comprehensive and consistent framework of measures which countries should implement in order to combat money laundering and terrorist financing, the IIF believes that the Recommendations would benefit from amendment to enable more effective information exchange.

We look forward to further engagement with you on these matters. Should you have any questions in the interim, please do not hesitate to contact me or Matthew Ekberg at mekberg@iif.com.

Very truly yours,

A handwritten signature in black ink, appearing to read 'A. Portilla', with a horizontal line drawn through the middle of the signature.

Andres Portilla
Managing Director
Regulatory Affairs

³ IBID, p. 14-16: https://www.iif.com/system/files/iif_information_sharing_survey_final_2017.02.09.pdf

⁴ FATF, *The FATF Recommendations: International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation*; February 2012.