

FATF Consultation on Recommendation 24

EFAMA's response to the FATF public consultation on Recommendation 24 and its interpretive note

- December 2021 -

EFAMA welcomes the work of the FATF in reviewing and reinforcing its existing recommendations to ensure that these remain fit for purpose in tackling global financial crime.

In revising its Recommendation 24 and interpretive note, while we support the overall objective of these revisions within the broader financial sector, we would note that certain proposed revisions to paragraph 15 may inadvertently encompass the use of intermediaries in the subscription and distribution of investment funds.

In this respect, we would like to highlight the attention given by the FATF to the legitimate use of nominee arrangements within the funds industry for this purpose in the FATF Guidance on a Risk Based Approach for the Securities Sector. In this guidance, the FATF noted that intermediaries acting in this capacity in the funds industry are typically AML regulated and supervised, being considered 'respondents' of the investment fund:

A typical cross-border correspondent relationship in the securities sector is a relationship between the securities provider (correspondent), with an intermediary (respondent), which is regulated and supervised by a supervisory authority, for securities transactions. In such cases, the customer of the respondent would not be considered as a customer of the correspondent, and the FATF Recommendations do not require the correspondent securities providers to conduct CDD on the customers of their respondent institutions.¹

In setting out a risk-based approach, the guidance provides that in instances where the intermediary is considered the customer of the correspondent, the level of understanding of the intermediary's customer base should be tailored to the perceived risk level of the intermediary. As noted within the guidance, the "complexity of the securities sector and the variety of intermediary roles involved highlight that no one-size-fits-all AML/CFT approach should be applied."²

In order to provide continued clarity as to the application of the amended Recommendation 24 to the funds industry, we would suggest that reference be made to the FATF Guidance on a Risk-Based Approach for the Securities Sector which we understand continues to apply in the context of the use of intermediaries in the securities sector.

¹ Para 107, FATF Guidance on a Risk Based Approach for the Securities Sector (October 2018).

² Para 48, FATF Guidance on a Risk Based Approach for the Securities Sector (October 2018).



About EFAMA

EFAMA is the voice of the European investment management industry, which manages over EUR 27 trillion of assets on behalf of its clients in Europe and around the world. We advocate for a regulatory environment that supports our industry's crucial role in steering capital towards investments for a sustainable future and providing long-term value for investors.

Besides fostering a Capital Markets Union, consumer empowerment and sustainable finance in Europe, we also support open and well-functioning global capital markets and engage with international standard setters and relevant third-country authorities.

EFAMA is a primary source of industry statistical data and issues regular publications, including Market Insights and the authoritative EFAMA Fact Book.

More information is available at www.efama.org.

Contact

Gwen Lehane

Regulatory Policy Advisor

Gwen.Lehane@efama.org | +32 2 548 26 69