



December 6, 2022

Delivered Via Email: FATF.Publicconsultation@fatf-gafi.org

T. Raja Kumar, President
Financial Action Task Force
FATF/GAFI
2, Rue André Pascal
75775 Paris Cedex 16 FRANCE

Re: Revision of R25 and its Interpretive Note

Dear President Kumar:

World Council of Credit Unions (World Council) appreciates the opportunity to comment on Financial Action Task Force's (FATF) Public Consultation regarding the **Revision of R25 and its Interpretive Note**.¹ Credit unions are cooperative depository institutions and World Council is the leading trade association and development organization for the international credit union movement. Worldwide, there are over 87,000 credit unions in 118 countries with USD 3.4 trillion in total assets serving 393 million physical person members.²

World Council supports FATF's "objective is to improve R.25 and its Interpretive Note to better meet its stated objective to prevent the misuse of legal arrangements for money laundering or terrorist financing. We further support FATF's risk-based approach to addressing issues related to beneficial ownership, however, we urge FATF to include proportionality language that supports tailoring requirements to the size, risk and complexity of the financial institution. Below are World Council's responses to FATF's questions posed for comment.

1. Are FATF proposals adequate to mitigate the risk of misuse of legal arrangements and to ensure access to BO information?

Based on the definition of 'adequate' provided within the Draft Amendment of Text of R.25 and INR.25³, FATF's proposal are an excellent step towards ensuring access to BO information however, there is a wide opening for interpretation by national level authorities. While the Draft directs "Countries" to require the assessment of risk and take measures to prevent misuse, as well as adequate, accurate, and up-to-date information and other general guidelines to manage risks associated with beneficial ownership, it does not clearly direct jurisdictions to take a proportional approach to implementing requirements. Without proportionality, smaller financial

¹ See, Public consultation on FATF Guidance on Beneficial Ownership (Recommendation 24); at: <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/r25-public-consultation-oct22.html>

² World Council of Credit Unions, *2018 Statistical Report* (2019), available at: https://www.woccu.org/our_network/statreport.

³ According to FATF's Draft Amendment of Text of R25, "Adequate information is information that is sufficient to identify the natural persons who are the beneficial owner(s), and their role in the trust³ .

institutions, such as credit unions, are at risk of overburdensome regulations that impede the operations of the financial institution due to high compliance costs associated with excessive regulations. The Draft does suggest that, “Where there are no ascertainable beneficiaries at the time of setting up the trust, the trustee should obtain and hold information on the class of beneficiaries and its characteristics, or object of a power. Following a risk-based approach, countries may decide that it is not necessary to identify the individual beneficiaries of certain charitable or statutory permitted non-charitable trusts.” While a risk-based approach is cited in various places throughout the Draft, it is mentioned as a suggestion and only in limited capacity, leaving room for jurisdictions to impose encumbering and unnecessary standards.

Specifically with respect to 3.1, Company registries, the Interpretive Note requires countries to be registered in a company registry, but it also leaves it up to a respective country to identify weaknesses in the database. We would recommend that countries be required to keep a verifiable database that can be relied upon by financial institutions when conducting their due diligence. This will go further to easing regulatory burden to small financial institutions with limited resources but places the onus on governmental entities or oversight bodies in the best position to accurately determine beneficial ownership information at the time of incorporation or throughout the life of the entity. Financial institutions often come into contact with an entity during a small portion of their life cycle and at varying times.

We further urge that the guidance encourage countries to work with industries when establishing registries to ensure ease of access, training on database use and providing adequate resources to ensure smooth operation of the database. This also allows issues specific to an industry to be designed from the beginning with specific its needs involved.

2. Are proposals clear and are there any issues which need further clarification or that should be addressed in guidance?

See, *Draft Amendment Text of R25*, International Cooperation; paragraph 10: It states in part, “Consistent with Recommendations 37 and 40, countries should not place unduly restrictive conditions on the exchange of information or assistance e.g., refuse a request on the grounds that it involves a **fiscal**, including tax, **matters**, bank secrecy, etc.” There appears to be a word missing after the word fiscal. Further, the word matter needs further clarification as to what matters FATF is referring to. It appears that the meanings intended is “tax matters”, but we request confirmation as to the structure of this sentence.

3. What is the expected impact of the proposals on legitimate activity? In particular, what are the challenges for implementation?

As stated above, the current Draft allows jurisdictions to impose strict requirements indiscriminately, which have proven to be extremely burdensome on credit unions and other small financial institutions. Credit unions are not-for-profit, member-owned institutions without stockholders that demand a market rate of return on their investment, therefore, a credit union can only pass along earnings directly to their member-owners and not to outside investors. As member owned institutions that often contain limited fields of membership, credit unions hold an advantage as compared to their bank counterparts in knowing the identity of their member; and because credit unions do not have shareholders, they are at a lower risk for issues identifying beneficial owners.

Without proportionality, credit unions' revenues are deterred from its members and are directed towards exorbitant compliance costs. Many credit unions have few staff and many rural credit unions are entirely run by volunteers; however, because customers have to go to a physical branch to open an account or receive services, the opportunities for fraud, identity theft, or AML/CFT concerns are extremely low; and credit unions rarely, if ever, operate on a cross-border basis. Credit unions, specifically, are particularly competent at "know your customer" identify verification processes because of the level of person-to-person contact and the nature of their member-owned cooperative structure and fields of membership that are often limited to a particular trade, industry, or profession.

We do believe that the guidance will further the ability of law enforcement, civil society, and financial institutions, and others to help curb illegal activity but it will largely rely on verifiable, reliable data that is openly shared with those engaging in monitoring activities.

World Council reiterates its support for Financial Action Task Force's objective to improve R.25 and INR.25 but urge FATF to consider additional language directing jurisdictions to apply proportionate requirements specifically tailored to the size, risk and complexity of the institution. World Council appreciates the opportunity to comment on FATFs Public Consultation on the Revision of R25 and its Interpretive Note. If you have questions about our comments, please feel free to contact me at pmonford@woccu.org or +1-202-510-9347.

Sincerely,



Panya Monford, Esq.
Advocacy Counsel
World Council of Credit Unions