World Council

April 22, 2022

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

Office of FATF Secretariat
FATF/GAFI
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Re: Public Consultation on the FATF Risk-Based Guidance to the Real Estate Sector

World Council appreciates the opportunity to comment on the Financial Action Task Force's call for comment on the FATF Risk Based Guidance to the Real Estate Sector.[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 86,000 credit unions in 118 countries with USD 3.2 trillion in total assets serving 375 million physical person members.[2]

World Council supports FATF's risk-based approach (RBA) to ML/TF risks within the real estate sector, which includes FATF's guidance to use proportionate levels when assessing risk in certain areas. The Guidance suggests that countries should bear responsibility for identifying ML/TF risk in the real estate sector; and "In addition to a legal and regulatory framework that spells out the degree of discretion provided to real estate professionals, the RBA requires real estate professionals to address identified risks. Competent authorities should provide information and guidance on regulatory developments – including specific regulations - to real estate professionals to help meet their legal and regulatory AML/CFT obligations. Facilitating ongoing and effective communication between competent authorities and the sector is essential." Leaving too much responsibility to national-level regulators to identify and address ML/TF risks may lead to overburdensome regulation, especially for smaller financial institutions such as credit unions. We urge FATF to specify risks, and direct jurisdictions to use a proportionate and RBA based approach to each of those risks based on the size, risk, and complexity of each institution.

The Guidance acknowledges that "ML/TF risk is inherently unique to each country, and can vary with regards to the different types of property…", however, there are vulnerabilities that are consistent across jurisdictions. We urge FATF to clearly identify these shared vulnerabilities and create uniform guidance to address these susceptibilities in order to avoid overreaching

[1] See, Public consultation on **FATF Risk-Based Guidance to the Real Estate Sector**, see: https://www.fatf-gafi.org/publications/fatfrecommendations/documents/public-consultation-guidance-real-estate.html.
[2] World Council of Credit Unions, *2020 Statistical Report* (2019), *available at* http://www.woccu.org/publications/statreport.

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and overburdensome regulation by local competent authorities.

The Guidance further suggests that specific ML/TF risks within the real estate sector may be received with a lower level of implementation of standards within many jurisdictions, and "Supervisors and other competent authorities may not have the capacity to monitor individual or aggregate transactions involving the real estate agent or firm." A flexible, yet defined RBA approach from FATF will be critical in addressing gaps that may exist due to lenient standards but without over correcting any deficits within those standards. In some instances, a subtler execution of the standards may be suitable, and we ask that FATF outline those occasions. World Council understands that "The adequate implementation of the risk-based approach should allow countries and practitioners alike to respond to the identified risks and threats in a manner which is compatible with their countries' own context, ability and need"; however, allowing countries a large opening to create overburdensome regulations for smaller financial institutions will build barriers to serving often underserved and underbanked communities.

The guidance should leave not room for interpretation when as it pertains to an option to take a RBA based on the size risk and complexity of the institution. The uniqueness of each country may contribute to how ML/TF risk is assessed, but the size, risk and complexity of certain institutions should receive further consideration once the risks of the individual jurisdiction has been assessed. Proportional language based on the aforementioned factors are necessary for smaller institutions to survive. For example, most credit unions are uniquely equipped to address issues related to beneficial ownership. Most branches know their members personally because the large majority of the members who bank in person. These community-based institutions are caving under the pressure of overburdensome ML/TF regulations meant to address large banks, regardless of the jurisdiction they exist in.

World Council values FATF's efforts to consider smaller financial institutions within their evaluation of ML/TF risk, however, we ask that smaller financial institutions are also included within the assessment of risk for the real estate sector, specifically when it pertains to mortgage lending and other related issuances of credit. Once jurisdictional factors are considered, size, risk and complexity should be a required component within the assessment.

World Council appreciates the Financial Action Task Force's efforts to address ML/TF concerns within the real estate sector. If you have questions about our comments, please feel free to contact me at pmonford@woccu.org or +1-202-510-9347.

Sincerely,

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