

**Summary of Global Dialogue Series on
Strengthening the Collaborative Process to Build Effective Anti-Money Laundering
and Combating the Financing of Terrorism (AML/CFT) Regimes
For
North Africa Region – Algeria, Morocco and Tunisia**

May 19, 2004

Background

Forging partnerships among various stakeholders – policy makers, law enforcement agencies, financial regulatory and supervisory authorities, financial institutions, non-bank financial institutions, and international organizations – is critical when building an effective AML/CFT regime. In particular, oversight agencies and financial institutions both play an important role in ensuring that AML/CFT standards and controls are observed. Following the June 2003 revised Financial Action Task Force on Anti-Money Laundering (FATF) 40 Recommendations, which expanded the scope of covered institutions and predicate offences as well as the level of preventative measures and international cooperation, both government officials and financial institutions are now obliged to work more closely together in order to meet the new international standards.

It is of great importance to develop a consultation mechanism between the public and the private sector in order to build and maintain a solid AML/CFT regime. Strong links will lead to better decisions based on greater understanding of the situation by the authorities and better implementation of the requirements by the private sector. The Global Dialogue Series brought together representatives from the public sector and the private sector to exchange experience and information regarding their efforts and the challenges associated with developing, implementing, and supervising AML/CFT programs.

Participants and Speakers

During this dialogue, there were 53 participants representing both the public and private sector – financial regulatory and supervisory authorities, law enforcement authorities, Financial Intelligence Unit (FIU) staff, representatives from financial institutions (banks, insurance company, and finance leasing firm), African Development Bank, and external auditors – from three North Africa region countries, Algeria, Morocco and Tunisia.

Zoubida Allaoua, Sector Manager of the Finance and Private Sector Department of the Middle East and North Africa Region of the World Bank (WB), acted as a moderator in this session; and Pierre-Laurent Chatain, Senior Financial Sector Specialist in the Financial Market Integrity Department of the WB, acted as a rapporteur. The following speakers from Washington, D.C. and Paris delivered presentations:

- Richard Lalonde, Senior Economist in the Monetary and Financial System Department of the International Monetary Fund (IMF), on “Importance of National Consultation Process in Implementing and Supervising Compliance Requirements”;
- Jean Pesme, Senior Financial Specialist in the Middle East and North Africa Region of the WB, on “Revised FATF 40 Recommendations: Impact on the Financial Sector”;
- Catherine Marty, Administrator of the FATF, on “Experiences around the World and Case Presentation”; and
- Joël Guillon, Société Générale, representing the Wolfsberg Group, on “Importance of National Consultation Process in Implementing and Auditing Compliance Requirements based on the Revised FATF 40 Recommendations”.

Each participating country delivered two presentations, one on behalf of the public and private sector respectively. Below is the presenters’ list:

- Algeria public sector – Rachid Zoughali, Cellule du Traitement du Renseignement Financier (CTRF) (the FIU), Ministry of Finance;
- Algeria private sector – Nacer Hideur, Director of the Legal Research Department of the El Barak Bank, Chairman of the Legal and Fiscal Research of the Banks and Financial Institutions Association (ABEF);
- Morocco public sector – Kettani Azelarab, Head of the Legal Department, the Central Bank;
- Morocco private sector – M. Chniber, Head of the Payment System Department, Bank Al-Maghrib;
- Tunisia public sector – Samir Brahimi, Director General of the Legal Department, the Central Bank; and
- Tunisia private sector – Mohamed Félix Beltafour, Director General of the Arab Tunisian Bank.

Topics Covered

The following topics were covered during the country presentations:

- Current efforts and initiatives made by financial regulatory and supervisory authorities in facilitating a dialogue among financial institutions as well as between financial institutions and the authorities;
- Challenges the authorities and financial institutions face;
- Need for assistance from international and regional organizations;
- Environment in which financial institutions can best work with the authorities to improve AML/CFT regimes; and
- Future plans and next steps for strengthening the collaborative process to comply with the revised FATF 40 Recommendations required by both the authorities and financial institutions.

Preliminary Observations

The three participating countries have recognized the importance of AML/CFT efforts and have made efforts to develop and implement necessary legal framework against AML/CFT. In this regard, the discussions allowed to assess and to welcome progress they made.

Algeria, Morocco and Tunisia have now entered a crucial transitional phase during which they will experience multiple challenges both in the public and private sectors. All participants agreed on the need of identifying overall operational impact and consequences when applying the new FATF recommendations.

Main Points Discussed

Participants have acknowledged that, given the risks incurred, further progress needs to be made to strengthen the collaboration between the public and the private sector. In this regard, the following ten factors were identified: 1) true commitment by both sectors; 2) effective AML/CFT policy and regulation; 3) participation mechanism; 4) guidance by the public sector; 5) development and implementation of national AML/CFT strategy; 6) effective cooperation mechanism; 7) training and education in both the public and private sectors; 8) communication mechanism among the relevant constituencies; 9) information sharing; and 10) quality of information.

1. Commitment and Political Will

- **Ensuring true commitment and resolute political will.** All the relevant policy makers, including the executive and legislative branch, must demonstrate a clear political commitment to the development of AML/CFT legislation and its implementation. Without political will, there is no incentive for government officials to give the AML/CFT issue any attention.
- **Ensuring commitment by the private sector.** Financial institutions should conduct their business in ways that will benefit both the society at large and the soundness of the economic systems, by minimizing exposure to money laundering risks, and with it, the potential for a negative reputation. Financial institutions must show a proactive and cooperative attitude.
- **Building mutual trust, respect and confidence.** The private and public sector collaboration should aim at creating trust and mutual understanding, while recognizing that there will be differences in views, given the sensitive nature of the information that the private sector is reporting to the public sector entities.
- **Developing a code of conduct.** It is crucial to develop moral and ethics standards among financial institutions as well as among regulators and supervisors to ensure compliance with AML/CFT standards. From the supervisory viewpoint, lack of code of conduct in a financial institution implies internal fraud, which might be a root cause of incompliance with the AML/CFT regulations/obligations. The code of conduct should outline the principles, policies and laws that govern the activities to

which all employees must adhere. Among the various legal issues to cover, the code of conduct for financial institutions should include an employee obligation to implement customer due diligence (KYC) policy and program as well as an employee obligation to report suspicious activity to government authorities. Financial institutions should be committed to remaining constantly vigilant to prevent money laundering.

- **Ensuring employee involvement at all levels.** To implement internal control programs effectively, not only top management but also all employees should be required to participate.

2. *Effective AML/CFT Policy and Legal Framework*

- **Adopting a comprehensive legal framework.** AML/CFT criminalisation is often tied to legislation dealing with drug trafficking. However, predicate offenses for money laundering should go well beyond drug trafficking and cover, as minimum, the twenty category of offenses listed in the FATF 40 Recommendation.
- **Applying uniform rules and a solid legal system to all the relevant sectors.** Consistent legal obligation should be applied to all the sectors within a jurisdiction. This applies to the informal economic sector, including remittances from abroad and cash-based transactions, where substantial AML/CFT risks exist. It is also important that the money laundering and terrorist financing legislation should be consistent with general legal requirements applying to financial and non-financial institutions covered by AML/CFT controls.
- **Ensuring development of legal protection/legal safeguard provisions for the private sector.** The AML/CFT law should protect financial institutions from being liable of disclosing confidential information to the authorized agencies. This will ensure that financial institutions understand their obligations and rights, thereby enhancing the collaboration process. It is the responsibility of the authorities to clarify these concepts, as nonexistence of legal protection may jeopardize private sector cooperation.
- **Defining the responsibilities of both the public and private sector.** Each sector's responsibilities must be clearly defined, outlining both rights and obligations. Many jurisdictions do not provide banks with the authority to close accounts of suspicious customers or decline to opening accounts of suspicious account applicants. Financial institutions need to have these rights in order to avoid taking on excessive money laundering risks in their operations. The AML/CFT law should also create a distinct Financial Intelligence Unit (FIU) to receive suspicious transaction reports, analyze them and disseminate to law enforcement. It should work closely with the supervisors to ensure compliance with AML/CFT legislation.

3. *Participation Mechanism*

- **Facilitating a close consultation mechanism between the public and private sector.** It is important to establish a consultation mechanism between the authorities and financial institutions to reach a consensus on developing legislation/regulations. The authorities should facilitate a national dialogue by inviting diverse stakeholders.

A close consultation mechanism will allow necessary information exchange pertaining to decision making; facilitate mutual understanding of potentially diverging perspectives (maximization of profit, public interest, relationship with client, etc.); and reinforce mutual confidence.

- **Inviting all the relevant constituencies to participate.** While involvement by a wide variety of stakeholders may slow down the process of generating agreed AML/CFT measures, this is outweighed by the benefits of obtaining the inputs of all the stakeholders who have capacity to tackle AML/CFT issues.

4. *Guidance by the Public Sector*

- **Providing clear policy guidance to the private sector.** Regulators and supervisors should not only exercise administrative authority, i.e. issuing banking regulations, supervising financial institutions, and imposing sanctions, but also provide guidance on due diligence programs, such as know-your-customer (KYC) and STR. Issuance of guidance notes can be an effective tool during the implementation process. Issuance of regulatory guidance notes is essential to clarify the compliance obligations of financial institutions.
- **Assisting banks in developing effective internal control systems.** Many jurisdictions have a law that requires financial institutions to have effective internal control systems. However, what constitutes an effective internal control system varies from institution to institution. Guidance should be directed towards assisting financial institutions to develop and implement effective internal control programs. These may include customer identification, documentation, storing customer and transaction information as well as establishing a procedure for refusing to open accounts for dubious customers and reporting suspicious transactions. When assisting banks in developing effective internal control systems, the authorities should consider conducting seminars for training and develop a curriculum. Also, external auditors should play an important role to ensure that financial institutions implement adequate internal control systems. To do so, auditors must have specific AML/CFT obligations to report any suspicious issues raised during the auditing to competent authorities.

5. *National AML/CFT Strategy Formulation and Implementation*

- **Establishing a high-level inter-agency committee/council to develop national AML/CFT policies.** The committee should represent a broad range of constituencies to ensure better information exchange and collaboration. Through regular meetings and discussions regarding AML/CFT related issues and typologies, the committee may make recommendations and develop a national strategy to tackle the issue. Although the concept of inter-agency cooperation is well understood, in principle, it is often still a challenge in practice to get different agencies to work together. The national AML/CFT strategy will lack coherence if inter-agency cooperation does not exist.
- **Having a clear common goal and shared vision of the AML/CFT system.** It is indispensable to identify clear objectives and secure a consensus among the

stakeholders towards them while developing a national AML/CFT strategy. There also should be a shared and coherent vision of the desired AML/CFT system. An analysis of what progress has been achieved should be documented along with identifying the private sector contribution.

- **Launching an awareness raising campaign/program.** To strengthen public and private sector collaboration, there is a need to implement an awareness raising campaign to promote AML/CFT issues and to inform the general public about what government officials are doing with regards to this matter.
- **Modernizing the payment system.** The greater the use of cash and the less the use of the formal financial system for handling transactions, the greater the risk of money laundering. A jurisdiction with a low level of banking activities combined with high use of cash should take steps to increase the use of formal banking channels for payments. Modernization of the payment system may be an essential condition for increasing the use of the formal banking system.

6. *Cooperation Mechanism*

- **Developing regional collaboration.** The private and public collaboration should be expanded beyond the regional context to provide a global solution to AML/CFT issues. As the AML/CFT issue is a global phenomenon, collaboration should be a regional effort which requires a dynamic collection of information by global actors.
- **Seeking bilateral/multilateral partnership to elaborate technical assistance programs.** In order to build an effective AML/CFT regime, forging bilateral or regional partnerships is necessary. To facilitate collaboration efforts, elaborate training programs should be developed, not only for the public sector but also for the private sector, to familiarize with new standards and international cooperation. Regional financial institutions, such as the African Development Bank, engage in promoting the economic development and social progress of its regional member countries. These regional financial institutions are an important source for technical assistance.
- **Being aware of regional and international organizations' (the WB, IMF, etc.) initiatives for technical assistance.** As the collaborative process to build an effective AML/CFT regime requires resources and training, countries should be aware of regional and international organizations' technical assistance (TA) initiatives. Countries are recommended to communicate with the international organizations regarding various TA needs including legal drafting, training and seminars. Also, participating in the joint WB/IMF Financial Sector Assessment Program (FSAP) is recommended. Based on the assessment, a country will be able to identify specific technical assistance needs.

7. *Training and Education*

- **Ensuring continuous training for both the public and private sectors.** All level of employees in financial institutions need to understand the issues associated with money laundering and terrorist financing as well as applications of new legal framework and preventative measures. Regulatory and supervisory authorities need

to gain and update skills and knowledge to manage the compliance efforts.

8. *Communication Mechanism*

- **Ensuring coordination with law enforcement authorities and appropriate feedback to the private sectors.** There should be an institutional communication vehicle, FIU, that is responsible for feeding such information to law enforcement agencies and the financial sector. The authorities should provide constant feedback to financial institutions especially on STR reporting and typology studies. The authorities are often criticized for providing insufficient feedback to the private sector, especially regarding the use made of financial information disclosures to investigate and prosecute money laundering. There are some unavoidable constraints on the authority's ability to share certain information, for example, because of lengthy financial crime investigations.
- **Reinforcing a culture of close dialogue.** In order to develop legislation/ regulations and to ensure compliance with requirements, a country needs to have a culture which encourages a dialogue. There should be an institution for exchanging information and maintaining dialogue between law enforcement agencies and the financial sector.
- **Facilitating a dialogue with non-financial businesses and professions.** A dialogue with non-financial businesses and professions, i.e. lawyers, accountants and real estate agents, should also be developed. In recent years, non-financial businesses and professions have been identified as increasingly vulnerable to money laundering and terrorist financing. However, they are less aware of the issue and have had less interaction with the authorities. Thus, the authorities need to encourage their participation in a dialogue so that both entities are able to understand the trends and issues.

9. *Information Sharing*

- **Facilitating inter-sector as well as public and private sector cooperation.** In order to enhance the consultation process, each respective financial sector should be represented by an association, such as the banking and insurance association. The association can be formed in two tiers – domestic and regional/international level – for cooperation. In both domestic and international levels, the association should serve as a contact point and a coordination entity. The association, as a point of contact, can promote and facilitate the relationships among financial institutions and with the government authorities. Also, different sector associations should work together to facilitate information sharing and collaboration. The associations should have spokespersons who are knowledgeable about AML/CFT issues to conduct productive dialogue. Serving as a coordination entity, the association can contribute to assist financial institutions to understand the new trends and typologies with regard to money laundering. This can be attained by holding a periodic meeting or a workshop.
- **Developing an information exchange mechanism.** A two-way communication system between the authorities and financial institutions is a crucial factor for detecting suspicious or unusual transaction activities. The mechanism should

function reciprocally and include relevant information, including typologies and general statistics.

- **Sharing AML/CFT typologies and lists of high risk individuals and organizations with the private sector.** Financial institutions will be helped to detect inappropriate activities and enhance customer due diligence programs by having access to the latest typologies as well as lists of terrorist groups and individuals issued by the U. N. and the own jurisdiction. It is important that individual lists should include clear identity information so that the right individuals are targeted and the number of “false lists” is minimized. Examples of previous suspicious transactions are useful references to identifying money-laundering risks. However, they are not the complete answers since money launderers are always inventing new methods for laundering money.

10. Quality of Information

- **Developing tools to comply with customer due diligence measures.** Once the AML/CFT law covering customer due diligence requirements has been enacted, financial institutions need to develop implementation tools. These will include software programs capable of identifying atypical transactions.
- **Establishing an efficient reporting system.** Reviewing all transactions above the threshold amount required for suspicious transaction reporting is not only time-consuming but also costly, especially for institutions with small resources. Providing information through electronic means, i.e. automatic e-Reporting system, will allow for efficient and effective monitoring for both the private and public sectors, thereby ensuring more timely and accurate information. Those institutions that are unable to afford such an IT tool may refer to typology exercises, which demand special control and supervision measures, as an alternative tool.

The International Best Practices on Strengthening the Collaborative Process to Build Effective AML/CFT Regimes will be issued once all the AML/CFT Global Dialogue Series is completed.