



# THE FINANCIAL ACTION TASK FORCE AND THE ROLE OF LAWYERS IN COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

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## Introduction to FATF

- The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Finance/Treasury Ministers of its member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.
- The FATF has developed a series of Recommendations that are recognized as the international standard for combating money laundering and the financing of terrorism and proliferation of weapons of mass destruction.
- The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally.
  - FATF is currently reviewing the United States as a part of its Mutual Evaluation process. A report is expected some time in 2016.

Excerpted from the FATF website ([www.fatf-gafi.org](http://www.fatf-gafi.org))

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## Recommendation 22.



### DNFBPs: Customer Due Diligence

- The customer due diligence and record-keeping requirements set out in Recommendations 10, 11, 12, 15, and 17 apply to designated non-financial businesses and professions (DNFBPs) in the following situations:
  - (d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:
    - buying and selling of real estate;
    - managing of client money, securities or other assets;
    - management of bank, savings or securities accounts;
    - organisation of contributions for the creation, operation or management of
    - companies;
    - creation, operation or management of legal persons or arrangements, and
    - buying and selling of business entities.

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## Recommendation 10. Customer Due Diligence



- Financial institutions [**now read: Lawyers**] should be required to undertake customer due diligence (CDD) measures when:
  - (i) establishing business relations;
  - (ii) carrying out occasional transactions
  - (iii) there is a suspicion of money laundering or terrorist financing; or
  - (iv) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
- The CDD measures to be taken are as follows:
  - (a) Identifying the customer and verifying that customer's identity
  - (b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner. For legal persons and arrangements this should include financial institutions understanding the ownership and control structure of the customer.
  - (c) Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship.
  - (d) Conducting ongoing due diligence on the business relationship.

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## Recommendation 23.

### DNFBPs: Other measures



- The requirements set out in Recommendations 18 to 21 apply to all DNFBPs, including:
  - Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in paragraph (d) of Recommendation 22.
- Recommendation 22. (d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:
  - buying and selling of real estate;
  - managing of client money, securities or other assets;
  - management of bank, savings or securities accounts;
  - organisation of contributions for the creation, operation or management of companies;
  - creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

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## Recommendations 20 & 21. STR and NTO



- Recommendation 20. Reporting of suspicious transactions (“STR”)
  - If a financial institution [**now read: Lawyers**] suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit (FIU) – [FinCen in the United States]
- Recommendation 21. Tipping-off and confidentiality (“NTO”)
  - Financial institutions [**now read: Lawyers**], their directors, officers and employees should be . . . (b) prohibited by law from disclosing (“tipping-off”) the fact that a suspicious transaction report (STR) or related information is being filed with the FIU.

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