

Association of Global Custodians¹
Middle East and Africa Focus Committee ("AGC ME&A");
Subject to Supplemental Comments

Financial Regulatory Authority
28 Talat Harb street
P.O box 25450
Cairo, Egypt

Attention: Mr Ibrahim Bayoumi
EFSA Consultant for Legal Affaires

Email: IBRAHIM.BAYOMY@efsa.gov.eg

Dear Sir

Re: Beneficial Owner documentation and disclosure requirements

We write on behalf of the members of the AGC ME&A to briefly convey members' concerns regarding the existing requirements to:

- share full client due diligence documentation (CDD) if requested by the regulatory authority when performing a name change with a portfolio movement or asset merger,
- disclose the list of ultimate beneficial shareholders/ certificate holders in the company/fund with 10% or more ownership (instead of those who directly own 10 per cent or more of the applying company/fund as previously mandated) when requesting or renewing a Unified Code.
- renew the Unified Code every 3 years; failure to provide the Egyptian Exchange (EGX) with the required documentation within the required timeframe will lead to the blocking of the Unified Code.

The above mentioned requirements may pose practical implications such as requiring significant additional data from indirect clients that adds substantial costs, risk and burdens for global custodians. Moreover data transfer and data protection policies need to be taken into account when transferring information in different jurisdictions.

We understand that these changes come from an attempt from the EGX to follow global disclosure recommendations; however, they sometimes entail requests for data that cannot feasibly be obtained and traced. They have proven to be a barrier for certain investors such as Exchange Traded Funds (ETFs) or investors whose main shareholder is a nominee where looking through the unit holders/shareholders to determine ownership at ultimate beneficial end level becomes impossible.

¹ The Association of Global Custodians is an informal group of 12 financial institutions that provide securities safekeeping services and asset-servicing functions to primarily institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members' common interests on regulatory and market structure matters through comment letters, white papers and interaction with legislative and regulatory authorities and financial industry organizations around the globe. The members of the Association of Global Custodians are: BNP Paribas; BNY Mellon; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company. For more information visit www.theagc.com.

We also acknowledge that a Unified Code is required for investors to trade EGX-listed securities. However, managing the expiry date and arranging the completion of a new set of documents to renew the unified code every 3 years increases the administrative burden for all parties and may put at risk potential investment opportunities.

National identification numbers similar to the Egyptian unified codes are used in several Middle Eastern markets such as United Arab Emirates, Qatar and Kuwait. None of these markets require a renewal of national codes, and the AGC ME&A members would therefore like to ask Egyptian authorities to share their view on the rationale behind the renewal process and the additional value that this process brings to the market.

We understand the importance of complying with required AML and KYC regimes which the Association supports efforts by regulators in many jurisdictions to ensure all requirements are met by all financial institutions along the chain. Members also understand the regulatory challenge involved in balancing the need to enhance oversight and enforcement against the risks of injecting unnecessary costs or burdens on market participants or creating other unintended consequences.

Members also confirm to you their compliance with the AML and KYC regulations imposed by their respective home jurisdictions. As highly regulated entities, members and their institutional underlying client base are subject to strict and substantial oversight and audit reviews on an ongoing basis by their home jurisdiction banking and market regulators; these regulatory regimes encompass regular reviews of the operation and adequacy of custodians' AML and KYC due diligence programs.

The industry standard for global custodians is use of a risk-based approach for AML consistent with the EU and Financial Action Task Force (FATF) guidelines. Under this approach, the level of data obtained from global custodians' institutional clients will vary depending on the client's risk profile. In addition, Association members do not believe that exercise will have a material impact for purposes of AML/KYC due to the low-risk nature of global custodians' institutional client base, clients' status as regulated institutions in their own right and global custodians' conservative business practices (please see annex for more details).

In light of the above and due to the low risk nature of global custodians' institutional client base, AGC ME&A members would request you to reconsider these additional requirements and relieve the pressure on the provision of additional data for indirect clients to be transferred for KYC/AML and disclosure purposes.

Thank you for your attention to this matter; we look forward to hearing from you. If you have any questions or would like additional information, please contact the undersigned.

Yours sincerely,



Prepared by the Middle East and Africa Committee,
Julia McKenny, Chairperson.
20 December 2017

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A. Global Custodians are subject to full compliance with AML and KYC regulations imposed by their home jurisdiction, which are generally consistent with the EU and FATF requirements

- Global custodian banks are fully regulated in their country of domicile, are subject to the supervision of the national-level banking agencies (e.g., Hong Kong Monetary Authority, Federal Reserve, Financial Conduct Authority) and bear strict accountability for compliance with KYC/AML regulations.
- Global custodians generally observe conservative business practice to safeguard their franchise and reputation as these are key considerations to win new business or mandates from their clients. Thus in addition to observing set risk-management standards for documentary and non-documentary verification of customers' identity, the custodian also has procedures to obtain additional documentation or perform enhanced due diligence where a customer is deemed to pose a higher risk for money laundering.

B. Global custodians generally use a risk-based approach to better allocate resources and focus on higher risk clients. Thus the level of data or documents collected from their clients will vary depending on the client risk profile and associated risk factors.

- This approach is consistent with the EU and FATF recommendation that enhanced due diligence is conducted for customers that fall into high risk categories. This risk-based approach is articulated in the 2007 report titled "Guidelines on the Risk-based Approach to Combating Money Laundering and Terrorist Financing" issued by FATF. This report also notes that if the same standard is set for all customers and resources are evenly applied, an unintended consequence may well result -- the customer identification or other program elements become simply a tick-the-box exercise. Most anti-money laundering regimes around the globe allow for some form of risk-based approach to conduct customer due diligence.

Under the risk-based approach, documentary requirements are driven by various risk factors such as the custodian's experience with the client, the source of funds, geographic risk, planned investment and transaction activity, etc. Most jurisdictions impose a requirement that the custodian assign a money laundering risk rating to each customer. This exercise identifies customers that may pose a higher risk that requires the custodian to conduct enhanced due diligence and imposes more extensive monitoring and more frequent risk assessments on these accounts.

- The global custodians' primary client base consists of institutional investors that are themselves highly regulated collective investment vehicles -- pension funds, insurance companies, and other financial institutions. These investors are generally low risk in nature and qualify for Simplified Due Diligence ("SDD") where detailed documentation from these clients is not required. However, custodians must obtain suitable evidence to document the categorization of these clients for SDD.

Given the above, specific data requirements for indirect clients such as a global custodians' client would trigger a new and supplemental data collection exercise across a larger client base, which would not be practical or feasible.

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to a large extent. In addition, such exercise is unlikely to mitigate exposure to money laundering and terrorist financing in a material way and will draw resources away from the identification and monitoring of clients who do pose a higher risk.

C. The spirit of mutual regulatory recognition is observed by many markets in various forms, recognizing that many of the large global financial institutions are subject to strong regulatory oversight from their respective jurisdictions, are at a relatively low risk and are more conservative in safeguarding their franchise and reputation. Potential alternatives to avoid administrative burden or infeasible documentation requirements are:

- Waive the requirement for additional data from indirect clients such as a global custodians' client for the purpose of KYC/AML in accordance with the spirit of mutual regulatory recognition.
- Follow FATF recommendation to allow local custodians to rely on the global custodian to meet the global custodian's KYC duties, usually via the provision of an AML Comfort Letter or other form of introduction confirming that the global custodian has performed customer due diligence.