



AMERICAN BAR ASSOCIATION

740 Fifteenth Street, NW  
Washington, DC 20005-1022  
(202) 662-1000  
FAX: (202) 662-1032

May 6, 2003

Mr. Jochen Sanio, President  
Financial Action Task Force  
2, rue André Pascal  
75775 Paris Cedex 16  
FRANCE

Re: FATF Revised Forty Recommendations and the Legal Profession

Dear President Sanio:

I am writing to you regarding the deliberations of the Financial Action Task Force (FATF) on the Revised Forty Recommendations for combating money laundering throughout the world. In particular, I write concerning certain proposed recommendations (and options) being considered for the legal profession.

The FATF has solicited comments from members of the legal profession in many countries regarding the FATF Consultation Paper on the Revised Forty Recommendations. The FATF has also held meetings with representatives of various bar associations to discuss the FATF options and their potential impact on the legal profession and the clients we serve. We applaud the efforts of the FATF in seeking this input in advance of issuing any recommendations.

I am aware that you have received letters from bar associations, specifically the Council of the Bars and Law Societies of the European Union and the Japanese Federation of Law Societies, urging the FATF to factor into the FATF recommendation process the input provided by the legal profession. I believe those letters provide constructive suggestions that merit serious consideration.

As you are aware, the American Bar Association, Task Force on Gatekeeper Regulation and the Profession, has submitted comments to the FATF that detail the serious concerns we have with the Revised Forty Recommendations, and particularly any suspicious transaction reporting requirement for members of the legal profession. If the FATF is to proceed with a final recommendation on the application of the Revised Forty Recommendations to the legal profession, we strongly urge that the FATF take the necessary steps to avoid compromising the existing principles and requirements of professional secrecy, confidentiality, and privilege. In that regard, in evaluating the various options under consideration, Alternative 2 -- which would apply to lawyers who engage in financial transactions as financial intermediaries -- is the best option that FATF

has offered. In addition, we believe that any recommendation needs to embrace a broad definition of exempted information, based on existing ethical rules and legal requirements safeguarding professional secrecy, confidential communications, attorney work product, and privileged communications, which are at the foundation of the attorney-client relationship.

I appreciate your attention to this matter. Our Task Force remains committed and most willing to continue the dialogue and consultation process with FATF, as well as the members of our own government who have also actively engaged with us on this most important matter.

Sincerely,



Edward J. Kauland, Chairman  
ABA Task Force On Gatekeeper  
Regulation and The Profession

c/o Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, D.C. 20036