



JAPAN FEDERATION OF BAR ASSOCIATIONS

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Opinions of Japan Federation of Bar Associations on the Draft Revision of the 40 Recommendations

Japan Federation of Bar Associations (JFBA) already presented its opinions on the draft revision of the 40 Recommendations attached herewith to Mr. John Carlson, FATF Secretariat, and participated in a joint statement submitted to the FATF at an informal meeting held on April 3, 2003 between the FATF Secretariat and lawyers' organizations from around the world. After discussions at the meeting, JFBA believes that it is recognized that the serious concerns of the bars and law societies may be resolved by adopting Alternative 2, and exempting fundamental duties of lawyers from the obligation to report suspicious transactions.

However, JFBA hears from some sources that the FATF working group still considers that Alternative 1 (a plan based on the EU Directive), which we firmly opposed, is a possible option with respect to the obligation to report suspicious transactions. In addition, JFBA understands that objections are made to indicate in the Interpretive Notes that information obtained in the course of providing legal advice shall be an example of a matter that is subject to confidentiality obligations.

In the event that the FATF plenary session adopts Alternative 1 (a plan based on the revised EU Directives), and if legal advice is excluded from the examples of matters subject to confidentiality obligations in the Interpretive Notes, the conclusion would be one which disregards the recognized solution for the fundamental roles of lawyers to be preserved

JFBA has strongly opposed the idea of placing lawyers under an affirmative obligation to report suspicious transactions of their clients. This opinion comes from the standpoint of a realization of the rule of law, protection of public access to law and justice, as well as maintaining the independence of the bar. JFBA again requests the FATF to devise the amendment plans for the 40 recommendations by at least adopting Alternative 2, and exempting the lawyers' fundamental duties from the reporting obligations, and also stating in the Interpretive Notes that information obtained in the course of providing legal advice shall be subject to confidentiality obligations.

May 6, 2003

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