

Role of the self-regulatory authority

With regard to Reporting obligations and the role of the self-regulatory body, the Anti-Money Laundering Committee of the Council of Bars and Law Societies of Europe (CCBE) has been discussing the role of the self-regulatory body. Following the Michaud case the Committee believes the self-regulatory body must have the **option** of becoming the authority to be informed in the first instance of the suspicious transaction. The CCBE has examined the Commission proposal and in light of the Michaud decision wishes to propose the following amendments to the Commission text:

Commission proposal	CCBE suggestion
<p>(27) Member States should have the possibility to designate an appropriate self-regulatory body of the professions referred to in Article 2(1)(3)(a),(b), and (d) as the authority to be informed in the first instance in place of the FIU. In line with the case law of the European Court of Human Rights, a system of first instance reporting to a selfregulatory body constitutes an important safeguard to uphold the protection of fundamental rights as concerns the reporting obligations applicable to lawyers.</p>	<p>(27) Member States must should provide the have the possibility to designate an appropriate self-regulatory body of the professions referred to in Article 2(1)(3)(a),(b), and (d) <u>with the option of being as</u> the authority to be informed in the first instance in place of the FIU. In line with the case law of the European Court of Human Rights, a system of first instance reporting to a self-regulatory body constitutes an important safeguard to uphold the protection of fundamental rights as concerns the reporting obligations applicable to lawyers.</p>
<p>(28) Where a Member State decides to make use of the exemptions provided for in Article 33(2), it may allow or require the self-regulatory body representing the persons referred to therein not to transmit to the FIU any information obtained from those persons in the circumstances referred to in that Article.</p>	<p>(28) A Where a Member State <u>must allow decides to make use of</u> the exemptions provided for in Article 33(2), <u>and a Member State it must may</u> allow or require the self-regulatory body representing the persons referred to therein not to transmit to the FIU any information obtained from those persons in the circumstances referred to in that Article.</p>
<p><i>Article 32</i></p> <p>1. Member States shall require obliged entities, and where applicable their directors and employees, to cooperate fully:</p> <p>(a) by promptly informing the FIU, on their own initiative, where the institution or person covered by this Directive knows,</p>	<p><i>Article 32</i></p> <p>1. Member States shall require obliged entities, and where applicable their directors and employees, to cooperate fully:</p> <p>(a) by promptly informing the FIU, on their own initiative, where the institution or person covered by this Directive knows,</p>

<p>suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to terrorist financing and by promptly responding to requests by the FIU for additional information in such cases;</p> <p>(b) by promptly furnishing the FIU, at its request, with all necessary information, in accordance with the procedures established by the applicable legislation.</p>	<p>suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to terrorist financing and by promptly responding to requests by the FIU for additional information in such cases;</p> <p>(b) by promptly furnishing the FIU, at its request, with all necessary information, in accordance with the procedures established by the applicable legislation.</p>
<p>2. The information referred to in paragraph 1 of this Article shall be forwarded to the FIU of the Member State in whose territory the institution or person forwarding the information is situated. The person or persons designated in accordance with the procedures provided for in Article 8(4) shall forward the information.</p>	<p>2. The information referred to in paragraph 1 of this Article shall be forwarded to the FIU of the Member State in whose territory the institution or person forwarding the information is situated. The person or persons designated in accordance with the procedures provided for in Article 8(4) shall forward the information.</p>
<p><i>Article 33</i></p> <p>1. By way of derogation from Article 32(1), Member States may, in the case of the persons referred to in Article 2(1)(3)(a), (b), and (d) designate an appropriate selfregulatory body of the profession concerned as the authority to receive the information referred to in Article 32(1).</p> <p>Without prejudice to paragraph 2, the designated self-regulatory body shall in cases referred to in the first subparagraph forward the information to the FIU promptly and unfiltered</p>	<p><i>Article 33</i></p> <p>1. By way of derogation from Article 32(1), Member States <u>must</u>may, in the case of the persons referred to in Article 2(1)(3)(a), (b), and (d) <u>provide the self-regulatory body of the profession concerned with the option of being designate an appropriate selfregulatory body of the profession concerned as the</u> authority to receive the information referred to in Article 32(1).</p> <p><u>In all circumstances, Member States must provide the means and manner to achieve the protection of professional secrecy, confidentiality and privacy.</u></p> <p>Without prejudice to paragraph 2, the designated self-regulatory body shall in cases referred to in the first subparagraph forward the information to the FIU promptly and unfiltered.</p>
<p>2. Member States shall not apply the obligations laid down in Article 32(1) to</p>	<p>2. Member States <u>must shall</u>not apply the obligations laid down in Article 32(1) to</p>

<p>notaries, other independent legal professionals, auditors, external accountants and tax advisors only to the strict extent that such exemption relates to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.</p>	<p>notaries, other independent legal professionals, auditors, external accountants and tax advisors <u>with regard to</u> only to the strict extent that such exemption relates to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings</p>
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