

**Joint statement by the international legal profession  
on the fight against money-laundering**

We, the undersigned, representing members of the legal professions of the United States, Europe, Japan and Canada, have agreed to the following statement in relation to the fight against money-laundering:

- (1) We share the concerns of governments around the world to stamp out the serious crime of money-laundering.
- (2) Nevertheless, it is our duty to support the fundamental values of justice and freedom in all our societies, and to ensure that, in the welcome fight against the ill-effects of money-laundering, other important rights and duties are not lost.
- (3) Among the core attributes of all our legal professions are both the ability of clients to consult their lawyers with complete confidence, and the independence of the bar from the government. These attributes are recognised in all our legal systems, despite their many differences. The notions of legal professional privilege, professional secrecy, and confidentiality (all three will be collectively called 'professional confidentiality and trust' in this document) are at the core of the legal profession worldwide. Likewise, lawyers around the world have a duty of loyalty to the clients they serve, and play a role in society and the administration of justice independent of the state.
- (4) We believe that professional confidentiality and trust, as well as the independence of the bar, are at the root of a democratic and just society, essential to the rule of law, and a condition of access to law and justice in states where the rule of law prevails. Without these, the vital relationship of the citizen with the state cannot be properly balanced, and the necessary understanding (and observance) of law cannot be achieved. The importance of these attributes of the legal profession is recognised by the fact that in some of our countries they are protected in the constitution itself, while in others they are ensured by penalties against lawyers in legal and ethics codes.
- (5) We are seriously concerned that, in the effort to stamp out money-laundering, the values recognised in international and constitutional laws of professional confidentiality and trust and independence of the bar are not receiving adequate consideration. On behalf of our clients, we can accept neither inroads into professional confidentiality and our duty of loyalty to clients, nor obstacles in access to justice. We believe that efforts to undermine these values will be subject, in a number of countries, to successful constitutional challenge.
- (6) Given our support for the fight against money-laundering, we are pleased to assist FATF in its work. We welcome the two FATF consultations which have taken place to date with the professions. However, the FATF as an organization has yet to develop a mechanism for pursuing a sustained dialogue with the bars of member nations. We recognize that a dialogue involving 31 countries is difficult to organize, but we believe that it is feasible.


(7) Overall, we believe that the following elements are necessary to be undertaken before decisions can be made in relation to lawyers and professional confidentiality and trust:

- (a) properly-founded research into the extent to which lawyers are used by money-launderers, and the ways in which they are being used, so that future decisions can be based on documented facts and trends;
- (b) proper and thorough due process in this rule-making exercise. In particular, consultation is required with the legal profession and other affected parties about how professional confidentiality and independence of the bar work to support a free and just society. We would propose to establish an expedited schedule for such a consultation, and this effort could include a broad-based dialogue to develop best practices that FATF could consider as part of the Recommendation process;
- (c) consideration of the legal issues arising from international and constitutional law challenges – such as taking place in Canada at the moment – of efforts by governments to breach professional confidentiality and trust in the effort to stamp out money-laundering.

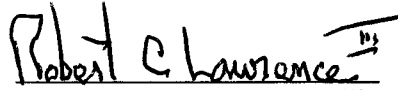
(8) We, therefore, request FATF to remove any reference to lawyers in the revision to the Forty Recommendations, until the elements mentioned in (7) above have been achieved.

Done on April 03/03..... for and on behalf of:

American Bar Association

  
Mr. Bruce Lagaris


American College of Trust and Estate Counsel

  
Mr. Robert C. Lawrence, III

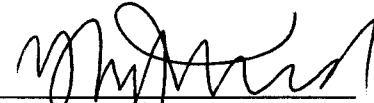
Federation of Law Societies of Canada

  
Mr. Maurice Laprairie Q.C.

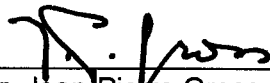
Conseil National des Barreaux

on behalf of <sup>Mr</sup> Benichou Pdt  
  
Mr. Hervé Chemouli

Council of the Bars and Law Societies  
of the European Union

  
Mr. Helge Kolrud

Federation of European Bars

  
Mr. Jean-Pierre Gross

Fédération Suisse des Avocats

  
Mr. Jean-Pierre Gross

Japan Federation of Bar Associations

  
Mr. Yoshiharu Kawabata

Self-regulatory organisation of Swiss lawyers and notaries

  
Mr. Jean-Pierre Gross