

Financial Action Task Force Identifies Jurisdictions with Anti-Money Laundering, Combating the Financing of Terrorism, and Counter-Proliferation Deficiencies

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WASHINGTON—The Financial Crimes Enforcement Network (FinCEN) is informing U.S. financial institutions that the Financial Action Task Force (FATF), an intergovernmental body that establishes international standards for anti-money laundering, countering the financing of terrorism, and countering the financing of proliferation of weapons of mass destruction (AML/CFT/CPF), issued an additional public statement at the conclusion of its plenary meeting this month reiterating how the Russian Federation's war of aggression against Ukraine continues to run counter to FATF's principles, and, thus, the suspension (<https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation-feb-2024.html>) of the membership of the Russian Federation continues to stand.[1] The FATF highlighted the potential risks to the international financial system, including growing financial connectivity of Russia with the Democratic People's Republic of Korea (DPRK) and Iran, and risks of proliferation financing, malicious cyber activities, and ransomware attacks. In order to protect the international financial system, the FATF continues to urge all jurisdictions to remain vigilant to these risks.[2]

The FATF also updated its lists of jurisdictions with strategic AML/CFT/CPF deficiencies.[3] U.S. financial institutions should consider the FATF's stance toward these jurisdictions when reviewing their obligations and risk-based policies, procedures, and practices.[4]

On February 23, 2024, the FATF added Kenya and Namibia to its list of *Jurisdictions Under Increased Monitoring* and removed Barbados, Gibraltar, Uganda, and the United Arab Emirates from that list.

The FATF's list of *High-Risk Jurisdictions Subject to a Call for Action* remains the same, with Iran, DPRK, and Burma subject to calls for action. Iran and DPRK are still subject to the FATF's countermeasures, while Burma is still subject to the application of enhanced due diligence, but not countermeasures.[5]

As part of the FATF's listing and monitoring process to ensure compliance with its international standards, the FATF issued two statements: (1) *Jurisdictions Under Increased Monitoring* (<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-february-2024.html>), which publicly identifies jurisdictions with strategic deficiencies in their AML/CFT/CPF regimes that have committed to, or are actively working with, the FATF to address those deficiencies in accordance with an agreed upon timeline; and (2) *High-Risk Jurisdictions Subject to a Call for Action* (<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-february-2024.html>), which publicly identifies jurisdictions with significant strategic deficiencies in their AML/CFT/CPF regimes and calls on all FATF members to apply enhanced due diligence, and, in the most serious cases, apply countermeasures to protect the international financial system from the money laundering, terrorist financing, and proliferation financing risks emanating from the identified countries.

Jurisdictions Under Increased Monitoring

With respect to the FATF-identified *Jurisdictions Under Increased Monitoring*, U.S. covered financial institutions are reminded of their obligations to comply with the due diligence obligations for foreign financial institutions (FFI) under 31 CFR § 1010.610(a) in addition to their general obligations under 31 U.S.C. § 5318(h) and its implementing regulations. As required under 31 CFR § 1010.610(a), covered financial institutions should ensure that their due diligence programs, which address correspondent accounts maintained for FFIs, include appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to detect and report known or suspected money laundering activity conducted through or involving any correspondent account established, maintained, administered, or managed in the United States. Furthermore, money services businesses (MSBs) have parallel requirements with respect to foreign agents or foreign counterparties, as described in FinCEN Interpretive Release 2004-1 (/sites/default/files/federal_register_notice/31cfr12142004.pdf), which clarifies that the AML program regulation requires MSBs to establish adequate and appropriate policies, procedures, and controls commensurate with the risk of money laundering and the financing of terrorism posed by their relationship with foreign agents or foreign counterparties. Additional information on these parallel requirements (covering both domestic and foreign agents and foreign counterparts) may be found in FinCEN's Guidance on Existing AML Program Rule Compliance Obligations for MSB Principals with Respect to Agent Monitoring (</resources/statutes-regulations/guidance/guidance-existing-aml-program-rule-compliance-obligations>). Such reasonable steps should not, however, put into question a financial institution's ability to maintain or otherwise continue appropriate relationships with customers or other financial institutions, and should not be used as the basis to engage in wholesale or indiscriminate de-risking of any class of customers or financial institutions. Financial institutions should also refer to previous interagency guidance on providing services to foreign embassies, consulates, and missions.

The United Nations (UN) continues to adopt several resolutions implementing economic and financial sanctions (<https://www.un.org/securitycouncil/sanctions/information>). Member States are bound by the provisions of these UN Security Council Resolutions (UNSCRs), and certain provisions of these resolutions are especially relevant to

financial institutions. Financial institutions should be familiar with the requirements and prohibitions contained in relevant UNSCRs. In addition to UN sanctions, the U.S. Government maintains a robust sanctions program. For a description of current Office of Foreign Assets Control (OFAC) sanctions programs, please consult OFAC's Sanctions Programs and Country Information (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>).

High-Risk Jurisdictions Subject to a Call for Action

With respect to the FATF-identified *High-Risk Jurisdictions Subject to a Call for Action*, Burma remains in this category and the FATF urges jurisdictions to apply enhanced due diligence proportionate to the risks. As a general matter, FinCEN advises U.S. financial institutions to apply enhanced due diligence when maintaining correspondent accounts for foreign banks operating under a banking license issued by a country designated by an intergovernmental group or organization of which the United States is a member, as noncooperative with respect to international anti-money laundering principles or procedures, and with which designation the U.S. representative to the group or organization concurs.^[6] U.S. financial institutions should continue to consult existing FinCEN and OFAC guidance on engaging in financial transactions with Burma.^[7]

With respect to the FATF-identified *High-Risk Jurisdictions Subject to a Call for Action*, specifically, countermeasures, in the case of DPRK and Iran, U.S. financial institutions must comply with the extensive U.S. restrictions and prohibitions against opening or maintaining any correspondent accounts, directly or indirectly, for North Korean or Iranian financial institutions. Existing U.S. sanctions and FinCEN regulations already prohibit any such correspondent account relationships.

The Government of Iran and Iranian financial institutions remain persons whose property and interests in property are blocked under E.O. 13599 and section 560.211 of the Iranian Transactions and Sanctions Regulations (ITSR), 31 CFR Part 560. U.S. financial institutions and other U.S. persons continue to be broadly prohibited under the ITSR from engaging in transactions or dealings with Iran, the Government of Iran, and Iranian financial institutions, including opening or maintaining correspondent accounts for Iranian financial institutions. These sanctions impose obligations on U.S. persons that go beyond the relevant FATF recommendations. In addition to OFAC-administered sanctions, on October 25, 2019, FinCEN found Iran to be a Jurisdiction of Primary Money Laundering Concern and issued a final rule, pursuant to Section 311 of the USA PATRIOT Act, imposing the fifth special measure available under Section 311 ([/news/news-releases/imposition-fifth-special-measure-against-islamic-republic-iran-jurisdiction](https://www.fincen.gov/news/news-releases/imposition-fifth-special-measure-against-islamic-republic-iran-jurisdiction)). This rule prohibits U.S. financial institutions from opening or maintaining correspondent accounts for, or on behalf of, an Iranian financial institution, and the use of foreign financial institutions' correspondent accounts at covered United States financial institutions to process transactions involving Iranian financial institutions (31 CFR § 1010.661).

For jurisdictions removed from the FATF listing and monitoring process, U.S. financial institutions should take the FATF's decisions and the reasons behind the delisting into consideration when assessing risk, consistent with financial institutions' obligations under 31 CFR § 1010.610(a) and 31 CFR § 1010.210.

If a financial institution knows, suspects, or has reason to suspect that a transaction involves funds derived from illegal activity or that a customer has otherwise engaged in activities indicative of money laundering, terrorist financing, or other violation of federal law or regulation, the financial institution must file a Suspicious Activity Report.

Questions or comments regarding the contents of this release should be addressed to the FinCEN Regulatory Support Section at frc@fincen.gov (<mailto:frc@fincen.gov>).

[1] See FATF, "FATF Statement on the Russian Federation (<https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation-feb-2024.html>)" (Feb. 23, 2024). See also FATF, "Outcomes FATF Plenary (<https://www.fatf-gafi.org/en/publications/Fatfgeneral/outcomes-fatf-plenary-february-2024.html>)" (Feb. 23, 2024); U.S. Department of the Treasury Press Release, "FATF Advances Work to Combat Money Laundering and Terrorist Financing (<https://home.treasury.gov/news/press-releases/jy2120>)" (Feb. 23, 2024).

[2] See FATF, "FATF Statement on the Russian Federation (<https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation-feb-2024.html>)" (Feb. 23, 2024).

[3] See FATF, "Jurisdictions Under Increased Monitoring (<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/increased-monitoring-february-2024.html>)" (Feb. 23, 2024); FATF, "High-Risk Jurisdictions Subject to a Call for Action (<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-february-2024.html>)" (Feb. 23, 2024).

[4] FinCEN issues these public statements about higher-risk countries as identified by the FATF to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of certain jurisdictions.

[5] The FATF notes in regard to Burma that "when applying enhanced due diligence measures, countries should ensure that flows of funds for humanitarian assistance, legitimate NPO activity, and remittances are not disrupted." See FATF, "High-Risk Jurisdictions Subject to a Call for Action (<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-february-2024.html>)" (Feb. 23, 2024).

[6] See 31 U.S.C. § 5318(i); 31 CFR § 1010.610(b) and (c). See also Financial Crimes Enforcement Network; Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts (<https://www.govinfo.gov/content/pkg/FR-2007-08-09/pdf/E7-15467.pdf>), 72 Fed. Reg. 44,768 (Aug. 9, 2007).

[7] See FinCEN, Conditional Exception to Bank Secrecy Act Regulations Relating to the Burma Section 311 Final Rule (<https://www.fincen.gov/sites/default/files/shared/2016-25249.pdf>) (Oct. 19, 2016); OFAC, Burma-Related Sanctions (<https://ofac.treasury.gov/sanctions-programs-and-country-information/burma>); U.S. Department of State, Department of the Treasury, Department of Commerce, Department of Labor, Department of Homeland Security, and Office of the U.S. Trade Representative, “Risks and Considerations for Businesses and Individuals with Exposure to Entities Responsible for Undermining Democratic Processes, Facilitating Corruption, and Committing Human Rights Abuses in Burma (Myanmar)” (<https://www.state.gov/risks-and-considerations-for-businesses-and-individuals-with-exposure-to-entities-responsible-for-undermining-democratic-processes-facilitating-corruption-and-committing-human-rights-abuses-in-burma/>)” (Jan. 26, 2022).

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