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Guidance

HM Treasury Advisory Notice: Money Laundering and Terrorist Financing controls in higher risk jurisdictions

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Requirement to apply Enhanced Due Diligence for higher risk jurisdictions

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (MLRs 2019) require the UK regulated sector to apply enhanced customer due diligence in relation to high-risk countries.

MLRs 2019 Regulation 33 (1) (b) requires regulated businesses (“relevant persons”) to apply enhanced customer due diligence measures and enhanced ongoing monitoring in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country. For these purposes, Regulation 33 (3) explains that:

- a high-risk third country means a country which has been identified by the European Commission in delegated acts adopted under Article 9.2 of the Fourth Money Laundering Directive. These delegated acts are set out in Delegated Regulation 2016/1675 (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2016.254.01.0001.01.ENG) (latest consolidated version) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02016R1675-20181022>);
- a relevant transaction means a transaction in relation to which the relevant person is required to apply customer due diligence measures under Regulation 27;

Being established in a country means:

- in the case of a legal person, being incorporated in or having its principal place of business in that country, or, in the case of a financial institution or a credit institution, having its principal regulatory authority in that country
- in the case of an individual, being resident in that country, but not merely having been born in that country

MLRs 2019 Regulation (33) (6) (c) requires that relevant persons take into account “geographical risk factors” when assessing risk and the extent of measures which should be taken to manage and mitigate that risk. These risk factors are stated as including whether a country is identified by a credible source, including reports published by the Financial Action Task Force (FATF), as not implementing requirements to counter money laundering and terrorist financing that are consistent with FATF recommendations.

As the international anti-money laundering and counter-terrorist financing (AML/CTF) standard-setter, FATF regularly publishes statements that identify high-risk countries based on assessments of their AML/CTF regimes. In line with Regulation (33) (6) (c) HM Treasury would like to draw the regulated sectors attention to the latest publication by FATF on high risk jurisdictions.

FATF public statement

On 23 October 2020 FATF published two statements identifying jurisdictions with strategic deficiencies in their AML/CTF regimes. These statements can be found at Annex A and Annex B respectively.

In response to the latest FATF statements, HM Treasury advises firms to consider the following:

HM Treasury Advice	Consider as high risk and apply counter measures and enhanced due diligence measures in accordance with the risks	Take appropriate actions to minimise the associated risks, which may include enhanced due diligence measures in high risk situations
Jurisdictions	DPRK* Iran*	Albania The Bahamas Barbados Botswana Cambodia Ghana Jamaica Mauritius Myanmar* Nicaragua* Pakistan Panama Syria* Uganda Yemen* Zimbabwe*

These jurisdictions are subject to financial sanctions measures at the time of publication of this notice which require firms to take additional measures. Details can be found on gov.uk. (<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>)

Background Information

1. This advice replaces all previous advisory notices issued by HM Treasury on this subject.
2. The Financial Action Task Force is an inter-governmental body established by the G7 in 1989 and today includes as members 37 jurisdictions and two regional organisations (the European Commission and the Gulf Co-operation Council).
3. The government's strategy is to use financial tools to deter crime and terrorism; detect it when it happens; and disrupt those responsible and hold them to account for their actions. The FATF is central to the UK's international objectives within this strategy.
4. The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (MLRs 2019) require firms to put in place policies and procedures in order to prevent activities related to money laundering and terrorist financing. Regulated businesses are also required to apply enhanced customer due diligence and enhanced ongoing monitoring on a risk-sensitive basis in certain defined situations and in any other case which by its nature can present a higher risk of money laundering or terrorist financing.
5. The Financial Conduct Authority requires firms to take reasonable care to establish and maintain systems and controls for countering the risk that the firm might be used to further financial crime.
6. Other restrictive measures are applicable in the UK in respect of some of the jurisdictions listed in the content of this Advisory. More information can be found on gov.uk. (<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>).

7. For further information about what the Treasury is doing to combat financial crime, and how to subscribe to financial crime alerts, visit gov.uk. (<https://www.gov.uk/government/policy-teams/anti-money-laundering-and-counter-financing-of-terrorism>)

Annex A: High-Risk Jurisdictions subject to a Call for Action – 23 October 2020

High-risk jurisdictions have significant strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation. For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence, and in the most serious cases, countries are called upon to apply counter-measures to protect the international financial system from the ongoing money laundering, terrorist financing, and proliferation financing (ML/TF/PF) risks emanating from the country. This list is often externally referred to as the “black list”.

On 2 August 2020, FATF decided to pause the review process for the list of High-Risk Jurisdictions subject to a Call for Action. Therefore, please refer to the statement on these jurisdictions adopted in February 2020. While the statement may not necessarily reflect the most recent status in Iran and the Democratic People’s Republic of Korea’s AML/CFT regime, the FATF’s call for action on these high-risk jurisdictions remains in effect.

- High-Risk Jurisdictions subject to a Call for Action – 21 February 2020 (<http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/call-for-action-february-2020.html>)

Annex B: Jurisdictions under Increased Monitoring – 23 October 2020

Jurisdictions under increased monitoring are actively working with the FATF to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring. This list is often externally referred to as the ‘grey list’^[footnote 1].

The FATF and FATF-style regional bodies (FSRBs) continue to work with the jurisdictions noted below and report on the progress made in addressing the identified strategic deficiencies. The FATF calls on these jurisdictions to complete their agreed action plans expeditiously and within the proposed timeframes. The FATF welcomes their commitment and will closely monitor their progress. The FATF does not call for the application of enhanced due diligence measures to be applied to these jurisdictions, but encourages its members to take into account the information presented below in their risk analysis.

The FATF continues to identify additional jurisdictions, on an on-going basis, that have strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. A number of jurisdictions have not yet been reviewed by the FATF and FSRBs.

The FATF gave the option for jurisdictions publicly identified to not report at this meeting given their focus on addressing the impact of the COVID-19 pandemic. The following countries chose to report: Albania, Botswana, Cambodia, Ghana, Mauritius, Pakistan, and Zimbabwe. For these

countries, updated statements are provided below. The following countries deferred their reporting: Barbados, Jamaica, Myanmar, Nicaragua, Panama and Uganda. The statements issued in February 2020 for these jurisdictions are included below, but they may not necessarily reflect the most recent status of the jurisdiction's AML/CFT regime.

Albania

Since February 2020, when Albania made a high-level political commitment to work with the FATF and MONEYVAL to strengthen the effectiveness of its AML/CFT regime, Albania has taken steps towards improving its AML/CFT regime, including by bringing into effect legislation to implement a register of beneficial owners, taking measures to reduce the informal economy and use of cash, and establishing specialised teams and officials in each district to investigate and prosecute ML. Albania should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) conducting additional in-depth analysis to understand its ML risks, and enhancing institutional coordination and cooperation; (2) improving the timely handling of mutual legal assistance requests; (3) establishing more effective mechanisms to detect and prevent criminals from owning or controlling DNFBPs, including by strengthening competent authorities' powers to take necessary actions; (4) ensuring that accurate and up-to-date legal and beneficial ownership information is available on a timely basis; (5) increasing the number and improving the sophistication of prosecutions and confiscations for ML, especially in cases involving foreign predicate offenses or third-party ML; (6) improving the implementation of targeted financial sanctions, in particular through enhanced supervisory action and targeted, proactive outreach.

The Bahamas

In October 2018, The Bahamas made a high-level political commitment to work with the FATF and CFATF to strengthen the effectiveness of its AML/CFT regime and address any related technical deficiencies. In February 2020, the FATF made the initial determination that The Bahamas has substantially completed its action plan and warrants an on-site assessment to verify that the implementation of The Bahamas' AML/CFT reforms has begun and is being sustained, and that the necessary political commitment remains in place to sustain implementation in the future. Due to the impact of the COVID-19 crisis, the FATF was unable to conduct an on-site visit to confirm whether the process of implementing the required reforms and actions have begun and are being sustained in The Bahamas. The FATF will conduct an on-site visit at the earliest possible date.

Barbados

In February 2020, Barbados made a high-level political commitment to work with the FATF and CFATF to strengthen the effectiveness of its AML/CFT regime. Since the completion of its MER in November 2017, Barbados has made progress on a number of its MER recommended actions to improve technical compliance and effectiveness, including by updating the National Risk Assessment and developing mitigating measures. Barbados will work to implement its action plan, including by: (1) demonstrating it effectively applies risk-based supervision for FIs and DNFBPs; (2) taking appropriate measures to prevent legal persons and arrangements from being misused for criminal purposes, and ensuring that accurate and up to date basic and beneficial ownership information is available on a timely basis; (3) increasing the capacity of the FIU to improve the quality of its financial information to further assist law enforcement authorities in investigating ML

or TF; (4) demonstrating that money laundering investigations and prosecutions are in line with the country's risk profile and reducing the backlog to complete prosecutions that result in sanctions when appropriate; (5) further pursuing confiscation in ML cases, including by seeking assistance from foreign counterparts.

Botswana

Since October 2018, when Botswana made a high-level political commitment to work with the FATF and ESAAMLG to strengthen the effectiveness of its AML/CFT regime and address any related technical deficiencies, Botswana has taken steps towards improving its AML/CFT regime, including by assessing the risks associated with legal persons, legal arrangements and NPOs, and make operational the Online Business Registration System. Botswana should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) increasing risk-based supervision and take legislative steps to ensure that FIs and DNFBPs are required to apply customer due diligence measures; (2) improving the analysis and dissemination and the use of financial intelligence by the FIU; (3) implementing a CFT strategy, and improving the TF investigation capacity of the law enforcement agencies; (4) ensuring the implementation without delay of targeted financial sanctions measures related to proliferation financing; and (5) applying a risk-based approach to monitoring NPOs.

Cambodia

Since February 2019, when Cambodia made a high-level political commitment to work with the FATF and APG to strengthen the effectiveness of its AML/CFT regime and address any related technical deficiencies, Cambodia has taken steps towards improving its AML/CFT regime, including by promulgating a law that provides broad legal basis for mutual legal assistance (MLA), implementing risk-based supervision for real estate and casinos, promulgating a new AML/CFT Law to address most of the relevant technical compliance deficiencies related to CDD and PEPs and a law that establishes the legal framework for targeted financial sanctions related to proliferation financing. Cambodia should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) increasing law enforcement authorities' use of mutual legal assistance through training; (2) implementing the risk-based supervision to banks, including through prompt, proportionate and dissuasive enforcement actions, as appropriate; (3) enhancing analysis of suspicious transaction reports and increasing disseminations to law enforcement authorities; (4) demonstrating an increase in ML investigations and prosecutions in line with risk; (5) demonstrating an increase in the freezing and confiscation of criminal proceeds, instrumentalities, and property of equivalent value; (6) finalising and implementing a legal framework for UN targeted financial sanctions related to proliferation financing and enhancing the understanding of sanctions evasion.

Ghana

Since October 2018, when Ghana made a high-level political commitment to work with the FATF and GIABA to strengthen the effectiveness of its AML/CFT regime, Ghana has taken steps towards improving its AML/CFT regime, including by developing a comprehensive national AML/CFT policy based on risk identified in the national risk assessment, implementing measures to mitigate ML/TF risks associated with legal persons and improving risk based supervision.

Ghana should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) ensuring the timely access to adequate, accurate and current basic and beneficial ownership information; (2) ensuring that the FIU is focusing its activities on the risks identified in the national risk assessment; and (3) applying a risk-based approach for monitoring non-profit organisations

Jamaica

In February 2020, Jamaica made a high-level political commitment to work with the FATF and CFATF to strengthen the effectiveness of its AML/CFT regime. Since the completion of its MER in November 2016, Jamaica has made progress on a number of its MER recommended actions to improve technical compliance and effectiveness, including by amending its customer due diligence obligations. Jamaica will work to implement its action plan, including by: (1) developing a more comprehensive understanding of its ML/TF risk; (2) including all FIs and DNFBPs in the AML/CFT regime and ensuring adequate risk based supervision in all sectors; (3) taking appropriate measures to prevent legal persons and arrangements from being misused for criminal purposes, and ensure that accurate and up to date basic and beneficial ownership information is available on a timely basis; (4) taking proper measures to increase the use of financial information and to increase ML investigations and prosecutions, in line with the country's risk profile; (5) ensuring the implementation of targeted financial sanctions for TF without delay; and (6) implementing a risk based approach for supervision of its NPO sector to prevent abuse for TF purposes.

Mauritius

Since February 2020, when Mauritius made a high-level political commitment to work with the FATF and ESAAMLG to strengthen the effectiveness of its AML/CFT regime, Mauritius has taken steps towards improving its AML/CFT regime, including by developing a risk-based supervision plan for the global business and management companies. Mauritius should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) implementing the risk-based supervision plan effectively for The Financial Services Commission and focusing on different stages of outreach across DNFBP supervisors; (2) ensuring the access to accurate basic and beneficial ownership information by competent authorities in a timely manner; (3) demonstrating that law enforcement have capacity to conduct money laundering investigations, including parallel financial investigations and complex cases; (4) implementing a risk-based approach for supervision of its NPO sector to prevent abuse for TF purposes, and (5) demonstrating the adequate implementation of targeted financial sanctions through outreach and supervision.

Myanmar

In February 2020, Myanmar made a high-level political commitment to work with the FATF and APG to strengthen the effectiveness of its AML/CFT regime. Since the completion of its MER in September 2018, Myanmar has proactively made progress on a number of its MER recommended actions to improve technical compliance and effectiveness, including by introducing various legislative measures and establishing a regulatory framework for the registration of hundi operators. Myanmar will work to implement its action plan, including by: (1) demonstrating an improved understanding of ML risks in key areas; (2) ensuring the supervisory body for DNFBPs is

sufficiently resourced, onsite/offsite inspections are risk-based, and hundi operators are registered and supervised; (3) demonstrating enhances in the use of financial intelligence in LEA investigations, and increasing operational analysis and disseminations by the FIU; (4) ensuring that ML is investigated/prosecuted in line with risks; (5) demonstrating investigation of transnational ML cases with international cooperation; (6) demonstrating an increase in the freezing/seizing and confiscation of criminal proceeds, instrumentalities, and/or property of equivalent value; (7) managing seized assets to preserve the value of seized goods until confiscation; and (8) demonstrating implementation of targeted financial sanctions related to PF, including training on sanctions evasion

Nicaragua

In February 2020, Nicaragua made a high-level political commitment to work with the FATF and GAFILAT to strengthen the effectiveness of its AML/CFT regime. Since the completion of its MER in July 2017, Nicaragua has made progress on a number of its MER recommended actions to improve technical compliance and effectiveness, including by increasing the use of financial information in the investigation and prosecution of ML offenses and fixing its legal framework for criminalizing TF. Nicaragua will work to implement its action plan, including by: (1) developing a more comprehensive understanding of its ML/TF risk; (2) more proactively seeking international cooperation to support ML investigations, especially with the aim of identifying and tracing assets with confiscation and repatriation purposes; (3) conducting effective risk-based supervision; (4) taking appropriate measures to prevent legal persons and arrangements from being misused for criminal purposes, and ensure that accurate and up-to-date basic and beneficial ownership information is available on a timely basis.

Pakistan

Since June 2018, when Pakistan made a high-level political commitment to work with the FATF and APG to strengthen its AML/CFT regime and to address its strategic counter-terrorist financing-related deficiencies, Pakistan's continued political commitment has led to progress in a number of areas in its action plan, including: taking action to identify and sanction illegal MVTs, implementing cross-border currency and bearer negotiable instruments controls, improving international cooperation in terrorist financing cases, passing amendments to the Anti-Terrorism Act to increase the sanctioning authority, financial institutions implementing targeted financial sanctions and applying sanctions for AML/CFT violations, and controlling facilities and services owned or controlled by designated persons and entities.

Pakistan should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) demonstrating that law enforcement agencies are identifying and investigating the widest range of TF activity and that TF investigations and prosecutions target designated persons and entities, and those acting on behalf or at the direction of the designated persons or entities; (2) demonstrating that TF prosecutions result in effective, proportionate and dissuasive sanctions; (3) demonstrating effective implementation of targeted financial sanctions against all 1267 and 1373 designated terrorists and those acting for or on their behalf, preventing the raising and moving of funds including in relation to NPOs, identifying and freezing assets

(movable and immovable), and prohibiting access to funds and financial services; and (4) demonstrating enforcement against TFS violations, including in relation to NPOs, of administrative and criminal penalties and provincial and federal authorities cooperating on enforcement cases.

The FATF takes note of the significant progress made on a number of action plan items. To date, Pakistan has made progress across all action plan items and has now largely addressed 21 of the 27 action items. As all action plan deadlines have expired, the FATF strongly urges Pakistan to swiftly complete its full action plan by February 2021.

Panama

Since June 2019, when Panama made a high-level political commitment to work with the FATF and GAFILAT to strengthen the effectiveness of its AML/CFT regime, Panama has taken some steps towards improving its AML/CFT regime, including by drafting sectoral risk assessments for the corporate and DNFBP sectors and free trade zones. Panama should continue to work on implementing its action plan to address its strategic deficiencies, including by: (1) strengthening its understanding of the national and sectoral ML/TF risk and informing findings to its national policies to mitigate the identified risks; (2) proactively taking action to identify unlicensed money remitters, applying a risk-based approach to supervision of the DNFBP sector and ensuring effective, proportionate, and dissuasive sanctions against AML/CFT violations; (3) ensuring adequate verification and update of beneficial ownership information by obliged entities, establishing an effective mechanisms to monitor the activities of offshore entities, assessing the existing risks of misuse of legal persons and arrangements to define and implement specific measures to prevent the misuse of nominee shareholders and directors, and ensuring timely access to adequate and accurate beneficial ownership information; and (4) ensuring effective use of FIU products for ML investigations, demonstrating its ability to investigate and prosecute ML involving foreign tax crimes and to provide constructive and timely international cooperation with such offence, and continuing to focus on ML investigations in relation to high-risk areas identified in the national risk assessment and MER.

Syria

Since February 2010, when Syria made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Syria has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Syria had substantially addressed its action plan at a technical level, including by criminalising terrorist financing and establishing procedures for freezing terrorist assets. While the FATF determined that Syria has completed its agreed action plan, due to the security situation, the FATF has been unable to conduct an on-site visit to confirm whether the process of implementing the required reforms and actions has begun and is being sustained. The FATF will continue to monitor the situation, and will conduct an on-site visit at the earliest possible date.

Uganda

In February 2020, Uganda made a high-level political commitment to work with the FATF and ESAAMLG to strengthen the effectiveness of its AML/CFT regime. Since the completion of its MER in 2016, Uganda has made progress on a number of its MER recommended actions to

improve technical compliance and effectiveness, including conducting its first national ML/TF risk assessment and amending the relevant legal frameworks to address the technical deficiencies in its ML and TF offences. Uganda will work to implement its action plan, including by: (1) adopting a national AML/CFT strategy; (2) seeking international cooperation in line with the country's risk profile; (3) developing and implementing risk-based supervision to FIs and DNFBPs; (4) ensuring that competent authorities have timely access to accurate basic and beneficial ownership information for legal entities; (5) demonstrating LEAs and judicial authorities apply the ML offence consistent with the identified risks; (6) establishing and implementing policies and procedures for identifying, tracing, seizing and confiscating proceeds and instrumentalities of crime; (7) demonstrating that LEAs conduct TF investigations and pursue prosecutions commensurate with Uganda's TF risk profile; (8) addressing the technical deficiencies in the legal framework to implement PF-related TFS and implementing a risk based approach for supervision of its NPO sector to prevent abuse for TF purposes.

Yemen

Since February 2010, when Yemen made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Yemen has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Yemen had substantially addressed its action plan at a technical level, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing procedures to identify and freeze terrorist assets; (3) improving its customer due diligence and suspicious transaction reporting requirements; (4) issuing guidance; (5) developing the monitoring and supervisory capacity of the financial sector supervisory authorities and the financial intelligence unit; and (6) establishing a fully operational and effectively functioning financial intelligence unit. While the FATF determined that Yemen has completed its agreed action plan, due to the security situation, the FATF has been unable to conduct an on-site visit to confirm whether the process of implementing the required reforms and actions has begun and is being sustained. The FATF will continue to monitor the situation, and conduct an on-site visit at the earliest possible date.

Zimbabwe

Since October 2019, when Zimbabwe made a high-level political commitment to work with the FATF and ESAAMLG to strengthen the effectiveness of its AML/CFT regime and address any related technical deficiencies, Zimbabwe has taken initial steps towards improving its AML/CFT regime, including by establishing a legal framework to collect beneficial ownership information of legal person and arrangements, as well as completing a comprehensive assessment of its ML/TF risks. Zimbabwe should continue to work on implementing its action plan, including by: (1) implementing the national AML/CFT policy base on key ML/TF risks; (2) implementing risk-based supervision for FIs and DNFBPs including through capacity building among the supervisory authority; (3) ensuring development of adequate risk mitigation measures among FIs and DNFBPs, including by applying proportionate and dissuasive sanctions to breaches; (4) developing a comprehensive legal framework and mechanism to collect and maintain accurate and updated beneficial ownership information for legal persons and arrangements, and ensure timely assess by the competent authorities; and (5) addressing remaining gaps in PF-related targeted financial sanction framework and demonstrating implementation.

Jurisdictions No Longer Subject to Increased Monitoring by the FATF

Iceland

The FATF welcomes Iceland's significant progress in improving its AML/CFT regime. Iceland has strengthened the effectiveness of its AML/CFT regime and addressed related technical deficiencies to meet the commitments in its action plan regarding the strategic deficiencies that the FATF identified in October 2019. Iceland is therefore no longer subject to the FATF's increased monitoring process. Iceland will continue to work with the FATF to improve further its AML/CFT regime.

Mongolia

The FATF welcomes Mongolia's significant progress in improving its AML/CFT regime. Mongolia has strengthened the effectiveness of its AML/CFT regime and addressed related technical deficiencies to meet the commitments in its action plan regarding the strategic deficiencies that the FATF identified in October 2019. Mongolia is therefore no longer subject to the FATF's increased monitoring process. Mongolia will continue to work with the APG to improve further its AML/CFT regime.

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1. This statement was previously called "Improving Global AML/CFT Compliance: On-going Process".

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