

FIN-2017-A002

April 5, 2017

# Advisory

## Advisory on the FATF-Identified Jurisdictions with AML/CFT Deficiencies

**On February 24, 2017, the Financial Action Task Force (FATF) updated its list of jurisdictions with strategic AML/CFT deficiencies. These changes may affect U.S. financial institutions' obligations and risk-based approaches with respect to relevant jurisdictions.**

As part of the FATF's listing and monitoring process to ensure compliance with its international Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) standards, the FATF identifies certain jurisdictions as having strategic deficiencies in their AML/CFT regimes.<sup>1</sup> These jurisdictions appear in two documents: (I) the "[FATF Public Statement](#)" which includes jurisdictions that are subject to the FATF's call for countermeasures or are subject to Enhanced Due Diligence (EDD) due to their AML/CFT

deficiencies, and (II) "[Improving Global AML/CFT Compliance: on-going process](#)," which includes jurisdictions identified by the FATF to have AML/CFT deficiencies.<sup>2</sup> On February 24, 2017, the FATF updated both of these documents with the concurrence of the United States. Financial institutions should consider these changes when reviewing their enhanced due diligence obligations and risk-based policies, procedures, and practices with respect to the jurisdictions noted below.<sup>3</sup>

### I. **Jurisdictions that are subject to the FATF's call for countermeasures or are subject to EDD due to their AML/CFT deficiencies**

The FATF has indicated that the following jurisdictions have strategic deficiencies in their AML/CFT regimes and has called upon its members and urged all jurisdictions to (A) impose countermeasures and/or (B) consider the risk arising from each jurisdiction due to a lack of sufficient progress in addressing AML/CFT deficiencies.

1. The FATF ([www.fatf-gafi.org](http://www.fatf-gafi.org)) is a 37-member intergovernmental body that establishes international standards to combat money laundering and counter the financing of terrorism and proliferation of weapons of mass destruction. The United States is a member of the FATF.
2. The FATF public identification of countries with strategic AML/CFT deficiencies is in response to the G-20 leaders' call for the FATF to reinvigorate its process for assessing countries' compliance with international AML/CFT standards. The G-20 leaders have consistently called for the FATF to issue regular updates on jurisdictions with strategic deficiencies. Specifically within the FATF, the International Cooperation Review Group (ICRG) monitors and identifies countries with AML/CFT deficiencies. For more information on the ICRG procedures, please visit the FATF's website – [www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/moreabouttheinternationalco-operationreviewgroupicrg.html](http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/moreabouttheinternationalco-operationreviewgroupicrg.html).
3. 31 U.S.C. § 5318(h) and (i).

Please click on each jurisdiction for additional information.

See Subsections A and B for FinCEN Guidance on each jurisdiction listed in Section I of this advisory.

**A. Countermeasures:**

[Democratic People's Republic of Korea \(DPRK\)](#)

**B. Enhanced Due Diligence:**

[Iran](#)

**Summary of Changes to this List**

- There have been no changes to this list.

U.S. financial institutions should be aware that in June 2016 FATF recognized Iran's progress in adopting and making high-level commitments to an Action Plan to address its strategic anti-money laundering and anti-terror financing deficiencies. In recognition of this progress as well as the continued risk posed by Iran to the international financial system, the FATF conditionally suspended its call for counter-measures against Iran for a period of 12 months during which time the FATF will closely monitor Iran's progress in implementing the Action Plan. Accordingly, until that 12-month period ends in June 2017, the FATF has removed Iran from category A (Countermeasures) and placed this jurisdiction in category B (Enhanced Due Diligence).

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**II. Jurisdictions identified by the FATF as having AML/CFT deficiencies**

The FATF has identified the following jurisdictions as having deficiencies in their AML/CFT regimes, for which they have developed an action plan with the FATF. Consequently, these jurisdictions are included in the following list of jurisdictions with AML/CFT deficiencies (as described in the FATF's [Improving Global AML/CFT Compliance: on-going process document](#)).

Please click on each jurisdiction for additional information and see the FinCEN guidance in Section II.

[Afghanistan](#), [Bosnia and Herzegovina](#), [Ethiopia](#), [Iraq](#), [Lao PDR](#), [Syria](#), [Uganda](#), [Vanuatu](#), and [Yemen](#).

**Summary of Changes to this List**

- [Ethiopia](#) has been added to the FATF listing and monitoring process due to a lack of effective implementation of its AML/CFT framework. Ethiopia is the first country to be identified by the FATF based on the results of the 2012 FATF mutual evaluation methodology that assesses both technical compliance with the FATF Standards and the effectiveness of a country's AML/CFT regime. Ethiopia has made a high-level political commitment to work with the FATF and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) to strengthen its effectiveness and address any related technical deficiencies.

## Review of applicable Guidance regarding jurisdictions listed in Section I of this Advisory

### Democratic People's Republic of Korea (DPRK)

The DPRK is subject to the FATF's call on its members and other countries to apply countermeasures to protect the international financial system from AML/CFT risks. The FATF Public Statement on the DPRK continues to reflect the high risk of proliferation finance emanating from the DPRK, in line with United Nations Security Council Resolution (UNSCR) 2270. In particular, the FATF reaffirmed its call that jurisdictions terminate correspondent relationships with DPRK banks, where required by relevant UNSC Resolutions. U.S. financial institutions are subject to a broad range of restrictions and prohibitions and should continue to consult existing FinCEN and U.S. Department of the Treasury's Office of Foreign Assets Control's (OFAC) guidance on engaging in financial transactions with the DPRK.

U.S. sanctions – in particular, those under the North Korea Sanctions Regulations and Executive Orders 13466, 13551, 13570, 13687, and 13722 – prohibit U.S. persons, including U.S. financial institutions, from engaging in most transactions involving the DPRK. Information about DPRK-related OFAC sanctions is available on OFAC's website <https://www.treasury.gov/resource-center/sanctions/Programs/pages/nkorea.aspx>.<sup>4</sup> In addition, financial institutions should be familiar with the financial provisions and prohibitions contained in United Nations Security Council Resolutions (UNSCRs) against the DPRK.<sup>5</sup> Previous FinCEN advisories and guidance on the DPRK's illicit financial practices also remain in effect.<sup>6</sup>

Financial institutions should also be aware that on November 4, 2016, the U.S. Department of the Treasury (Treasury) issued a final rule to implement an earlier notice of proposed rulemaking to impose the fifth special measure against the DPRK consistent with the associated notice of finding that the DPRK is a jurisdiction of "primary money laundering

4. OFAC most recently issued new DPRK sanctions pursuant to Executive Orders 13382, 13687, and 13722 on March 31, 2017. See <https://www.treasury.gov/press-center/press-releases/Pages/sm0039.aspx> for more information. OFAC also issued sanctions pursuant to those same Executive Orders on December 2, 2016. See <https://www.treasury.gov/press-center/press-releases/Pages/jl0677.aspx> for more information. On September 26, 2016, OFAC sanctioned supporters of North Korea's weapons of mass destruction proliferation pursuant to Executive Order 13382. See <https://www.treasury.gov/press-center/press-releases/Pages/jl5059.aspx> for more information. For the most current listing of all OFAC actions related to the DPRK, see <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx>.
5. UNSCRs include 2321 (December 2016), 2270 (March 2016), 2094 (March 2013), 2087 (January 2013), 1874 (June 2009), and 1718 (October 2006). See [www.un.org/en/documents](http://www.un.org/en/documents) for more information.
6. FinCEN Advisories pertaining to the DPRK: [FIN-2013-A005](#), [FIN-2009-A002](#), and [FinCEN Advisory – Issue 40](#).

concern” under Section 311 of the USA PATRIOT Act.<sup>7</sup> The final rule prohibits U.S. financial institutions from opening or maintaining correspondent accounts for, or on behalf of, DPRK financial institutions and requires U.S. financial institutions to apply enhanced due diligence measures to prevent DPRK financial institutions from gaining improper indirect access to U.S. correspondent accounts. That final rule took effect December 9, 2016.

### Iran

The FATF’s conditional 12-month suspension of its call for countermeasures does not remove or alter any obligations U.S. financial institutions may have with respect to Iran under U.S. law and regulation. U.S. financial institutions are still subject to a broad range of restrictions and prohibitions on engaging in transactions with or involving Iran due to a number of illicit financing risks, including money laundering, terrorist financing, and the financing of Iran’s ballistic missile program. U.S. financial institutions must continue to comply with existing U.S. sanctions on Iran. These sanctions include a general prohibition on engaging in transactions or dealings with Iran and the Government of Iran, as well as designated Iranian banks and other entities appearing on OFAC’s List of Specially Designated Nationals and Blocked Persons (SDN List), which include entities linked to Iran’s ballistic missile program and support to terrorism. Information about these sanctions is publicly available on OFAC’s website: [www.treasury.gov/resource-center/sanctions/Programs/Pages/iran.aspx](http://www.treasury.gov/resource-center/sanctions/Programs/Pages/iran.aspx) and <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/OFAC-Recent-Actions.aspx>.

Furthermore, on November 21, 2011, Treasury issued a Notice of Proposed Rulemaking (NPRM) to impose a special measure against Iran based on its finding that Iran is a jurisdiction of “primary money laundering concern” under Section 311 of the USA PATRIOT Act.<sup>8</sup> In addition, financial institutions should be familiar with the financial provisions and prohibitions contained in United Nations Security Council Resolution (UNSCR) 2231 related to Iran.<sup>9</sup>

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7. See <https://www.treasury.gov/press-center/press-releases/Pages/jl0603.aspx> and <https://www.fincen.gov/sites/default/files/shared/2016-27049.pdf> [81 FR 78715 (November 9, 2016)]. FinCEN issued the finding and initial notice of proposed rulemaking (NPRM) on June 1, 2016 [81 FR 35441 (June 2, 2016) and 81 FR 35665 (June 3, 2016)], respectively; see [https://www.fincen.gov/sites/default/files/shared/2016-13038\(DPRK\\_Finding\).pdf](https://www.fincen.gov/sites/default/files/shared/2016-13038(DPRK_Finding).pdf) and [https://www.fincen.gov/sites/default/files/shared/2016-13037\(DPRK\\_NPRM\).pdf](https://www.fincen.gov/sites/default/files/shared/2016-13037(DPRK_NPRM).pdf).
  8. 76 FR 72756 (Nov. 25, 2011). See FinCEN, [Finding that the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern](#).
  9. UNSCR 2231 (July 2015) relating to implementation of the Joint Comprehensive Plan of Action of July 14, 2015 (JCPOA) provides that, when the International Atomic Energy Agency (IAEA) verified that Iran completed certain nuclear commitments under the JCPOA: (1) prior Iran-related UNSCRs (including UNSCRs 1929 (June 2010), 1803 (March 2008), 1747 (March 2007), and 1737 (December 2006)) would be terminated and (2) states would simultaneously comply with certain provisions of Annex B to UNSCR 2231, including paragraph 6 relating to financial provisions and restrictions for listed individuals and entities. On January 16, 2016, the IAEA issued its report verifying that Iran had completed certain nuclear commitments under the JCPOA; as a result, UNSCRs 1929, 1803, 1747, and 1737 were terminated, and the measures described in Annex B of UNSCR 2231 came into effect. See <http://www.un.org/en/sc/2231/> for more information.

## **Review of Guidance on application of Section 312 obligations to the DPRK and Iran**

The guidance in this section is consistent with FATF's statements on the DPRK and Iran and is pursuant to Section 312 of the USA PATRIOT Act, 31 U.S.C. § 5318(i), amending the Bank Secrecy Act (BSA), and as described in implementing regulations 31 CFR § 1010.610(b) and (c).

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 designated country. However, financial institutions must also comply with the extensive U.S. restrictions and prohibitions against opening or maintaining any correspondent accounts (directly or indirectly) with foreign banks licensed by the DPRK or Iran.

As required by the regulations implementing the BSA, covered financial institutions should ensure that their enhanced due diligence programs include, at a minimum, steps to:

- Conduct enhanced scrutiny of correspondent accounts to guard against money laundering and to identify and report any suspicious transactions, in accordance with applicable law and regulation;
- Determine whether the foreign bank for which the correspondent account is established or maintained in turn maintains correspondent accounts for other foreign banks that use the foreign correspondent account established or maintained by the covered financial institution and, if so, take reasonable steps to obtain information relevant to assess and mitigate money laundering risks associated with the foreign bank's correspondent accounts for other foreign banks, including, as appropriate, the identity of those foreign banks; and,
- Determine, for any correspondent account established or maintained for a foreign bank whose shares are not publicly traded, the identity of each owner of the foreign bank and the nature and extent of each owner's ownership interest.<sup>10</sup>

## **Review of applicable Guidance regarding jurisdictions listed in Section II of this Advisory**

U.S. financial institutions also should consider the risks associated with the AML/CFT deficiencies of the countries identified under this section (Afghanistan, Bosnia and Herzegovina, Ethiopia, Iraq, Lao PDR, Syria, Uganda, Vanuatu, and Yemen).<sup>11</sup> With respect to

10. 31 CFR § 1010.610(b): Enhanced Due Diligence for correspondent accounts established, maintained, administered or managed in the United States for foreign banks.
11. This Advisory updates previous FATF-related guidance on identified jurisdictions with AML/CFT deficiencies. Additional FinCEN guidance on Syria includes [FIN-2013-A002](#) and [FIN-2011-A010](#) as well as FinCEN's guidance on the Commercial Bank of Syria; see [FIN-2011-A013](#).

these jurisdictions, U.S. financial institutions are reminded of their obligations to comply with the general due diligence obligations under 31 CFR § 1010.610(a) in addition to their general obligations under 31 U.S.C. § 5318(h) and its implementing regulations.<sup>12</sup> As required under 31 CFR § 1010.610(a), covered financial institutions should ensure that their due diligence programs, which address correspondent accounts maintained for foreign financial institutions, 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.

### **Review of generally applicable Guidance**

For jurisdictions that are removed from the FATF listing and monitoring process, financial institutions should take the FATF's decisions and the reasons behind the delisting into consideration when assessing risk consistent with their obligations under 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.<sup>13</sup>

### **For Further Information**

Additional questions or comments regarding the contents of this Advisory should be addressed to the FinCEN Resource Center at (800) 767-2825 or (703) 905-3591. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

**FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.**

12. 31 CFR § 1010.210: Anti-money laundering programs.

13. Required under 31 CFR §§ 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320 and 1026.320.