



# Department of the Treasury Financial Crimes Enforcement Network

## Advisory

**FIN-2012-A012**

**Issued:** November 21, 2012

**Subject:** Guidance to Financial Institutions Based on the Financial Action Task Force Public Statement on Anti-Money Laundering and Counter-Terrorist Financing Risks.

**1. Countermeasures: Iran and Democratic People's Republic of Korea (DPRK).**

**2. Enhanced Due Diligence:** Bolivia, Cuba, Ecuador, Ethiopia, Indonesia, Kenya, Myanmar, Nigeria, Pakistan, São Tomé and Príncipe, Sri Lanka, Syria, Tanzania, Thailand, Turkey,<sup>1</sup> Vietnam, and Yemen.

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The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to inform banks and other financial institutions operating in the United States of the risks of money laundering and financing of terrorism associated with jurisdictions identified by the Financial Action Task Force (FATF)<sup>2</sup> on October 19, 2012, as having deficiencies in their anti-money laundering and counter-terrorist financing (AML/CFT) regimes and that (i) have not made sufficient progress in addressing these deficiencies, (ii) have not provided a political commitment to address AML/CFT deficiencies, or (iii) are subject to FATF's call for countermeasures.<sup>3</sup> Also, FinCEN is issuing a complementary advisory

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<sup>1</sup> The FATF has issued an additional statement on Turkey, which is included below.

<sup>2</sup> The FATF is a 36-member inter-governmental policy-making body whose purpose is to establish international standards and develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. See [www.fatf-gafi.org](http://www.fatf-gafi.org). The United States is a member of the FATF. See also, previous FATF statements of October 11, 2007; February 28, 2008; June 20, 2008; October 16, 2008; February 27, 2009; June 29, 2009; October 16, 2009; February 22, 2010; June 28, 2010; October 22, 2010; February 25, 2011; June 24, 2011; October 28, 2011; February 16, 2012, and June 22, 2012. All of FATF's public statements are available, at <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>.

<sup>3</sup>The FATF issued two documents: (i) a public statement, at <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/fatfpublicstatement-19october2012.html>; and (ii) a publication entitled Improving Global AML/CFT Compliance: on-going process - 19 October 2012" at <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/improvingglobalamlcftcomplianceon-goingprocess-19october2012.html>.

today, FIN-2012-A011,<sup>4</sup> which addresses a separate, but related, FATF document identifying jurisdictions with strategic AML/CFT deficiencies, for which each jurisdiction has provided a high-level political commitment to address.

The FATF public statement comes in response to the G-20 leaders' call for the FATF to reinvigorate its process for assessing countries' compliance with international AML/CFT standards and to publicly identify high-risk jurisdictions.<sup>5</sup> Also, the G-20 leaders have repeatedly called for FATF to issue regular updates on jurisdictions with strategic deficiencies.<sup>6</sup> Specifically, the FATF's International Cooperation Review Group (ICRG) is tasked with leading this process to identify and examine uncooperative jurisdictions and jurisdictions that are failing to implement effective AML/CFT systems. At the October 2012 FATF Plenary, the FATF adopted the recommendations of the ICRG and publicly identified jurisdictions with strategic AML/CFT deficiencies. The FATF public statement, which is reprinted below and can be found on the FATF website, cites specific concerns regarding each of the jurisdictions and calls for action on the part of FATF's members. This is an important step in our collective efforts to protect the international financial system from abuse.

The countries on this advisory have changed since FinCEN's Advisory, dated July 19, 2012. In particular, due to AML/CFT improvements, Ghana has been removed from this document and added to the separate but related advisory, FIN-2012-A012.<sup>7</sup> This advisory also includes a FATF Statement on Turkey, including a decision to suspend Turkish membership on February 22, 2013, unless adequate counter-terrorist financing legislation is enacted.

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<sup>4</sup>See [FIN-2012-A011](#).

<sup>5</sup>See "Declaration on Strengthening the Financial System: London Summit, April 2, 2009," at [http://www.treasury.gov/resource-center/international/g7-g20/Documents/London%20April%202009%20Fin\\_Deps\\_Fin\\_Reg\\_Annex\\_020409\\_-\\_1615\\_final.pdf](http://www.treasury.gov/resource-center/international/g7-g20/Documents/London%20April%202009%20Fin_Deps_Fin_Reg_Annex_020409_-_1615_final.pdf) and "Leaders' Statement: The Pittsburgh Summit, September 24 - 25, 2009," at [http://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh\\_summit\\_leaders\\_statement\\_250909.pdf?bcsi\\_scan\\_D92198957E035F0B=lUBct6cE6cl6JeuGQT0yT3RFdOAZAAAmm19Gw==&bcsi\\_scan\\_filename=pittsburgh\\_summit\\_leaders\\_statement\\_250909.pdf](http://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf?bcsi_scan_D92198957E035F0B=lUBct6cE6cl6JeuGQT0yT3RFdOAZAAAmm19Gw==&bcsi_scan_filename=pittsburgh_summit_leaders_statement_250909.pdf).

<sup>6</sup> See "The G-20 Seoul Summit Leaders' Declaration, November 11-12, 2010," at <http://www.treasury.gov/resource-center/international/Documents/1%20%20FINAL%20SEOUL%20COMMUNIQUE.pdf> and "The G-20 Toronto Summit Declaration, June 26-27, 2010," at <http://www.treasury.gov/resource-center/international/Documents/The%20G-20%20Toronto%20Summit%20Declaration.pdf>.

<sup>7</sup>See [FIN-2012-A011](#).

## FATF Public Statement - 19 October 2012<sup>8</sup>

The Financial Action Task Force (FATF) is the global standard setting body for anti-money laundering and combating the financing of terrorism (AML/CFT). In order to protect the international financial system from money laundering and financing of terrorism (ML/FT) risks and to encourage greater compliance with the AML/CFT standards, the FATF identified jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system.

[Chart omitted]

### **1. Jurisdictions subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing (ML/TF) risks emanating from the jurisdictions.**

#### **Iran**

The FATF remains particularly and exceptionally concerned about Iran's failure to address the risk of terrorist financing and the serious threat this poses to the integrity of the international financial system, despite Iran's previous engagement with the FATF and recent submission of information.

The FATF reaffirms its call on members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions. In addition to enhanced scrutiny, the FATF reaffirms its 25 February 2009 call on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran. FATF continues to urge jurisdictions to protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices and to take into account ML/FT risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdiction. Due to the continuing terrorist financing threat emanating from Iran, jurisdictions should consider the steps already taken and possible additional safeguards or strengthen existing ones.

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<sup>8</sup> The text makes reference to the relevant FSRBs with whom FATF will continue to work to address the deficiencies identified. These FSRBs include: Caribbean Financial Action Task Force (CFATF); the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL); Financial Action Task Force of South America Against Money Laundering (GAFISUD); Asia/Pacific Group on Money Laundering (APG); Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG); Middle East & North Africa Financial Action Task Force (MENAFATF); Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG); and Intergovernmental Anti-Money Laundering Group in Africa (GIABA).

The FATF urges Iran to immediately and meaningfully address its AML/CFT deficiencies, in particular by criminalising terrorist financing and effectively implementing suspicious transaction reporting (STR) requirements. If Iran fails to take concrete steps to continue to improve its CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in February 2013.

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

The FATF remains concerned by the DPRK's failure to address the significant deficiencies in its anti-money laundering and combating the financing of terrorism (AML/CFT) regime and the serious threat this poses to the integrity of the international financial system. The FATF urges the DPRK to immediately and meaningfully address its AML/CFT deficiencies.

The FATF reaffirms its 25 February 2011 call on its members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with the DPRK, including DPRK companies and financial institutions. In addition to enhanced scrutiny, the FATF further calls on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from the DPRK. Jurisdictions should also protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices, and take into account ML/FT risks when considering requests by DPRK financial institutions to open branches and subsidiaries in their jurisdiction.

The FATF remains prepared to engage directly in assisting the DPRK to address its AML/CFT deficiencies.

**2. Jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies. The FATF calls on its members to consider the risks arising from the deficiencies associated with each jurisdiction, as described below.**

### **Bolivia**

Bolivia has taken steps towards improving its AML/CFT regime, including by enacting new legislation to substantially address the deficiencies in the criminalisation of money laundering and terrorist financing and working towards strengthening the capacity and autonomy of the FIU. However, despite Bolivia's high-level political commitment to work with the FATF and GAFISUD to address its strategic AML/CFT deficiencies, Bolivia has not made sufficient progress in implementing its action plan within the established timelines. Bolivia should continue to work on addressing the remaining issue of enhancing the legal

framework for identifying and freezing terrorist assets. The FATF encourages Bolivia to address its remaining deficiency and continue the process of implementing its action plan.

### **Cuba**

In June 2011, the FATF identified Cuba as having strategic AML/CFT deficiencies and it had not engaged with the FATF. Since then, Cuba has significantly enhanced its engagement and co-operation with the FATF and made a request to join GAFISUD. However, the FATF urges Cuba to continue its engagement with the FATF and to work with the FATF to develop and agree on an action plan in order to address its AML/CFT deficiencies.

### **Ecuador**

Ecuador has taken steps towards improving its AML/CFT regime, including by tabling CFT legislation in Parliament. Despite Ecuador's high-level political commitment to work with the FATF and GAFISUD to address its strategic AML/CFT deficiencies, Ecuador has not made sufficient progress in implementing its action plan within the established timelines, and certain strategic deficiencies remain. Ecuador should continue to work with the FATF and GAFISUD on implementing its action plan to address these deficiencies, including by: (1) ensuring adequate criminalisation of terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) implementing adequate procedures for the confiscation of funds related to money laundering; and (4) continue to enhancing co-ordination of financial sector supervision. The FATF encourages Ecuador to address its remaining deficiencies, including by enacting CFT legislation, and continue the process of implementing its action plan.

### **Ethiopia**

Ethiopia has taken steps towards improving its AML/CFT regime, including by building up its Financial Intelligence Unit. However, despite Ethiopia's high-level political commitment to work with the FATF to address its strategic AML/CFT deficiencies, Ethiopia has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Ethiopia should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing an adequate legal framework and procedures to identify and freeze terrorist assets; (3) ensuring a fully operational and effectively functioning Financial Intelligence Unit; and (4) implementing effective, proportionate and dissuasive sanctions in order to deal with natural or legal persons that do not comply with the national AML/CFT requirements. The FATF encourages Ethiopia to address its remaining deficiencies and continue the process of implementing its action plan.

## **Indonesia**

Indonesia has taken steps towards improving its AML/CFT regime. However, despite Indonesia's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Indonesia has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Indonesia should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; and (3) amending and implementing laws or other instruments to fully implement the Terrorist Financing Convention. The FATF encourages Indonesia to address its remaining deficiencies, particularly by passing adequate CFT legislation, and continue the process of implementing its action plan.

## **Kenya**

Kenya has taken significant steps towards improving its AML/CFT regime, including the enactment of the Prevention of Terrorism Act and the Capital Market (Amendment) Bill and the passage by Parliament of the Proceeds of Crime and Anti-Money Laundering (Amendment) Act and the Finance Bill. The FATF has not yet assessed these laws due to their very recent nature, and therefore the FATF could not determine the extent to which they address any of the following issues: (1) adequately criminalising money laundering and terrorist financing; (2) ensuring a fully operational and effectively functioning Financial Intelligence Unit; (3) establishing and implementing an adequate legal framework for the confiscation of funds related to money laundering, and the identification and freezing of terrorist assets; (4) implementing effective, proportionate and dissuasive sanctions in order to deal with natural or legal persons that do not comply with the national AML/CFT requirements; (5) implementing an adequate and effective AML/CFT supervisory programme for all financial sectors; (6) enhancing financial transparency; (7) further improving and broadening customer due diligence measures; and (8) establishing adequate record-keeping requirements. Despite Kenya's high-level political commitment to work with the FATF and ESAAMLG to address its strategic AML/CFT deficiencies, Kenya has not made sufficient progress in implementing its action plan within the agreed timelines, and certain strategic AML/CFT deficiencies may remain. The FATF encourages Kenya to address its remaining deficiencies and continue the process of implementing its action plan.

## **Myanmar**

Myanmar has taken steps towards improving its AML/CFT regime, including by removing its reservations to the extradition articles of the Vienna Convention, the Palermo Convention and the Terrorist Financing Convention. However, despite Myanmar's high-level political commitment to work with the FATF and APG to

address its strategic AML/CFT deficiencies, Myanmar has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Myanmar should work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) further strengthening the extradition framework in relation to terrorist financing; (4) ensuring a fully operational and effectively functioning Financial Intelligence Unit; (5) enhancing financial transparency; and (6) strengthening customer due diligence measures. The FATF encourages Myanmar to address the remaining deficiencies and continue the process of implementing its action plan.

### **Nigeria**

Nigeria has taken steps towards improving its AML/CFT regime, including by the adoption by Parliament of both the Money Laundering (Prohibition) Amendment Bill and the Terrorism (Prevention) Amendment Bill. The FATF has not yet assessed these laws due to their very recent nature, and therefore the FATF could not determine the extent to which they address Nigeria's two remaining issues regarding criminalisation of money laundering and terrorist financing. The FATF encourages Nigeria to address its remaining deficiencies and continue the process of implementing its action plan.

### **Pakistan**

Pakistan has taken significant steps towards improving its AML/CFT regime, including introducing CFT amendments into Parliament. However, despite Pakistan's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Pakistan has not yet made sufficient progress in fully implementing its action plan, and certain key CFT deficiencies remain. Specifically, Pakistan needs to enact legislation to ensure that it meets the FATF standards regarding the terrorist financing offence and the ability to identify, freeze, and confiscate terrorist assets. The FATF encourages Pakistan to address the remaining deficiencies and continue the process of implementing its action plan.

### **São Tomé and Príncipe**

Despite São Tomé and Príncipe's high-level political commitment to work with the FATF and GIABA to address its strategic AML/CFT deficiencies, São Tomé and Príncipe has not made sufficient progress in implementing its action plan, and certain strategic deficiencies remain. São Tomé and Príncipe should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing a fully operational and effectively functioning Financial Intelligence Unit; (3) ensuring that financial institutions and DNFBPs are subject to adequate

AML/CFT regulation and supervision; and (4) implementing effective, proportionate and dissuasive sanctions in order to deal with natural or legal persons that do not comply with the national AML/CFT requirements. The FATF encourages São Tomé and Príncipe to address its remaining deficiencies and continue the process of implementing its action plan.

### **Sri Lanka**

Sri Lanka has taken significant steps towards improving its AML/CFT regime. However, despite Sri Lanka's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Sri Lanka has not made sufficient progress in implementing its action plan. Sri Lanka should continue to work on addressing the remaining issue regarding adequate criminalisation of terrorist financing. The FATF encourages Sri Lanka to address this deficiency and continue the process of implementing its action plan.

### **Syria**

Previously, Syria had taken significant steps towards improving its AML/CFT regime. However, despite Syria's high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Syria has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Syria should continue to work on implementing its action plan to address these deficiencies, including by: (1) providing sufficient legal basis for implementing the obligations under UNSCR 1373 and implementing adequate procedures for identifying and freezing terrorist assets; and (2) ensuring that appropriate laws and procedures are in place to provide mutual legal assistance. The FATF encourages Syria to demonstrate that its remaining deficiencies have been addressed to enable the FATF to properly evaluate Syria's progress.

### **Tanzania**

Tanzania has taken steps towards improving its AML/CFT regime, including enactment of amendments to the Anti-Money Laundering Act and the Prevention of Terrorism Act as well as the issuance of implementing regulations which expand on requirements related to customer due diligence and recordkeeping and provide for an operational independent national Financial Intelligence Unit. However, despite Tanzania's high-level political commitment to work with the FATF and ESAAMLG to address its strategic AML/CFT deficiencies, Tanzania has not made sufficient progress in implementing its action plan within the agreed timelines, and certain strategic AML/CFT deficiencies remain. Tanzania should continue to work on implementing its action plan to address these deficiencies, including by: (1) clarifying the remaining issues regarding the predicate offences for money laundering and criminalisation of terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets as

well as implementing the UNSCRs 1267 and 1373 through law, regulations or other enforceable means. The FATF encourages Tanzania to address its remaining deficiencies, including ratifying the Terrorist Financing Convention, and continue the process of implementing its action plan.

## **Thailand**

Thailand has taken steps towards improving its AML/CFT regime, including by issuing customer due diligence regulations. However, despite Thailand's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Thailand has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain, although Thailand has faced external difficulties from 2009 to 2011 which significantly impacted the legislative process for the necessary laws and regulations. Thailand should continue to work on implementing its action plan to address the remaining deficiencies, including by: (1) adequately criminalising terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; and (3) further strengthening AML/CFT supervision. The FATF encourages Thailand to address its remaining deficiencies and continue the process of implementing its action plan, specifically enacting its draft CFT legislation.

## **Turkey<sup>9</sup>**

Despite Turkey's high-level political commitment to work with the FATF to address its strategic CFT deficiencies, Turkey has not made sufficient progress in implementing its action plan, and certain strategic CFT deficiencies remain. Turkey should work on addressing these deficiencies, including by: (1) adequately criminalising terrorist financing; and (2) implementing an adequate legal framework for identifying and freezing terrorist assets. Given Turkey's continued lack of progress in these two areas, as a counter-measure, the FATF has decided to suspend Turkey's membership on 22 February 2013 unless the following conditions are met before that date: (1) Turkey adopts legislation to adequately remedy deficiencies in its terrorist financing offence; and (2) Turkey establishes an adequate legal framework for identifying and freezing terrorist assets consistent with the FATF Recommendations. FATF calls upon countries to take additional steps as necessary proportionate to the risks arising from the deficiencies associated with Turkey.

## **Vietnam**

Vietnam has taken steps towards improving its AML/CFT regime. However, despite Vietnam's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Vietnam has not made sufficient progress in implementing its action plan, and certain strategic

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<sup>9</sup> The FATF has issued an additional statement on Turkey, which is included below.

AML/CFT deficiencies remain. Vietnam should continue to work with the FATF and APG on implementing its action plan to address these deficiencies, including by: (1) address the remaining issues regarding adequate criminalisation of terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) making legal persons subject to criminal liability in line with FATF Standards or demonstrating that there is a constitutional prohibition that prevents this; (4) improving the overall supervisory framework); (5) improving and broadening customer due diligence measures and reporting requirements; and (6) strengthening international co-operation. The FATF encourages Vietnam to address its remaining deficiencies and continue the process of implementing its action plan.

### **Yemen**

Despite Yemen's high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Yemen has not made sufficient progress in implementing its action plan and certain strategic AML/CFT deficiencies remain. Yemen should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalizing money laundering and terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) developing the monitoring and supervisory capacity of the financial sector supervisory authorities and the Financial Intelligence Unit (FIU) to ensure compliance by financial institutions with their suspicious transaction reporting obligations, especially in relation to the financing of terrorism; and (4) ensuring a fully operational and effectively functioning FIU. The FATF encourages Yemen to address its remaining deficiencies and continue the process of implementing its action plan.

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### **Ghana**

Pursuant to Ghana's progress in largely addressing its action plan agreed upon with the FATF, Ghana is now identified in the FATF's separate but related public document, "Improving Global AML/CFT Compliance: On-going Process."

In addition to issuing the above document, the "Outcomes of the Plenary meeting of the FATF, Paris, 17-19 October 2012" includes the following:

### **STATEMENT ON TURKEY**

The Financial Action Task Force (FATF), the international standard-setter for combating money laundering, the financing of terrorism and proliferation of weapons of mass destruction, is deeply concerned by Turkey's continued failure to take action to fully criminalise terrorist financing and establish an adequate

legal framework for identifying and freezing terrorist assets consistent with the FATF Recommendations.

The third mutual evaluation report assessing Turkey's compliance with the FATF Recommendations was adopted in February 2007. It highlighted serious deficiencies in the area of money laundering and terrorist financing. Since then Turkey has taken significant action in order to remedy some deficiencies and improve its anti-money laundering regime. However, over five years after the adoption of the evaluation report and despite the close and constant monitoring and a series of graduated measures taken by the FATF, no remedial action has been taken to improve Turkey's counter terrorist financing regime.

An appropriate response by the FATF to the continued failure of one of its members to live up to its commitment to address serious deficiencies identified in a mutual evaluation is to consider suspension of membership. In June the FATF decided that it would initiate discussions on suspending Turkey's membership if adequate legislation were not adopted by October 2012. As of this date, Turkey has still not taken necessary action; therefore, the FATF has decided to suspend Turkey's membership on 22 February 2013 unless the following conditions are met before that date:

1. Turkey adopts legislation to remedy deficiencies in its terrorist financing offence
2. Turkey establishes a legal framework for identifying and freezing terrorist assets consistent with the FATF Recommendations.

The FATF looks forward to these conditions being met by Turkey so that the coming into force of the suspension can be avoided.<sup>10</sup>

## FinCEN Guidance

**A.** Jurisdictions in the above FATF Statement Section 1 are subject to the FATF's call for countermeasures. Currently, **Iran and the DPRK** are the only jurisdictions within Section 1. U.S. financial institutions should continue to consult existing FinCEN and Treasury guidance on engaging in financial transactions with Iran<sup>11</sup> and the DPRK.<sup>12</sup>

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<sup>10</sup>See Outcomes of the Plenary meeting of the FATF, Paris, 17-19 October 2012, at <http://www.fatf-gafi.org/topics/fatfgeneral/documents/outcomesoftheplenarymeetingofthefatfparis17-19october2012.html>

<sup>11</sup> U.S. financial institutions are subject to a broad range of restrictions and prohibitions with respect to Iran due to a number of illicit financing risks, including money laundering, terrorist financing, and WMD proliferation financing. Previous FinCEN guidance on the threat involving illicit Iranian activity remains in effect. This includes FIN-2010-A010, at [http://www.fincen.gov/statutes\\_regs/guidance/html/FIN-2010-A010.html](http://www.fincen.gov/statutes_regs/guidance/html/FIN-2010-A010.html) ; FIN-2010-A008, at [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2010-a008.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a008.html) ; FIN-2010-A002, at [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2010-a002.htm](http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a002.htm) ; FIN-2009-A007, at [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2009-a007.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a007.html) ; FIN-2008-A002, at [www.fincen.gov/statutes\\_regs/guidance/pdf/fin-2008-a002.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2008-a002.pdf) ; and FIN-2007-A001, at [http://www.fincen.gov/statutes\\_regs/guidance/pdf/fin-2007-a001.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2007-a001.pdf)

**B.** Jurisdictions in FATF Statement Section 2 have strategic AML/CFT deficiencies and have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF. Based on the FATF's adoption of the ICRG's findings, a decision by the FATF in which the United States concurs, FinCEN is advising U.S. financial institutions of their increased obligations under Section 312 of the USA PATRIOT ACT, 31 USC § 5318(i). Accordingly, U.S. financial institutions should apply enhanced due diligence, as described under implementing regulations 31 CFR § 1010.610(b) and (c) when maintaining correspondent accounts for foreign banks operating under a banking license issued by **Bolivia, Cuba, Ecuador, Ethiopia, Indonesia, Kenya, Myanmar, Nigeria, Pakistan, São Tomé and Príncipe, Sri Lanka, Syria,<sup>13</sup> Tanzania, Thailand, Turkey, Vietnam, and Yemen.**

Enhanced due diligence is required for any correspondent account maintained for a foreign bank that operates under a banking license issued by a foreign country that has been designated as non-cooperative with international anti-money laundering principles

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[http://www.fincen.gov/statutes\\_regs/guidance/pdf/guidance\\_fi\\_increasing\\_mlt\\_iranian.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/guidance_fi_increasing_mlt_iranian.pdf). Further, financial institutions are reminded of the existing U.S. sanctions that are administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC) with respect to Iran and the Government of Iran, including but not limited to Iranian Government-owned banks and other entities, as well as Iranian entities that have been linked to terrorist activity and the proliferation of weapons of mass destruction. Information about these sanctions is available on OFAC's website <http://www.treasury.gov/offices/enforcement/ofac/>. In addition, financial institutions should be familiar with the financial provisions and prohibitions contained in United Nations Security Council Resolutions 1929 (June 2010), at <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/1929.pdf>; 1803 (March 2008), at <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/1803.pdf>; 1747 (March 2007), at <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/1747.pdf>; and 1737 (December 2006), at <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/1737.pdf>. In particular, UNSC Resolutions 1929 and 1803 call on all states to exercise vigilance over activities of financial institutions in their territories with all banks domiciled in Iran and their branches and subsidiaries abroad. Also, the FATF has issued three sets of guidance, to assist States in implementing their financial obligations pursuant to United Nations Security Council Resolutions 1737, at <http://www.fatf-gafi.org/media/fatf/documents/recommendations/FATF%20Guidance%20regarding%20the%20implementation%20of%20activity-based%20financial%20prohibitions%20of%20UNSC%201737%202012%20COVER.pdf>; 1747, at <http://www.fatf-gafi.org/media/fatf/documents/recommendations/FATF%20Guidance%20regarding%20the%20implementation%20of%20fin%20provisions%20of%20UNSCR%20WMD%202012%20COVER.pdf>; and 1803, at <http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance%20Paper%20on%20UNSCR%201803%202012%20COVER.pdf>, to address proliferation finance risks associated with Iran's proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems; and on November 21, 2011, Treasury identified Iran as a jurisdiction of "primary money laundering concern" under Section 311 of the USA PATRIOT Act. In issuing this Finding, Treasury has for the first time identified the entire Iranian financial sector; including Iran's Central Bank, private Iranian banks, and branches, and subsidiaries of Iranian banks operating outside of Iran as posing illicit finance risks for the global financial system.

<sup>12</sup> Previous FinCEN guidance on the DPRK remains in effect. This includes FinCEN Advisory – Issue 40, at [http://www.fincen.gov/statutes\\_regs/guidance/pdf/advisory.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/advisory.pdf) and FIN-2009-A002 at, [http://www.fincen.gov/statutes\\_regs/guidance/html/fin-2009-a002.html](http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a002.html).

<sup>13</sup> Previous FinCEN guidance on Syria remains in effect. This includes FIN-2011-A010, at [http://www.fincen.gov/statutes\\_regs/guidance/pdf/FIN-2011-A010.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2011-A010.pdf). Also, FinCEN's guidance on the Commercial Bank of Syria remains in effect; see FIN-2011-A013, at [http://www.fincen.gov/statutes\\_regs/guidance/html/FIN-2011-A013.html](http://www.fincen.gov/statutes_regs/guidance/html/FIN-2011-A013.html).

or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the U.S. representative to the group or organization concurs.<sup>14</sup>

As required under 31 CFR § 1010.610(b), covered financial institutions should ensure that their enhanced due diligence programs, which address correspondent accounts established, maintained, administered, or managed in the United States for a foreign bank, include, at a minimum, steps to: conduct enhanced scrutiny of such correspondent account to guard against money laundering and to identify and report any suspicious transactions, in accordance with applicable law and regulation;<sup>15</sup> 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;<sup>16</sup> 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>17</sup>

Additionally, as required under 31 CFR §§ 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 31 CFR § 1025.320, and 31 CFR § 1026.320, 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 shall then file a Suspicious Activity Report.

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<sup>14</sup> In addition, enhanced due diligence is required for any correspondent account maintained for a foreign bank that operates under: an offshore banking license; or a banking license issued by a foreign country that has been designated by the Secretary as warranting special measures due to money laundering concerns.

See 31 CFR § 1010.610(c).

<sup>15</sup> See 31 CFR § 1010.610(b)(1).

<sup>16</sup> See 31 CFR § 1010.610(b)(2).

<sup>17</sup> See 31 CFR § 1010.610(b)(3).