



Department of the Treasury Financial Crimes Enforcement Network

Advisory

FIN-2010-A003

Issued: March 18, 2010

Subject: Guidance to Financial Institutions Based on the Financial Action Task Force Publication on Anti-Money Laundering and Counter-Terrorist Financing Risks posed by Antigua and Barbuda; Azerbaijan; Bolivia; Greece; Indonesia, Kenya; Morocco; Burma; Nepal; Nigeria; Paraguay; Qatar; Sri Lanka; Sudan; Syria; Trinidad and Tobago; Thailand; Turkey; Ukraine; and Yemen.

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 associated with jurisdictions identified by the Financial Action Task Force (FATF)¹ on February 18, 2010, as having deficiencies in their anti-money laundering and counter-terrorist financing (AML/CFT) regimes.²

The FATF publication 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.³ The text highlights jurisdictions with strategic AML/CFT deficiencies for which each jurisdiction has provided a high-level political commitment to address the specific AML/CFT deficiencies. FATF explains its specific concerns regarding each of the jurisdictions and notes it will continue to monitor the implementation of each jurisdiction's action plan for addressing the deficiencies. On an ongoing basis, FATF will continue to update information on these and other jurisdictions that pose a risk to the international financial system.

¹ The FATF is a 35 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. The United States is a member of the FATF. See also, previous FATF statements of October 11, 2007, at www.fatf-gafi.org/dataoecd/1/2/39481684.pdf; February 28, 2008, at www.fatf-gafi.org/dataoecd/16/26/40181037.pdf; June 20, 2008, at www.fatf-gafi.org/dataoecd/50/1/40879782.pdf; October 16, 2008, at www.fatf-gafi.org/dataoecd/25/17/41508956.pdf; and February 25, 2009, at www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.

² The FATF issued two documents: (i) a public statement at <http://www.fatf-gafi.org/dataoecd/34/29/44636171.pdf>; and (ii) a publication entitled "Improving Global AML/CFT Compliance: Ongoing Process," at <http://www.fatf-gafi.org/dataoecd/34/28/44636196.pdf>.

³ See "Declaration on Strengthening the Financial System: London Summit, April 2, 2009," at <http://www.pittsburghsummit.gov/resources/125091.htm> and "Leaders' Statement: The Pittsburgh Summit, September 24 – 25, 2009," at <http://www.pittsburghsummit.gov/mediacenter/129639.htm>.

Also note that FinCEN is issuing today a complementary advisory, FIN-2010-A002,⁴ which addresses a separate but related FATF document regarding a different group of jurisdictions.

IMPROVING GLOBAL AML/CFT COMPLIANCE: ON-GOING PROCESS 18 February 2010⁵

As part of its ongoing review of compliance with the AML/CFT standards, the FATF has to date identified the following jurisdictions which have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF. While the situations differ among each jurisdiction, each jurisdiction has provided a written high-level political commitment to address the identified deficiencies. FATF welcomes these commitments.

A large number of jurisdictions have not yet been reviewed by the FATF. The FATF will continue to identify additional jurisdictions, on an ongoing basis, that pose a risk in the international financial system. The FATF has already begun an initial review of a number of such jurisdictions as part of this process and will present its findings later this year.

The F ATF and the F SRBs will continue to work with the jurisdictions noted below and to report on the progress made in addressing the identified deficiencies. The FATF calls on these jurisdictions to complete the implementation of action plans expeditiously and within the proposed timeframes. The FATF will closely monitor the implementation of these action plans and encourages its members to consider the information presented below.

Antigua and Barbuda

Antigua and Barbuda has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Antigua and Barbuda has made a high-level political commitment to work with the FATF and C FATF to address these deficiencies, including by: (1)

⁴ Website of Advisory at www.fincen.gov/statutes_regs/guidance/html/fin-2010-a002.html

⁵ The text makes reference to the relevant FATF-style regional bodies (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); and Intergovernmental Anti-Money Laundering Group in Africa (GIABA).

establishing and implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III); (2) improving the overall supervisory framework (Recommendation 23); and (3) enhancing financial transparency (Recommendation 4).

Azerbaijan

Azerbaijan has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Azerbaijan has made a high-level political commitment to work with the FATF and MONEYVAL to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) amending relevant laws or regulations to address deficiencies in customer due diligence requirements (Recommendation 5); (3) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); and (4) ensuring a fully operational and effectively functioning FIU (Recommendation 26).

Bolivia

The FATF has determined that Bolivia's AML/CFT regime contains certain strategic deficiencies. Bolivia has expressed a high-level political commitment to address these deficiencies. Bolivia should work with the FATF and GAFFISUD to address these deficiencies, including by: (1) adequately criminalise money laundering and the financing of terrorism (Recommendation 1 and Special Recommendation II); (2) establishing and implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III); (3) establishing a fully operational and effective Financial Intelligence Unit (Recommendation 26).

Greece

Greece has demonstrated progress, including as indicated in the most recent FATF enhanced Follow-Up Report on Greece, in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Greece has made a high-level political commitment to work with the FATF and has provided a short term action plan to address these deficiencies, including by: (1) addressing remaining issues regarding adequately criminalising terrorist financing (Special

Recommendation II); (2) improving mechanisms and procedures for freezing terrorist assets (Special Recommendation III); and (3) enhancing the effectiveness of the FIU (Recommendation 26).

Indonesia

Indonesia has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Indonesia has made a high-level political commitment to work with the FATF and APG to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); and (3) amending and implementing laws or other instruments to fully implementing the 1999 International Convention for the Suppression of the [sic] Financing of Terrorism (Special Recommendation I).

Kenya

Kenya has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Kenya has made a high-level political commitment to work with the FATF and ESAMALG to address these deficiencies, including by: 1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); 2) ensuring a fully operational and effectively functioning Financial Intelligence Unit (Recommendation 26); 3) establishing and implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III); 4) raising awareness of AML/CFT issues within the law enforcement community (Recommendation 27); and (5) 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 (Recommendation 17).

Morocco

Morocco has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Morocco has made a high-level political commitment to work with the FATF and MENAFATF to address these deficiencies, including by: (1) amending the penal code to extend the scope of the Money Laundering Offences (Recommendation 1 and Special Recommendation II); (2) amending relevant laws or regulations to address deficiencies in customer due diligence requirements (Recommendation 5); and (3) ensuring a fully operational and effectively functioning Financial Intelligence Unit (Recommendation 26).

Myanmar

Myanmar has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Myanmar has made a high-level political commitment to work with the FATF and APG to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); (3) strengthening the extradition framework in relation to terrorist financing (Recommendation 35 and Special Recommendation I); (4) ensuring a fully operational and effectively functioning Financial Intelligence Unit (Recommendation 26); (5) enhancing financial transparency (Recommendation 4); and (6) strengthening customer due diligence measures (Recommendations 5).

Nepal

Nepal has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Nepal has made a high-level political commitment to work with the FATF and APG to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); (3) implementing adequate procedures for the confiscation of funds related to money laundering (Recommendation 3); and (4) enacting and implementing appropriate mutual legal assistance legislation (Recommendation 36).

Nigeria

Nigeria has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Nigeria has made a high-level political commitment to work with the FATF and GIAIBA to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); (3) ensuring that relevant laws or regulations address deficiencies in customer due diligence

requirements and that they apply to all financial institutions (Recommendation 5); and (5) demonstrating that AML/CFT supervision is undertaken effectively across the financial sector (Recommendation 23).

Paraguay

Paraguay has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Paraguay has made a high-level political commitment to work with the FATF and GAFFISUD to address these deficiencies, including by: (1) adequately criminalising terrorist financing (Special Recommendation II); (2) establishing and implementing adequate procedures to identify, freeze and confiscate terrorist assets (Special Recommendation III); (3) improving financial transparency (Recommendation 4); (4) improving and broadening customer due diligence measures (Recommendation 5), and (5) developing and implementing effective controls for cross-border cash transactions (Special Recommendation IX).

Qatar

Qatar has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Qatar has made a high-level political commitment to work with the FATF and MENAFATF to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II); (2) implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); (3) instituting adequate regulatory instructions for AML/CFT, particularly with regard to customer due diligence (Recommendation 5); and (4) ensuring that financial institutions are properly fulfilling their obligations to report suspicious transactions and are receiving appropriate guidance (Recommendation 13 and Special Recommendation IV).

Sri Lanka

Sri Lanka has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Sri Lanka has made a high-level political commitment to work with the FATF and APG to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and

Special Recommendation II); and (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III).

Sudan

Sudan has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Sudan has made a high-level political commitment to work with the FATF and MENAFATF to address these deficiencies, including by: (1) implementing adequate procedures for identifying and freezing terrorist assets (Special Recommendation III); (2) ensuring a fully operational and effectively functioning Financial Intelligence Unit (Recommendation 26); (3) ensuring financial institutions are aware of and comply with their obligations to file suspicious transaction reports in relation to ML and FT (Recommendation 13 and Special Recommendation IV) and (4) implementing a supervisory programme for regulators to ensure compliance with the provisions of the new law and regulations (Recommendation 23).

Syria

Syria has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Syria has made a high-level political commitment to work with the FATF and MENAFATF to address these deficiencies, including by: (1) adopting a adequate measures to implement and enforce the 1999 International Convention for the Suppression of Financing of Terrorism (Special Recommendation I); (2) adequately criminalising terrorist financing (Special Recommendation II); (3) implementing adequate procedures for identifying and freezing terrorist assets (Special Recommendation III); (4) ensuring financial institutions are aware of and comply with their obligations to file suspicious transaction reports in relation to ML and FT (Recommendation 13 and Special Recommendation IV) and (5) adopting appropriate laws and procedures to provide mutual legal assistance (Recommendations 36-38, Special Recommendation V).

Trinidad and Tobago

Trinidad and Tobago has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Trinidad and Tobago has made a high-level political commitment to work with the FATF

and the FATF to address these deficiencies, including by: (1) implementing adequate procedures to identify and freeze terrorist assets without delay (Special Recommendation III); (2) implementing adequate procedures for the confiscation of funds related to money laundering (Recommendation 3); (3) ensuring a fully operational and effectively functioning FIU, including supervisory powers (Recommendation 26).

Thailand

Thailand has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Thailand has made a high-level political commitment to work with the FATF and APG to address these deficiencies, including by: (1) adequately criminalising terrorist financing (Special Recommendation II); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); and (3) further strengthening AML/CFT supervision (Recommendation 23).

Turkey

Turkey has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Turkey has made a high-level political commitment to work with the FATF to address these deficiencies, including by: (1) adequately criminalising terrorist financing (Special Recommendation II); and (2) implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III).

Ukraine

Ukraine has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic AML/CFT deficiencies remain. Ukraine has made a high-level political commitment to work with the FATF and MONEYVAL to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing (Recommendation 1 and Special Recommendation II), (2) enhancing financial transparency (Recommendation 4); and (3) establishing and implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III).

Yemen

Yemen has demonstrated progress in improving its AML/CFT regime; however, the FATF has determined that certain strategic deficiencies remain. Yemen has made a high-level political commitment to work with the FATF and MENAFATF to address these deficiencies, including by: (1) adequately criminalising money laundering (Recommendation 1); (2) establishing and implementing adequate procedures to identify and freeze terrorist assets (Special Recommendation III); (3) issuing substantive guidance/instructions to reporting institutions with respect to their ML/FT obligations (Recommendation 25); (4) developing the monitoring and supervisory capacity of the financial sector supervisory authorities and the FIU, ensuring compliance by financial institutions with their STR obligations, especially in relation to FTT (Recommendation 23); and (5) ensuring a fully operational and effectively functioning Financial Intelligence Unit (Recommendation 26).

FinCEN Guidance

U.S. financial institutions should consider the risks associated with the AML/CFT deficiencies of jurisdictions in the FATF publication entitled, “Improving Global AML/CFT Compliance: Ongoing Process:” **Antigua and Barbuda; Azerbaijan; Bolivia; Greece; Indonesia; Kenya; Morocco; Burma (Myanmar); Nepal; Nigeria; Paraguay; Qatar; Sri Lanka; Sudan; Syria; Trinidad and Tobago; Thailand; Turkey; Ukraine; and Yemen.** With respect to these jurisdictions, U.S. financial institutions are reminded of their obligations to comply with the general due diligence obligations under 31 CFR § 103.176(a).

As required under 31 CFR § 103.176(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. Additionally, as required under 31 CFR §§ 103.15 – 103.21, 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.