FinCEN ADVISORY

FIN-2020-A009 **November 6, 2020**

Advisory on the Financial Action Task Force-Identified Jurisdictions with Anti-Money Laundering, Combating the Financing of Terrorism, and Proliferation Deficiencies

On October 23, 2020, the Financial Action Task Force (FATF) updated its list of jurisdictions with strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. The changes may affect U.S. financial institutions' obligations and risk-based approaches with respect to relevant jurisdictions.

SAR Filing Request:

FinCEN requests financial institutions only use the updated mandatory SAR form and reference this advisory in SAR field 2 (Filing Institution Note to FinCEN) and the narrative by including the following key term: "**October 2020 FATF FIN-2020-A009**)."

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to inform financial institutions of updates to the FATF list of jurisdictions with strategic anti-money laundering and combating the financing of terrorism (AML/CFT) and counter-proliferation financing deficiencies. As part of the FATF's listing and monitoring process to ensure compliance with its international standards, the FATF identifies certain jurisdictions as having strategic deficiencies in their regimes.[1] Financial institutions should consider the FATF's statements when reviewing their obligations and risk-based policies, procedures, and practices with respect to the jurisdictions noted below.[2]

In response to the measures countries have adopted to contain the Coronavirus Disease 2019 (COVID-19), such as confinement and travel restrictions, the FATF gave the option for countries publicly identified on the FATF lists of jurisdictions with strategic deficiencies to report their progress at the October 2020 meetings or to defer reporting, in which case their February 2020 statements remain in place.[3]

1. The FATF (www.fatf-gafi.org) is a 39-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. *See* 31 U.S.C. §§ 5318(h) and (i).
3. *See* the FATF, "Jurisdictions under Increased Monitoring," (October 23, 2020).

Jurisdictions Identified by the FATF as High-Risk Jurisdictions

Per its October 23, 2020 statement, the FATF's February 2020 "High-Risk Jurisdictions Subject to a Call for Action" statement remains in effect.[4] This statement called upon its members and urged all jurisdictions to impose countermeasures on Iran and the Democratic People's Republic of Korea (DPRK) to protect the international financial system from the significant strategic deficiencies in their AML/CFT regimes.[5]

Jurisdictions Identified by the FATF for Increased Monitoring

The FATF publicly identifies jurisdictions that are actively working with it to address strategic AML/CFT deficiencies. On October 23, 2020, the FATF updated its "Jurisdictions under Increased Monitoring" statement. Notably, the FATF removed Iceland and Mongolia from the list after the FATF conducted on-site visits to those countries and verified that each country is implementing its reforms. Because of the COVID-19 pandemic, not all countries reported to the FATF. Therefore, statements of those jurisdictions that deferred reporting may not necessarily reflect the most recent status in the jurisdiction's AML/CFT regime.[6]

Jurisdictions under Increased Monitoring:

- Remaining on the list: Albania, The Bahamas, Barbados, Botswana, Burma (Myanmar), Cambodia, Ghana, Jamaica, Mauritius, Nicaragua, Pakistan, Panama, Syria, Uganda, Yemen, and Zimbabwe.
- Removed from the list: Iceland and Mongolia.

Review of Guidance Regarding Jurisdictions Under Increased Monitoring

U.S. financial institutions also should consider the risks associated with the AML/CFT deficiencies of the jurisdictions identified under this section (Albania, The Bahamas, Barbados, Botswana, Burma (Myanmar),[7] Cambodia, Ghana, Jamaica, Mauritius, Nicaragua, Pakistan,

4. *See* the FATF, "High-Risk Jurisdictions Subject to a Call for Action," (October 23, 2020). For information on the FATF's prevailing statements on DPRK and Iran, as well as FinCEN's reminder to financial institutions of the obligations involving DPRK and Iran, *see* FIN-2020-A001, "Advisory on the Financial Action Task Force-Identified Jurisdictions with Anti-Money Laundering and Combating the Financing of Terrorism Deficiencies," (March 26, 2020).
5. *See* the FATF, "High-Risk Jurisdictions Subject to a Call for Action," (February 21, 2020).
6. *See* the FATF, "Jurisdictions under Increased Monitoring," (October 23, 2020).
7. On October 7, 2016, FinCEN announced that it was providing exceptive relief to U.S. financial institutions from correspondent account prohibitions contained in FinCEN's 2004 final rule on Burma (Myanmar) under Section 311 of the USA PATRIOT ACT. *See* FIN-ADMINX-10-2016, "Exception to Prohibition Imposed by Section 311 Action against Burma," (October 7, 2016) and "Conditional Exception to Bank Secrecy Act Regulations Relating to the Burma Section 311 Final Rule," 81 FR 71986 (October 19, 2016).

Panama, Syria,[8] Uganda, Yemen, and Zimbabwe). With respect to these jurisdictions, U.S. covered financial institutions are reminded of their obligations to comply with the due diligence obligations for Foreign Financial Institutions (FFI) under 31 CFR § 1010.610(a) in addition to their general obligations under 31 U.S.C. § 5318(h) and its implementing regulations.[9] As required under 31 CFR § 1010.610(a), covered financial institutions should ensure that their due diligence programs, which address correspondent accounts maintained for FFIs, include appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to detect and report known or suspected money laundering activity conducted through or involving any correspondent account established, maintained, administered, or managed in the United States. Furthermore, money services businesses (MSBs) are reminded of their parallel requirements with respect to foreign agents or foreign counterparties, as described in FinCEN Interpretive Release 2004-1, which clarifies that an MSB's AML Program requires the MSB to establish adequate and appropriate policies, procedures, and controls commensurate with the risk of money laundering and the financing of terrorism posed by their relationship with foreign agents or foreign counterparties.[10] Additional information on these parallel requirements (covering both domestic and foreign agents and foreign counterparts) may be found in FinCEN's Guidance on Existing AML Program Rule Compliance Obligations for MSB Principals with Respect to Agent Monitoring.[11] Such reasonable steps should not, however, put into question a financial institution's ability to maintain or otherwise continue appropriate relationships with customers or other financial institutions, and should not be used as the basis to engage in wholesale or indiscriminate de-risking of any class of customers or financial institutions. FinCEN also reminds financial institutions of previous interagency guidance on providing services to foreign embassies, consulates, and missions.[12]

8. Additional FinCEN advisories on Syria include FIN-2013-A002, "Updated Advisory to Financial Institutions on Recent Events in Syria," (April 15, 2013); FIN-2011-A013, "Guidance to Financial Institutions on the Commercial Bank of Syria," (August 10, 2011); and FIN-2011-A010, "Guidance to Financial Institutions on Recent Events in Syria," (July 8, 2011). For a description of current Office of Foreign Assets Control (OFAC) sanctions on Syria, please consult OFAC's Syria Sanctions web page.
9. *See generally* 31 C.F.R. § 1010.210: Anti-money laundering programs. Specific AML program obligations are prescribed in 31 C.F.R. §§ 1020.210 (Banks), 1021.210 (Casinos and Card Clubs), 1022.210 (Money Services Businesses), 1023.210 (Brokers or Dealers in Securities), 1024.210 (Mutual Funds), 1025.210 (Insurance Companies), 1026.210 (Futures Commission Merchants and Introducing Brokers in Commodities), 1027.210 (Dealers in Precious Metals, Precious Stones, or Jewels), 1028.210 (Operators of Credit Card Systems), 1029.210 (Loan or Finance Companies), and 1030.210 (Housing Government Sponsored Enterprises).
10. FinCEN Interpretive Release 2004-1, "Anti-Money Laundering Program Requirements for Money Services Businesses with Respect to Foreign Agents or Foreign Counterparties," 69 FR 239 (December 14, 2004).
11. *See* FIN-2016-G001, "Guidance on Existing AML Program Rule Compliance Obligations for MSB Principals with Respect to Agent Monitoring," (March 11, 2016).
12. *See* Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision, "Interagency Advisory: Guidance on Accepting Accounts from Foreign Embassies, Consulates, and Missions," (March 24, 2011); and Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision, "Interagency Advisory: Guidance on Accepting Accounts from Foreign Governments, Foreign Embassies, and Foreign Political Figures," (June 15, 2004).

AML Program Risk Assessment: For the jurisdictions that were 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 financial institutions' obligations under 31 C.F.R. §§ 1010.610(a) and 1010.210.

Suspicious Activity Reports (SARs): 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 SAR.

SAR Filing Instructions

When filing a SAR, financial institutions should provide all pertinent available information in the SAR form and narrative. **FinCEN requests that financial institutions reference this advisory by including the key term "October 2020 FATF FIN-2020-A009" in SAR field 2 (Filing Institution Note to FinCEN) and the narrative** to indicate a connection between the suspicious activity being reported and the activities highlighted in this advisory.

SAR reporting, in conjunction with effective implementation of due diligence requirements and OFAC obligations by financial institutions, has been crucial to identifying proliferation financing, other financial crimes associated with foreign and domestic political corruption, money laundering, and terrorist financing. SAR reporting is consistently beneficial and critical to FinCEN and U.S. law enforcement analytical and investigative efforts, OFAC designation efforts, and the overall security and stability of the U.S. financial system.

For Further Information

Questions or comments regarding the contents of this advisory should be addressed to the FinCEN Regulatory Support Section at frc@fincen.gov.

Financial institutions wanting to report suspicious transactions that may potentially 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.

The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.