

EU policy towards high risk third countries

9 March 2023

Role of DG FISMA - Anti-Money Laundering and Counter Terrorist Financing

- Objective: Prevention of money laundering and terrorist financing in the financial system
- Legislation on AML/CFT for financial and non-financial sectors
- Enforcement of EU rules

Financial Action Task Force (FATF)

- Global standard-setter for measures to combat money laundering and terrorist financing
- Intergovernmental body with 39 members and the participation of over 180 countries through a global network of FATF-style regional bodies (« FSRBs ») (e.g. MONEYVAL, EAG, MENAFATF)
- European Commission = Founding member of FATF
- February 2023: FATF Plenary suspended the membership of Russia

Financial Action Task Force (FATF)

- FATF reviews countries' compliance with AML/CFT standards ("mutual evaluations") on technical compliance (40 recommendations) and on effectiveness (11 immediate outcomes)
- FATF adopts 3 times a year lists (at each FATF Plenary) of countries having strategic deficiencies (International Cooperation review Group « ICRG » process) based on mutual evaluations:
 - FATF Public Statement ("FATF black list") – call for measures
 - Jurisdictions under increased monitoring ("FATF grey list") for countries having strategic deficiencies that agreed to implement an action plan.
- Commission actively participates in the ICRG and its 4 geographical Joint Groups

EU legal framework

➤ Anti-Money Laundering Directive (Article 9)

- *Objective:* protect integrity of EU financial system
- *Legal requirement:* identification of third countries having strategic deficiencies in their AML/CFT regimes – based on Delegated Act

➤ Consequences of a listing by the EU

- Mandatory Enhanced Due Diligence (EDD)
- Consequences under the Financial Regulation (Article 155)

EU lists of high risk third countries

[High risk third countries and the International context content of anti-money laundering and countering the financing of terrorism \(europa.eu\)](#)

- 1st list adopted on 14 July 2016 (Regulation 2016/1675)
- First methodology adopted in June 2018
- Rejection of the first EU autonomous list in 2019
- Divergent views of the EP and Council
- Refined methodology adopted in May 2020 (SWD(2020)99)
 - More synergies with the FATF
 - Increased engagement with third countries

Alignment with FATF lists

- Listing by the FATF:
 - Any country listed by the FATF is listed by the EU
 - Exceptions for EEA countries and candidate countries
- De-listing by the FATF:
 - The Commission will assess whether the FATF Action Plans for a delisting are sufficiently comprehensive.
 - Only where need be, specific EU requirements would “top up” the existing FATF Action Plan (exceptional situations)
- Engagement with third countries at all stages – in close cooperation with EEAS (+ other services)

Autonomous assessment

Staged approach:

- Step 1: scoping exercise – criteria:
 1. Countries identified by the COM, EEAS or Europol as having a systemic impact on the integrity of the EU financial system
 2. International offshore financial centers
 3. Economic relevance considering magnitude of the financial centers and the economic ties with the EU
- Step 2: prioritisation
 1. Identified by Europol/EEAS as being exposed to ML/TF
 2. Synergies with the tax list
 3. Countries identified as high risk in 2019

Autonomous assessment

Staged approach:

- Step 3: Assessment, 8 building blocks assessed
 1. criminalisation of ML/TF
 2. Customer Due Diligence (CDD), reporting Suspicious Transactions Reports (STR) and record keeping in the financial sector (FIs),
 3. CDD, reporting STR and record keeping in non-financial sector (DNFBPs)
 4. Beneficial ownership,
 5. sanctions,
 6. powers of authorities,
 7. international cooperation,
 8. targeted financial sanctions

Autonomous assessment

Step 4: Engagement process with third countries before the conclusion of a listing:

- Consult the countries on preliminary findings of the Commission
- Drafting country-specific EU Benchmarks to address concerns
- Seek third country commitment to implement EU Benchmarks
- Deadline of 12 months given to third countries to address concerns

Autonomous assessment

Step 5: Reaching a conclusion for listing a third country

- If the country does not implement the EU Benchmarks
- If the country is not cooperative
- If there is an overriding level of risk that needs to be mitigated while there is no ability for the country to implement EU Benchmarks

Countries listed by the EU (DA C(2022)9649)

- Afghanistan, Barbados, Burkina Faso, Cambodia, Cayman Islands, Democratic People's Republic of Korea (DPRK), Haiti, Iran, Jamaica, Jordan, Mali, Morocco, Myanmar, Panama, the Philippines, Senegal, South Sudan, Syria, Trinidad and Tobago, Uganda, Vanuatu and Yemen.
- Countries additionally listed by the EU in the **most recent** Delegated Act (19 December 2022): United Arab Emirates (listed by FATF in March 2022), Gibraltar (listed by FATF in June 2022), Democratic Republic of the Congo, Mozambique and Tanzania (listed by FATF in October 2022) (while Nicaragua, Pakistan and Zimbabwe were recently delisted)
- Next countries to be listed by the EU in the **upcoming** Delegated Act: Nigeria (listed by FATF in February 2023) and South Africa (listed by FATF in February 2023) (while Cambodia and Morocco would be delisted)

Next countries for FATF post observation period reports

- Cameroon, Croatia, Vietnam (June 2023)
- Bulgaria (October 2023)
- Kenya, Namibia (February 2024)
- Monaco, Venezuela (June 2024)

Technical assistance

- Provided by the Global Facility managed by FPI
- Demand driven process
- Third country to contact the EU delegation

