



## FATF Plenary Outcome

Of particular interest to: All regulated firms

### In brief

Financial Action Task Force (FATF) published the outcome of the Fourth Plenary of the Financial Action Task Force (FATF), which discussed key money laundering, terrorism financing and proliferation financing issues.

### Summary

The latest FATF Plenary session which took place 25-27 October 2023, brought together delegates from the FATF's Global Network. The key outcomes from the session include:

- The **removal of Albania, Cayman Islands, Jordan and Panama** from the list of jurisdictions under increased monitoring, commonly referred to as the FATF "grey list", for their progress in addressing strategic AML/CTF ("Anti-Money Laundering and Counter Terrorism financing") deficiencies and added Bulgaria to the grey list.
- **Brazil improved its AML/CFT/CPF** ("Counter Proliferation Financing") regime since its last assessment in 2010 and is achieving some positive results.
- The Plenary agreed on amendments to the Methodology, which sets out how assessment teams will determine the effective implementation of the FATF's updated beneficial ownership and transparency requirements. The revised methodology will be published in November 2023.
- The delegates expect to release the **updated FATF Risk-Based Guidance on Beneficial Ownership and Transparency of Legal Arrangements** (Recommendation 25), for public consultation at the February 2024 Plenary meeting.
- There will be a publication of a key report on Crowdfunding for Terrorism Financing and revisions to the FATF (Recommendation 8), to clarify measures applying to NPOs ("Non-Profit Organisations").
- FATF will scope work on countries' criminalisation of terrorism financing (Recommendation 5).
- Amendments to FATF Recommendations will provide countries with a stronger toolbox of measures to deprive criminals of the proceeds of crime.
- The FATF adopted reports on Illicit Financial Flows from Cyber-Enabled Fraud and the Misuse of Citizenship and Residency by Investment Programmes.

## **UK & EU - Implications**

1. The UK's list of high-risk third countries specified in Schedule 3ZA of the Money Laundering Regulations (MLRs) is subject to an update given the above changes. Schedule 3ZA is said to align with both the FATF Jurisdictions under increased monitoring' ("grey list") and 'High-risk jurisdictions subject to a call for action' documents.
2. The EU's high-risk third countries list is also expected to be updated accordingly.

## **USA – Implications**

Investment companies, their investment managers and broker-dealers should be aware of the FATF publications that identify “high risk and other monitored jurisdictions”, and list countries with weak measures to combat money laundering and terrorist financing. If transactions originate from, or are routed to, any FATF-identified countries, it might be an indication of suspicious activity. See 'Useful Links' for Anti-Money Laundering (AML) Source Tool for Mutual Funds & Broker-dealers.

## **Hong Kong & Singapore - Implications**

SFC licensed corporations and MAS capital markets intermediaries should apply enhanced due diligence (EDD) measures, proportionate to the risks, to business relationships and transactions with natural and legal persons, and (including financial institutions,) from jurisdictions for which this is called for by the FATF.

## **FATF Strategic Initiatives**

The Plenary also identified strategic initiatives that would aid in the fight against money laundering and terrorist financing under 7 themes:

- Improving Asset Recovery
- Collaboration with Asset Recovery Networks (ARINs): Recommendations and Final Report
- Combating the Abuse of NPOs for Terrorist Financing
- Updated Best Practices Paper on Combating the Abuse of Non-Profit Organisations
- Crowdfunding for Terrorism Financing
- Illicit Financial Flows from Cyber-Enabled Fraud
- Misuse of Citizenship and Residency by Investment Programmes (Report to be published in November 2023)

**The next FATF Plenary will be held in February 2024**

## **FATF Revised Recommendations**

The FATF published in November 2023 their revised recommendations for International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation in November 2023. A summary of the revised recommendations are outlined below.

#### **Recommendation 4: Confiscation and provisional measures**

- Countries should establish mechanisms that will enable their competent authorities to manage and dispose of property that is frozen, seized or confiscated effectively. These mechanisms should be applicable both in the context of domestic proceedings, and pursuant to requests by foreign countries.

#### **Recommendation 8: Non-profit Organisations**

Countries should review the adequacy of laws and regulations in relation to non-profit organisations, and ensure that they cannot be misused:

1. By terrorist organisations posing as legitimate entities;
2. To exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures and;
3. To conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

#### **Recommendation 30: Responsibilities of law enforcement and investigative authorities**

- Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations within the framework of national AML/CFT policies.
- Designated law enforcement authorities should have the responsibility of identifying, tracing and initiating actions to freeze and seize property that is or may become subject to confiscation or is suspected of being proceeds of crime.

#### **Recommendation 31: Powers of law enforcement and investigative authorities**

- Countries should ensure that competent authorities conducting investigations are able to use a wide range of investigative techniques suitable for the investigation of money laundering, associated predicate offences and terrorist financing.
- Competent authorities should be able to obtain access to all necessary documents and information for use in such investigations, prosecutions, and related actions.

#### **Recommendation 38: Mutual legal assistance: freezing and confiscation.**

- Countries should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited for law enforcement, health, education, or other appropriate purposes.

#### **Recommendation 40: Other forms of international cooperation**

- Countries should ensure that their competent authorities can rapidly, constructively, and effectively provide the widest range of international cooperation in relation to money laundering, associated predicate offences and terrorist financing.

- Competent authorities should use clear channels or mechanisms for the effective transmission and execution of requests for information, or other types of assistance.

## Useful Links

[Outcomes FATF Plenary, 25-27 October 2023 \(fatf-gafi.org\)](#)

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

[The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(legislation.gov.uk\)](#)

[SEC.gov | Anti-Money Laundering \(AML\) Source Tool for Mutual Funds](#)

[SEC.gov | Anti-Money Laundering \(AML\) Source Tool for Broker-Dealers](#)

[Circular to Licensed Corporations, SFC-licensed Virtual Asset Service Providers and Associated Entities - Anti-Money Laundering / Counter-Financing of Terrorism \(1\) FATF Statement on High-Risk Jurisdictions subject to a Call for Action \(2\) FATF Statement on Jurisdictions under Increased Monitoring \(3\) Outcomes from the FATF Plenary, 25-27 October 2023 | Securities & Futures Commission of Hong Kong](#)

[October 2023 FATF Statement \(mas.gov.sg\)](#)

[The FATF Recommendations \(fatf-gafi.org\)](#)

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