



The Financial Action Task Force: An Overview

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Summary

The National Commission on Terrorist Attacks Upon the United States, or the 9/11 Commission, recommended that tracking terrorist financing “must remain front and center in U.S. counterterrorism efforts” (see *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, U.S. Government Printing Office, July, 2004, p. 382). As part of these efforts, the United States plays a leading role in the Financial Action Task Force on Money Laundering (FATF). The independent, intergovernmental policy-making body was established by the 1989 G-7 Summit in Paris as a result of growing concerns among the summit participants about the threat posed to the international banking system by money laundering. After September 11, 2001, the body expanded its role to include identifying sources and methods of terrorist financing and adopted nine special recommendations on terrorist financing to track terrorists’ funds. The scope of activity of FATF was broadened as a result of the global financial crisis, since financial systems in distress can be more vulnerable to abuse for illegal activities. More recently, the FATF added the proliferation of financing of weapons of mass destruction as one of its areas of surveillance. In April, 2012, the member countries adopted a remodeled set of Forty Recommendations and renewed the FATF’s mandate through December 31, 2020. This report provides an overview of the task force and of its progress to date in gaining broad international support for its recommendations.

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Introduction

The Financial Action Task Force on Money Laundering is comprised of 36 member countries and territories and two international organizations¹ and was organized to develop and promote policies to combat money laundering and terrorist financing.² The FATF relies on a combination of annual self-assessments and periodic mutual evaluations that are completed by a team of FATF experts to provide information and to assess the compliance of its members to the FATF guidelines. FATF has no enforcement capability, but can suspend member countries that fail to comply on a timely basis with its guidelines. Recently, the FATF warned Turkey that its membership will be suspended in 2013 unless it becomes more aggressive in criminalizing money laundering. The FATF is housed at the headquarters of the Organization for Economic Cooperation and Development (OECD) in Paris and occasionally uses some OECD staff, but the FATF is not part of the OECD. The presidency of the FATF is a one-year appointed position, currently held by Mr. Bjorn Skogstad Aamo of Norway, who will serve through June 30, 2013, when Mr. Vladimir Nechaev of the Russian Federation will assume the presidency. At the ministerial meeting in April 2012, the member countries renewed the FATF's mandate through December 31, 2020.

The Mandate

When it was established in 1989, the FATF was charged with examining money laundering techniques and trends, reviewing the actions which had already been taken, and setting out the measures that still needed to be taken to combat money laundering. In 1990, the FATF issued a report containing a set of 40 recommendations,³ which provided a comprehensive plan of action to fight against money laundering. Following the terrorist attacks of September 11, 2001, the FATF redirected its efforts to focus on money laundering and terrorist financing. On October 31, 2001, the FATF issued a new set of guidelines and a set of eight special recommendations on terrorist financing.⁴ At that time, the FATF indicated that it had broadened its mission beyond

¹ The FATF members are Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, India, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, People's Republic of China, Portugal, Russian Federation, Singapore, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States; the two international organizations are the European Commission, and the Gulf Cooperation Council. The following organizations have observer status: Asia/Pacific Group on Money Laundering; Caribbean Financial Action Task Force; Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures; Eastern and Southern Africa Anti-Money Laundering Group; Financial Action Task Force on Money Laundering in South America; other international organizations including the African Development Bank; Asia Development Bank; European Central Bank; International Monetary Fund; Organization of American States, Organization for Economic Cooperation and Development; United Nations Office on Drugs and Crime; and the World Bank.

² To be admitted to the FATF, a country must (1) be fully committed at the political level to implement the 40 recommendations within a reasonable time frame (three years) and to undergo annual self-assessment exercises and two rounds of mutual evaluations; (2) be a full and active member of the relevant FATF-style regional body; (3) be a strategically important country; (4) have already made the laundering of the proceeds of drug trafficking and other serious crimes a criminal offense; and (5) have already made it mandatory for financial institutions to identify their customers and to report unusual or suspicious transactions.

³ For the 40 recommendations, see http://www.oecd.org/document/28/0,3343,en_32250379_32236930_33658140_1_1_1_1,00.html

⁴ *FATF Cracks Down on Terrorist Financing*. Washington, FATF, October 31, 2001, p. 1.

money laundering to focus on combating terrorist financing and that it was encouraging all countries to abide by the new set of guidelines. A ninth special recommendation was added in 2005. In 2005, the United Nations Security Council adopted Resolution 1617 urging all U.N. Member States to implement the FATF 40 recommendations on money laundering and the nine special recommendations on terrorist financing.

The FATF completed a review of its mandate and proposed changes that were adopted at the May 2004 ministerial meeting. In 2006, FATF adopted a new surveillance process, known as the International Cooperation Review Group, to identify, examine, and engage with vulnerable jurisdictions that are failing to implement effective AML-CFT (anti-money laundering/countering financing terrorism) systems. In addition, the FATF revised its mandate in 2008 to indicate that FATF “will intensify its surveillance of systemic criminal and terrorist financing risks to enhance its ability to identify, prioritize, and act on these threats.” The FATF also expressed its support for the development of national threat assessments through best practice guidance and the establishment of stronger and more regular mechanisms for sharing information on risks and vulnerabilities. In addition, the FATF indicated its determination to remain at the center of international efforts to protect the integrity of the global financial system against new risks from criminals and terrorists.

At the G-20 (Group of 20) Summit in Pittsburgh in 2009, the national leaders affirmed their commitment to deal with tax havens, money laundering, corruption, terrorist financing, and prudential standards. They called on the FATF to improve transparency and exchange of information so countries can fully enforce their laws. The G-20 members also called on the FATF to issue a public list of high-risk jurisdictions. In 2010, the FATF published guidelines for insurance companies and the cross-border transportation of cash and bearer bonds. The FATF also adopted a set of guidelines regarding tax amnesty laws and asset repatriation. In 2010, the FATF also published a report on the vulnerabilities of free trade zones for misuse in money laundering and terrorist financing. At the conclusion of the November 2010 G-20 Summit in Seoul, the members urged the FATF to “update and implement” the FATF standards calling for transparency of cross-border wire transfers, beneficial ownership, customer due diligence, and due diligence for “politically exposed persons.”

At the Cannes 2011 Summit, the G-20 leaders declared that “corruption is a major impediment to economic growth and development,” and encouraged all jurisdictions to adhere to the international standards in the tax, prudential, and AML/CFT areas. The leaders also stated that, “We stand ready, if needed, to use our existing countermeasures to deal with jurisdictions which fail to meet these standards” (par. 36).⁵ The G-20 leaders also stated:

We support the work of the Financial Action Task Force (FATF) to continue to identify and engage those jurisdictions with strategic Anti-Money Laundering/Counter-Financing of Terrorism (AML/CFT) deficiencies and update and implement the FATF standards calling for transparency of cross-border wires, beneficial ownership, customer due diligence, and enhanced due diligence.

At the November 4-5, 2012, meeting of G-20 finance ministers and central bank governors in Mexico City, the officials reaffirmed their support for FATF by concluding that “We remain committed and encourage the FATF to continue to pursue all its objectives and notably to

⁵ *Cannes Summit Final Declaration*, G-20, November 4, 2011.

continue to identify and monitor high-risk jurisdictions with strategic Anti-Money Laundering/Counter-Terrorist Financing (AML/CFT) deficiencies.⁶

On February 15, 2012, the FATF members adopted a revised and updated set of the FATF Forty Recommendations, which added the proliferation of financing of weapons of mass destruction to FATF's areas of surveillance. The new mandate is intended to: 1) deepen global surveillance of evolving criminal and terrorist threats; 2) build a stronger, practical and ongoing partnership with the private sector; and 3) support global efforts to raise standards, especially in low capacity countries. In addition, the revised recommendations address new and emerging threats, while clarifying and strengthening many of the existing obligations. The new standards strengthen the requirements for higher risk situations and allow countries to take a more focused approach to areas where high risks remain or where implementation could be enhanced. The risk-based approach encourages countries to identify, assess, and understand the risks they face of money laundering and terrorist financing and to adopt the appropriate measures to address those risks, providing for a more flexible set of measures for countries to target resources in the most effective way. In addition, the new standards address the challenge of terrorist financing by integrating standards for combating terrorist financing throughout the Recommendations, thereby eliminating the need for the nine Special Recommendations. In particular, the new standards recommend: that terrorist financing should be criminalized (Recommendation 5); that countries should implement targeted financial sanctions related to terrorism and terrorist financing (Recommendation 6); that countries should implement targeted financial sanctions related to the prevention, suppression, and disruption of proliferation of weapons of mass destruction and its financing (Recommendation 7); and that countries review their laws and regulations to ensure that non-profit organizations are not used to finance terrorism (Recommendation 8).

On April 20, 2012, the FATF members adopted a new mandate for the FATF and renewed FATF's mandate through December 31, 2020. The new mandate specified a number of functions and tasks for the FATF, including:

1. Identifying and analyzing money laundering, terrorist financing, and other threats to the integrity of the financial system, including the methods and trends involved; examining the impact of measures designed to combat misuse of the international financial system; supporting national, regional, and global threat and risk assessments.
2. Developing and refining the international standards for combating money laundering and the financing of terrorism and weapons proliferation.
3. Assessing and monitoring its Members through "peer reviews" (mutual evaluations) and follow-up processes to determine the degree of technical compliance, implementation and effectiveness of systems to combat money laundering and the financing of terrorism and proliferation; refining the standard assessment methodology and common procedures for conducting mutual evaluations and evaluation follow-up.
4. Identifying and engaging with high-risk, non cooperative jurisdictions and those with strategic deficiencies in their national regimes, and coordinating action to protect the integrity of the financial system against the threat posed by them.

⁶ *Communique of Ministers of Finance and Central Bank Governors of the G-20*, Mexico City, 4-5 November 2012, par. 20.

5. Promoting full and effective implementation of the FATF Recommendation by all countries through the global network of FATF-style regional bodies and international organizations; ensuring a clear understanding of the FATF standards and consistent application of mutual evaluation and follow-up processes throughout the FATF global network and strengthening the capacity of the FATF regional bodies to assess and monitor their member countries.
6. Responding as necessary to significant new threats to the integrity of the financial system consistent with the needs identified by the international community, including the United Nations Security Council, the G-20, and the FATF itself; preparing guidance as needed to facilitate implementation of relevant international obligations in a manner compatible with the FATF standards.
7. Assisting jurisdictions in implementing financial provisions of the United Nations Security Council resolutions on non-proliferation, assess the degree of implementation and the effectiveness of these measures in accordance with the FATF mutual evaluation and follow-up process, and preparing guidance as needed to facilitate implementation of relevant international obligations in a manner compatible with the FATF standards,
8. Engaging and consulting with the private sector and civil society on matters related to the overall work of the FATF, including regular consultation with the private sector and through the consultative forum.
9. Undertaking any new tasks agreed by its Members in the course of its activities and within the framework of this Mandate and taking on these new tasks only where it has a particular additional contribution to make while avoiding duplication of existing efforts elsewhere.

Progress to Date

An essential part of the FATF activities is assessing the progress of its members in complying with the FATF recommendations. As previously indicated, the FATF attempts to accomplish this activity through assessments performed annually by the individual members and through mutual evaluations. In 2011, the FATF completed the third round of mutual evaluations of all the FATF members. According to the FATF assessment of November 2012, only a few countries are considered to be non-cooperative countries. The countries in this group include Iran and the Democratic Peoples' Republic of Korea (North Korea), which FATF considers to have significant deficiencies in its anti-money laundering and terrorist financing regime and urged other jurisdictions to protect themselves by applying counter-measures. The FATF identified eighteen countries—Bolivia, Cuba, Ecuador, Ethiopia, Indonesia, Kenya, Myanmar, Nigeria, Pakistan, São Tomé and Príncipe, Sri Lanka, Syria, Tanzania, Thailand, Turkey, Vietnam, and Yemen—that have not made sufficient progress in addressing the deficiencies or have not committed to an action program developed with the FATF to address the deficiencies. Other countries that are improving their AML/CFT regimes are: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bangladesh, Brunei, Darussalam, Cambodia, Ghana, Kuwait, Kyrgyzstan, Mongolia, Morocco, Namibia, Nepal, Philippines, Sudan, Tajikistan, and Venezuela. Jurisdictions that were assessed as not making sufficient progress are: Nicaragua and Zimbabwe. Finally, two jurisdictions that are no longer subject to monitoring are Trinidad and Tobago.

In addition to monitoring the progress of countries in meeting the FATF recommendations regarding AML/CFT, the FATF has taken a number of steps recently to protect the international financial system from abuse. These actions include identifying jurisdictions that may pose a risk to the international financial system and updating reports on such topics as: Best Practices on Confiscation (asset recovery); best practices on Managing the Anti-Money Laundering and Counter-Terrorist Financing Policy Implications of Voluntary Tax Compliance Programs; a new report on Trade Based Money Laundering. In addition, FATF issued a statement indicating that it intended to suspend Turkey's membership in the organization as a result of its "continued failure to take action to fully criminalize terrorist financing and establish an adequate legal framework for identifying and freezing terrorist assets consistent with the FATF Recommendations."⁷ Consequently, FATF decided to suspend Turkey's membership in the FATF on February 22, 2013 if Turkey did take certain action before that date, including: 1) adopt legislation to remedy deficiencies in its terrorist financing laws; and 2) establish a legal framework for identifying and freezing terrorist assets consistent with the FATF Recommendations.

The FATF faces a number of difficulties in determining how fully member countries are complying with the special recommendations. A large part of this difficulty arises from reaching a mutual understanding of what the recommendations mean and how a country should judge its performance relative to the recommendations, since the recommendations are periodically revised and new methodologies for analyzing money laundering and terrorist financing are adopted. In addition, a number of the recommendations require changes in laws and other procedures that take time for member countries to implement. To assist member countries in complying with the FATF recommendations, FATF has issued various interpretative notes to clarify aspects of the recommendations and to further refine the obligations of member countries.

Between 2002 and 2003, the International Monetary Fund (IMF) and the World Bank participated in a year-long pilot program to conduct assessments of national approaches to detecting and controlling money laundering and terrorist financing in various countries⁸ using the methodology developed by the FATF.⁹ In March 2004, the IMF and World Bank agreed to make the program a permanent part of their activities. Over the year, the IMF and the Bank conducted assessments in 41 jurisdictions. According to these assessments, the Fund/Bank reached a number of conclusions regarding the overall compliance with the FATF 40 recommendations and the eight (at that time) special recommendations. In particular, they concluded that overall compliance was uneven across jurisdictions, but that jurisdictions display a higher level of compliance with the FATF 40 recommendations than they do with the eight special recommendations due to shortcomings in domestic legislation. In general, the Fund/Bank concluded that compliance is higher among high and middle income countries than in low income countries. The most common weaknesses identified by the IMF and the World Bank were:

- Poor coordination among government agencies, especially among financial supervisors, financial investigators, the police, public prosecutors, and the public.

⁷ *Outcomes of the Plenary Meeting of the FATF, Paris, 17-19 October 2012*, FATF, October 19, 2012.

⁸ This group of countries is not the same as those surveyed by the FATF, although there is some overlap in coverage between the FATF and the IMF/World Bank assessments.

⁹ This section is based on the IMF/Bank report: *Twelve-Month Pilot Program of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Assessments: Joint Report on the Review of the Pilot Program*. The International Monetary Fund and the World Bank, March 10, 2004.

- Ineffective law enforcement due to a lack of skills, training, or resources to investigate, prosecute, and adjudicate money laundering cases among police, prosecutors, or the courts.
- Weak supervision by financial supervisors due to understaffed or under-trained supervisors who lacked the skills or capacity to monitor and enforce compliance with money laundering or terrorist financing requirements.
- Inadequate systems and controls among financial firms to identify and report suspicious activity, or to ensure that adequate records were being maintained.
- Shortcomings in international cooperation due to strong secrecy provisions, restrictions placed on counterpart's use of information and the inability to share information unless a criminal investigation was already underway or a formal agreement was in place.

For each of the special recommendations, the IMF and the World Bank offered additional conclusions:

1. *Ratification and implementation of U.N. instruments.* Almost one-third of the jurisdictions assessed by the IMF/World Bank failed to comply with this recommendation.

2. *Criminalizing the financing of terrorism and associated money laundering.* This Recommendation was one of the least observed by the jurisdictions reviewed.

3. *Freezing and confiscating terrorist assets.* About one third of the jurisdictions that were assessed displayed serious deficiencies complying with this Recommendation, generally because there was a lack of explicit legal provisions or other arrangements that would require the freezing of funds or assets of terrorists.

4. *Reporting suspicious transactions related to terrorism.* Forty percent of the assessed jurisdictions displayed a lack of legal and institutional measures that would require making a report to competent authorities when there is a suspicion that funds are linked to terrorist financing.

5. *International cooperation.* This recommendation, which covers mutual assistance and extradition in financing of terrorism-related cases, is one of the least observed recommendations, where almost half of the relevant countries exhibited significant deficiencies.

6. *Alternative remittance systems.* In most jurisdictions, such remittances were judged to be irrelevant, but of those jurisdictions that were considered, one-half were found to be deficient.

7. *Wire transfers.* Compliance was assessed inconsistently because there was ambiguity about whether the standard was in force. Those jurisdictions that were not in compliance generally lacked formal requirements that complete information be included in each transaction.

In February 2004, the FATF adopted a revised version of the 40 recommendations that significantly broadened the scope and detail of the recommendations over previous versions. Also, the FATF adopted a new methodology to track and identify money laundering and terrorist financing that applied to the 40 recommendations and the eight (nine) special recommendations. As a result of the significant length and additional detail of these new requirements, the FATF

decided that it would no longer conduct self-assessment exercises based on the previous method, but will initiate follow-up reports to mutual evaluations.

In 2005, the FATF issued revised standards related to wire transfers of funds. The new standards require financial institutions to include the name, address, and account number of the originator on all fund transfers. The standards also lower the reporting threshold from \$3,000 to \$1,000. Two FATF-style regional bodies were also created—the Eurasian Group and the Middle East and North Africa Financial Action Task Force. The first round of mutual evaluations for these two bodies was scheduled for 2006. In 2007, the FATF adopted new measures to protect the international financial system from abuse, including calling on Iran to strengthen its money-laundering and counter-terrorist financing controls and a new commitment to produce a regular global threat assessment detailing key issues of concern related to criminal and terrorist financing.

Since the start of the global financial crisis, the FATF has taken a number of steps to help governments guard against abuse of their financial systems by groups or individuals engaging in terrorist financing or money laundering. As part of these efforts, the FATF has:

- Issued a statement warning all FATF members and all jurisdictions to protect their financial systems from risks associated with Iran's failure to address ongoing deficiencies in its anti-money laundering regime and in combating financial terrorism
- Completed an analysis of the impact of the global financial and economic crises on international cooperation in the area of money laundering and terrorist financing and reported to the G-20 in September 2009 on responses to the financial crisis.
- Completed a report on the potential for money laundering and other vulnerabilities in the football (soccer) sector.
- Issued a list of best practices that can assist member countries in implementing measures to freeze the assets or funds of terrorists or of terrorist-related activities. The FATF argues that freezing these assets or funds is important because it 1) denies funds to terrorists, which forces them to use more costly and higher risk ways to finance their operations; 2) deters those who might be willing to finance terrorism; and 3) is one element of a broader effort to follow the money trail of terrorists, terrorist groups and terrorist activity.
- Issued a report on money laundering and the risk posed under New Payment Methods.
- Completed research on the use of Trusts and Company Service Providers for money laundering, indicating that Trusts and Company Service Providers have often been misused, wittingly or not, in money laundering activities.
- Published a report on the rise in organized piracy on the high seas and related kidnapping for ransom.
- Published a report analyzing money laundering methods used for corruption, identifying key vulnerabilities of the current AML/CFT system, and discussing the barriers for the recovery of corrupt proceeds once they are discovered.
- Published a report on the illegal money flows associated with money laundering and trafficking in human beings and smuggling of migrants.

Issues for Congress

Following the 9/11 attacks, Congress passed P.L. 107-56 (the USA Patriot Act) to expand the ability of the Treasury Department to detect, track and prosecute those involved in money laundering and terrorist financing. In 2004, the 108th Congress adopted P.L. 108-458, which appropriated funds to combat financial crimes, made technical corrections to P.L. 107-56, and required the Treasury Department to report on the current state of U.S. efforts to curtail the international financing of terrorism. The experience of the Financial Action Task Force in tracking terrorist financing, however, indicates that there are significant national hurdles that remain to be overcome before there is a seamless flow of information shared among nations. While progress has been made, domestic legal issues and established business practices, especially those that govern the sharing of financial information across national borders, continue to hamper efforts to track certain types of financial flows across national borders. Continued progress likely will depend on the success of member countries in changing their domestic laws to allow for greater sharing of financial information, criminalizing certain types of activities, and improving efforts to identify and track terrorist-related financial accounts.

The economic implications of money laundering and terrorist financing pose another set of issues that argue for gaining greater control over this type of activity. According to the IMF, money laundering accounts for between \$600 billion and \$1.6 trillion in economic activity annually. Money launderers exploit differences among national anti-money laundering systems and move funds into jurisdictions with weak or ineffective laws. In such cases, organized crime can become more entrenched and create a full range of macroeconomic consequences, including unpredictable changes in money demand, risk to the soundness of financial institutions and the financial system, contamination effects on legal financial transactions and increased volatility of capital flows and exchange rates due to unprecedented cross-border transfers.¹⁰

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¹⁰ The IMF and the Fight Against Money Laundering and the Financing of Terrorism. IMF Factsheet, April 2003. <http://www.imf.org/external/np/exr/facts/aml.htm>.