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FinCEN Issues Guidance on Updated FATF List of High-Risk and Non-Cooperative Jurisdictions

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Last week, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) released an advisory on the Financial Action Task Force (FATF)-identified jurisdictions with anti-money laundering (AML) and combatting the financing of terrorism (CFT) deficiencies. [1] FATF, an inter-governmental policy-making body that develops and promotes policies to combat money laundering and terrorist financing, published its most recent list identified as AML/CFT deficient at the end of June. This list of "high-risk and non-cooperative jurisdictions" identifies jurisdictions that have "strategic deficiencies." FATF then works with these jurisdictions to address those deficiencies that threaten global financial markets.

Both **Iran** and **North Korea** continue to remain subject to FATF's call on its members and other jurisdictions to apply countermeasures to protect the international financial system from the on-going and substantial money laundering and terrorist financing risks emanating from these jurisdictions. As a result, FinCEN cautions all jurisdictions to advise their financial institutions to scrutinize all transactions with Iranian companies and financial institutions. FinCEN notes that U.S. financial institutions are subject to a broad range of restrictions in conducting transactions with Iran due to illicit financing risks. FinCEN also urges financial institutions to familiarize themselves with the financial provisions and restrictions contained in United Nations Security Council Resolutions against Iran and North Korea, specifically UNSCRs 1929 and 1803, calling on states to exercise greater caution in transacting with Iranian banks and their overseas branches and subsidiaries.

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Practice Areas

Anti-Money Laundering
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Algeria, Ecuador, Indonesia, and Myanmar have been designated as jurisdictions subject to enhanced due diligence, given their failure to make sufficient progress in addressing AML/CFT deficiencies. Given this designation, U.S. financial institutions should ensure that they implement enhanced due diligence programs, as described in the Bank Secrecy Act regulations, with respect to these jurisdictions.

FATF identified the following jurisdictions as having deficiencies in their AML/CFT regimes, for which they have developed a plan of action with FATF: **Afghanistan, Albania, Angola, Argentina, Cambodia, Cuba, Ethiopia, Iraq, Kuwait, Lao PDR, Namibia, Nicaragua, Pakistan, Panama, Papua New Guinea, Sudan, Syria, Tajikistan, Turkey, Uganda, Yemen, and Zimbabwe**. Certain of these jurisdictions have taken significant steps to improve their AML/CFT regimes, including Ethiopia, Pakistan, Syria, Turkey, and Yemen. As a result, they have been included in FATF's "Improving Global AML/CFT Compliance: Ongoing Process Document." That said, deficiencies remain and financial institutions should exercise caution when conducting business with these jurisdictions and ensure that their due diligence programs are reasonably designed to address such risks.

Finally, **Kenya, Kyrgyzstan, Mongolia, Nepal, and Tanzania** have been removed from the FATF listing and monitoring process given their "significant" progress in addressing all or nearly all of their AML/CFT deficiencies.

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[1] U.S. Department of the Treasury: Advisory on the FATF-Identified Jurisdictions with AML/CFT Deficiencies (Aug. 5, 2014).