



GOVERNMENT OF BERMUDA
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**Minister of Legal Affairs Issues New Advisory on the Risks Relating to Deficiencies in Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) Systems and Controls in Specified Jurisdictions
(AML-ATF Ministerial Advisory 2/2016)**

Attorney General and Minister of Legal Affairs Hon. Trevor Moniz, JP, MP, today issued the following advisory about the risks in a number of jurisdictions arising from inadequate systems and controls to combat money laundering and terrorist financing. Details on these risks were provided by the Financial Action Task Force (FATF) and the Caribbean Financial Action Task Force (CFATF) in statements which were released following their respective Plenaries held in June 2016. The Minister noted that the advice is especially relevant to those entities that have or are considering any business relationships with the specified jurisdictions or persons (individuals or corporate entities) in such jurisdictions.

The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (the Regulations) require AML/ATF regulated financial institutions and other relevant persons to have policies, procedures or systems in place to prevent money laundering or terrorist financing. Under the Regulations, relevant persons are also required, under certain specified situations and also in those situations which are deemed to present a higher risk of money laundering or terrorist financing, to apply enhanced customer due diligence measures and/or on-going monitoring on a risk-sensitive basis.

Advisory

1. FATF Public Statement

On 24 June 2016, the FATF issued a public statement (**Annex A**) drawing attention to serious deficiencies in the **Democratic People's Republic of Korea (DPRK)**, which has been identified in previous FATF public statements but continues to raise concerns for the FATF by its continued failure to adequately address on-going and substantial deficiencies in its anti-money laundering and combating the financing of terrorism (AML/CFT) regime and the serious threat this poses to the integrity of the international financial system. The FATF is particularly and exceptionally concerned about the threat posed by DPRK's illicit activities related to the proliferation of weapons of mass destruction and its financing. The FATF therefore reaffirmed its call on its members and other jurisdictions to apply counter-measures against DPRK.

In addition, the FATF separately drew attention in the public statement to **Iran**, and welcomed Iran's adoption of, and high-level political commitment to, an Action Plan to address its strategic AML/CFT deficiencies, and its decision to seek technical assistance in the implementation of the Action Plan. Consequently the FATF has suspended counter-measures for twelve months in order to monitor Iran's progress in implementing its Action Plan. If it is determined that Iran has not demonstrated sufficient progress in implementing the Action Plan at the end of that period, FATF's call for countermeasures will be re-imposed. However if Iran meets its commitments under the Action Plan the FATF will consider next steps in this regard. Iran will remain on the FATF Public Statement until the full Action Plan has been completed. Until Iran implements the measures required to address the deficiencies identified in the Action Plan, the FATF will remain concerned with the terrorist financing risk emanating from Iran and the threat this poses to the international financial system. The FATF, therefore, calls on its members and urges all jurisdictions to continue to advise their financial institutions to apply enhanced due diligence to business relationships and transactions with natural and legal persons from Iran, consistent with FATF Recommendation 19. The FATF urges Iran to fully address its AML/CFT deficiencies, in particular those related to terrorist financing.

2. 'On-going process to improve global AML/CFT compliance' document

In a separate publication on the on-going process to improve global AML/CFT compliance (**Annex B**), the FATF once again highlighted a number of jurisdictions with strategic deficiencies in their AML/CFT regimes and provided information on these deficiencies. These jurisdictions were previously identified by the FATF as working with the FATF and relevant regional bodies to address those deficiencies. However the FATF has now called for the expeditious implementation of their agreed action plans. The jurisdictions listed in this category are: **Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Syria, Uganda, Vanuatu and Yemen.**

The FATF welcomed the significant progress of **Myanmar and Papua New Guinea** in improving their AML/CFT regime. These jurisdictions are therefore no longer subject to monitoring under the FATF's on-going global AML/CFT compliance process, but they will each work with their relevant FATF-style regional body, as they continue to address the issues identified in their Mutual Evaluation Reports to further strengthen their AML/CFT regimes.

3. CFATF Public Statement

Jurisdiction with strategic AML/CFT deficiencies

On 8 June 2016, the CFATF issued a public statement (**Annex C**) drawing attention to serious deficiencies in **Haiti**, which underwent a High Level Mission by the CFATF in April 2015, however Haiti has failed to make sufficient progress in addressing its significant strategic AML/CFT deficiencies, including certain legislative reforms.

has been identified in previous FATF public statements but continues to raise concerns for the FATF by its continued failure to adequately address on-going and substantial deficiencies in its anti-money laundering and combating the financing of terrorism (AML/CFT) regime and the serious threat this poses to the integrity of the international financial system. The FATF is particularly and exceptionally concerned about the threat posed by DPRK's illicit activities related to the proliferation of weapons of mass destruction and its financing. The FATF therefore reaffirmed its call on its members and other jurisdictions to apply counter-measures against DPRK.

Jurisdiction with strategic AML/CFT deficiencies that has made significant progress in addressing these deficiencies

The CFATF welcomed the significant progress of **Suriname** in improving its AML/CFT regime. Particularly, the CFATF acknowledges that Suriname has established the legal and regulatory framework addressing strategic deficiencies outlined in its Action Plan, and will continue to work with the CFATF to ensure its reform process is completed.

To ensure that an appropriate determination of the risks relating to these jurisdictions can be carried out, it is important that the annexed statements are read in their entirety. All financial institutions and other relevant persons, in the implementation of their systems and controls to combat financial crime, should give consideration to the FATF assessments and take appropriate actions in light of the associated risks.

It should be noted that a large number of jurisdictions have not yet been reviewed by the FATF, therefore the jurisdictions included in the FATF public statement and 'ongoing compliance' document are not intended to provide an exhaustive list of jurisdictions that should be considered by relevant persons to present a higher risk of money laundering or terrorist financing.

This advisory supersedes all previous advice issued by the Minister in connection with deficiencies in the AML/ATF systems and controls in the specified jurisdictions. It should be noted that the previous such advisory (AML-ATF Ministerial Advisory 2/2016) was issued in April 2016. Copies of previous advisories are available at www.gov.bm, using the search term 'NAMLC'.

Annex A: FATF Public Statement – June 2016

FATF Public Statement - 24 June 2016

Busan, Korea, 24 June 2016 - The Financial Action Task Force (FATF) is the global standard setting body for anti-money laundering and combating the financing of terrorism (AML/CFT). In order to protect the international financial system from money laundering and financing of terrorism (ML/FT) risks and to encourage greater compliance with the AML/CFT standards, the FATF identified jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system.

Jurisdiction subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing (ML/FT) risks emanating from the jurisdictions.

Democratic People's Republic of Korea (DPRK)

The FATF remains concerned by the DPRK's failure to address the significant deficiencies in its anti-money laundering and combating the financing of terrorism (AML/CFT) regime and the serious threat this poses to the integrity of the international financial system. The FATF urges the DPRK to immediately and meaningfully address its AML/CFT deficiencies. Further, FATF is concerned about the threat posed by the DPRK's illicit activities related to the proliferation of weapons of mass destruction (WMDs) and its financing.

The FATF reaffirms its 25 February 2011 call on its members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with the DPRK, including DPRK companies, financial institutions, and those acting on their behalf. In addition to enhanced scrutiny, the FATF further calls on its members and urges all jurisdictions to apply effective counter-measures, and targeted financial sanctions in accordance with applicable United Nations Security Council Resolutions, to protect their financial sectors from money laundering, financing of terrorism and WMD proliferation financing (ML/FT/PF) risks emanating from the DPRK. Jurisdictions should also protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices, and review the existence of subsidiaries and branches of, and relationships with, DPRK financial institutions in their jurisdiction.

Jurisdictions subject to a FATF call on its members and other jurisdictions to apply enhanced due diligence measures proportionate to the risks arising from the jurisdiction

Iran

The FATF welcomes Iran's adoption of, and high-level political commitment to, an Action Plan to address its strategic AML/CFT deficiencies, and its decision to seek technical assistance in the implementation of the Action Plan. The FATF therefore has suspended counter-measures for twelve months in order to monitor Iran's progress in implementing the Action Plan. If the FATF determines that Iran has not demonstrated sufficient progress in implementing the Action Plan at the end of that period, FATF's call

for counter-measures will be re-imposed. If Iran meets its commitments under the Action Plan in that time period, the FATF will consider next steps in this regard.

Iran will remain on the FATF Public Statement until the full Action Plan has been completed. Until Iran implements the measures required to address the deficiencies identified in the Action Plan, the FATF will remain concerned with the terrorist financing risk emanating from Iran and the threat this poses to the international financial system. The FATF, therefore, calls on its members and urges all jurisdictions to continue to advise their financial institutions to apply enhanced due diligence to business relationships and transactions with natural and legal persons from Iran, consistent with FATF Recommendation 19. The FATF urges Iran to fully address its AML/CFT deficiencies, in particular those related to terrorist financing.

The FATF will continue to engage with Iran and closely monitor its progress.

Annex B: Improving Global AML/CFT Compliance: update on-going process – 24 June 2016

As part of its on-going review of compliance with the AML/CFT standards, the FATF has to date identified the following jurisdictions which have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF. While the situations differ among each jurisdiction, each jurisdiction has provided a written high-level political commitment to address the identified deficiencies. The FATF welcomes these commitments.

A large number of jurisdictions have not yet been reviewed by the FATF. The FATF continues to identify additional jurisdictions, on an on-going basis, that pose a risk to the international financial system. The FATF and the FATF-style regional bodies (FSRBs) will continue to work with the jurisdictions noted below and to report on the progress made in addressing the identified deficiencies. The FATF calls on these jurisdictions to complete the implementation of action plans expeditiously and within the proposed timeframes. The FATF will closely monitor the implementation of these action plans and encourages its members to consider the information presented below.

Afghanistan
Bosnia and Herzegovina
Guyana
Iraq
Lao PDR
Syria
Uganda
Vanuatu
Yemen

Jurisdictions no longer Subject to the FATF's On-Going AML/CFT Compliance Process

Myanmar

Papua New Guinea

Afghanistan

In June 2012, Afghanistan made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies. Since February 2016, Afghanistan has taken additional steps to improve its AML/CFT regime, including to implement the freezing of terrorist assets requirements. However, the FATF has determined that certain strategic deficiencies remain in implementing its legal framework for identifying, tracing and freezing terrorist assets. The FATF encourages Afghanistan to continue implementing its action plan to address its AML/CFT deficiencies.

Bosnia and Herzegovina

In June 2015, Bosnia and Herzegovina made a high-level political commitment to work with the FATF and MONEYVAL to address its strategic AML/CFT deficiencies. Bosnia and Herzegovina should continue to implement its action plan to address these deficiencies, including by: (1) harmonising criminalisation of terrorist financing in all criminal codes; (2) establishing and implementing an adequate legal framework for freezing terrorist assets under UNSCR 1373; (3) implementing an adequate supervisory framework; (4) implementing adequate AML/CFT measures for the non-profit sector; (5) establishing and implementing adequate cross-border currency controls; (6) harmonising criminalisation of money laundering in all criminal codes; and (7) ensuring adequate procedures for the confiscation of assets. The FATF encourages Bosnia and Herzegovina to continue implementing its action plan to address its AML/CFT deficiencies.

Guyana

Since October 2014, when Guyana made a high-level political commitment to work with the FATF and CFATF to address its strategic AML/CFT deficiencies, Guyana has substantially addressed its action plan at a technical level, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing adequate procedures for the confiscation of assets related to money laundering; (3) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (4) establishing a fully operational and effectively functioning financial intelligence unit; (5) establishing effective measures for customer due diligence and enhancing financial transparency; (6) strengthening suspicious transaction reporting requirements; and (7) implementing an adequate supervisory framework. The FATF will conduct an on-site visit to confirm that the process of implementing the required reforms and actions is underway to address deficiencies previously identified by the FATF.

Iraq

In October 2013, Iraq made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies. However, the FATF has determined that certain strategic deficiencies remain. Iraq should continue to implement its action plan to address these deficiencies, including by: (1) addressing remaining issues related to its criminalisation of money laundering and terrorist financing; (2) establishing and implementing an adequate legal framework and appropriate

procedures for identifying and freezing terrorist assets; (3) ensuring that all financial institutions are subject to adequate customer due diligence requirements; (4) ensuring that all financial institutions are subject to adequate suspicious transaction reporting requirements; (5) ensuring a fully operational and effectively functioning financial intelligence unit; and (6) establishing and implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors. The FATF encourages Iraq to continue implementing its action plan to address its remaining AML/CFT deficiencies.

Lao PDR

In June 2013, Lao PDR made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies. Since February 2016, Lao PDR has taken steps towards improving its AML/CFT regime, including by issuing instructions related to ML/TF provisional measures. However, the FATF has determined that certain strategic deficiencies remain. Lao PDR should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing; (2) implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (3) implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors; and (4) implementing effective controls for cross-border currency transactions. The FATF encourages Lao PDR to continue implementing its action plan to address its AML/CFT deficiencies.

Syria

Since February 2010, when Syria made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Syria has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Syria had substantially addressed its action plan at a technical level, including by criminalising terrorist financing and establishing procedures for freezing terrorist assets. While the FATF determined that Syria has completed its action plan agreed upon with the FATF, due to the security situation, the FATF has been unable to conduct an on-site visit to assess whether the process of implementing the required reforms and actions is underway. The FATF will continue to monitor the situation, and will conduct an on-site visit at the earliest possible date.

Uganda

In February 2014, Uganda made a high-level political commitment to work with the FATF and ESAAMLG to address its strategic AML/CFT deficiencies. Since its original action plan, Uganda was subject to a mutual evaluation, which highlighted additional strategic deficiencies. These deficiencies have been included in the revised action plan, to which a renewed political commitment was provided in June 2016. Uganda should continue to work on addressing the following deficiencies: (1) adequately criminalise terrorist financing; (2) establish an adequate legal basis for freezing terrorist funds in relation to UNSCRs 1267 and 1373, and their successor resolutions; (3) ensure that all financial institutions are subject to adequate record-keeping requirements; (4) establish a fully operational and effectively functioning financial intelligence unit; (5) introduce and implement an appropriate legal basis to permit the competent authorities to provide a wide range of mutual legal assistance; and (6) ensure that appropriate laws and procedures are in place with regard to international co-operation for the financial intelligence unit and supervisory authorities. The FATF encourages Uganda to continue implementing its action plan to address its AML/CFT deficiencies.

Vanuatu

In February 2016, Vanuatu made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies. Since February 2016, Vanuatu has removed the barrier to information sharing between the FIU and law enforcement, and provided guidance in relation to asset freezing and reporting of frozen assets. Vanuatu should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing adequate procedures for the confiscation of assets related to money laundering; (3) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets and other UNSCR sanctions; (4) ensuring a fully operational and effectively functioning financial intelligence unit; (5) strengthening preventive measures, including for wire transfers; (6) establishing transparency for the financial sector, and for legal persons and arrangements; (7) implementing an adequate AML/CFT supervisory and oversight programme for all the financial sector and trust and company service providers; and (8) establishing appropriate channels for international co-operation and domestic coordination policies and actions on identified risks and ensuring effective implementation. The FATF encourages Vanuatu to continue implementing its action plan to address its AML/CFT deficiencies.

Yemen

Since February 2010, when Yemen made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Yemen has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Yemen had substantially addressed its action plan at a technical level, including by adequately criminalising money laundering and terrorist financing; establishing procedures to identify and freeze terrorist assets; improving its customer due diligence and suspicious transaction reporting requirements; issuing guidance; developing the monitoring and supervisory capacity of the financial sector supervisory authorities and the financial intelligence unit; and establishing a fully operational and effectively functioning FIU. While the FATF determined that Yemen has completed its action plan agreed upon with the FATF, due to the security situation, the FATF has been unable to conduct an on-site visit to assess whether the process of implementing the required reforms and actions is underway. The FATF will continue to monitor the situation, and conduct an on-site visit at the earliest possible date.

Jurisdictions no Longer Subject to the FATF's On-Going Global AML/CFT Compliance Process

Myanmar

The FATF welcomes Myanmar's significant progress in improving its AML/CFT regime and notes that Myanmar has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2010. Myanmar is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance

process. Myanmar will work with the APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Papua New Guinea

The FATF welcomes Papua New Guinea's significant progress in improving its AML/CFT regime and notes that Papua New Guinea has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2014. Papua New Guinea is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Papua New Guinea will work with the APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Annex C: CFATF Public Statement – June 2016

Montego Bay, Jamaica, 8 June 2016 - The Caribbean Financial Action Task Force (CFATF) is an organisation of twenty-seven jurisdictions of the Caribbean Basin Region, which have agreed to implement the international standards for Anti-money Laundering and Combating the Financing of Terrorism (AML/CFT), Financial Action Task Force Recommendations (FATF Recommendations). In order to protect the international financial system from money laundering and financing of terrorism (ML/FT) risks and to encourage greater compliance with the AML/CFT standards, the CFATF identified jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system.

Jurisdiction with strategic AML/CFT deficiencies that has not made sufficient progress in addressing the deficiencies or has not complied with the Action Plan developed with the CFATF to address these deficiencies. The CFATF calls on its members to consider the risks arising from the deficiencies associated with each jurisdiction, as described below:

Haiti

Pursuant to the mandate of the CFATF, the CFATF undertook a High Level Mission (HLM) to the Republic of Haiti on Monday 27th of April 2015. Thereinafter, a letter from the CFATF Chair, was sent to Haiti on the 17th of September 2015, making reference to the decision by the CFATF's XLI Plenary Meeting, which was held in Port of Spain, Trinidad and Tobago, May 27th and 28th, 2015, that Haiti would remain in the second stage of enhanced of follow-up, with no additional sanction measures being taken, but would need to demonstrate progress in non-legislative measures (such as developing a freezing mechanism for terrorist assets) by November 2015. At the CFATF Plenary in November 2015, Haiti demonstrated some progress on non-legislative measures. Plenary determined that Haiti should remain in the status quo and demonstrate to the May 2016 Plenary substantial compliance with both non-legislative and legislative requirements. Haiti has taken steps towards improving its AML/CFT compliance regime with non-

legislative actions, including providing training to FIU, Police officers, Prosecutors and Magistrates; and taking steps to join the Egmont Group. With regard to legislative actions, some progress was indicated, including an update of the Central Bank Guidelines to strengthen CDD measures, which is in force; and drafting additional amendments to the Bill on UCREF to allow the exchange of information with counterpart agencies under condition of reciprocity.

However, the CFATF has determined that Haiti has failed to make sufficient progress in addressing its significant strategic AML/CFT deficiencies, including certain legislative reforms.

If Haiti does not take specific steps by November 2016, then the CFATF will further consider whether to identify Haiti as not taking sufficient steps to address its AML/CFT deficiencies and whether to take the additional steps of calling upon its Members to consider implementing counter measures to protect their financial systems from the ongoing money laundering and terrorist financing risks emanating from Haiti.

Jurisdiction with strategic AML/CFT deficiencies that has made significant progress in addressing these deficiencies:

Suriname

The CFATF acknowledges the significant progress made by Suriname in improving its AML/CFT regime and notes that Suriname has established the legal and regulatory framework to meet its commitments in its agreed Action Plan regarding the strategic deficiencies that the CFATF had identified. Suriname and the CFATF should continue to work together to ensure that Suriname's reform process is completed, by addressing its remaining deficiencies and continue implementing its Action Plan.