Department of the Treasury
Financial Crimes Enforcement Network

Advisory

FIN-2009-A004
Issued: July 10, 2009
Subject: Guidance to Financial Institutions Based on the Financial Action Task Force Statement on Anti-Money Laundering and Counter-Terrorist Financing Risks Posed by Iran, Uzbekistan, Turkmenistan, Pakistan, and São Tomé and Príncipe

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to inform banks and other financial institutions operating in the United States of the risks associated with deficiencies in the anti-money laundering (AML) and counter-terrorist financing (CFT) regimes of the following jurisdictions: Iran, Uzbekistan, Turkmenistan, Pakistan, and São Tomé and Príncipe. On June 26, 2009 the Financial Action Task Force (FATF) issued a statement concerning these jurisdictions that reiterates previous FATF concerns and calls for action on the part of its members.[1] The FATF statement is copied below and can be found on the FATF website.[2]

"IRAN

The FATF remains concerned by Iran's failure to meaningfully address the ongoing and substantial deficiencies in its anti-money laundering and combating the financing of terrorism (AML/CFT) regime. The FATF remains particularly concerned about Iran's failure to address the risk of terrorist financing and the serious threat this poses to the integrity of the international financial system. The FATF urges Iran to immediately and meaningfully address its AML/CFT deficiencies, in particular by criminalizing terrorist financing and effectively implementing suspicious transaction reporting (STR) requirements.

The FATF reaffirms its call on members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions. In addition to enhanced scrutiny, the

[1] The FATF is a 34 member inter-governmental policy-making body whose purpose is to establish international standards, and develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. See www.fatf-gafi.org. The United States is a member of the FATF. See also previous FATF statements of October 11, 2007 at www.fatf-gafi.org/dataoecd/1/2/39481684.pdf; February 28, 2008 at www.fatf-gafi.org/dataoecd/16/26/40181037.pdf; June 20, 2008 at www.fatf-gafi.org/dataoecd/50/1/40879782.pdf; October 16, 2008 at www.fatf-gafi.org/dataoecd/25/17/41508956.pdf; and February 25, 2009 at www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.
[2] See www.fatf-gafi.org/document/15/0,3343,en_32250379_32236836_43193871_1_1_1_1,00.html.

FATF reaffirms its 25 February 2009[3] call on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran. FATF continues to urge jurisdictions to protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices, and to take into account ML/FT risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdiction.

The FATF remains prepared to engage directly in assisting Iran to address its AML/CFT deficiencies, including through the FATF Secretariat.

UZBEKISTAN

The FATF welcomes the significant recent steps that Uzbekistan has taken to restore and strengthen its AML/CFT regime and takes note of the action plan for further steps that it has articulated. FATF urges Uzbekistan to continue its progress towards completing its legislative framework and implementing an AML/CFT regime that meets international standards. Given that implementing regulations are not yet enacted, the FATF reiterates its statement of 16 October 2008[4] [that calls on its members to strengthen preventive measures to protect their financial sectors from the ML/FT risk].

TURKMENISTAN

The FATF welcomes Turkmenistan's recent progress in adopting AML/CFT legislation. Given that deficiencies remain in Turkmenistan's AML/CFT regime, FATF reiterates its 25 February 2009 statement informing financial institutions that these deficiencies constitute an ML/FT vulnerability in the international financial system and that they should take appropriate measures to address this risk. Turkmenistan is urged to continue to take steps to implement an AML/CFT regime that meets international AML/CFT standards. Turkmenistan is strongly encouraged to continue to work closely with the Eurasian Group and the International Monetary Fund to achieve this.

PAKISTAN

The FATF welcomes Pakistan's recent accession to the International Convention for the Suppression of the Financing of Terrorism. However, the FATF remains concerned about the ML/FT risks posed by Pakistan and reaffirms its public statement of 28 February 2008[5] [that remaining deficiencies in Pakistan's AML/CFT regime constitute a ML/FT vulnerability to the international financial system]. The FATF welcomes the process underway in Pakistan to improve its AML/CFT regime. The FATF encourages Pakistan to continue to fully co-operate with the World Bank and the Asia Pacific Group on Money Laundering (APG) on its mutual evaluation process.

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[3] See FATF Statement of February 25, 2009 at www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.
[4] See FATF Statement of October 16, 2008 at www.fatf-gafi.org/dataoecd/25/17/41508956.pdf.
[5] See FATF Statement of February 28, 2008 at www.fatf-gafi.org/dataoecd/16/26/40181037.pdf.

SÃO TOMÉ AND PRÍNCIPE

The FATF welcomes São Tomé and Príncipe's continuing efforts to implement its AML law. The FATF remains concerned about the significant deficiencies in São Tomé and Príncipe's AML/CFT regime, particularly relating to terrorist financing. The FATF urges São Tomé and Príncipe to work with the Inter Governmental Action Group against Money Laundering in West Africa (GIABA) to address the remaining AML/CFT deficiencies."

FinCEN Guidance

Consistent with the FATF statement noted above, banks and other financial institutions operating in the United States should consider the risks arising from deficiencies in the AML-CFT regimes of Iran, Uzbekistan, Turkmenistan, Pakistan, and São Tomé and Príncipe. In that regard, 31 C.F.R. § 103.176 requires covered financial institutions to apply due diligence to correspondent accounts maintained for foreign financial institutions. Under this regulation, covered financial institutions must establish due diligence programs that include appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to detect and report known or suspected money laundering activity conducted through or involving any such correspondent account established, maintained, administered, or managed in the United States. In addition, consistent with the standard for reporting suspicious activity as provided for in 31 C.F.R. part 103, if a financial institution knows, suspects, or has reason to suspect that a transaction involves funds derived from illegal activity or that a customer has otherwise engaged in activities indicative of money laundering, terrorist financing, or other violation of federal law or regulation, the financial institution shall then file a Suspicious Activity Report.

Previous FinCEN guidance on the money laundering threat involving illicit Iranian activity, including FIN-2008-A002[6] and FIN-2007-A001[7], remains in effect as does previous FinCEN guidance on the money laundering threat involving Uzbekistan, FIN-2008-A004.[8] In addition, financial institutions should be familiar with United Nations Security Council Resolution 1803 (March 2008)[9] calling on all states to exercise vigilance over activities of financial institutions in their territories with all banks domiciled in Iran and their branches and subsidiaries abroad. Further, financial institutions are reminded of the existing U.S. sanctions that are administered by the Department of Treasury's Office of Foreign Assets Control (OFAC) with respect to Iran and the Government of Iran, including but not limited to Iranian Government-owned banks and other entities, as well as Iranian entities that have been linked to terrorist activity and the proliferation of weapons of mass destruction. Information about these sanctions is available on OFAC's website.[10]

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[6] See "Guidance to Financial Institutions on the Continuing Money Laundering Threat Involving Illicit Iranian Activity," of March 20, 2008 at www.fincen.gov/statutes_regs/guidance/pdf/fin-2008-a002.pdf.

[7] See "Guidance to Financial Institutions on the Increasing Money Laundering Threat Involving Illicit Iranian Activity," of October 16, 2007 at www.fincen.gov/statutes_regs/guidance/pdf/guidance_fi_increasing_mlt_iranian.pdf.

[8] See "Guidance to Financial Institutions on the Money Laundering Threat Involving the Republic of Uzbekistan," of March 20, 2008 at www.fincen.gov/statutes_regs/guidance/pdf/fin-2008-a004.pdf.

[9] See www.un.org/docs/sc.

[10] See www.treasury.gov/offices/enforcement/ofac/.