Department of the Treasury
Financial Crimes Enforcement Network

Advisory

FIN-2011-A006

Issued: **March 21, 2011**

Subject: **Guidance to Financial Institutions Based on the Financial Action Task Force Public Statement on Anti-Money Laundering and Counter-Terrorist Financing Risks.**

<u>Countermeasures:</u> Iran and Democratic People's Republic of Korea (DPRK)

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 jurisdictions identified by the Financial Action Task Force (FATF)[1] on February 25, 2011, as having deficiencies in their anti-money laundering and counter-terrorist financing (AML/CFT) regimes.[2]

The FATF public statement comes in response to the G-20 leaders' call for the FATF to reinvigorate its process for assessing countries' compliance with international AML/CFT standards and to publicly identify high risk jurisdictions.[3] Also, in June and November 2010, the G-20 leaders called for FATF to issue regular updates on jurisdictions with strategic deficiencies.[4] Specifically, the FATF's International Cooperation Review Group (ICRG) is tasked with leading this process to identify and examine uncooperative jurisdictions and jurisdictions that are failing to implement effective AML/CFT systems. At the February 2011 FATF Plenary, the FATF adopted the recommendations of the ICRG and publicly identified jurisdictions with strategic AML/CFT deficiencies. The FATF public statement, which is reprinted below and can be found on the FATF website, cites specific concerns regarding each of the jurisdictions and calls for action on the part of FATF's members. This is an important step in our collective efforts to protect the international financial system from abuse.

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[1] The FATF is a 36-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; February 28, 2008; June 20, 2008; October 16, 2008; February 27, 2009; June 29, 2009; October 16, 2009; February 22, 2010; June 28, 2010; October 22, 2010 and February 25, 2011. All of FATF's public statements are available, at http://www.fatf-gafi.org/findDocument/0,3354,en_32250379_32236992_1_33632055_1_1_1,00.html.

[2] The FATF issued two documents: (i) a public statement, http://www.fatf-gafi.org/document/11/0,3746,en_32250379_32236992_47221771_1_1_1_1,00.html; and (ii) a publication entitled "Improving Global AML/CFT Compliance: update on-going process," at http://www.fatf-gafi.org/document/49/0,3746,en_32250379_32236992_47221809_1_1_1_1,00.html.

[3] See "Declaration on Strengthening the Financial System: London Summit, April 2, 2009," at http://www.londonsummit.gov.uk/resources/en/PDF/annex-strengthening-fin-sysm and "Leaders' Statement: The Pittsburgh Summit, September 24 - 25, 2009," at http://www.pittsburghsummit.gov/mediacenter/129639.htm.

[4] See "The G-20 Seoul Summit Leaders' Declaration, November 11-12, 2010," at http://www.g20.org/Documents2010/11/seoulsummit_declaration.pdf and "The G-20 Toronto Summit Declaration, June 26-27, 2010," at http://www.g20.org/Documents/g20_declaration_en.pdf.

Please note that the countries on this advisory have changed since FinCEN's Advisory, dated November 18, 2010. In particular, FATF now 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 the DPRK, in addition to Iran. Also note that FinCEN is issuing today a complementary advisory, FIN-2011-A005,[5] which addresses jurisdictions identified in a separate FATF document.

FATF Public Statement - 25 February 2011

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 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.

[Chart omitted]

Iran

The FATF welcomes the recent steps that Iran has taken to engage with the FATF, but 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 criminalising 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 FATF reaffirms its 25 February 2009 [6] 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. If Iran fails to take concrete steps to improve its AML/CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in June 2011.

[5] FIN-2011-A005

[6] See FATF Statement of February 25, 2009, at http://www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.

Democratic People's Republic of Korea (DPRK)

The FATF welcomes the initial engagement by the Democratic People's Republic of Korea's (DPRK) with the FATF. However, 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.

The FATF calls 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 and financial institutions. In addition to enhanced scrutiny, the FATF further calls 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 the DPRK. Jurisdictions should also protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices, and take into account ML/FT risks when considering requests by DPRK financial institutions to open branches and subsidiaries in their jurisdiction.

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

FinCEN Guidance

Jurisdictions in the above FATF Statement are subject to the FATF's call for countermeasures. **Iran and the DPRK** are the only jurisdictions on the above FATF Statement. U.S. financial institutions should continue to consult existing FinCEN and Treasury guidance on engaging in financial transactions with Iran[7] and the DPRK.[8]

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[7] U.S. financial institutions are subject to a broad range of restrictions and prohibitions with respect to Iran due to a number of illicit financing risks, including money laundering, terrorist financing, and WMD proliferation financing. Previous FinCEN guidance on the threat involving illicit Iranian activity remains in effect. This includes FIN-2010-A010, at http://www.fincen.gov/statutes_regs/guidance/html/FIN-2010-A010.html; FIN-2010-A008, at http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a008.html; FIN-2010-A002, at http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a002.html; FIN-2009-A007, at http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a007.html; FIN-2008-A002, at www.fincen.gov/statutes_regs/guidance/pdf/fin-2008-a002.pdf; and FIN-2007-A001, at http://www.fincen.gov/statutes_regs/guidance/pdf/guidance_fi_increasing_mlt_iranian.pdf. Further, financial institutions are reminded of the existing U.S. sanctions that are administered by the Department of the 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 http://www.treasury.gov/offices/enforcement/ofac/. In addition, financial institutions should be familiar with the financial provisions and prohibitions contained in United Nations Security Council Resolutions 1929 (June 2010), at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/396/79/PDF/N1039679.pdf?OpenElement; 1803 (March 2008), at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/257/81/PDF/N0825781.pdf?OpenElement; 1747 (March 2007), at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/281/40/PDF/N0728140.pdf?OpenElement); and 1737 (December 2006), at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/681/42/PDF/N0668142.pdf?OpenElement.
In particular, UNSC Resolutions 1929 and 1803 call 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. Also, the FATF has issued three sets of

Enhanced due diligence is required for any correspondent account maintained for a foreign bank that operates under a banking license issued by a foreign country that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the U.S. representative to the group or organization concurs.[9]

As required under 31 CFR § 1010.610(b), covered financial institutions should ensure that their enhanced due diligence programs, which address correspondent accounts established, maintained, administered, or managed in the United States for a foreign bank, include, at a minimum, steps to: conduct enhanced scrutiny of such correspondent account to guard against money laundering and to identify and report any suspicious transactions, in accordance with applicable law and regulation;[10] determine whether the foreign bank for which the correspondent account is established or maintained in turn maintains correspondent accounts for other foreign banks that use the foreign correspondent account established or maintained by the covered financial institution and, if so, take reasonable steps to obtain information relevant to assess and mitigate money laundering risks associated with the foreign bank's correspondent accounts for other foreign banks, including, as appropriate, the identity of those foreign banks;[11] and determine, for any correspondent account established or maintained for a foreign bank whose shares are not publicly traded, the identity of each owner of the foreign bank and the nature and extent of each owner's ownership interest.[12]

Additionally, as required under 31 CFR § 1024.320, 31 CFR § 1025.320, 31 CFR § 1026.320, 31 CFR § 1020.320, 31 CFR § 1023.320, 31 CFR § 1022.320, 31 CFR § 1021.320, 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.

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guidance, to assist States in implementing their financial obligations pursuant to United Nations Security Council Resolutions 1737, at http://www.fatf-gafi.org/dataoecd/43/17/39494050.pdf; 1747, at http://www.fatf-gafi.org/dataoecd/23/16/39318680.pdf; and 1803, at http://www.fatf-gafi.org/dataoecd/47/41/41529339.pdf, to address proliferation finance risks associated with Iran's proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems.

[8] Previous FinCEN guidance on the DPRK remains in effect. This includes FinCEN Advisory – Issue 40, at http://www.fincen.gov/statutes_regs/guidance/pdf/advisory.pdf and FIN-2009-A002 at, http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a002.html.

[9] In addition, enhanced due diligence is required for any correspondent account maintained for a foreign bank that operates under: an offshore banking license; or a banking license issued by a foreign country that has been designated by the Secretary as warranting special measures due to money laundering concerns. See 31 CFR § 1010.610(c).

[10] See 31 CFR § 1010.610(b)(1).

[11] See 31 CFR § 1010.610(b)(2).

[12] See 31 CFR § 1010.610(b)(3).