



Department of the Treasury Financial Crimes Enforcement Network

Advisory

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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. This advisory updates the FinCEN issuance of FIN-2009-A004,¹ on July 10, 2009, regarding the same jurisdictions.

On October 16, 2009, the Financial Action Task Force (“FATF”) issued a statement concerning these jurisdictions that explains its concerns regarding each jurisdiction and calls for action on the part of its members.² The FATF statement is copied below and can be found on the FATF website.³

IRAN

The FATF is concerned by Iran’s lack of engagement with the FATF and its 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

1 See "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." of July 10, 2009 at http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a004.html.

2 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.

3 See http://www.fatf-gafi.org/document/11/0,3343,en_32250379_32236836_43898507_1_1_1_1.00.html.

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 FATF reaffirms its 25 February 2009⁴ 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 February 2010.

UZBEKISTAN

The FATF welcomes the significant steps that Uzbekistan has taken to establish the necessary AML/CFT framework and urges Uzbekistan to continue its progress towards implementing effective AML/CFT measures. The FATF welcomes Uzbekistan's upcoming mutual evaluation by the EAG that will be finalized in spring 2010. The FATF will continue to monitor the progress being made in Uzbekistan and will reconsider in February 2010 the measures that are currently in place to protect jurisdictions' financial sectors from ML/FT risks emanating from Uzbekistan.

TURKMENISTAN

The FATF welcomes Turkmenistan's progress in adopting AML/CFT legislation and secondary legislation that aims to implement the AML/CFT law. However, deficiencies remain in Turkmenistan's AML/CFT regime, including the absence of a Financial Intelligence Unit (FIU). Consequently, the FATF reiterates its 25 February 2009⁵ 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

4 See FATF Statement of February 25, 2009 at www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.

5 See FATF Statement of February 25, 2009 at www.fatf-gafi.org/dataoecd/18/28/42242615.pdf.

AML/CFT regime that meets international AML/CFT standards. Turkmenistan is encouraged to continue to work closely with the Eurasian Group and the International Monetary Fund to achieve this.

PAKISTAN

The FATF welcomes the close co-operation between Pakistan and the Asia/Pacific Group on Money Laundering (APG) but remains concerned regarding the ML/FT risks posed by Pakistan and reaffirms its public statement of 28 February 2008⁶ regarding these risks. In particular, the FATF expresses concern that Pakistan's Anti-Money Laundering Ordinance (AMLO) will expire on 28 November 2009. The FATF notes that Pakistan has initiated a legislative process to address this. The FATF strongly urges Pakistan to implement a permanent AML/CFT framework before the expiration of the AMLO and strongly encourages Pakistan to establish a comprehensive AML/CFT framework. Failing concrete progress, the FATF will consider taking action in February 2010 to protect the financial system from the ML/FT risks emanating from Pakistan.

SÃO TOMÉ AND PRÍNCIPE

The FATF welcomes São Tomé and Príncipe's continuing efforts to implement its AML law, including the development of an action plan with the Inter Governmental Action Group against Money Laundering in West Africa (GIABA). However, the FATF remains concerned about the 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 GIABA to address the remaining AML/CFT deficiencies.

⁶ See FATF Statement of February 28, 2008 at www.fatf-gafi.org/dataoecd/16/26/40181037.pdf.

FinCEN Guidance

Consistent with the FATF statement noted above, banks and other financial institutions operating in the United States should consider the risks associated with deficiencies in the AML/CFT regimes of Iran, Uzbekistan, Turkmenistan, Pakistan, and São Tomé and Príncipe. As required under 31 C.F.R. § 103.176, covered financial institutions should ensure that their due diligence programs, which address correspondent accounts maintained for foreign financial institutions, 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 correspondent account established, maintained, administered, or managed in the US. Additionally, as required under 31 C.F.R. §§ 103.15 – 103.21, 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-A002⁷ and FIN-2007-A001⁸ remain in effect, as well as previous FinCEN guidance on the money laundering threat involving Uzbekistan, FIN-2008-A004.⁹ In addition, financial institutions should be familiar with United Nations Security Council Resolution 1803¹⁰ 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 United States 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.¹¹

7 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.

8 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.

9 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.

10 See United Nations Security Council Resolution 1803 (March 2008) at <http://daccessdds.un.org/doc/UNDOC/GEN/N08/257/81/PDF/N0825781.pdf?OpenElement>.

11 See www.treasury.gov/offices/enforcement/ofac/.