ISSUE BRIEF

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FATF's AGGRESIVE CAMPAIGN AGAINST PAKISTAN

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May 10, 2019

Financial Action Task Force (FATF), the regime to control terror financing and money laundering has put Pakistan on its 'grey list' since June 2018 after identifying deficiencies in combating terrorism financing. Pakistan will remain on the grey list until and unless it demonstrates that sufficient measures have been taken to curb the issue of money laundering.

To understand FATF and its aggressive campaign against Pakistan, one needs to understand the history and composition of FATF and how this has been used by dominating states against the third world countries like Pakistan.

FATF is an international financial watch dog that was established in 1989 at the G-7 Summit in Paris. The main purpose of FATF is to formulate rules and regulations to control terrorism financing.[1] This purpose is served through its continuous vigilance at international and national level. It is pertinent to note here that this organization though working on such an important issue, does not have any well-defined standard operating procedures. According to official FATF sources, its main focus is to generate political will in the nations to engender necessary steps and actions to end terrorism financing in respective countries. The serving president of FATF is a former US official Mr. Marshall Billingslea, who is known for dealing with the issues of money laundering and terrorism financing. The working mechanism of FATF is based upon its recommendations which highlight basic guidelines on terrorism financing. These recommendations were first drafted in 1990 with a major 40-point comprehensive plan. Later on, with the evolution of technology and scope of organization, 9 more

[1] Financial Action Task Force Official Website, https://www.fatf-gafi.org/

recommendations were added to the list in 2004. In addition to this, FATF comprises of 36 member states called the Elite Club. Similarly, financial giants like the World Bank and International Monetary Fund also work as observer organizations with FATF. The United Nations has also reaffirmed its close cooperation with FATF through a new resolution 2462 passed in March 2019, which urges all countries to implement the recommendations drawn up by FATF, including the standards to assess the specific terrorist financing risks they face.[2]

Since its placement on the FATF grey list in June 2018, Pakistan submitted its very first report in January 2019 to show its commitment to curbing terrorism financing. Pakistan had been urged by FATF to take strict action against organizations banned by the UN under its resolutions1267 and 1373. In the second assessment meeting of FATF in February 2019, it was observed that the steps taken by Pakistan do not demonstrate the terror financing risks posed by organizations like Al-Qaeda, Daesh, Haqqani network and others. Pakistan has again been given a timeline to demonstrate its action against such groups till May 2019. However, on the other hand, the government of Pakistan was in the process of putting bars on Jammat-ud-Dawa and Falah-E-Insaniyat Foundation during the same time period when these demands were made.[3]

Current Status

In the recent visit by Asia Pacific Group (APG), an associated regional body of FATF, on March 25, 2019, several deficiencies were still pointed out to which a response from Pakistan side is expected and will be discussed on May 15, 2019 in Colombo. The deficiencies point out by APG include:[4]

- State Bank of Pakistan needs to launch a program for all stakeholder to create awareness about the risk mitigation techniques and tools.
- Pakistan must demonstrate its actions and sanctions against illegal money or value transfer services. Basically, the Federal Investigation Agency (FIA) is responsible for such demonstration.
- Federal Board of Revenue (FBR) and Customs must demonstrate their actions in identifying cash couriers and steps taken to control them.

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[2] United Nations Security Council Official Website, https://www.un.org/securitycouncil/content/resolutions-adopted-security-council-2019

[3] Kamran Yousaf, "JuD, FIF charities banned as govt seeks to rout extremism" *Express Tribune*, January 21, 2019, https://tribune.com.pk/story/1915620/1-pakistan-bans-hafiz-saeeds-charities-hints-action-group-blamed-pulwama-attack/

[4] Financial Action Task Force Official Website, https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/fatf-compliance-february-2019.html

- National Counter Terrorism Authority (NACTA) will have to be the main coordinating agency among all law enforcement agencies.
- The Financial Monitoring Unit (FMU) working in State Bank of Pakistan (SBP) must actively cooperate with international community in investigating the international cases of terrorism financing.
- Pakistan should enhance the capacity and capability of judiciary who is dealing with specialized cases of terror financing.
- SBP must assess non-profit organizations and ensure their compliance under UN Security Council resolutions 1267 and 1373.

Pakistan's Anti-Money Laundering (AML)/Countering Financial Terrorism (CFT) Legal Framework

During the past three decades, Pakistan has instituted a legal systematic response to money laundering and terror financing in the form of a national legislation. With this legislation in place, Pakistan cannot be blacklisted by FATF because a state with sound legal framework against CFT cannot be blacklisted. Legal steps taken by Pakistan to check terror financing include:

- Anti-Money Laundering Act, 2010 (as amended by the Anti-Money Laundering Act, 2015).
- Anti-Terrorism Act, 1997 (as amended by the Anti-Terrorism Amendment Act, 2013 and the Anti-Terrorism (Second Amendment) Act, 2013.
- Anti-Terrorism (Amendment) Ordinance, 2018 and the Anti-Terrorism Bill, 2018 (pending at the National Assembly).
- Anti-Money Laundering Regulations, 2015.
- Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Regulations for Banks and DFIs (2017).
- Securities and Exchange Commission of Pakistan (Anti-Money Laundering and Countering Financing of Terrorism) Regulations, 2018.

An important question arises here: Has Pakistan taken enough measures to be removed from FATF grey list?

There is no absolute answer to this question. Also, FATF has no established method to assess the efforts of a state in terms of curbing terror financing. In such a situation, the involvement of FATF regime in lawfare against Pakistan cannot be ignored. Such regimes are used as a political tool by the adversary states to meet their objective without engaging in traditional warfare. Unfortunately, Pakistan's narrative has not been understood, or simply ignored, by the international community over the past few years as the country was badly hit by a strong wave of terrorism. The world needs to understand that the situation is not the same anymore. Pakistan has made tremendous progress in curbing terrorism within the country. However, with the ongoing war in Afghanistan, and adversaries like India bent on carrying out covert operations in Pakistan, there is still a long way to go in overcoming the menace of terrorism.

Considering the talks between FATF and Pakistan, a two-point conclusion can be drawn. First, Pakistan may be evaluated by FATF on the basis of its compliance since it has been trying hard to get out of the grey list by making some progress; although some deficiencies still remain. If this evaluation method is applied, a positive side of Pakistan will emerge and it will give the country more political leverage to cover its deficiencies. Second, if the lawfare against Pakistan is to continue, then FATF may evaluate Pakistan on the basis of its shortcomings and loopholes present in its will to deal with terrorism financing.

The likely scenarios considering the first approach will be that Pakistan will still remain on grey list and some more time will be given to overcome its deficiencies. Therefore, it is time for Pakistan to capitalize on the work done and take immediate steps to resolve the remaining issues timely in order to avoid any pressure and surprise from FATF.