ISSUE BRIEF

INSTITUTE OF STRATEGIC STUDIES ISLAMABAD
Web: www.issi.org.pk
Phone: +92-920-4423, 24
Fax: +92-920-4658

PAKISTAN & FATF: MEETING THE CHALLENGE

By
Asad Ullah Khan
Research Fellow

Edited by
Najam Rafique

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(Views expressed in the brief are those of the author, and do not represent those of ISSI)

The Financial Action Task Force (FATF), after a five days meeting in Paris on October 15, 2019, retained its earlier decision to keep Pakistan on its grey list till February 2020. FATF has urged Pakistan to fully comply with the Action Plan mutually decided in 2018 for coming out of the grey list. Despite the decision, FATF acknowledged the progress made by Pakistan in updating and implementing its Anti-Money Laundering Laws and countering Financial Terrorism.

There are two views regarding Pakistan's continuation on the grey list for the next four months. Pessimist views make a critique on why Pakistan was not able to make it out of the grey list. The optimistic arguments are appreciating Pakistan's compliance and commitment to implement the Action Plan despite internal political, financial and economic challenges faced by the country.

It must be noted that in 2018, at the time of on-site visit for mutual evaluation there were 66 proscribed organizations and around 7600 banned individuals under UNHCR 1373 in Pakistan. Therefore, with such overwhelming figures, compliance with the Action Plan in such a short time was a huge task to handle.[1]

To analyse the shortcomings on behalf of Pakistan, there is a dire need to analyse the level of compliance of Pakistan with 40 recommendations assessed in the October meeting by Asia Pacific Group (APG).

[1] Financial Action Task Force. "Mutual Evaluation Report on anti-money laundering and combating the financing of terrorism October 2019."

ACTION POINTS	STATUS
1. Assessing Risks and applying a Risk-Based Approach	PC
2. National Co-operation and Co-ordination	LC
3. Money laundering offence	LC
4. Confiscation and provisional measures	LC
5. Terrorist financing offence	LC
6. Targeted financial sanctions related to terrorism and terrorist financing	PC
7. Targeted financial sanctions related to proliferation	PC
8. Non-profit organisations	PC
9. Financial institution secrecy laws	C
10. Customer due diligence	PC
11. Record-keeping	LC
12. Politically exposed persons	PC
13. Correspondent banking	LC
14. Money or value transfer services	PC
15. New technologies	PC
16. Wire transfers	LC
17. Reliance on third parties	PC
18. Internal controls and foreign branches and subsidiaries	PC
19. Higher-risk countries	PC
20. Reporting of suspicious transaction	PC
21. Tipping-off and confidentiality	PC
22. DNFBPs: Customer due diligence	NC
23. DNFBPs: Other measures	PC
24. Transparency and Beneficial Ownership of Legal persons	PC
25. Transparency and beneficial ownership of legal arrangements	NC
26. Regulation and supervision of financial institutions	PC
27. Powers of supervisors	PC
28. Regulation and supervision of DNFBPs	NC
29. Financial intelligence units	PC
30. Responsibilities of law enforcement and investigative authorities	PC
31. Powers of law enforcement and investigative authorities	PC
32. Cash Couriers	PC
33. Statistics	PC

34. Guidance and feedback	PC
35. Sanctions	PC
36. International instruments	LC
37. Mutual legal assistance	PC
38. Mutual legal assistance: freezing and confiscation	NC
39. Extradition	LC
40. Other forms of international cooperation	PC

Source: Anti-money laundering and counter-terrorist financing measures Pakistan Mutual Evaluation Report, October 2019.

Technical Compliance Ratings

Compliant C	There are no shortcomings.
Largely compliant LC	There are only minor shortcomings.
Partially compliant PC	There are moderate shortcomings.
Non-compliant NC	There are major shortcomings.
Not applicable NA	A requirement does not apply, due to the structural, legal or institutional features of a country

The major short comings identified in the APG report on Pakistan's commitment to the cause is that Pakistan Post Money Transfer Service or value transfer services are not supervised for Anti-Money Laundering and Countering Financial Terrorism. It is pertinent to note here that in October 2018, the government held a high level meeting which was attended by the Attorney General, finance secretary, law and justice secretary, commerce secretary, additional secretary of foreign affairs, State Bank governor, special secretaries of interior and finance besides senior officers of the FBR, State Bank's Financial Monitoring Unit, FIA and National Accountability Bureau. Unfortunately, there was no single representative from Pakistan Postal services and this sensitive institution which deals with money transfers was ignored, which basically effected Pakistan's performance in the recent meeting.

The second major problem is that Pakistan's Anti-Money Laundering Act does not contain a definition of customer due diligence. Customer due diligence is the process of identifying customers and background checks. In practice, this means obtaining a customer's name and photograph on an official document which confirms their identity and residential address and date of birth.[2] Another important issue identified in the APG report is about Designated Non-Financial Businesses and Professions. As per FATF rules, all professions and businesses which are vulnerable to money laundering and terrorism financing but cannot be categorized as financial institutions are categorized as designated non-financial businesses and professions (DNFBPs) which should be monitored and regulated through an established body. This body is not present in the case of Pakistan and must be established on priority basis.

It is pertinent to note here that there are two dimensions of the FATF current decision, especially in the context of Pakistan. One is that the decision is taken on technical grounds and which acknowledges that a state is willing to make structural reforms in the system to deal with the issue of money laundering and terror financing and is trying to comply with the Action Plan regardless of its speed. Secondly, there is a political dimension of this decision. Keeping Pakistan under pressure and making it comply with the Action Plan with speed and commitment is the main objective of FATF. Just before the recent meeting in the last month according to a partner at TLT Solicitors, Michael Ruck, “there has to be a clear risk that Pakistan will be blacklisted given the shortcomings identified in the evaluation."[3] This author had a different position on the issue in an interview with Mr. Douglas Clarke-Williams, reporter of a London based firm called Payments Compliance, where he had maintained, “I don’t see Pakistan going to the blacklist, but at the same time I don’t see Pakistan coming out of the grey list. However, we still have a long way to go. We still have to implement a few points with more commitment and rigour.”[4]

To conclude, one may argue that the involvement of FATF in law fare against Pakistan cannot be ignored. This recent decision is a mix of technical assessment plus political pressure that has to be kept on Pakistan over the coming few months. Considering Pakistan's commitment to be off the grey list, the compliance on technical grounds seems to be on the right track. However, the issue of speed needs much attention and which needs to be increased in order to get effective results.

[2] International Compliance Association. "What Is Customer Due Diligence". https://www.int-comp.org/careers/your-career-in-aml/what-is-customer-due-diligence-cdd/

[3] Douglas Clarke-Williams, "FATF Blacklisting Looms For Pakistan After Critical Evaluation".03 October, 2019 https://paymentscompliance.com/premium-content/insights_analysis/fatf-blacklisting-looms-pakistan-after-critical-evaluation

[4] Ibid.

