

FATF'S JUNE 2022 PLENARY SESSION AND PAKISTAN'S 'GREY LIST' STATUS

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



On June 17, the second Financial Action Task Force (FATF) Plenary session for the year 2022 concluded in Berlin, Germany. During its latest Plenary session, the FATF reviewed Pakistan's progress on the two Action Plans (2018 and 2021) and acknowledged their substantial and successful completion by the country.¹

The Plenary also authorized an on-site visit to Pakistan which is expected to take place in September, before the next and final FATF Plenary session for the year 2022 in October.

The on-site visit by the FATF team to Pakistan is of great significance because this inspection is the final step for Pakistan to officially exit the FATF's grey list. The satisfaction that has been shown during the recent Plenary session does not guarantee Pakistan's white-listing, a step which depends on the green light by the FATF's on-site inspection team.

Pakistan's Minister of State for Foreign Affairs Ms. Hina Rabbani Khar also stated that the confidence shown by the FATF in Pakistan's efforts is encouraging but she cautioned against early celebrations, prior to the on-site inspection.²

¹ "FATF acknowledges completion of Pakistan's Action Plans and authorizes an on-site visit", Press Release 286/2022, Ministry of Foreign Affairs, Government of Pakistan, published June 17, 2022. <https://mofa.gov.pk/fatf-acknowledges-completion-of-pakistans-action-plans-and-authorizes-an-on-site-visit/>

² Ayaz Akbar Yousafzai & News Desk, "FATF decision on Pakistan: It's too early to celebrate, cautions Hina Rabbani Khar", The News International, published on June 19, 2022. <https://www.thenews.com.pk/print/967305-exit-from-grey-list-it-s-too-early-to-celebrate-cautions-khar>

Pakistan achieved a remarkable feat by completing the 34 requirements/standards of both Action Plans pertaining to Anti-Money Laundering and Combating Financial Terrorism (AML/CFT). Pakistan completed the 2021 Action Plan in a record time frame (one year before the actual deadline).³

However, the on-site inspection remains the most important step which will be carried out to ensure the genuine implementation of AML/CFT reforms & regulations (that have been undertaken by Pakistan over the years), their sustainability, along with the presence of the necessary political commitment for further improvement and continuity of these reforms in future.

Furthermore, Pakistan will also have to demonstrate a positive and sustained trend of pursuing complex money laundering investigations and prosecutions, continue collaborating with the FATF authorities to bring its own concerned authorities and agencies up-to-speed regarding latest mechanisms and techniques to counter money laundering and terror financing, plus apply best practices such as legal, regulatory and operational measures to combat manipulation of its financial system and minimize threats to its integrity.

Moreover, it is also important to understand what the FATF's Grey List is. As per FATF's primary documents, the grey list is an increased monitoring list that the organisation maintains (of countries) that have strategic deficiencies in their legal and financial systems/regimes to counter money laundering, combating terror financing and proliferation financing of weapons of mass destruction.⁴

Countries that are on the FATF grey list work closely with the FATF to resolve their deficiencies & report back on agreed timeframes and are subject to increased monitoring.⁵

In addition, grey-listed countries face several economic, legal and political difficulties which include:

- negative impact on the economy and devaluation of local currency
- international transactions are closely monitored and thoroughly scrutinized

³ "FATF acknowledges completion of Pakistan's Action Plans and authorizes an on-site visit", Press Release 286/2022, Ministry of Foreign Affairs, Government of Pakistan, published June 17, 2022. <https://mofa.gov.pk/fatf-acknowledges-completion-of-pakistans-action-plans-and-authorizes-an-on-site-visit/>

⁴ "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation", The FATF Recommendations, updated March 2022. <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

⁵ "Which countries are in the FATF GREY list?", Tookitaki, published October 23, 2020, updated June 2022. https://www.tookitaki.ai/compliance_hub/which-countries-are-in-the-fatf-grey-list/#:~:text=What%20is%20the%20FATF%20Grey,terrorist%20financing%2C%20and%20proliferation%20financing

- decline in foreign direct investment in the country due to economic scepticism
- negative impact on investment and trade flows
- negative impact on country's capital inflows leading to decreased bank transfers
- vulnerability to sanctions by other countries
- high probability of sanctions by international financial institutions (IFIs) such as the World Bank (WB), International Monetary Fund (IMF) and European Bank for Reconstruction and Development (ERDB)
- difficulties to secure loans from other countries and IFIs
- strict due diligence and scrutiny of international trading partners which can be discouraging for them to trade with listed countries in future
- listed countries become politically vulnerable
- weak standing and vulnerable position among comity of states

Timeline of Pakistan's FATF Listing

Pakistan was put on the FATF's grey list for the first time on February 28, 2008 after failing to fulfil its AML/CFT standards. Pakistan came on the FATF's radar after activities of the proscribed Tehrik-i-Taliban Pakistan (TTP) came into being in December of 2007 there was a surge of terrorist activities in the country after that.

However, after Pakistan enacted a permanent law against money laundering, the country was taken off the FATF grey list in June 2010. But this was shortlived and Pakistan was once again placed in the grey list for same reasons as before on February 16, 2012.

Later, Pakistan was removed from the grey list once again on February 26, 2015 after establishing a legal and regulatory framework to meet the requirements of the then FATF Action Plan.

Nevertheless, for failing to act effectively against terror financing on its soil, Pakistan found itself in FATF's grey list again on June 28, 2018 and received a 27-points Action Plan with a deadline of 15

months.⁶ Thereafter, Pakistan made a high level political commitment to address FATF concerns on a priority basis.

After a 12-day inspection by the FATF's Asia Pacific Group (APG) team, it was reported on August 16, 2018 that there were many deficiencies in Pakistan's FATF action plan.⁷ To address these concerns, Pakistan declared several banned entities as high-risk on March 08, 2019.⁸

Steps taken by Pakistan to address FATF concerns

After the high level political commitment by Pakistan to address FATF concerns, several legal, regulatory and operational reforms/measures were taken by the government of Pakistan which include:

- introduction of policy measures by Pakistan Customs to counter terror financing in May 2019⁹
- setting up of FATF cell at the Federal Bureau of Revenue to curb terror financing¹⁰
- FATF co-ordination committee (12-member) set up by Prime Minister of Pakistan to coordinate efforts to execute Action Plan's tasks¹¹
- FATF cell created at Interior Ministry to ensure implementation of Action Plan¹²
- FBR announces to supervise real-estate, jewellery trade
- Multiple amendment bills passed by the Upper & Lower Houses^{13 14 15}

⁶ "Pakistan passes 26-point action plan to comply with FATF", Pakistan Today, published June 27, 2018. <https://archive.pakistantoday.com.pk/2018/06/27/pakistan-passes-26-point-action-plan-to-comply-with-fatf/>

⁷ "There and back again: A timeline of Pakistan's unfortunate 'grey listing' by FATF", DAWN, published June 17, 2022. <https://www.dawn.com/news/1694958>

⁸ Khaleeq Kiani, "Banned outfits labelled as high risk to meet FATF terms", DAWN, published March 09, 2019. <https://www.dawn.com/news/1468506/banned-outfits-labelled-as-high-risk-to-meet-fatf-terms>

⁹ Mubarak Zeb Khan, "Customs introduces policy to curb terror financing", DAWN, published May 12, 2019 <https://www.dawn.com/news/1481727>

¹⁰ Mubarak Zeb Khan, "FATF cell set up at FBR to deal with terror financing", DAWN, published July 26, 2019. <https://www.dawn.com/news/1496172/fatf-cell-set-up-at-fbr-to-deal-with-terror-financing>

¹¹ Khaleeq Kiani, "PM sets up body to help meet FATF targets", DAWN, published August 26, 2019. <https://www.dawn.com/news/1501746/pm-sets-up-body-to-help-meet-fatf-targets>

¹² Tahir Sherani, "FATF cell established in interior ministry to ensure implementation on action plan", DAWN, published October 29, 2019. <https://www.dawn.com/news/1513612/fatf-cell-established-in-interior-ministry-to-ensure-implementation-on-action-plan>

- Meeting of all FATF conditions by Securities & Exchange Commission of Pakistan (SECP)
- Jamaat ud Dawa (JuD) chief sentenced to 5 and a half years in prison by a Lahore Anti-Terrorism Court (ATC) in November 2020¹⁶
- AML regulations amended by State Bank of Pakistan (SBP) in January 2021¹⁷
- Lashkar-e-Taiba's (LeT) chief Zaki ur Rehman Lakhvi sentenced to 5 years in prison by a Lahore ATC in January 2021¹⁸
- Registration of all real-estate dealers & directed them to furnish details of their clients and property transactions after customer due diligence in March 2021
- SBP and SECP sign an agreement to improve joint supervisory AML & CFT role in April 2021¹⁹
- setup of special squad by FIA to counter ML in May 2021
- setup of a cell at National Accountability Bureau (NAB) to curb money laundering and CFT in July 2021²⁰
- Lahore ATC sentenced Hafiz Saeed for 33 years of imprisonment in two cases of terror financing on April 08, 2022²¹

Despite numerous efforts by Pakistan since 2018 with regards to address FATF's AML/CFT recommendations, the country was retained in FATF grey list which gave the impression that it was being deliberately victimized and that the organisation was being used as a political tool by some of

¹³ Amir Wasim, "Senate adopts one of five FATF-related bills", DAWN, published August 18, 2020. <https://www.dawn.com/news/1574998/senate-adopts-one-of-five-fatf-related-bills>

¹⁴ Amir Wasim, "Senate passes two more FATF-related bills", DAWN, published August 19, 2020. <https://www.dawn.com/news/1575190/senate-passes-two-more-fatf-related-bills>

¹⁵ Amir Wasim, "3 FATF-related bills passed in joint session marred by opposition protests", DAWN, published September 16, 2020. <https://www.dawn.com/news/1580007/3-fatf-related-bills-passed-in-joint-session-marred-by-opposition-protests>

¹⁶ Rana Bilal, "Hafiz Saeed convicted in another terror financing case, sentenced to 5 and a half years in prison", DAWN, published November 19, 2020. <https://www.dawn.com/news/1591261>

¹⁷ Shahid Iqbal, "SBP amends AML regulations to comply with FATF demands", DAWN, published January 28, 2021. <https://www.dawn.com/news/1604025/sbp-amends-aml-regulations-to-comply-with-fatf-demands>

¹⁸ Rana Bilal, "Lahore ATC sentences LeT's Lakhvi to 5 years imprisonment for terror financing", DAWN, published January 08, 2021. <https://www.dawn.com/news/1600393>

¹⁹ Shahid Iqbal, "Regulators tighten noose on money laundering", DAWN, published April 23, 2021. <https://www.dawn.com/news/1619855/regulators-tighten-noose-on-money-laundering>

²⁰ Rana Bilal, "Lahore ATC sentences LeT's Lakhvi to 5 years imprisonment for terror financing", DAWN, published January 08, 2021. <https://www.dawn.com/news/1600393>

²¹ Wajih Ahmad Sheikh, "Hafiz Saeed sentenced to 33 years in jail", DAWN, published April 09, 2022. <https://www.dawn.com/news/1684132>

its member countries, particularly India to keep Pakistan in the increased monitoring list to malign its image internationally and cause economic and political harm.

In spite of Pakistan's significant progress in the implementation of the several points of the FATF 2018 Action Plan, Pakistan was retained in the grey list after its Plenary in February 2020.²² Then in June 2020, during the FATF's virtual Plenary meeting, Pakistan's case was not even taken up or discussed.²³

Furthermore, even after completion of all 21 points of the 2018 Action Plan, Pakistan's grey list status was maintained in its last Plenary meeting (virtual) in October 2020.²⁴ Pakistan was kept in the grey list in February 2021, after it was decided in its Plenary meeting that the country failed to complete all by three of the 27 Action Plan targets of AML/CFT.

Pakistan remained in the FATF's grey list in the next 3 consecutive Plenary meetings (June 2021, October 2021 and March 2022) for reasons like failing to complete some recommendations of the 2021 Action Plan and redressal of few deficiencies in the financial system (which Pakistan remedied promptly).

Conclusion

For now, it can safely be stated that the worst is over for Pakistan as it has substantially and successfully fulfilled all requirements of the 2 FATF Action Plans in time. With regards to the FATF's on-site inspection, it is pertinent for Pakistan to ensure that everything is in place in order to demonstrate to the FATF's team that the legal, regulatory and operational reforms taken by Pakistan are durable and effective, along with the positive and sustained pursuance of complex money laundering and terror financing investigations and prosecutions. Equally necessary will be to demonstrate the existence of the necessary political will that is required to sustain these reforms and AML/CFT endeavours.

As Pakistan is also facing menaces like corruption and tax crimes, Pakistan should also take pre-emptive measures to contain them as these areas are now new priority areas of the FATF mandate to protect the integrity of the international financial system. And if Pakistan is not vigilant and

²² Tahir Sherani, "FATF decides to keep Pakistan on its grey list, next review in June", DAWN, published February 21, 2020. <https://www.dawn.com/news/1535808>

²³ "Pakistan's case not taken up at FATF meeting: FO", DAWN, published June 27, 2020. <https://www.dawn.com/news/1565473>

²⁴ Fayaz Hussain, "'To remain on grey list': FATF urges Pakistan to complete action plan by Feb 2021", DAWN, published October 23, 2020. <https://www.dawn.com/news/1586624>

address these issues in time, the country might find itself in the watchdog's increased monitoring list once again.