



## CENTRALE BANK VAN ARUBA

September 15, 2015

To the Managements of all supervised  
financial institutions and  
trust service providers.

CMB/pjj/1.13/INT/4293

**Subject: FATF statements dated June 26, 2015/ FATF/2015-2**

Dear Management,

With due regard to the requirements set out in the State Ordinance for the Prevention and Combating of Money Laundering and Terrorist Financing (*Landsverordening voorkoming en bestrijding witwassen en terrorismefinanciering*, AB 2011, no. 28) (AML/CFT State Ordinance) and the regulatory requirements set out in the Handbook for the prevention and detection of money laundering and combating the financing of terrorism for financial and trust service providers regulated by the CBA (AML/CFT Handbook), the Centrale Bank van Aruba (CBA) urges all supervised financial and trust service providers to take duly notice of the information contained in this letter and the required follow-up actions that need to be taken.

Pursuant to Article 11 of the AML/CFT State Ordinance, financial and trust service providers must perform enhanced customer due diligence, if and when a business relationship or a transaction by its nature entails a higher risk of money laundering or terrorist financing. The enhanced customer due diligence shall be carried out both prior to the business relation or the transaction, as during the business relationship in any case with natural persons, legal persons, trusts, and comparable entities that originate from countries or jurisdictions which do not or insufficiently apply the internationally accepted standards for the prevention and combating of money laundering and terrorist financing.

Pursuant to Article 13, paragraph 1, subsection a, of the AML/CFT State Ordinance, financial and trust service providers must pay special attention to business relationships and transactions with natural persons, legal persons, trusts, and comparable entities originating from countries or jurisdictions that do not or insufficiently comply with the internationally accepted AML/CFT standards.

According to Article 13, paragraph 2, of the AML/CFT State Ordinance if a financial or trust service provider can reasonably suspect that, amongst others, a transaction with a natural person, legal person, trust or a comparable entity originating from a country or jurisdiction as meant in the first paragraph, does not have an apparent economic or legal purpose, it must investigate the background and the purpose of this transaction and record its findings in writing. These findings must be kept for at least ten years pursuant to Article 13, paragraph 3, of the AML/CFT State Ordinance.

Article 13 of the AML/CFT State Ordinance is related to Recommendation 21 of the Financial Action Task Force on Money Laundering (FATF)<sup>1</sup> which states:

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<sup>1</sup> On February 16, 2012 the FATF published the revised FATF Recommendations which can be found on the website of FATF: [www.fatf-gafi.org](http://www.fatf-gafi.org). However, the jurisdictions mentioned in the FATF Public Document and Compliance Document of February 16, 2012 have been reviewed based on the prior FATF Recommendations. Therefore, specific references made to the FATF Recommendations refer to the prior recommendations.

*“Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate countermeasures”.*

Furthermore, pursuant to section 3.12.2, subsection 148, of the AML/CFT Handbook, it is a regulatory requirement that service providers must treat countries and jurisdictions listed in the FATF statements (circulated by the CBA), which highlight jurisdictions which do not or insufficiently, apply the FATF Recommendations or which are the subject of international countermeasures, as countries and jurisdictions that do not or insufficiently apply the internationally accepted AML/CFT standards.

Pursuant to section 5.2, subsection 13, of the AML/CFT Handbook, it is a regulatory requirement that a financial and trust service provider must, as part of its on-going customer due diligence (CDD) procedures, establish appropriate customer activity and transaction monitoring procedures that scrutinize the activity and transactions of its customers. The monitoring procedures must include those, amongst others, which provide for the identification and scrutiny of business relationships and transactions connected with jurisdictions which do not or insufficiently comply with the international AML/CFT standards, including but not limited to the FATF Recommendations.

Pursuant to chapter 8, paragraph 8.5 subsection 21 of the AML/CFT Handbook, it is a regulatory requirement that a financial and trust service provider must keep adequate and orderly records containing the findings of reviews of activity and transactions connected with jurisdictions which do not, or insufficiently, apply the FATF Recommendations for a period of at least ten years from the date the business relationship ends, or, if in relation to an occasional transaction, for at least ten years from the date that the transaction was completed.

By letter of April 16, 2015 (CMB/pjj/1.13/INT/3963) the CBA sent you a similar letter regarding the previous FATF Public Statement and FATF document titled “Improving Global AML/CFT Compliance: On-going Process” (hereafter: FATF Compliance Document), also requiring you to take certain follow-up actions.

The purpose of this letter is to draw your urgent attention to the FATF Public Statement dated June 26, 2015 (enclosure 1) and the FATF Compliance Document of June 26, 2015 (enclosure 2). It is important to take good notice of the category change applicable to some countries when comparing the FATF Public Statement and the FATF Compliance Document of February 27, 2015 with the FATF Public Statement and the FATF Compliance Document of June 26, 2015.

With regard to the FATF Public Statement note that the following country has been removed from the FATF Public Statement:

- Ecuador

Pursuant to its substantial progress in addressing its action plan agreed upon with the FATF, Ecuador is now identified in the FATF Compliance Document.

Furthermore with regard to Iran the FATF Public Statement states that if Iran fails to take concrete steps to continue to improve its CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures against Iran in October 2015.

With regard to the FATF Compliance Document the following countries have been added:

- Bosnia and Herzegovina
- Ecuador

As previously noted, pursuant to the progress made by Ecuador in substantially addressing its action plan agreed upon with the FATF, it has been removed from the FATF Public Statement and now has been added in this document.

Also note that Indonesia has been removed from this document and is no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance process, since this country has established the legal and regulatory framework to meet the commitments in their action plan regarding the strategic deficiencies that the FATF had identified in the past.

The FATF Public Statement and the FATF Compliance Document of June 26, 2015 relate to FATF Recommendation 21 and articles 11 and 13 of the AML/CFT State Ordinance in that they identify countries that fall into the following three categories:

## **A. FATF Public Statement**

### **Category One**

Into this category fall **Iran** and the **Democratic People's Republic of Korea (DPRK)**. The FATF reaffirms its call on its members and urges all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran and DPRK, including Iranian<sup>2</sup> and DPRK<sup>3</sup> companies and financial institutions. In addition to enhanced scrutiny, the FATF calls on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from ML/FT risks emanating from Iran and DPRK. FATF also urges and 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 and DPRK financial institutions to open branches and subsidiaries in their jurisdiction.

Furthermore, regarding Iran, due to the continuing terrorist financing threat emanating from Iran, jurisdictions should consider the steps already taken and possible additional safeguards or strengthening existing ones. Also, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in October 2015 if Iran fails to take concrete steps to continue to improve its CFT regime.

### **Category Two**

Into this category fall **Algeria and Myanmar**. The FATF calls on its members to consider the risks arising from the deficiencies associated with these jurisdictions, given that they have not made sufficient progress in implementing their action plan to address the deficiencies identified.

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<sup>2</sup> Please note that with regard to Iran, the FATF reaffirms its February 25, 2009 call on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from ML/TF risks emanating from Iran.

<sup>3</sup> Please note that with regard to DPRK, the FATF reaffirms its February 25, 2011 call on its members and urges to advise their financial institutions to give special attention to business relationships and transactions with DPRK, including DPRK companies and financial institutions.

## **B. FATF Compliance Document**

### **Category Three**

Into this category fall **Afghanistan, Angola, Bosnia and Herzegovina, Ecuador, Guyana, Lao PDR, Panama, Papua New Guinea, Sudan, Syria, Uganda, Yemen and Iraq.**

With regard to Iraq, if it does not take sufficient action to implement significant components of its action plan by October 2015, then the FATF will identify this jurisdiction as being out of compliance with its agreed action plan and will take the additional step of calling upon its members to consider the risks arising from the deficiencies associated with this country.

Furthermore the Compliance Document outlines the specific areas of weaknesses and requests member jurisdictions to consider the information in the document.

## **C. Required action**

The purpose of this letter is to ensure that senior management of the regulated entities is informed of these important issues and to request that it emphasizes the importance of this communication to its compliance officer and inform its management team of the risks associated with business involving these jurisdictions.

In addition to this important awareness raising, the CBA requires that regulated entities take the following specific actions with regard to the three categories of FATF listed countries:

**Category One Action** – the CBA requires the financial and trust service providers to:

- a) Conduct review of their client base on an ongoing basis to identify relationships or transactions with any connection to the Category One countries.
- b) Report such relationships or transactions to the CBA as soon as identified.
- c) Any relationship or transaction found must be rated ultra high risk and may only be continued if the regulated entity is satisfied it can monitor and mitigate the risks associated with such business. If the regulated entity is not satisfied the relationship must be exited.
- d) Document its risk assessment and monitoring/mitigation strategy and have this document available should the CBA wish to evaluate it.
- e) Record the progress of compliance with this action (or otherwise) in the board minutes.

All regulated entities are required to strictly comply with aforementioned instructions. The CBA will verify during the supervisory examinations whether this is done. Note in this respect that non-compliance will be treated very seriously.

**Category Two Action** – the CBA requires financial and trust service providers to:

- a) Review their client base to identify relationships or transactions with any connection to the Category Two countries by **October 2, 2015**.
- b) Any relationship or transaction found must be rated at least high risk, taking this new or other information held into account.
- c) Document its risk assessment and monitoring/mitigation strategy and have the document available should the CBA wish to evaluate it.
- d) Record the progress of compliance with this action (or otherwise) in the board minutes.



**DEADLINE:** Please conclude the review of your client base by **October 2, 2015**. It is **not** necessary to send the results of your findings to the CBA. However, supervisory examinations by the CBA are likely to check that the work has been carried out within the stipulated time-frame. Non-compliance will be treated seriously.

**Category Three Action** – the CBA requires financial and trust service providers to:

- a) Review their client base to identify relationships or transactions with any connection to the Category Three countries by **October 21, 2015**.
- b) Re-evaluate its risk assessment of the relationship taking this new and any other information held into account.
- c) Document its risk assessment and monitoring/mitigation strategy and have the document available should the CBA wish to evaluate it.
- d) Record the progress of compliance with this action (or otherwise) in the board minutes.


**DEADLINE:** Please conclude the review of your client base by **October 21, 2015**. It is **not** necessary to send the results of your findings to the CBA. However, supervisory examinations by the CBA are likely to check that the work has been carried out within the stipulated time-frame. Non-compliance will be treated seriously.

Regulated entities will obviously need to conduct enhanced due diligence where customers are rated ultra or high risk. Entities should also bear in mind that several of the listed jurisdictions are subject to sanctions measures, such as EU and UN Sanctions. Furthermore, entities should consider their obligations to report unusual transactions to the MOT.

Finally, as also mentioned in the previous letters of the CBA, please note that these letters relating to money laundering and terrorist financing matters, are numbered sequentially and also placed in a newly designated area titled "FATF" under the link "Supervision" on the CBA's website [www.cbaruba.org](http://www.cbaruba.org).

If you have any questions or comments regarding this letter, please contact Mrs. L. Buckley of the Integrity Supervision Department at telephone number (297) 5252-219 or by e-mail, [l.buckley@cbaruba.org](mailto:l.buckley@cbaruba.org).

Sincerely yours,

  
Centrale Bank van Aruba

Enclosures: 2



## High-risk and non-cooperative jurisdictions

### FATF Public Statement - 26 June 2015

*Brisbane, 26 June 2015* - 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 money laundering and financing of terrorism (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.

***Jurisdictions subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing (ML/FT) risks emanating from the jurisdictions.***

Iran

Democratic People's Republic of Korea (DPRK)

***Jurisdictions with strategic AML/CFT deficiencies that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies. The FATF calls on its members to consider the risks arising from the deficiencies associated with each jurisdiction, as described below.***

Algeria

Myanmar

## Iran

The FATF remains particularly and exceptionally 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, despite Iran's recent engagement with the FATF.

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 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. The 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. Due to the continuing terrorist financing threat emanating from Iran, jurisdictions should consider the steps already taken and possible additional safeguards or strengthen existing ones.

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 requirements. If Iran fails to take concrete steps to continue to improve its CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen counter-measures in October 2015.

## **Democratic People's Republic of Korea (DPRK)**

Since February 2015, the DPRK engaged with the FATF regarding the deficiencies identified in its action plan developed 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 reaffirms its 25 February 2011 call 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.

## **Algeria**

Algeria has taken steps towards improving its AML/CFT regime, including by issuing terrorist asset freezing regulations. The FATF has not assessed Algeria's new measures on terrorist assets freezing due to their recent nature, and therefore the FATF has not yet determined the extent to which they address the earlier deficiency identified regarding the establishment and implementation of an adequate legal framework for identifying, tracing and freezing terrorist assets. The FATF welcomes Algeria's progress and encourages Algeria to continue the process of implementing its action plan.

# Myanmar

Myanmar has taken steps towards improving its AML/CFT regime. However, despite Myanmar's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Myanmar has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Myanmar should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) ensuring an operationally independent and effectively functioning financial intelligence unit; and (4) strengthening customer due diligence measures. The FATF encourages Myanmar to address the remaining deficiencies and continue the process of implementing its action plan.

last updated: 26 Jun. 2015





## Documents

### **Improving Global AML/CFT Compliance: on-going process – 26 June 2015**

*Brisbane, 26 June 2015-* As part of its on-going review of compliance with the AML/CFT standards, the FATF has to date identified the following jurisdictions which have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF. While the situations differ among each jurisdiction, each jurisdiction has provided a written high-level political commitment to address the identified deficiencies. The FATF welcomes these commitments.

A large number of jurisdictions have not yet been reviewed by the FATF. The FATF continues to identify additional jurisdictions, on an on-going basis, that pose a risk to the international financial system.

The FATF and the FATF-style regional bodies (FSRBs) will continue to work with the jurisdictions noted below and to report on the progress made in addressing the identified deficiencies. The FATF calls on these jurisdictions to complete the implementation of action plans expeditiously and within the proposed timeframes. The FATF will closely monitor the implementation of these action plans and encourages its members to consider the information presented below.

Afghanistan

Angola

Boznia and Herzegovina

Ecuador

Guyana

Lao PDR

Panama

Papua New Guinea

Sudan

Syria

Uganda

Yemen

### **Jurisdiction not making sufficient progress**

Iraq

### **Jurisdictions no longer Subject to the FATF's On-Going AML/CFT Compliance Process**

Indonesia

### **Afghanistan**

In June 2012, Afghanistan made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies. Since February 2015, Afghanistan has taken steps towards improving its AML/CFT regime, including by issuing an amendment to the AML

In February 2014, Papua New Guinea made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies. However, the FATF has determined that certain strategic AML/CFT deficiencies remain. Papua New Guinea should continue to work on implementing its action plan, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing adequate procedures for the confiscation of assets related to money laundering; (3) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (4) establishing a fully operational and effectively functioning financial intelligence unit; (5) establishing suspicious transaction reporting requirements; (6) implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors; and (7) establishing and implementing effective controls for cross-border currency transactions. The FATF encourages Papua New Guinea to address its remaining deficiencies and continue the process of implementing its action plan.

## **Sudan**

Since February 2010, when Sudan made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Sudan has made significant progress to improve its AML/CFT regime. Sudan has substantially addressed its action plan at a technical level, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing adequate procedures for identifying and freezing terrorist assets; (3) establishing a fully operational and effectively functioning Financial Intelligence Unit; (4) establishing an effective supervisory programme for AML/CFT compliance; (5) improving customer due diligence measures; (6) increasing financial institutions' awareness of and compliance with their obligations to file suspicious transaction reports in relation to money laundering and terrorist financing; and (7) enacting laws and procedures regarding international cooperation and mutual legal assistance. The FATF will conduct an on-site visit to confirm that the process of implementing the required reforms and actions is underway to address deficiencies previously identified by the FATF.

## **Syria**

Since February 2010, when Syria made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Syria has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Syria had substantially addressed its action plan at a technical level, including by criminalising terrorist financing and establishing procedures for freezing terrorist assets. While the FATF determined that Syria has completed its action plan agreed upon with the FATF, due to the security situation, the FATF has been unable to conduct an on-site visit to assess whether the process of implementing the required reforms and actions is underway. The FATF will continue to monitor the situation, and will conduct an on-site visit at the earliest possible date.

## **Uganda**

In February 2014, Uganda made a high-level political commitment to work with the FATF and ESAAMLG to address its strategic AML/CFT deficiencies. Since February 2015, Uganda has

taken significant steps towards improving its AML/CFT regime, including by enacting the Anti-Terrorism Amendment Act on 19 June 2015. The FATF has not assessed this new legislation due to its very recent nature, and therefore the FATF has not yet determined the extent to which it addresses any of the following issues: (1) adequately criminalising terrorist financing; (2) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (3) ensuring effective record-keeping requirements; (4) establishing a fully operational and effectively functioning financial intelligence unit; (5) ensuring adequate suspicious transaction reporting requirements; (6) ensuring an adequate and effective AML/CFT supervisory and oversight programme for all financial sectors; and (7) ensuring that appropriate laws and procedures are in place with regard to international co-operation for the financial intelligence unit and supervisory authorities. The FATF encourages Uganda to address its remaining AML/CFT deficiencies and continue the process of implementing its action plan.

## **Yemen**

Since February 2010, when Yemen made a high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, Yemen has made progress to improve its AML/CFT regime. In June 2014, the FATF determined that Yemen had substantially addressed its action plan at a technical level, including by adequately criminalising money laundering and terrorist financing; establishing procedures to identify and freeze terrorist assets; improving its customer due diligence and suspicious transaction reporting requirements; issuing guidance; developing the monitoring and supervisory capacity of the financial sector supervisory authorities and the financial intelligence unit (FIU); and establishing a fully operational and effectively functioning FIU. While the FATF determined that Yemen has completed its action plan agreed upon with the FATF, due to the security situation, the FATF has been unable to conduct an on-site visit to assess whether the process of implementing the required reforms and actions is underway. The FATF will continue to monitor the situation, and conduct an on on-site visit at the earliest possible date.

## **Jurisdiction not making sufficient progress**

The FATF is not yet satisfied that the following jurisdiction has made sufficient progress on its action plan agreed upon with the FATF. The most significant action plan items and/or the majority of the action plan items have not been addressed. If this jurisdiction does not take sufficient action to implement significant components of its action plan by October 2015, then the FATF will identify this jurisdiction as being out of compliance with its agreed action plan and will take the additional step of calling upon its members to consider the risks arising from the deficiencies associated with the jurisdiction.

## **Iraq**

Despite Iraq's high-level political commitment to work with the FATF and MENAFATF to address its strategic AML/CFT deficiencies, the FATF is not yet satisfied that Iraq has made sufficient progress in improving its AML/CFT regime, and certain strategic AML/CFT

deficiencies remain. Iraq should continue to work on implementing its action plan, including by: (1) adequately criminalising money laundering and terrorist financing; (2) establishing and implementing an adequate legal framework for identifying, tracing and freezing terrorist assets; (3) establishing effective customer due diligence measures; (4) ensuring a fully operational and effectively functioning financial intelligence unit; (5) establishing suspicious transaction reporting requirements; and (6) establishing and implementing an adequate AML/CFT supervisory and oversight programme for all financial sectors. The FATF encourages Iraq to address its remaining AML/CFT deficiencies and continue the process of implementing its action plan.

## **Jurisdictions no Longer Subject to the FATF's On-Going Global AML/CFT Compliance Process**

### **Indonesia**

The FATF welcomes Indonesia's significant progress in improving its AML/CFT regime and notes that Indonesia has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in February 2010. Indonesia is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Indonesia will work with APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

last updated: 13 Jul. 2015