



FATF



Corruption

A Reference Guide and Information Note

on the use of the FATF Recommendations

to support the fight against Corruption

- Safeguarding public sector integrity
- Protecting the private sector
- Increasing transparency in the financial system
- Detecting, investigating and prosecuting corruption and money laundering, and recovering stolen assets

Introduction

Leaders throughout the international community recognise that anti-money laundering (AML) and counter-terrorist financing (CFT) measures are powerful tools that are effective in the fight against corruption. The FATF has developed this information note to raise public awareness of how the FATF Recommendations, when effectively implemented, help to combat corruption.

The link between corruption and money laundering

Corruption and money laundering are linked. Similar to other serious crimes, corruption offences, such as bribery and theft of public funds, are generally committed for the purpose of obtaining private gain. Money laundering is the process of concealing illicit gains that were generated from criminal activity. By successfully laundering the proceeds of a corruption offence, the illicit gains may be enjoyed without fear of being confiscated.

Combating money laundering is a cornerstone of the broader agenda to fight organised and serious crime by depriving criminals of ill-gotten gains and by prosecuting those who assist in the laundering of such ill-gotten gains. The FATF recognises the link between corruption and money laundering, including how AML/CFT measures help combat corruption. This is why corruption issues were taken into account during the FATF third round mutual evaluation process which assessed countries' compliance with the 2003 version of the FATF Recommendations. For example, in the third round of mutual evaluations, the FATF considered how effectively AML/CFT measures were implemented in a country by considering the number of investigations, prosecutions and convictions for money laundering, and the amount of property confiscated in relation to money laundering or underlying predicate offences, including corruption and bribery. As well, the FATF considered whether the country could demonstrate that it has a solid framework of measures to prevent and combat corruption through respect for transparency, good governance principles, high ethical and professional requirements, and established a

reasonably efficient court system to ensure that judicial decisions are properly enforced. These elements are important because significant weaknesses or shortcomings in these areas may impede the effective implementation of the FATF Recommendations. The FATF approved a revised set of Recommendations in February 2012 (see Annex) and countries, in the next round of mutual evaluations (the fourth round), will be assessed for compliance against these new Recommendations, using a revised assessment methodology.

By effectively implementing the FATF Recommendations, countries can:

- better safeguard the integrity of the public sector
- protect designated private sector institutions from abuse
- increase transparency of the financial system
- facilitate the detection, investigation and prosecution of corruption and money laundering, and the recovery of stolen assets.

A proper culture of compliance with AML/CFT standards creates an environment in which it is more difficult for corruption to thrive undetected and unpunished.

Safeguarding the integrity of the public sector

Corruption flourishes in an environment where state officials and public sector employees misuse their positions for personal gain. Effective implementation of the FATF Recommendations helps to safeguard the integrity of the public sector by ensuring that key government agencies involved in anti-money laundering and combating terrorist financing (such as the financial intelligence unit, law enforcement, prosecutorial authorities, supervisors and others) are adequately resourced and manned by staff of high integrity.

What do the FATF Recommendations require and how do these requirements fight corruption?

Key government agencies must have **sufficient operational independence and autonomy** to ensure freedom from undue influence or interference. This reduces the likelihood of them falling under the influence or control of corrupt persons (*Recommendations 26 and 29*).

Key government agencies must be provided with **adequate budgetary resources** to fully and effectively perform their functions. Adequate compensation can reduce the incentive to engage in corrupt activities (*Recommendations 1, 8, 26, 28, 29, 30, 32, 37 and 39*).

Staff of key government agencies must have appropriate **skills, receive adequate training, and maintain high professional standards**. Such measures help to foster a culture of honesty, integrity and professionalism (*Recommendations 8, 26, 28, 29, 30, 32, 37 and 39*).

Protecting designated private sector institutions from abuse

Private sector institutions are an attractive venue for laundering the proceeds of corruption, particularly if they are owned or infiltrated by corrupt persons or have implemented weak AML/CFT measures. Effective implementation of the FATF Recommendations helps to protect designated financial institutions (such as banks, securities firms, insurance companies, foreign exchange dealers, and money remitters) and other designated businesses and professions (such as casinos, lawyers, accountants, real estate agents, dealers in precious metals and stones, and trust and company service providers) by requiring that their owners, controllers and employees are properly vetted, and that they have adequate systems in place to comply with AML/CFT requirements.

What do the FATF Recommendations require and how do these requirements fight corruption?

Persons holding a significant controlling interest or management function in a designated private sector institution must be **vetted**. Such vetting should use “**fit and proper**” criteria. This helps to prevent corrupt persons and other criminals from gaining control over institutions, such as banks, or casinos, that can be used to facilitate illicit activities (*Recommendations 26 and 28*).

Designated private sector institutions must **screen employees** to ensure high standards. This helps to prevent corrupt persons from infiltrating or otherwise criminally abusing a financial service provider (*Recommendations 18 and 23*).

Designated private sector institutions must implement **internal control systems and audit functions** to ensure compliance with AML/CFT measures. This helps such institutions to detect

continued on next page

Protecting designated private sector institutions from abuse (continued)

when they are being abused by criminals and corrupt persons (*Recommendations 18 and 23*).

Designated private sector institutions must be subject to adequate **supervision and monitoring** by supervisory authorities (or self-regulatory bodies, in the case of lawyers, accountants, real estate agents, dealers in precious metals and stones, and trust and company service providers) with sufficient supervisory, inspection and sanctioning powers to ensure compliance with AML/CFT measures. Robust supervision and monitoring of the financial sector deters and facilitates the detection of corruption and other criminal activity (*Recommendations 1, 8, 17, 18, 26, 27 and 28*).

Increasing transparency in the financial sector

Corruption is more likely to go unpunished in opaque circumstances where the proceeds of such crimes are laundered and cannot be traced back to the underlying corrupt activity, as is the case when the ownership of assets is obscured, and transactions and transfers leave incomplete (or no) audit trail. Effective implementation of the FATF Recommendations increases the transparency of the financial system by creating a reliable paper trail of business relationships, transactions, and discloses the true ownership and movement of assets.

What do the FATF Recommendations require and how do these requirements fight corruption?

When establishing business relationships or conducting transactions on behalf of customers, designated private sector institutions must **verify the identity of the customer**, any natural person on whose behalf a customer is acting, and any individuals who ultimately own or control customers that are legal persons (such as companies) or legal arrangements (such as trusts). Additional precautions must be taken when transactions are conducted through a third party, are not done face-to-face or when new technologies are used. These precautions increase transparency by making it difficult for corrupt persons to conduct business anonymously, or hide their business relationships and transactions behind other people, corporate structures, or complex legal arrangements (*Recommendations 10, 12, 15, 17 and 22*).

All customer identification, transaction and account records, and business correspondence must be kept, so that they can be made available to the authorities on a timely basis. Such **record keeping** measures

Increasing transparency in the financial sector (continued)

ensure that there is a reliable paper trail the authorities can use to trace the proceeds of corruption, and use as evidence to prosecute corruption and other crimes (*Recommendations 11 and 22*).

Financial institutions must put in place appropriate risk management systems to determine whether a customer or the beneficial owner is a foreign **politically exposed person** (PEP) or a family member or close associate of a foreign PEP. Financial institutions must obtain senior management approval for establishing or continuing such business relationships, take reasonable measures to determine the PEPs source of wealth and source of fund and conduct enhanced on-going monitoring of the business relationship.

In the case of domestic PEPs and members of senior management of international organisations, financial institutions should take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP or a person who has been entrusted with a prominent function by an international organisation. For higher risk business relationships with such PEPs, financial institutions should obtain senior management approval for establishing or continuing such business relationships, take reasonable measures to determine the PEPs source of wealth and source of funds, and conduct enhanced on-going monitoring of the business relationship.

Measures for PEPs increase the possibility of detecting instances where public officials and other persons who are (or have been) entrusted with prominent public functions — such as Heads of State, senior politicians, senior government judicial or military officials, senior executives of state-owned corporations and important political party officials, or members

of senior management of international organisations - are abusing their positions for private gain (*Recommendation 12*).

The authorities must have timely access to adequate and accurate information which identifies the individual(s) who own or control legal persons (such as companies) and legal arrangements (such as trusts). This increases the **transparency of ownership**, and makes it more difficult to hide the proceeds of corruption within a company or trust (*Recommendation 24 and 25*).

Wire transfers can be used to quickly move the proceeds of corruption and obscure their source. To mitigate this risk, wire transfers must be accompanied by accurate and all required information that identifies the person who sent the transaction and to whom the transaction is being sent. In addition, financial institutions should monitor wire transfers and take appropriate measures in cases where wire transfers are not accompanied by the required information. Likewise, cash or bearer negotiable instruments that are being moved across national borders either on one's person, through the mail, or in containerised cargo would also leave no paper trail and must be declared or disclosed to authorities, to mitigate the risk of the proceeds of corruption to move undetected. **Transparent movement of assets** makes it possible to trace the movement of corruption proceeds (*Recommendations 16 and 32*).

Financial secrecy laws must not inhibit the implementation of the AML/CFT measures, including those aimed at increasing the transparency of the financial system thereby facilitating the prevention, detection and prosecution of corruption (*Recommendation 9*).

Detection, investigation, prosecution and recovery of stolen assets

Jurisdictions become safe havens for persons and funds related to corrupt activities unless there is a legal framework and mechanisms to detect, investigate and prosecute corruption offences and related money laundering, and to recover stolen assets. Effective implementation of the FATF Recommendations establishes a legal framework and mechanisms to alert the authorities to suspicious activities in the financial system, and to provide them with sufficient powers to investigate and prosecute such activities, and to recover stolen assets.

What do the FATF Recommendations require and how do these requirements fight corruption?

Designated private sector institutions must conduct ongoing due diligence on all business relationships to ensure that the transactions being conducted are consistent with their knowledge of the customer, business and risk profile, and where necessary, the source of funds. Financial institutions should examine, as far as reasonably possible, the background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose. Increased scrutiny must be given to high risk customers, jurisdictions, business relationships and transactions. This enables the detection of suspicious activity that might be related to corruption and which must be reported to the authorities for further analysis and investigation (*Recommendations 10, 12, 19, 20, 22, and 23*).

Countries must establish a financial intelligence unit (FIU), with adequate resources and powers, to receive and analyse suspicious transaction reports and other relevant information, and disseminate disclosed information to the proper

authorities for further investigation, if appropriate. These requirements also apply to suspicious transaction reports that may be related to corruption (*Recommendation 29*).

The laundering of proceeds from all serious offences, including a sufficiently broad range of corruption and bribery offences, must be criminalised. This should normally apply to both natural and legal persons, regardless of whether they committed the predicate offence or are a facilitating third party. By ensuring that the related money laundering and corruption conduct can both be investigated and prosecuted, corrupt persons may be punished even if the corruption offence cannot be pursued. The law enforcement authorities must have sufficient powers to access financial records and obtain evidence for the purpose of ensuring proper investigation and prosecution of money laundering offences and underlying predicate offences. These powers also enable the authorities to “follow the money trail”, and trace back and investigate the underlying corruption offence (*Recommendations 3, 4, 30 and 31*).

Corruption is often driven by greed. Countries can remove a main objective and incentive for engaging in corrupt activities by depriving the perpetrators and others from the benefit of such crimes. To do so, countries must have effective laws and procedures to freeze, seize and confiscate stolen assets, the proceeds of corruption and laundered property, including in response to requests by foreign countries, while protecting the rights of bona fide third parties. The authorities should have sufficient powers to trace and freeze assets, including in cooperation with foreign counterparts. Countries should have effective mechanisms for sharing assets confiscated as a result of co-ordinated law enforcement actions and also consider es-

Detection, investigation, prosecution and recovery of stolen assets (continued)

tablishing funds into which confiscated assets may be deposited for law enforcement, health, education or other appropriate purposes. These requirements facilitate the protection and compensation of the victims of corruption and bribery, and the recovery of stolen assets, even if such assets have been concealed abroad (*Recommendations 4 and 38*).

To fight cross-border corruption, countries need to implement effective laws and mechanisms which enable them to provide a wide range of mutual legal assistance, execute extradition requests and otherwise facilitate international co-operation. It is also important for countries to have mechanisms that facilitate domestic co-operation and co-ordination for all authorities (policy makers, the FIU, law enforcement, supervisors and other competent authorities) at the policy and operational levels (*Recommendations 2, 36 – 40*).

FATF Recommendations

- A AML/CFT POLICIES AND COORDINATION
 - 1 Assessing risks & applying a risk-based approach
 - 2 National cooperation and coordination
- B MONEY LAUNDERING AND CONFISCATION
 - 3 Money laundering offence
 - 4 Confiscation and provisional measures
- C TERRORIST FINANCING AND FINANCING OF PROLIFERATION
 - 5 SRII Terrorist financing offence
 - 6 SRIII Targeted financial sanctions related to terrorism & terrorist financing
 - 7 Targeted financial sanctions related to proliferation
 - 8 Non-profit organisations
- D PREVENTIVE MEASURES
 - 9 Financial institution secrecy laws
 - 10 Customer due diligence
 - 11 Record keeping
 - 12 Politically exposed persons
 - 13 Correspondent banking
 - 14 Money or value transfer services
 - 15 New technologies
 - 16 Wire transfers
 - 17 Reliance on third parties
 - 18 Internal controls and foreign branches and subsidiaries
 - 19 Higher-risk countries
 - 20 Reporting of suspicious transactions
 - 21 Tipping-off and confidentiality
 - 22 DNFBBs: Customer due diligence
 - 23 DNFBBs: Other measures
- E TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS
 - 24 Transparency and beneficial ownership of legal persons
 - 25 Transparency and beneficial ownership of legal arrangements
- F POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES
 - 26 Regulation and supervision of financial institutions
 - 27 Powers of supervisors
 - 28 Regulation and supervision of DNFBBs
 - 29 Financial intelligence units
 - 30 Responsibilities of law enforcement and investigative authorities
 - 31 Powers of law enforcement and investigative authorities
 - 32 Cash couriers
 - 33 Statistics
 - 34 Guidance and feedback
 - 35 Sanctions
- G INTERNATIONAL COOPERATION
 - 36 International instruments
 - 37 Mutual legal assistance
 - 38 Mutual legal assistance: freezing and confiscation
 - 39 Extradition
 - 40 Other forms of international cooperation

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Further reading on:

www.fatf-gafi.org/topics/corruption
www.fatf-gafi.org/topics/fatfrecommendations

Since its creation the FATF has spearheaded the effort to adopt and implement measures designed to counter the use of the financial system by criminals. It established 40 Recommendations that set out the basic framework for AML/CFT efforts and are of universal application.

Members of the FATF and of FATF-style regional bodies (FSRBs) are strongly committed to the discipline of multilateral peer review. The mutual evaluation programme is the primary instrument by which the FATF and FSRBs monitor progress made by member governments in implementing the FATF Recommendations. Through this process, the FATF monitors the implementation of the FATF Recommendations, assesses the effectiveness of the AML/CFT systems in FATF member jurisdictions, and publishes these assessments.

The FATF also has procedures for identifying and reviewing non-cooperative and high-risk jurisdictions. Jurisdictions found to be high-risk or non-cooperative are publicly identified and can face multilateral counter measures.

The Financial Action Task Force (FATF) is the inter-governmental policy-making body with the mandate to develop and promote the effective implementation of the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (the FATF Recommendations).

The FATF Recommendations are the internationally recognised and globally endorsed standards in this area.

