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The impact of grey listing by the Financial Action Task Force (FATF).

A regional focus on Sub-Saharan Africa.

Grey listing by the FATF has been shown to drive successful anti-money laundering reforms as countries commit to resolve the identified strategic deficiencies in their regimes, as set out in an action plan. Countries that have been placed on the grey list are not subject to any official sanctions by the FATF. Nonetheless, being publicly identified on the grey list can still have negative economic and reputational consequences, which may impact the financial sector and international financing and aid.

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AUTHOR

Caitlin Maslen (TI)

tihelpdesk@transparency.org

REVIEWED BY

Rosa Loureiro-Revilla (U4)

Jamie Bergin (TI)

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Query

What is the potential impact of inclusion on the FATF grey list? What are the economic consequences and the impact on the financial sector? What are the consequences for the authorities concerned?

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MAIN POINTS

- When a jurisdiction is grey listed by the FATF, this means they are actively working with the body to improve their AML/CFT regime. The FATF does not call for sanctions or enhanced due diligence as a result of grey listing.
- Most countries that are grey listed show political commitment to strengthening their AML/CFT regimes and many exit the grey list within five years.
- Grey listing may be perceived by other countries and jurisdictions as indicative of high ML/TF risks and thus trigger economic consequences, which can affect the grey listed country's financial sector and result in a decrease in international financial assistance and aid due to de-risking, impacting lower income countries that my rely on overseas development assistance and foreign aid the most
- The most severe consequence of grey listing is that a continued non-compliant country may become black listed by the FATF, which does come with mandated sanctions and more serious reputational damage.

Background

The Financial Action Task Force (FATF) was established in 1989 as the first global body to curb money laundering and terrorism financing. The primary mechanism is through its set of 40 recommendations, otherwise known as the FATF Recommendations. These provide a framework of measures that countries should implement to counter money laundering and terrorist financing through their legal, administrative, and operational frameworks (FATF 2023 a). Alongside the interpretative notes which provide further guidance on effective implementation of the recommendations, these are known as the FATF Standards (FATF 2023 a).

The standards ensure that: countries have measures to identify risks and develop policies and domestic coordination; pursue money laundering, terrorist financing and the financing of proliferation; apply preventive measures to the financial sector; establish powers and responsibilities for competent authorities; enhance the availability of beneficial ownership information; and facilitate international cooperation (FATF 2023 a: 7). The FATF acknowledges that, while these recommendations set an international standard, countries are diverse and cannot all take identical measures; therefore, the body advises each country to adapt these standards to their contexts (FATF 2023 a). However, countries still need to adhere to the standards during the de-listing process, so the extent to which these measures can be adapted is difficult to measure.

Under the FATF mandate, the FATF commits "to hold to account jurisdictions that fail to adequately implement the FATF standards and encourage action to protect the financial system, while working with these countries to address their deficiencies" (FATF 2019: 4). It does so through periodically assessing countries against its standards, which are carried out by the FATF members[1] and its associate members[2]. The FATF currently has 38 members and the majority of countries and jurisdictions participate as associate members (FATF 2023 d).

These assessments are referred to as mutual evaluations. Given the global span of the FATF's members, associate members and around 23 international organisations that hold observer status (such as the Asian Development Bank, African Development Bank, European Central Bank, among others), FATF's standards have relevance for almost all countries and jurisdictions, international organisations, and financial institutions worldwide (Shah 2021).

The Mutual Evaluation process involves peer reviews, where members or associate members from different countries assess another country (FATF no date a). They involve two components, effectiveness and compliance to the recommendations, and requires an assessment of a country's laws and regulations and an on-site visit to produce the final report (FATF no date c).

If a Mutual Evaluation identifies weaknesses in a country's implementation of the standards, it may be referred to the FATF's International Cooperation Review Group (ICRG) for review. This includes if in the Mutual Evaluation Report:

- it has 20 or more non-Compliant (NC) or Partially Compliance (PC) ratings for technical compliance; or
- it is rated NC/PC on 3 or more of the following Recommendations: 3, 5, 6, 10, 11, and 20; or

[1] The full list of members are Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Denmark, European Commission, Finland, France, Germany, Greece, Gulf Co-operation Council, Hong Kong, Iceland, India, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, Portugal, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Türkiye, United Kingdom and United States. The associate members include the FATF Style Regional Bodies (FSRBs) whose membership covers a higher number of countries, for more information on the FSRBs see the FATF's webpage (FATF 2023 d).

[2] FATF Style Regional Bodies (FSRBs) are associate members of the body which contain member jurisdictions from a certain region (FATF 2019).

- it has a low or moderate level of effectiveness for 9 or more of the 11 Immediate Outcomes, with a minimum of two lows; or
- it has a low level of effectiveness for 6 or more of the 11 Immediate Outcomes (FATF no date b).

Other reasons for being referred to the ICRG include if a country does not allow its Mutual Evaluation results to be published in a timely manner or it is nominated by a FATF member or associate member (the nomination is based on specific money laundering, terrorist financing or proliferation financing risks coming to the attention of delegations) (FATF no date b). However, it should be noted that this process is expected to change under its 5th Round Revised Procedures (currently not in effect).

A country or jurisdiction that enters the review process has a one-year observation period to address the deficiencies detected in its Mutual Evaluation report (FATF no date b). The observation period starts once the Plenary adopts the country's Mutual Evaluation report (FATF 2022:41). The FATF prioritises the review of countries with more significant financial sectors, such as those over US$5 billion or more in financial assets (FATF no date c). If these deficiencies are not adequately addressed during the observation period, the country or jurisdiction will be publicly identified.

Public identification includes being placed on the grey list, otherwise known as "jurisdictions under increased monitoring". This list refers to countries that are actively working with the FATF to address their strategic deficiencies, after failing to do so during their observation period (FATF no date b). Additionally, countries may be placed in the higher-risk category, the black list, known as "high-risk jurisdictions subject to a call for action" when they have been found to be insufficiently working with the FATF to address strategic deficiencies (FATF no date c). The contents of each of these lists are announced at the end of each plenary meeting, in February, June and October (FATF no date b).

Importantly, a country that has been placed on the grey list is not subject to official sanctions. The FATF states that being on the grey list does not call for enhanced due diligence in relation to transactions with entities from that country. Its website states that (FATF no date b):

> "The FATF does not call for the application of enhanced due diligence measures to be applied to these jurisdictions. The FATF Standards do not envisage de-risking, or cutting-off entire classes of customers, but call for the application of a risk-based approach. Therefore, the FATF encourages its members and all jurisdictions to take into account the information presented below in their risk analysis."

Therefore, being placed on the grey list acts as a signal to countries, including government officials, their markets and civil society to apply a risk analysis when dealing with these countries (Koker et al. 2023). And, while no official sanctions are mandated by the FATF, the grey list draws attention to these international stakeholders that there are deficiencies in the grey listed country's regime, and reactive measures are left open to interpretation, which depend on the country's knowledge and its own risk exposure (Koker et al. 2023). This is particularly a risk for lower income countries that rely on foreign aid and investment, such as those in Sub-Saharan Africa, several of which are currently on the grey list (currently Burkina Faso, Cameroon, Democratic Republic of Congo, Mali, Mozambique, Nigeria, Senegal, South

Africa, South Sudan Tanzania, and Uganda (FATF no date c)).

Next steps for grey listed countries

The immediate consequences for a grey listed country centre around what is known as the action plan. Once a country has been grey listed, an action plan will have been developed by the FATF and the country's FSRB which details the actions that must be taken for de-listing (FATF 2023 c). Authorities in the grey listed country are expected to make a high-level political commitment to the action plan and its timeframe for implementation. It typically takes a country two to five years to address its deficiencies and be de-listed (Templars 2023).

Each action plan is unique to the country and depends on the results of its Mutual Evaluation report. The Basel Institute on Governance analysed the action plans for the grey listed countries of sub-Saharan Africa (as of October 2022) to detect similar components. Their report found that these action plans concentrate on the following areas:

- assess risks through conducting a national risk assessment and developing anti-money laundering (AML) and combating the financing of terrorism (CFT) deficiencies in line with identified risks
- develop a risk-based supervision for the financial sector and other designated non-financial businesses and professions (DNFBPs)
- establish accurate beneficial ownership information registers
- enhance the capacity of financial intelligence units
- enhance the capacity of law enforcement agencies
- and implement effective targeted financial sanctions regimes related to terrorism financing and proliferation financing (Basel Governance 2022)

To illustrate the action plan process, Nigeria was grey listed in 2023 for having strategic deficiencies. As a result, action plans were developed by the FATF and regional body to pave the way for Nigeria's de-listing. Nigeria's relevant authorities will have agreed a timeframe within which to resolve such identified strategic deficiencies and work with the FATF and its FSRB – the Inter-Governmental Action Group against Money Laundering (GIABA) – to do so. The current action plan for 2023 included the following requirements for de-listing (among others):

- complete its residual ML/TF risk assessment and update is national AML/CFT strategy
- enhance formal and informal international cooperation in line with ML/TF risks
- ensure competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal person and applying sanctions for breaches
- and demonstrate an increase in dissemination of financial intelligence by the Nigerian financial intelligence unit and its other law enforcement agencies (Templars 2023)

In response to the FATF 2023 Plenary announcement, it was reported that the Nigerian financial intelligence unit (NFIU) had convened a two-day compliance retreat for stakeholders from the public and private sector to discuss further action to improve the country's AML/CFT framework (Premium Times Nigeria 2023). The outcome of the retreat was that a revised strategic roadmap to exit the grey list was agreed upon (Premium Times Nigeria 2023). Progress against the action plan will be closely monitored by the FATF (FATF 2023 a).

Implications for anti-money laundering reforms

One of the consequences of the grey listing and successful compliance with the action plan process is the strengthening of the country's AML regime. As of June 2023, the FATF has reviewed over 125 countries and jurisdictions and publicly identified 98 of them on the grey list for having strategic deficiencies (FATF no date c); 72 of these publicly identified jurisdictions have made the necessary reforms to address their AML/CFT weaknesses (FATF n.d. c).

As an example, Mauritius was placed on the FATF grey list in 2020. This was after its one-year observation period following its 2018 Mutual Evaluation, where the country was rated "non-compliant" for 13 out of the 40 recommendations (ESAAMLG 2018 a).

To exit the grey list, the Mauritius government implemented a set of measures in line with its action plan (Calcutteea 2022). The Mauritius Institution of Professional Accountants (MIPA), a regulatory body of the accounting profession, laid out an institutional action plan after the country was grey listed. MIPA published Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Guidelines to support licensees to understand their obligations in implementing an AML/CFT framework (Heenaye and Musumhi 2023). It also conducted outreach to licensees to increase awareness, improve understanding of the FATF Recommendations, improve suspicion transaction reporting by entities, increase quantity and quality of reporting and increase the number of reporting persons registered on the UN's reporting platform for AML (goAML) (Heenaye and Musumhi 2023). Additionally, Mauritius' financial services commission (FSC), which regulates the non-bank financial markets, provided guidance on money laundering and terrorist financing risks to its licensees (Calcutteea 2022). It also updated its AML/CFT handbook and published an enforcement manual, a settlement framework and an administrative regulatory framework (Calcutteea 2022). Authorities also applied sanctions for AML/CFT breaches. Finally, a compulsory beneficial ownership register was established (Calcutteea 2022). The October 2021 FATF visit to Mauritius positively assessed these measures, resulting in de-listing.

South Africa was also placed under a one-year observation period in 2021 after being rated "non-compliant" for 5 out of the 40 recommendations (FATF 2021) and was then grey listed. During this time, the country was successful in strengthening its AML regime. It passed legislation on financial crime, including the General Laws (AML and CFT) Amendment Bill in December 2022 (Centurion Law Group 2023). It also established the Fusion Centre, which brings together several bodies responsible for countering financial crime (Centurion Law Group 2023). The mid-term budget policy statement which provides R14bn (equivalent to US$738.5 million) to support agencies that counter financial crime was also established (Centurion Law Group 2023). Despite making some significant progress South Africa is still on the grey list.

Nonetheless, the FATF has recognised that South Africa had made a high-level political commitment to strengthen the effectiveness of its AML/CFT regime, which many see as a long-term positive legacy for the country in showing that it supports compliance with the FATF (Guleš 2023). Some argue that successfully delivering these AML reforms may lead to a more positive business environment for South Africa in the long-term (Guleš 2023).

Ghana was placed on the FATF grey list from 2020 to 2021. To successfully exit the FATF grey list, Ghanaian authorities built the capacity of all reporting entities in AML/CFT measures, including customer due diligence (CDD), risk assessments, ensuring the enforcement of targeted financial sanctions, and the strengthening of beneficial ownership transparency of legal entities (IMF 2023).

However, countries need to show continued momentum to implementing AML reforms to avoid the risk of re-listing. Despite complying with the action plan, if this does not translate into longer term results, the FATF may place the country back onto the grey list. To illustrate this point, the Ugandan Financial Intelligence Authority reported on improvements in its AML regime after being grey listed in the FATF Plenary held in October 2013. In February 2014, through the minster for finance, planning and economic development, Uganda made a high-level commitment to address deficiencies through the action plan developed by the ICRG (Uganda Financial Intelligence Authority 2021: 4). Several laws were enacted including the Anti-Money Laundering (Amendment) Act 2017, Anti-Money Laundering Regulations 2015, Anti-Terrorism (Amendment) Acts of 2015, 2016, 2017 and the Anti-Terrorism Regulations 2016 (Uganda Financial Intelligence Authority 2021: 8). It also established in the Uganda Financial Intelligence Authority in 2014 to coordinate the country's AML efforts and joined the Egmont Group of Financial Intelligent Units[3] in 2019 to enhance international collaboration against money laundering (Uganda Financial Intelligence Authority 2021: 8).

As a result of progress, Uganda was delisted in November 2017, but was nonetheless re-listed in February 2020 following further deficiencies found in its Mutual Evaluation report, with 21 out of the 40 recommendations rated non-compliant (ESAAMLG 2018 b). To date, Uganda is still required to make progress on its action plan by October 2023 or it risks black listing (FATF 2023 b). Outstanding points include timely access to beneficial ownership information and increased awareness on proliferation financing-related targeted financial sanctions by conducting training for financial institutions and designated non-financial businesses and professions (DNFBPs) (FATF 2023 b).

In the case of Senegal, there were several reasons reported as to why the country struggled to comply with their FATF action plan and the country has been grey listed since 2021. Its 2018 Mutual Evaluation report found that the country was "non-compliant" for 6 out of the 40 recommendations (GIABA 2018).A lack of technical capacity and funding to train employees from financial businesses who have a limited understanding of money laundering and the widespread use of cash in the country have been cited as obstacles to removal from the grey list (Abderrahmane 2021). Furthermore, it has been claimed that the local currency Communauté Financière Africaine (CFA), which is tied to the Euro, aggravates the AML weaknesses as they do not have control of the flow

[3] The Egmont Group comprises of various groups that contribute to the goal of strengthening information-sharing mechanisms among its members to combat money laundering, terrorist financing, and predicate crimes (Egmont Group no date).

of their own CFA franc currency, which is printed in France (Abderrahmane 2021).

The following section will look at the unintended consequences of the grey list, which are particularly pertinent to countries that cannot complete a swift de-listing, as in the case of Senegal.

Other ramifications

The economy

Several academics have tried to measure the economic impact of a country being grey listed. Indeed, FATF's primary method of curbing money laundering has been referred to by some as a form of "economic coercion" where a country must comply with the standards or risk negative economic consequences (Shah 2021). This is caused primarily through higher costs of doing trade with its partners as a result of reputational damage (Shah 2021: 284). While the FATF does not explicitly call for enhanced due diligence to grey listed countries and jurisdictions, many partners may still apply these (and other) measures to mitigate potential risks of doing business with the country or jurisdiction. For example, after South Africa was grey listed, the CEO of Business Leadership South Africa reportedly said they expected losses of up to 3% of GDP if the country remained on the grey list for an extended period (Guleš 2023).

The research on the topic of economic impact is divided and at times assumes causal relationships between grey listing and economic downturn when this might not necessarily the case. Delport (2022) makes the point that it is difficult to measure the economic impact of grey listing as it is not necessarily the specific event of grey listing that causes the economic impact but the reasons that informed the grey listing (Delport 2022). For example, global investors may have already been cautious about transactions and priced the risks of transacting with countries with weaker AML frameworks (Delport 2022).

Colin et al. (2016) examined the impact of grey listing on whether banks deny transactions or close the accounts of customers located in high-risk countries. This was assessed against the frequency of cross-border payments. Their findings showed that countries that were added to the grey list faced a 10% decline in the number of cross-border payments from other jurisdictions (Colin et al. 2016). They also found that a grey listed country is more likely to see a decline in payments from other countries with weak AML/CFT institutions (Colin et al. 2016).

One of the most frequently cited studies on the impact of grey listing is the IMF's 2021 working paper, which used machine learning to analyse its impact on capital flows. They noted countries may experience a disruption in capital flows for two possible reasons. One is de-risking, where banks exit relationships with customers to avoid higher compliance costs (Kida and Paetzold 2021). The other is that investors may use the grey list to determine the risk of doing business with a country, and therefore may reallocate resources elsewhere if one is grey listed (Kida and Paetzold 2021).

It looked at the impact on capital flows through foreign direct investment (FDI), portfolio flow, and banking and other flows. It sampled these from grey listed countries (as of 2021). Their findings showed that there is a significant effect of grey listing on capital flows and that capital inflows decline on average by 7.6% of GDP when a country is grey listed (Kida and Paetzold 2021: 5). Broken down further, the effect on FDI flow is a decline of

3% and on portfolio flow a decline of 2.9% (Kida and Paetzold 2021: 19).

Mariani and Nel (2022) analysed the expected impacts on South Africa's economy from being grey listed (prior to actual grey listing). They reviewed empirical evidence on the countries' characteristics correlated with grey listing and the effectiveness of the FATF Recommendations and effects on economic outcomes. They attempted to trace causal effects of grey listing events between 2010 and 2022 to estimate their impact and found that the economic impact was not high (Mariani and Nel 2022: 12). They found no evidence that previously grey listed African countries such as Uganda, Ethiopia, and Tunisia experienced contractions of capital flows (Mariani and Nel 2022:1 1-12). Nonetheless, the primary concern of being grey listed, the authors note, is that if unaddressed it can lead to black listing, which evidence suggests does lead to severe negative economic consequences.

Koker et al. (2023) differentiated between the different time periods during which FATF has grey listed countries. The authors noted that in the years between 2000 and 2006, the FATF labelled countries as "non-compliant" and reactions from other countries were stronger, with loans and foreign assets declining for grey listed countries during this period (Koker et al. 2023).

However, since 2016, the language from the FATF statements has reportedly been adjusted to prevent unnecessarily negative market responses to these countries (Koker et al. 2023). It has shifted to a more positive tone when advising countries on how to react to grey listed countries, such as emphasising that "the FATF Standards do not envisage de-risking or cutting-off entire classes of customers but call for the application of a risk-based approach" (FATF n.d. b).

However, their findings showed that there is still a negative impact on GDP growth rates for grey listed countries (Koker et al. 2023). They note the primary way that grey listing increases the cost of doing business:

- "Governments may tighten the regulation of trade with the listed country, or with connected entities, or even prohibit business
- firms in, or linked to, the listed country (e.g., by ownership or trade) may need to undertake more checks to comply, and be seen to be complying, with regulations
- resulting changes in aggregate volume, variety, quality and cost of goods and services may impact national profitability". (Koker et al. 2023)

The financial sector

Grey listing has consequences for both domestic and international financial institutions. While the FATF explicitly states it "does not call for the application of enhanced due diligence measures to be applied to these jurisdictions" (FATF no date b), as an unintended consequence, international financial institutions may opt for de-risking which may restrict the country's (and citizens) access to the global financial market.

Morse (2019) looked at how global performance indicators can drive change through transnational market pressure, using the FATF as an example. Morse found that the FATF grey list is a powerful driver of policy change as market actors (predominately banks) use the list to allocate resources away from non-compliant states (Morse 2019: 14). This is due to higher customer due diligence regulations from banks, which often rely on the FATF grey and black lists as important sources of information which may protect them from being involved with financial integrity scandals (Morse 2019: 14).

Morse tested the impact of grey or black listing through examining how listing affects cross-border liabilities (the money that banks in a given country owe international banks) (Morse 2019). The findings showed that listing leads to a statistically significant and large decrease in cross-border liabilities, meaning that international banks move resources away from a listed country (Morse 2019).

As an example of this impact, prior to South Africa's grey listing, the South African Reserve Bank (SARB) shared concerns that this would result in: higher administrative, financing and transaction costs; a negative impact on international trade due to more difficult cross-border transactions; a negative effect of damage to the financial system's reputation on capital and local currency markets; and a potential decline in correspondent banking relations (Mariana and Nel 2022: 4). This was also seen in the case of Mauritius, where the application of enhanced due diligence led to delays in payments by banks in the conclusion of transactions (Calcutteea 2022). This negatively affects trade due to increased cross-border transaction costs (Calcutteea 2022).

However, S&P Global Ratings, the credit rating agency, was quoted stating that South Africa's grey listing will have a "muted" impact on the country's banking sector, although some local banks might suffer some reputational risks and could face higher compliance costs (Moonstone Information Refinery 2022). They added that they expect South African banks to maintain their correspondent banking relationships and could also leverage their presence in Mauritius to raise and deploy foreign exchange funding (Moonstone Information Refinery 2022).

International aid and financing

Koker et al. (2023) considered the impact of the FATF's grey listing on net official development assistance. The authors found a significant correlation between FATF grey listing and a reduction in development assistance – net official development assistance (ODA), International Bank for Reconstruction and Development (IBRD) loans and International Development Association (IDA) credits – which endured after a grey listed country lags in responses (Koker et al. 2023). The authors note that this is of particular concern as this reduction may disproportionately affect developing economies (Koker et al. 2023). They argue that these punitive measures run counter to the messaging that the FATF provides, that grey listing does not require official sanctioning or due diligence measures by other countries (Koker et al. 2023).

Direct aid may fall as donors negotiate measures to address the new risk profile that grey listing gives rise to (Koker et al. 2023). The authors note that grey listing creates a period of uncertainty, during which officials are hesitant to commit to loans (Koker et al. 2023). Nonetheless, during the remediation and de-listing phases, this may indicate a diversion of funds from other activities to those related to AML/CFT remediation (Koker et al. 2023). For example, the World Bank, International Monetary Fund and the Allica for Financial Inclusion provide technical assistance programmes to support lower-income countries build capacity for regulators and supervisors to implement a risk-based approach to AML/CFT (Celik 2021).

Indeed, S&P Global Ratings, the credit rating agency, stated that the most severe implication for South Africa being grey listed would be for public sector entities because South Africa relies on international banks and development finance institutions to finance its public spending (Moonstone Information Refinery 2022).

To illustrate this point further: Pakistan was grey listed in 2018. The IMF, a FATF member, included de-listing as one of its conditions set for the proposed US$6 billion bailout programme for Pakistan (Shah 2021; Rana 2022). The IMF's representative for Pakistan, Teresa Daban Sanchez, was quoted saying "failure to exit from the FATF grey list is a risk to the recently approved $6 billion IMF deal" (WION 2019). Indeed, Shah (2021: 294) makes the point that grey listing Pakistan was more effective as the country was heavily reliant on international financial assistance, thus the economic ramifications of enhanced due diligence would be felt more strongly.

The European Union's policy on high-risk third countries and the United Kingdom's list of high-risk third countries

Being placed on the FATF grey list raises the possibility of being moved to other AML/CFT grey lists. The European Union's (EU) policy on high-risk third countries (recently updated to Delegated Regulation in relation to third countries which have strategic deficiencies in their AML/CFT regimes) has what has been referred to as "informal synergies" with the FATF grey list (Pavlidis 2022: 13; EU 2023). The European Commission (EC) states that the FATF lists are used as a starting point for their policy, with an autonomous assessment that follows (EC n.d.). Being on the EU's list means banks and other gatekeepers are required to apply "enhanced vigilance in business relationships and transactions involving high-risk third countries" (EC n.d.).

The United Kingdom's (UK) list of high-risk third countries operates in a similar manner, relying on the FATF grey lists to inform its own. It requires regulated businesses in the UK to apply "enhanced customer due diligence measures and enhanced ongoing monitoring in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country" (HM Treasury 2023). Notably, as with the EU's policy, it calls for reactive measures to be taken for both grey listed and black listed countries.

As seen with these lists, while the FATF may not call for direct measures to be taken for their own grey listed countries, the FATF grey list affects other lists and will result in consequences for countries that have trade or other ties with the EU member states and the UK.

The black list

Perhaps the consequence of greatest impact is the risk of being moved to the FATF black list. This may occur if no high-level political commitment has been made to addressing strategic AML/CFT deficiencies and the action plan has not been adequately worked on by the grey listed country. However, some countries and jurisdictions remain on the grey list for a long period of time without moving to the black list so this process is not a certainty.

Not only does black listing entail further reputational damage to a country, FATF member states are expected to impose penalties and other restrictive measures (FATF n.d. c). International bodies such as the IMF, World Bank and Asian Development Bank apply restrictive measures too. This creates a risk of a further reduction or even a stop in international aid and financial assistance for the black listed country (Shah 2021).

The FATF Recommendations set out in the interpretive note to Recommendation 19 how financial institutions should apply enhanced due diligence measures when engaging with financial institutions, business relationships and transactions with natural and legal persons based in higher-risk countries, namely those on the black list. The examples of countermeasures that countries should implement include (among others):

- requiring financial institutions to apply specific elements of enhanced due diligence
- introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions
- refusing the establishment of subsidiaries or branches or representative offices of financial institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems
- limiting business relationships or financial transactions with the identified country or persons in that country
- requiring increased supervisory examination and/or external audit requirements for branches and subsidiaries of financial institutions based in the country concerned (FATF 2023 c: 86)

Interestingly, while these are similar to some of the measures mandated by the EU's policy and the UK's list, with FATF black listing these measures are implemented by a higher number of countries worldwide. Therefore, the impact of black listing would entail the previously mentioned consequences with presumably greater magnitude.

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