



FACT SHEET

WHAT DOES FATF GREYLISTING MEAN FOR A COUNTRY?



national treasury

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WHAT IS THE FINANCIAL ACTION TASK FORCE AND WHAT ROLE DOES IT PLAY?

The FATF is a global inter-governmental body, that promotes policies and sets international standards relating to the combating of money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction. There are currently 39 members of the FATF; 37 jurisdictions including South Africa and 2 regional organisations (the Gulf Cooperation Council and the European Commission). There are a further 31 international and regional organisations which are Associate Members or Observers of the FATF and participate in its work. South Africa is the only African member of FATF, but other African jurisdictions participate through FATF Regional Bodies like the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) who are associate members of FATF.

WHY IS THE MUTUAL EVALUATION PROCESS OF THE COUNTRY'S AML/CFT SYSTEM IMPORTANT?

Global bodies in the financial sector like the Financial Action Task Force (FATF), International Monetary Fund (IMF), and Basel Committee use peer reviews to assess compliance of internationally agreed standards by member countries. A mutual evaluation exercise is the peer review that FATF conducts, to adhere to FATF's standards which consist of 40 Recommendations against money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction. The mutual evaluation also includes an assessment of the effectiveness of a country's implementation of the standards through 11 "immediate outcomes". Ultimately, the results of a mutual evaluation exercise identify deficiencies. Countries strengthen their financial systems by addressing these, thereby enhancing the integrity of the country and global financial system.

WHAT IS MEANT BY THE FATF "GREY LIST"?

The FATF grey list refers to the FATF's practice of publicly identifying countries with strategic Anti- Money Laundering and Countering the Financing of Terrorism (AML/CFT) deficiencies. The FATF maintains two such lists:

- I. jurisdictions under "increased monitoring" that are actively working with the FATF to address strategic deficiencies in their regimes" and
- II. "high-risk jurisdictions subject to a call for action" that are not actively engaging with the FATF to address these deficiencies.

As noted by FATF in its statement of 24 February 2023¹:

"Jurisdictions under increased monitoring are actively working with the FATF to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring."

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https://finance.ec.europa.eu/financial-crime/high-risk-third-countries-and-international-context-content-anti-money-laundering-and-countermeasures_en

Hence jurisdictions under increased monitoring are actively working with the FATF to address its strategic deficiencies, and means the country has committed to resolving swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring in the interim. This list is often externally referred to as the “grey list”. It also allows a country to avoid being “black-listed”, formally known as high-risk jurisdictions subject to a call for action.

In summary, the greylisting of a country means that its government has adopted an action plan to address to deficiencies identified during its mutual evaluation after an observation period, and to

implement such action plan within a defined time period, and with FATF monitoring such implementation.

WHY HAS SA BEEN GREYLISTED BY FATF?

South Africa did poorly in its 2021 mutual evaluation, which was conducted in 2019 when many institutions (especially law-enforcement agencies) were at their weakest following state capture. Whilst no country² is fully³ compliant with all 40 FATF Recommendations and all 11 effective immediate outcomes, South Africa was deemed to have too many weaknesses in its legal framework (being deemed to be inadequately compliant with 20 of FATF’s recommendations) in all 11 effectiveness immediate outcomes. South Africa was put under a one-year observation period in October 2021, giving the country time to address 67 Recommended Actions. South Africa made significant progress during the observation period, passing two major Amendment Acts in 2022, and strengthening its institutions. A January 2023 assessment of SA’s progress found that South Africa had made significant and positive progress, reducing the 67 Recommended Actions to 8 strategic deficiencies, where more progress is required. As a result, South Africa was greylisted while these are addressed, even as the FATF recognised the significant and positive progress made since 2019.

WHAT ARE THE IMPLICATIONS FOR A COUNTRY THAT IS GREYLISTED BY FATF?

The most significant implication to a country that is greylisted is the reputational damage to the country, as its effectiveness in combatting financial crimes like corruption and money-laundering as well as terror financing are deemed to be below international standards.

The second and related implication arises from consequential action taken with regard to cross-border transactions, particularly possible action taken by foreign banks that provide correspondent banking services. It should be noted that FATF does not require enhanced due diligence measures to be applied, but rather that all jurisdictions take account of it in their risk analysis. The same FATF statement quoted above notes:

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https://www.linkedin.com/pulse/fatfs-greylisting-south-africa-navigating-myths-truths-louis-de-koker?lipi=urn%3Ali%3Apage%3Ad_flagship3_detail_base%3BrK7B2%2B2wRGKixMVEjg%2BEfQ%3D%3D

3

<https://www.fatf-gafi.org/content/dam/fatf/documents/4th-Round-Ratings.xlsx.coredownload.inline.xlsx>

For example, the USA and UK are both only moderately effective for IO 3 and 4, and have at least one other effective measure where they are moderately or lowly effective.

“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.”

However, despite the FATF requirement, selected institutions are expected to undertake more enhanced monitoring, for their own business reasons, or as may be required by their own laws (eg EU directives⁴). Hence institutions based in a greylisted country that engages in cross-border trade and other activities may be subject to higher levels of customer due diligence by financial institutions outside of that country. In practice, this means being more thorough processing and vetting clients and understanding the sources of their funds.

However, if a country has demonstrated that it has taken strong and credible steps to prevent or get out of greylisting, the costs of greylisting will likely be reduced. In the case of South Africa, none of the items on the action plan relate directly to preventive measures in respect of the financial sector, reflecting significant progress since the mutual evaluation in the application of a risk-based approach to the supervision of banks and insurers. National Treasury, therefore, expects that if South Africa continues to make significant improvements in effectiveness and swiftly exits greylisting, it will have a

limited impact on financial stability and costs of doing business with South Africa, particularly if South Africa moves speedily to get out of greylisting.

HOW LONG DOES IT TAKE COUNTRIES TO GET OUT OF THE GREY LIST?

Generally, it takes from one to three years for countries to address the deficiencies and to be taken off the grey list, something that occurs after a final, on-site assessment when both FATF and the relevant country believe that all elements of the action plan have been largely or fully addressed.

South Africa is expected to address the eight (8) areas of strategic deficiencies identified by the FATF, by no later than the end of January 2025. However, Government hopes to address them sooner, possibly in 2024.

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https://finance.ec.europa.eu/financial-crime/high-risk-third-countries-and-international-context-content-anti-money-laundering-and-counteracting_en

WHAT ARE THE 8 AREAS OF STRATEGIC DEFICIENCIES IDENTIFIED BY FATF THAT NEED TO BE ADDRESSED?

During the period of the review South Africa (ie next two years) will need to:

1. demonstrate a sustained increase in outbound Mutual Legal Assistance requests that help facilitate money laundering/terrorism financing (ML/TF) investigations and confiscations of different types of assets in line with its risk profile;
2. improve risk-based supervision of Designated Non-Financial Businesses and Professions (DNFBPs) and demonstrate that all AML/CFT supervisors apply effective, proportionate, and effective sanctions for noncompliance;
3. ensure that competent authorities have timely access to accurate and up-to-date Beneficial Ownership (BO) information on legal persons and arrangements and applying sanctions for breaches of violations by legal persons to BO obligations;
4. demonstrate a sustained increase in law enforcement agencies' requests for financial intelligence from the Financial Intelligence Centre for its ML/TFML/TF investigations;
5. demonstrate a sustained increase in investigations and prosecutions of serious and complex money laundering and the full range of terrorist financing activities in line with its risk profile;
6. enhance its identification, seizure, and confiscation of proceeds and instrumentalities of a wider range of predicate crimes, in line with its risk profile;
7. update its terrorist financing risk assessment to inform the implementation of a comprehensive national counter-financing of terrorism strategy; and
8. ensure the effective implementation of targeted financial sanctions and demonstrate an effective mechanism to identify individuals and entities that meet the criteria for domestic designation.

WHAT ARE THE NEXT STEPS TO IMPLEMENT THE ACTION PLAN BY FATF?

With the greylisting of South Africa, the country will still need to continue working to improve the AML/CFT system. Whilst the country will need to make improvements to meet the FATF requirements in these specific areas, it will also continue strengthening its capability to fight money laundering, terrorist financing, corruption, and other financial crimes. This is principally for the benefit of the country, its economy, its financial system, and also for the safety and security of the country's citizens.

In this regard, continuously improving the integrity of the financial system is not merely a FATF exercise, but rather part of government's objectives for the regulation of the financial sector. National Treasury is particularly working to continue to strengthen and expand anti-money laundering (and combatting terror finance) systems in the financial sector, to minimise perceived risks relating to this sector, including from new and emerging risks (eg crypto-related risks). This is because the biggest economic risks of being greylisted is related to the withdrawal of banking and payments services necessary for trade, remittances, and other transfers and economic growth.

When will another mutual evaluation exercise of South Africa take place, and what happens between mutual evaluation exercises?

The completion of an assessment and the publication of the mutual evaluation report is a starting point for the country to continue strengthening its measures to tackle money laundering and terrorist financing. The country subsequently reports back to the FATF on a regular basis on the progress it has made. This can lead to a change of the compliance ratings from the original mutual evaluation report. After three years, the general expectation is for countries to have addressed most if not all of the deficiencies related to the adequacy of laws to combat money laundering and terror financing that are identified in their mutual evaluation report.

The FATF has decided that it will start with the next (fifth) round of mutual evaluations in 2024, with the first mutual evaluation report being discussed at its October 2025 Plenary meeting. It is expected that South Africa will be evaluated again in the fifth round during 2027/28.