

Countering proliferation finance

An essential but undervalued component of the nonproliferation regime

Javier Serrat
Scoville Fellow

James Martin Center for Nonproliferation Studies, Washington, D.C.



Challenges in countering proliferation financing

- Volume of transactions
- Financial institutions often unwitting actors
- Growing complexity of networks
- Intelligence challenge
- Mutual legal assistance: subpoenas, information from foreign commercial entities, extraditions
- No harmonized global response

Financial Action Task Force

- G-7: Paris Economic Declaration (1989)
- Current mandate expires June 2012
- Not an organization
- Based in Paris, OECD staff support
- 2010 Budget: \$3 million
- U.S. delegation: Office of Terrorism and Financial Crimes, Under-Secretary Terrorism and Financial Intelligence, Department of Treasury
- Membership: 16 → 36 (2010 China, India)
- 9 'FATF-Associate' bodies
- Money laundering/counterfeit → 40 Recommendations
- 2001: mandate expanded → terrorism finance: 9 Special Recommendations
- Mutual Evaluation Process (peer review)

Date	Meeting/ Document Released	Location
May 2007	WGTM Intersessional Meeting	Ottawa
June 2007	<i>Guidance Regarding the Implementation of Financial Provisions of United Nations Security Council Resolutions To Counter the Proliferation of Weapons of Mass Destruction</i>	Paris
September 2007	WGTM Intersessional Meeting	Rome
September 2007	<i>Annex on financial sanctions – Guidance Regarding the Implementation of Financial Provisions of United Nations Security Council Resolutions To Counter the Proliferation of Weapons of Mass Destruction</i>	Paris
October 2007	<i>Guidance Regarding the Implementation of Activity-Based Financial Prohibitions of United Nations Security Council Resolution 1737</i>	Paris
November 2007	Joint FATF / APG Experts' Proliferation Financing Workshop	Bangkok
December 2007	December 2007 FATF –Private Sector Expert's Meeting on Typologies	-
June 2008	<i>Proliferation Financing Report of the Proliferation Finance Typology Project</i>	Paris
February 2009	PFPT meetings	Paris
April 2009	Intersessional with export control authorities and FIs	London
June 2009	PFPT meetings	Lyon
September 2009	WGTM Intersessional	Geneva
February 2010	<i>Combating Proliferation Financing: A Status Report on Policy Development and Consultation</i> ; shared with private sector	Paris
April 2010	<i>Status Report</i> released publicly	Paris
June 2010	Discussion about further course of action	Amsterdam
May 2011	WGTM Intersessional on Proliferation Financing	Paris
June 2011	<i>The Review of the Standards – Preparation for the 4th Round of Mutual Evaluation, Second public consultation</i>	Mexico City/Paris

FATF's CPF framework



What FATF contributes

- Task force model
- Small core, large periphery
- Interdisciplinary
- FININT
- Interpretive notes
- Peer review

Mutual Evaluation Executive Summary

Anti-Money Laundering and Combating the
Financing of Terrorism

State of Kuwait

24 June 2011

TABLE 1. RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS

Forty Recommendations	Rating	Summary of factors underlying rating ¹
Legal systems		
1. ML offense	LC	<ul style="list-style-type: none"> Smuggling of migrants and terrorism financing are not predicate offenses for ML. Reluctance to undertake ML prosecutions without prior convictions for the predicate offense.
2. ML offense—mental element and corporate liability	LC	<ul style="list-style-type: none"> Criminal liability only applies to companies, and not to other legal persons.
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> Impossibility to confiscate property of corresponding value. Lack of evidence of the effectiveness of the AML confiscation framework.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> The financial secrecy law for the CBK impedes regulatory cooperation and sharing at the international level outside of the context of consolidated supervision and criminal cases.
5. Customer due diligence	NC	<p>Lack of explicit obligations imposed by law or regulation (primary or secondary legislation) for:</p> <ul style="list-style-type: none"> Undertaking customer due diligence measures when: <ul style="list-style-type: none"> Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII; There is suspicion of ML or TF, regardless of any exemptions or thresholds; The FI has doubts about the veracity or adequacy of previously obtained customer identification data. Identifying and verifying the identity of any person purporting to act on behalf of a legal person (not only for companies and institutions). Identifying all types of legal persons, using reliable, independent data or information (identification data).

¹ These factors are only required to be set out when the rating is less than Compliant.