

PAKISTAN'S FATF JOURNEY 2018-2022

ROUND-UP

*Preparing for the October 2022 Plenary:
Summarizing Pakistan's Compliance with
the FATF Regime*



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Introduction

The Financial Action Task Force (FATF) is a global watchdog that develops policies for curbing money laundering and financing of terrorism (ML/TF). It sets standards and guidelines for all countries to adopt, as well as monitors and evaluates countries on their performance. The aim is to promote countries to adopt FATF Recommendations and in doing so, preserve the integrity of the global financial system.¹

In 2018, the FATF placed Pakistan on the ‘grey-list’ – citing ‘structural deficiencies’ that resulted in failure to effectively target TF/ML.² Since 2018, Pakistani authorities have resorted to multi-focal action to improve its performance, undertaking comprehensive legal and administrative reforms to improve compliance. As a result, Pakistan registered significant progress in its two Action Plans, and is now largely compliant on both the 27-Point TF Action Plan (2018) and the 7-Point ML Action Plan (2021).

This brief provides a snapshot of Pakistan’s progress going into the October 2022 Plenary. It briefly highlights the dual-evaluation process undertaken by the FATF and the APG in Pakistan’s AML/CFT assessment, as well as summarizes improvements in Technical Compliance frameworks as per the 4th Follow Up Report (FUR) to the Mutual Evaluation Report (MER) 2019. It then concludes with commentary on next steps for Pakistan in further bolstering effective compliance in the long-term.

Introducing FATF Methodology

The FATF and its regional bodies regularly monitor countries’ AML/CFT frameworks. The FATF conducts peer reviews of each member on an ongoing basis to assess levels of implementation and provides analyses of each country’s system for preventing criminal abuse of the financial system. In these evaluations (call Mutual Evaluation Reports), the FATF evaluates how well a country’s AML/CFT frameworks fulfill the FATF requirements (Technical Compliance), and broadly, how well these frameworks are working to protect against ML/TF risks (Effective Compliance). The criteria that the FATF relies upon to conduct these evaluations comprise of 11 Immediate Outcomes to measure Effective Compliance, and 40 Technical Recommendations to measure Technical Compliance. Currently, the FATF is holding its Fourth Round of AML/CFT Mutual Evaluations.

Countries that are not up to the par in terms of the FATF’s standards are subject to further scrutiny and evaluations until they satisfy the FATF requirements. The FATF places such countries into

¹ Financial Action Task Force (FATF), “Mandate”

<http://www.fatf-gafi.org/media/fatf/content/images/FATF-Ministerial-Declaration-Mandate.pdf>

² The Asia/Pacific Group on Money Laundering, “Pakistan Mutual Evaluation Report October 2019”

<https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-Mutual-Evaluation-Report-Pakistan-October%202019.pdf>

two categories – first is Jurisdictions under Increased Monitoring” (the ‘grey-list’), while the second is “Non-Cooperative Countries and Jurisdictions subject to Call to Action” (the ‘black list’). Being placed on the grey list results in countries being subject to harsher conditions when pursuing international loans, or while conducting business through the global financial system. All transactions are subject to intense scrutiny, therefore adversely impacting the economy.

Countries on the grey-list are encouraged to work together with technical working groups within the FATF body, such as the International Cooperation Review Group (ICRG), to identify and resolve issues in their AML/CFT regimes. Countries often work together with the regional FATF-style body and the ICRG to create workable Action Plans, that can allow for improvement on the deficiencies. The FATF, along with its regional bodies such as the Asia Pacific Group (APG), then regularly conducts assessments and evaluations of countries on the grey-list. Eventually, countries that improve their performance are allowed to exit the grey list, and are removed from increased scrutiny.

Countries on the black-list are not considered part of the global financial system, and all matter of transactions, whether with other countries or even at the individual-level, are effectively banned. It is recommended that countries on the grey-list work swiftly to improve its international standing, otherwise, failure to do so can result in the country being black-listed.

Pakistan and the FATF

In 2018, the FATF placed Pakistan on the ‘grey-list’ – citing ‘structural deficiencies’ that resulted in failure to effectively target TF/ML.³ A Mutual Evaluation Report (MER)⁴ highlighted the nature of these deficiencies. Some of the core reasons for being grey-listed included:

- Lack of necessary legal frameworks to target TF/ML;
- Lack of coordination amongst governmental actors and law enforcement agencies;
- No coherent risk-based assessment tools;
- No laws/regulations for certain high-risk sectors such as Designated Non-Financial Businesses and Persons (DNFBPs);
- Lack of mechanisms to promote international cooperation.

The FATF instructed Pakistan to abide by its 27-point Action Plan to improve its AML/CFT frameworks so as to align with international standards.⁵ Since 2018, Pakistani authorities have

³ Shahbaz Rana, “Pakistan Formally Placed on FATF Grey List,” The Express Tribune, June 29, 2018 <https://tribune.com.pk/story/1746079/1-pakistan-formally-placed-fatf-grey-list>.

⁴ The Asia/Pacific Group on Money Laundering, “Pakistan Mutual Evaluation Report October 2019” <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-Mutual-Evaluation-Report-Pakistan-October%202019.pdf>

⁵ “FATF Plenary Meetings - Chairman's Summaries,” Financial Action Task Force (FATF).

undertaken extensive legislative and administrative reforms to improve upon the deficiencies identified in the MER. In 2020, this effort culminated into the passage and amendments of around 15 laws, including comprehensive amendments to the Anti-Terrorism Act, 1997 and the Anti-Money Laundering Act, 2010 – which constitute the foundation of Pakistan’s AML/CFT frameworks. Additionally, over 30 rules/regulations were passed by authorities to further augment and enhance the implementation of the amended legislation.

Addition of the 7-Point ML Action Plan

In June 2021, the FATF found Pakistan compliant on 26 out of 27 Action Plan Points from the original TF Action Plan (2018). The FATF acknowledged Pakistan’s substantial progress and did not reiterate its oft-repeated warning of black-listing Pakistan. The last outstanding point pertained to demonstrating that effective, proportionate and dissuasive sanctions are imposed for TF convictions and that Pakistan’s targeted financial sanctions regime was being used effectively to targeted terrorist assets. Experts suggested that demonstrating effectiveness and convictions requires time, as every case has to follow due process at trial (a right protected under Article 10A of the Constitution of Pakistan).⁶

Despite only one outstanding point, the FATF handed Pakistan an additional 7-Point Action Plan that was focused on money laundering concerns. The rationale provided by the FATF stated that based on the findings of the concurrent dual Mutual Evaluation process underway, Pakistan needed to address concerns regarding regulation of DNFBPs, focus on international cooperation and continued effectiveness (by way of increased ML convictions).⁷ These formed the core of the 7-Point Action Plan, which the Government of Pakistan announced would achieve within 12 months.

FATF’s Dual Evaluation of Pakistan

Pakistan underwent two parallel evaluations: first, a regular evaluation as per the Fourth Round (analyzing Technical Compliance and Effective Compliance); and second, an evaluation of its progress on the 27-Point and later 7-Point Action Plans. Pakistan regularly submits progress reports to the FATF, highlighting all on-going developments, with the FATF publishing Follow-Up Reports (FURs) to the initial Mutual Evaluation Report (2019), updating and re-rating Pakistan’s performance on the 40 Technical Compliance indicators.

<http://www.fatf-gafi.org/about/outcomesofmeetings/>.

⁶ Article 10A: “For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”

Constitution of the Islamic Republic of Pakistan
https://na.gov.pk/uploads/documents/1333523681_951.pdf

⁷ FATF Outcomes of the June 2021 Plenary – High Risk and Other Monitored Jurisdictions

<http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2021.html>

Combined, these two evaluations allow for a detailed assessment of Pakistan’s AML/CFT frameworks in terms of the laws, rules/regulations and mechanisms available to counter ML/TF risks and their efficacy in producing convictions. The Action Plans, designed to specifically counter Pakistan-specific risks, further allow for appropriate legal, regulatory and administrative action to be undertaken to mitigate ML/TF risks. Successful completion of the two Action Plans as well as achieving compliance with the FATF’s technical recommendations therefore indicates that Pakistan undertook comprehensive reforms, and its AML/CFT frameworks are now at par with international standards.

Summary of the 4th Follow-Up Report (Feb 2022)

In 2022, the APG released the 4th technical compliance report (Follow-Up Report), assessing progress against Technical Compliance indicators. It reviewed the country’s overall performance till 1st February 2022 and commended Pakistan’s effective AML/CFT framework, particularly highlight progress with regards to regulation of DNFBPs (Designated Non-Financial Businesses and Professions), as well as improved Mutual Legal Assistance (MLA) and international cooperation frameworks.

The 4th FUR⁸ re-rated Pakistan on the following Technical Recommendations:

Technical Compliance Indicator	Prior Rating⁹	Relevant Law/Regulation¹⁰	Updated Rating¹¹
<u>Recommendation 28:</u> Regulation and Supervision of DNFBPs	PC	AML/CFT Regulations for Lawyers and Independent Legal Professions (DNFBPs), 2021 Ministry of Law and Justice Regulations on AML/CFT Obligations of SRBs	LC

⁸ APG 4th Follow Up Report to the Mutual Evaluation of Pakistan - July 2022
<https://www.fmu.gov.pk/docs/2022/PakistanFURFebruary2022.pdf>

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

		<p>Amendment of Federal Board of Revenue AML/CFT regulations for DNFBPs via SRO 128(1)/2022</p> <p>Operationally, on-site and off-site inspections of relevant DNFBPs are now being conducted</p>	
<p><u>Recommendation 33:</u> Statistics</p>	PC	<p><u>Implementation of AML Act section 5(2)(f):</u> The NEC is empowered to monitor the collection of statistics and the overall outcomes from FMU, AML/CFT supervisors, LEAs and other AML/CFT competent authorities.</p> <p>The FMU and NACTA have also upgraded their databases and software to now maintain comprehensive statistics on STRs and conviction-rates respectively.</p>	C
<p><u>Recommendation 37:</u> Mutual Legal Assistance</p>	NC	<p>Mutual Legal Assistance (Amendment) Act, 2021</p> <p>Mutual Legal Assistance Internal Guidelines, 2022 (updated)</p>	LC
<p><u>Recommendation 38:</u> Mutual Legal Assistance – freezing and confiscation</p>	NC	<p>Mutual Legal Assistance (Amendment) Act, 2021</p> <p>Mutual Legal Assistance Internal Guidelines, 2022 (updated)</p>	PC

Pakistan had requested re-ratings on Recommendations 28 (Regulation and Supervision of DNFBPs) and 33 (Statistics) which were previously rated Partially Compliant and Recommendations 37 and 38 pertaining to mutual legal assistance (MLA) which were rated Non-Compliant. In its re-evaluation, the APG acknowledged Pakistan's substantial progress and issued re-ratings in line with the developments summarized above.

The APG expressed its satisfaction over Pakistan's performance after as technical compliance ratings improved on 38 out of 40 Technical Compliance indicators – illustrating Pakistan's commitment towards achieving full compliance across the spectrum.

Pakistan's Compliance Standing as of October 2022

Going into the October 2022 Plenary, the Pakistani government is rightfully hopeful of successfully exiting the FATF grey-list. In the last plenary held in June 2021, the FATF Plenary deliberated upon Pakistan's progress in achieving deliverables under the 27-Point Action Plan (2018) and a consequent 7-Point Action Plan (2021).¹² The Plenary found Pakistan largely compliant with all 34 items of the two Action Plan points and stated that the country is now legible for an on-site inspection. Consequently, an on-site visit was arranged and concluded by September 2022,¹³ the due process that all grey-listed countries follow before being allowed to formally exit the grey-list in the upcoming plenary.

This is in tandem with progress under the dual mutual evaluation as well. As discussed above, in the latest 4th Follow-Up Report (FUR) to the MER, Pakistan's technical compliance improved significantly across all sectors of the evaluation. Pakistan was rated as largely or fully compliant with 38 out of 40 FATF Recommendations (as of Feb 2022).¹⁴

¹² FATF Outcomes of the June 2022 Plenary – High Risk and Other Monitored Jurisdictions
<https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2022.html>

¹³ Foreign Office Responds to Media Reports About Pakistan's Recent Engagement with the FATF, September 14th 2022, The News
<https://www.thenews.com.pk/latest/991294-fo-responds-to-media-reports-about-pakistans-recent-engagement-with-fatf>

¹⁴ APG 4th Follow Up Report to the Mutual Evaluation of Pakistan - July 2022
<https://www.fmu.gov.pk/docs/2022/PakistanFURFebruary2022.pdf>

The MER 2019 found Pakistan's Compliance as follows:

Effective Compliance:	11 Immediate Outcomes
Low:	10
Moderate:	1
High:	0

Technical Compliance:	40 Recommendations
Compliant:	1
Largely Compliant:	9
Partially Compliant:	26
Non-Compliant:	4

According to the FATF's 4th Follow Up Report, Pakistan's Technical Compliance is as follows (as of February 2022):

Compliant:	9
Largely Compliant:	29
Partially Compliant:	2
Non-Compliant:	0

Conclusion & Way Forward

Pakistan has registered tremendous success with the speedy implementation of the FATF's standards since 2018. The dual evaluation (that is, the mutual evaluation process in addition to the 34 Action Plan points spread across two Action Plans) culminated into the most comprehensive and ambitious tasks ever handed to any country by the FATF. With the Government of Pakistan following through with its high-level political commitment to the FATF, all sectors of the economy

are now brought under the umbrella of effective AML/CFT regulation and supervision in line with the FATF's standards.

Moving towards the October 2021 Plenary, Pakistan remains keenly hopeful of formally exiting the grey-list. This would result in reduced scrutiny by the FATF and other financial governance institutions, cut back on the costs of doing business with the country and overall have a positive economic impact. Despite this, however, Pakistan will be required to sustainably continue working to improve the effectiveness of its AML/CFT mechanisms, ensuring that existing technical frameworks are working effectively to produce the desired results in mitigating ML/TF risks for the country and the region broadly.

ANNEX: FATF Action Plans

27 Point Action Plan – TF (2018):¹⁵

- 1 Understanding risks of counter financing terrorist (CFT) by the financial sector;
- 2 Outreach sessions of Anti Money Laundering (AML) and CFT for the financial institutions;
- 3 Developing an integrated database at airports;
- 4 Mechanisms to publicise designated persons and entities; and
- 5 Terrorist Financing (TF) specific units and analysis done by Financial Monitoring Unit (FMU) and State Bank of Pakistan (SBP).
- 6 Audit of financial institutions by the State Bank of Pakistan
- 7 Suspicious Transaction Reports (STRs) disseminations and analysis done by FMU
- 8 Terror financing risk assessment and its implementation
- 9 Inter-coordination mechanism of federal & provincial departments
- 10 Parallel investigations by Counter Terrorism Departments (CTDs)
- 11 Risk assessment of cash smuggling
- 12 Implementation of domestic cooperation to counter cash smuggling
- 13 Understanding TF by the judiciary through conducting awareness and training session
- 14 Risk based outreach of Designated Non-Banking Financial Institutions (DNBFI) and Non-Profit Organizations (NPOs).
- 15 Pakistan will have to demonstrate effectiveness of sanctions including remedial actions to curb terrorist financing in the country;
- 16 Pakistan will have to ensure improved effectiveness for terror financing of financial institutions with particular to banned outfits;
- 17 Pakistan will have to take actions against illegal Money or Value Transfer Services (MVTs) such as Hundi-Hawala;
- 18 Pakistan will have to place sanction regime against cash couriers;

¹⁵ FATF Outcomes of the June 2022 Plenary – High Risk and Other Monitored Jurisdictions
<https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2022.html>

- 19 Pakistan will have to ensure logical conclusion from ongoing terror financing investigation of law enforcing agencies (LEAs) against banned outfits and proscribed persons;
- 20 Pakistani authorities will have to ensure international cooperation based investigations and convictions against banned organisations (list provided to Pakistan) and proscribed persons (list provided to Pakistan);
- 21 The country will have to place effective domestic cooperation between Financial Monitoring Unit (FMU) and LEAs in investigation of terror financing;
- 22 Prosecution of banned outfits and proscribed persons (list provided to Pakistan);
- 23 Demonstrate convictions from court of law of banned outfits and proscribed persons (list provided to Pakistan);
- 24 Seizure of properties of banned outfits and proscribed persons (list provided to Pakistan);
- 25 Conversion of madrassas to schools and health units into official formations (list provided to Pakistan);
- 26 To cut off funding of banned outfits and proscribed persons; and
- 27 Pakistan will have to place permanent mechanism for management of properties and assets owned by the banned outfits and proscribed persons (list provided to Pakistan).

7-Point Action Plan - ML (2021)¹⁶

- 1 Enhancing international cooperation by amending the Mutual Legal Assistance law;
- 2 Demonstrating that assistance is being sought from foreign countries in implementing UNSCR 1373 designations;
- 3 Demonstrating that supervisors are conducting both on-site and off-site supervision commensurate with specific risks associated with DNFBPs, including applying appropriate sanctions where necessary;
- 4 Demonstrating that proportionate and dissuasive sanctions are applied consistently to all legal persons and legal arrangements for non-compliance with beneficial ownership requirements;

¹⁶ Haider, Mehtab. "Pakistan Must Comply with 13 Points to Come out of FATF Grey List." Thenews, The News International, 16 Mar. 2020, <https://www.thenews.com.pk/print/629673-pakistan-must-comply-with-13-points-to-come-out-of-fatf-grey-list>.

- 5 Demonstrating an increase in ML investigations and prosecutions and that proceeds of crime continue to be restrained and confiscated in line with Pakistan's risk profile, including working with foreign counterparts to trace, freeze, and confiscate assets; and
- 6 Demonstrating that DNFBPs are being monitored for compliance with proliferation financing requirements and;
- 7 Sanctions are being imposed for non-compliance for the same.