



TERRORIST FINANCING

FATF REPORT TO G20 LEADERS

ACTIONS BEING TAKEN BY THE FATF

NOVEMBER 2015

SUMMARY

In light of the growing threat of ISIL and other terrorist groups, the FATF conducted an urgent review of 194 jurisdictions in the global AML/CFT network, to determine whether they have implemented key measures to cut off terrorism-related finance, as part of a comprehensive AML/CFT framework.

The key findings are:

- ***Almost all jurisdictions - particularly the systemically important jurisdictions - have criminalised terrorist financing as a distinct offence.*** Most jurisdictions criminalise providing funds to support a terrorist act, or to support a terrorist organisation, even for a purpose unrelated to committing a terrorist act, and treat such activity as a serious crime.
- ***But relatively few jurisdictions have obtained convictions for terrorist financing,*** and many jurisdictions do not yet criminalise financing an individual terrorist for a purpose unrelated to committing a terrorist act.
- ***Twenty-seven jurisdictions have expanded their laws to combat foreign terrorist fighters,*** by criminalising the financing of travel for the purposes of terrorism or terrorist training. Some jurisdictions already had appropriate laws to combat foreign terrorist fighters. But most jurisdictions have yet to take action in this area.
- ***Most jurisdictions have legal instruments to implement targeted financial sanctions,*** whether imposed by the UN, requested by another country, or proposed by the country's own motion. However, a majority of jurisdictions remain too slow in implementing UN targeted financial sanctions, and there are gaps in many jurisdictions' legal frameworks.
- ***Most jurisdictions never make practical use of targeted financial sanctions.*** Even though there are adequate legal powers, these are not activated in practice, either in relation to UN sanctions or national sanctions. Two-thirds of jurisdictions have never taken any practical actions related to targeted financial sanctions.
- ***The FATF is taking action to deal with these problems.*** This includes: specific follow-up to ensure individual jurisdictions address the problems identified; measures to address systemic weaknesses such as those identified for foreign requests for freezing action; reviewing the international standards on terrorist financing; reinforcing the research programme on the risks, trends, and methods of terrorist financing; and building closer links with operational experts and the Egmont Group of Financial Intelligence Units.
- ***The G20 can support this programme by:*** leading by example, helping low capacity jurisdictions implement essential counter terrorist financing measures, and continuing to support the FATF in its ongoing work.

Introduction

In light of the growing threat of ISIL and other terrorist groups, the FATF has taken a renewed focus on the global threat of terrorist financing and terrorism, and conducted a fact-finding initiative to determine whether all jurisdictions in the global anti-money laundering (AML) / counter-terrorist financing (CFT) network have implemented key measures to cut off terrorism-related financial flows, in accordance with the FATF Recommendations. This report sets out the results of that exercise.

For the FATF, this terrorist financing fact-finding exercise is unprecedented in its scope. It is based on information provided by 194 jurisdictions which are members or observers of the FATF or one of the eight FATF-style regional bodies, representing 98% of the jurisdictions in the FATF's global AML/CFT network. Annex A sets out the full list of members of the FATF's global network, and notes the jurisdictions which are not included¹.

This initiative is not limited to gathering information. Based on the information provided, the FATF is focusing on those jurisdictions which have not implemented measures to cut off terrorist finance or which have weaknesses in their national implementation. The FATF expects jurisdictions to commit to address these problems within a short time, and is establishing an additional follow-up process to ensure jurisdictions meet their commitment. G20 support would be welcome, particularly for G20 members to: endorse the FATF's goal of ensuring all jurisdictions have implemented fundamental measures to counter terrorist financing on an urgent basis, lead by example, and assist implementation in low-capacity jurisdictions.

Criminalising Terrorist Financing

Almost all jurisdictions have criminalised terrorist financing as a distinct offence. Only four of the 194 jurisdictions reviewed (Brazil², the Czech Republic, Libya, and the Palestinian Authority) do not have a stand-alone offence of terrorist financing. These jurisdictions will be subject to follow-up by the FATF. Most such laws are broadly in line with the FATF requirements, and criminalise intentionally collecting or providing funds to support a terrorist act.

Most jurisdictions also criminalise financing a terrorist organisation. In 71% of all jurisdictions (and 94% of FATF members) the terrorist financing offence applies to financing a terrorist organisation even for a purpose unrelated to committing a terrorist act. This is important, as the majority of terrorist financing is not used to meet the direct costs of mounting attacks but for broad organisational support (including recruitment, training, subsistence, travel, and maintaining a veil of legitimate activities), particularly in the case of foreign terrorist fighters.

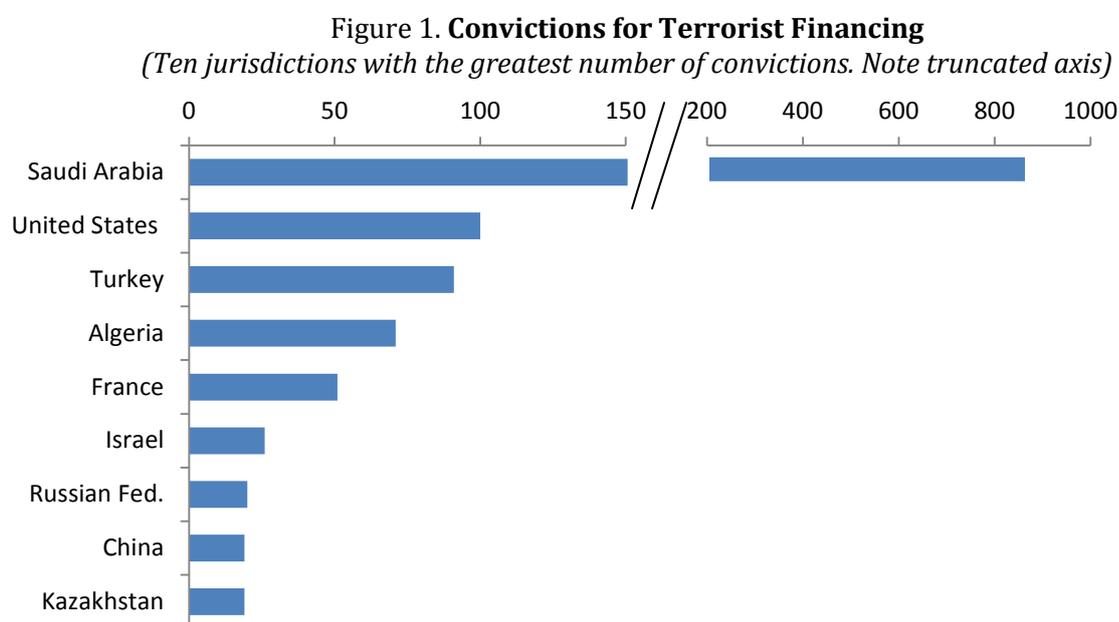
¹ This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

² Brazil is currently considering measures to criminalise terrorist financing through an urgent legislative process.

But fewer jurisdictions criminalise financing an individual terrorist for a purpose unrelated to committing a terrorist act. Fifty-five percent of jurisdictions criminalise this conduct, while in 45% the terrorist financing offence does not apply to such cases.

Relatively few jurisdictions have obtained convictions for terrorist financing, and the number of cases varies widely. Only 33 jurisdictions - 17% of those surveyed - reported any convictions for terrorist financing (TF) offences. Other jurisdictions have never obtained a conviction for a TF offence, although several report that they have disrupted terrorist financing activity and convicted terrorist financiers under other criminal offences.

Among the 33 jurisdictions which have obtained convictions, the number of cases varies greatly: the number of convictions in each country since 2010 ranges from 1 to 863. The jurisdictions generating most convictions for terrorist financing are shown in the chart below:



Terrorist financing is generally treated as a serious crime. The maximum sentence in most jurisdictions is between ten years and life imprisonment, although there are some jurisdictions outside this range. In three jurisdictions, terrorist financing is potentially punishable with the death penalty; and in five jurisdictions, the maximum sentence is five years or less.

Foreign Terrorist Fighters

United Nations Security Council Resolution 2178 (S/RES/2178(2014)) requires member states to criminalise the financing of travel by foreign terrorist fighters for purposes of terrorism or terrorist training. Following its adoption in September 2014, 27 jurisdictions have introduced new legislation to criminalise this conduct - which was already a criminal offence in 11 jurisdictions. A number of other jurisdictions are conducting reviews to determine what legislative changes may be needed in order to implement this requirement. Jurisdictions also reported on wider measures they

have taken to improve operational effectiveness in countering foreign terrorist fighters, e.g., by giving their authorities new powers to access information from travel agencies or tour operators.

Nevertheless, most jurisdictions do not yet criminalise financing of travel for purposes of terrorism or terrorist training: Seventy-three percent of jurisdictions report that they have not yet criminalised this conduct.

The FATF has taken urgent action to incorporate the new requirements of UNSCR 2178 into the FATF Recommendations. In October 2015, the FATF adopted changes to Recommendation 5 which clarify how the financing of travel for purposes of terrorism or terrorist training should be reflected in the offence of terrorist financing. The FATF will also develop guidance to assist countries with the implementation of measures to criminalise terrorist financing. This will help jurisdictions update their laws.

There are few criminal proceedings so far in relation to foreign terrorist fighters. Only 14 jurisdictions report that they have initiated investigations or prosecutions. However, many jurisdictions do not distinguish these cases from other investigations of terrorist financing or terrorism, so the actual number may be larger.

Targeted Financial Sanctions

Legal powers to implement financial sanctions

Most jurisdictions have legal instruments to implement targeted financial sanctions imposed by the United Nations Security Council Resolutions on al-Qaida and the Taliban³. Over 90% of jurisdictions have a legal framework in place to address UN designations. However, 17 jurisdictions still do not have legal powers to apply UN sanctions lists, 16 years after the relevant UN Security Council Resolution was first put in place. These jurisdictions will be subject to follow-up by the FATF.

A wide variety of mechanisms are used to implement UN sanctions. In 25 jurisdictions, national laws require financial institutions and designated professions to give direct and immediate effect to lists of designated individuals and entities issued by the UN Sanctions Committees⁴. Such systems legally implement new UN designations automatically, without the need for action by national authorities. Most jurisdictions (78%) require the transposition of UN lists into nationally applicable laws or regulations, e.g., through entry on a national list of designated entities, or through a freezing order issued regarding a specific person or asset. In some regions, including the EU and the UEMOA⁵, supranational measures are used to give effect to financial sanctions.

Most jurisdictions are too slow in implementing targeted financial sanctions. The process of transposing newly designated individuals and entities from UN lists into nationally applicable measures often leads to excessive delays in applying freezing measures. Such delays are a cause for concern, as they give terrorists and terrorist financiers a window of opportunity to move or use

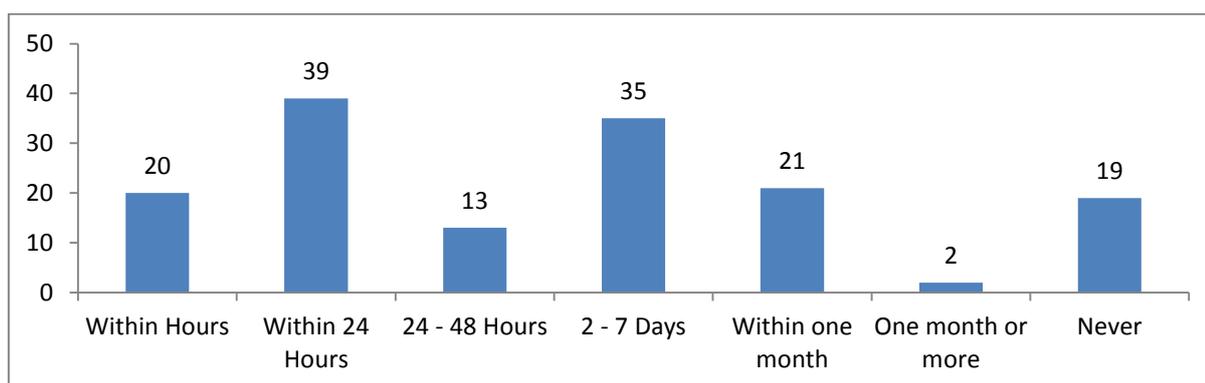
³ S/RES/1267(1999), S/RES/1989(2011), S/RES/1988(2011) and their successor resolutions.

⁴ 1267/1989 Committee and 1988 Committee.

⁵ Union économique et monétaire ouest-africaine (West African Economic and Monetary Union).

funds before they are frozen. Designations should therefore ideally be implemented within a matter of hours. Many jurisdictions have therefore implemented additional measures to avoid delays, for example, 18 of the 28 EU member states have national measures which could give effect to new UN designations while they are awaiting transposition into EU regulations. Other jurisdictions use laws on reporting (and temporarily freezing) suspicious transactions to prevent the flight or dissipation of assets while UN sanctions are applied. The time taken to activate sanctions, including these accelerated measures, is illustrated in figure 3 below.

Figure 3. Time taken to activate targeted financial sanctions following UN designation



Most jurisdictions have sound legal frameworks for implementing targeted financial sanctions on their own motion, as required by UNSCR 1373. Seventy-eight percent of jurisdictions have national powers to apply TFS which enable them to freeze the assets of terrorists and terrorist financiers, and 83% of jurisdictions have mechanisms which enable them to receive and respond to requests for freezing action from other jurisdictions. However, there are 21 jurisdictions which do not have powers to apply targeted financial sanctions on their own motion, or in relation to foreign requests. These jurisdictions will be subject to follow-up by the FATF.

Some other jurisdictions have specific gaps in their powers to apply targeted financial sanctions. Two jurisdictions are able to apply financial sanctions in response to a foreign request, but not on their own motion. Thirteen EU member states can apply freezing measures to individuals and entities with a connection to a foreign country, but not to “EU Internal Terrorists” (the other 15 member states use complementary national measures to fill this gap).

Some of the jurisdictions which lack formal powers to apply targeted financial sanctions can make use of criminal justice measures (such as confiscation orders) to fill the gap. While these can help to mitigate the risk of terrorist financing, they are not normally an adequate substitute for targeted financial sanctions, since they are temporary, require a criminal case to be brought, and do not prohibit making funds available to the designated individual or entity. Some jurisdictions successfully apply targeted financial sanctions using amended versions of such measures.

There are ongoing improvements in how sanctions are communicated to the financial sector. The use of consolidated lists is widespread, including by the United Nations, which also harmonised and standardised all its sanctions lists in October 2014. It is becoming normal practice for major

financial institutions to use automatic compliance software to screen transactions and customers against sanctions and other lists, which are typically updated in real-time. The use of such systems can potentially mitigate the practical effect of delays in legal transposition noted above.

Most jurisdictions have adequate legal frameworks for supervising compliance with targeted financial sanctions. 80% of jurisdictions can apply sanctions for failure to comply with targeted financial sanctions. In most jurisdictions, supervisors can apply administrative penalties to financial institutions or regulated professionals who breach sanctions requirements or who have inadequate systems and controls. However, in several jurisdictions the level of fines which can be applied to a legal person which commits a criminal violation of sanctions seems to be inadequate to implement the FATF standard. In over 40% of jurisdictions, non-compliance can be prosecuted as a criminal offence in its own right.

Use of targeted financial sanctions in practice

The number of domestic designations varies widely. Thirty-seven jurisdictions have applied targeted financial sanctions on their own motion, and there is a significant variation in the number of entities, and the value of assets frozen, as shown in the table below. This may result from the nature of the terrorist and terrorist financing activity in each country, and from the different roles that targeted financial sanctions play in the context of national counter-terrorism strategies - in particular whether they are directed at restraining individuals or value, or both.

Table 1. Use of Designations at National Level¹

Country	Designated Individuals & entities	Amount Frozen (in EUR)	Country	Designated Individuals & entities	Amount Frozen (in EUR)
Russian Federation	3887	44 929	Greece	42	no funds frozen
Saudi Arabia	2187	31 320 000	Netherlands	40	undisclosed
United States	893	20 500 000	India	37	300 000
Uzbekistan	589	no funds frozen	China	29	undisclosed
Sri Lanka	437	5 800	New Zealand	19	no funds frozen
Egypt	228	Undisclosed	Finland	18	24 760
United Kingdom	158	214 000	Italy	17	no funds frozen
Pakistan	117	32 200	Singapore	16	undisclosed
Argentina	100	98 420	Bangladesh	6	no funds frozen
Australia	92	undisclosed	Ukraine	5	45 000
Canada	90	96 733	Ethiopia	5	no funds frozen
United Arab Emirates	85	no funds frozen	Germany	4	5 300
France	79	231 888	Norway	4	1 200
Kyrgyzstan	70	5 096	Nigeria	2	undisclosed
Korea	64	211 710	Sweden	1	2 257
Tajikistan	62	no funds frozen	Indonesia	1	undisclosed
Malaysia	57	247 000	Philippines	1	no funds frozen
Thailand	53	2 500	Bulgaria	1	no funds frozen
Israel	42	5 998 712			

1. Information provided by jurisdictions in response to this initiative, up to 15 August 2015. Amounts frozen includes funds subsequently un-frozen or confiscated, as well as funds frozen currently.

The use of requests to foreign jurisdictions to take freezing action is very uneven. Only 6 jurisdictions report that they have made requests for freezing action, and only 33 report that they have received a foreign request⁶. Even among the few jurisdictions which have sent or received foreign requests, the number involved is very uneven.

Most jurisdictions never make practical use of targeted financial sanctions. Even though most jurisdictions have adequate legal powers, these are not activated in practice, either in relation to UN or national sanctions:

- 9% of jurisdictions report that they have proposed a designation to the UN Sanctions Committees;
- 18% of jurisdictions report that they have a link⁷ to an individual or entity designated in the UN sanctions lists;
- 9% of jurisdictions report that they have frozen assets in accordance with UNSCRs 1267/1989 and 1988;
- 10% of jurisdictions report that they have received a foreign request for freezing action;
- 16% of jurisdictions report that they have made national designations pursuant to UNSCR 1373;
- 9 jurisdictions have penalised breaches of targeted financial sanctions; and
- 67% of jurisdictions have never done any of the above.

The reasons for the low use of targeted financial sanctions are unclear. The information collected through the current fact-finding initiative does not support a clear conclusion about why targeted financial sanctions are not being applied in many jurisdictions. The most plausible explanations are:

- Jurisdictions may have low levels of terrorist and terrorist financing activity and therefore have no need to use targeted financial sanctions. A low level of use does not necessarily indicate any problems;
- Jurisdictions may lack the capacity and infrastructure needed to identify targets for designation and develop robust designation proposals that can withstand legal challenges;
- Jurisdictions may lack the capacity to implement and supervise financial sanctions once they are applied. This is a particular concern for small, low-capacity jurisdictions, and those where the legal basis for applying financial sanctions is complex and technical;
- There may be a lack of awareness among operational counter-terrorism authorities of targeted financial sanctions, or a preference for using other instruments (e.g., due to possible obstacles caused by the processes and evidential standards required); or

⁶ This likely underestimates the number of jurisdictions to receive such requests, as many jurisdictions do not maintain separate data on foreign requests and designations at the country's own motion.

⁷ Links to the country may include origin, residence, citizenship, or other forms of connection (in some cases including conducting terrorist activities in the country).

- Jurisdictions may not prioritise pursuing the financial component of terrorism cases.

All of these potential explanations would be a cause for concern. Even jurisdictions which currently have little need for targeted financial sanctions may need to apply them in future. They will find this more difficult and time consuming if they lack experience, processes, and precedents for how to apply sanctions. The FATF will review this issue further, including through deeper evaluations of individual jurisdictions, and through horizontal work on the methods and trends of terrorist financing. In the interim, the FATF is also taking action to address possible barriers to the use of targeted financial sanctions and will prepare a handbook to facilitate foreign requests for freezing action.

FATF action to implement international standards

In October 2015, the FATF agreed to develop an additional follow-up process to improve compliance with these specific Recommendations on terrorist financing. All jurisdictions in the FATF Global AML/CFT Network are expected to have legal frameworks to criminalise terrorist financing and implement targeted financial sanctions, and to take action to address significant gaps and weaknesses in their systems - such as excessive delays in applying sanctions nationally - on an urgent basis. Jurisdictions that have been provisionally identified as having fundamental problems will be subject to an intensive follow-up process overseen by the FATF. Other jurisdictions will be monitored by the relevant regional body. New legislation is already underway in several jurisdictions to address problems identified through this exercise.

Implementation issues identified through this exercise are being focused on by the FATF as a matter of priority. Work is already underway to address the issues identified in this exercise, including:

- **Reviewing the FATF standards on criminalising terrorist financing:** In October 2015, the FATF adopted changes to FATF Recommendation 5 to incorporate the requirements of UNSCR 2178 to criminalise the financing of travel for purposes of terrorism or terrorist training. The FATF will also develop guidance to assist countries with the implementation of measures to criminalise terrorist financing, and to reflect the evolving terrorist threat and the changing forms of financial and material support for terrorism.
- **Guidance on effective supervision and enforcement,** which will include specific guidance on the supervision of compliance with targeted financial sanctions obligations.
- **Preparing a handbook to facilitate foreign requests for freezing action.** This will address potential obstacles by centralising information on the responsible authorities, contact points, procedures, evidentiary requirements and legal tests in all FATF member jurisdictions.
- **Working on improving multilateral coordination of implementation of targeted financial sanctions.** This will reduce the delays involved in implementing UN designations at national level.

The FATF has an extensive research programme on terrorist financing aimed at better understanding the risks, trends, and methods of terrorist financing:

- In October 2015, the FATF published a report on *Emerging Terrorist Financing Risks*, which looks at those terrorist financing risks that the FATF had not yet studied in depth.
- In February 2015, the FATF published a report on *Financing of the Terrorist Organisation Islamic State in Iraq and the Levant*.
- The FATF has published 12 other studies of specific methods linked to terrorist financing, such as the abuse of non-profit organisations or the trafficking of Afghan opiates.
- The FATF is also building closer links with operational experts and the Egmont Group of Financial Intelligence Units to ensure that inputs from practitioners feed into the work of the FATF network, including coordinated research cooperation on how to identify and track foreign terrorist fighters, understand other emerging threats, and contribute to policy development.

The G20 can support this programme by:

- Endorsing the FATF approach, and leading by example in fully implementing measures to counter terrorist financing;
- Providing technical advice and development assistance to help low-capacity jurisdictions implement essential counter-terrorist financing measures, and build their capacity to apply them;
- Addressing practical issues surrounding countries' difficulties in implementing UN targeted financial sanctions without delay; and
- Continuing to support the FATF in its ongoing work to combat money laundering and terrorist financing.

ANNEX - THE FATF GLOBAL AML/CFT NETWORK



In addition to its own 36 members, the FATF relies on a strong global AML/CFT network including eight FATF-Style Regional Bodies (FSRBs). The map above shows all jurisdictions participating in the FATF's global network.

The following member and observer jurisdictions provided information to this initiative which is reflected in this report:

- FATF:** Argentina; Australia; Austria; Belgium; Brazil; Canada; China; Denmark; European Commission; Finland; France; Germany; Greece; Gulf Co-operation Council; Hong Kong, China; Iceland; India; Ireland; Italy; Japan; Republic of Korea; Luxembourg; Mexico; Netherlands; New Zealand; Norway; Portugal; Russia; Singapore; South Africa; Spain; Sweden; Switzerland; Turkey; United Kingdom; United States.
- APG:** Afghanistan; Bangladesh; Bhutan; Brunei Darussalam; Cambodia; Cook Islands; DPRK (observer); Fiji; Indonesia; Lao PDR; Macau, China; Malaysia; Maldives; Marshall Islands; Mongolia; Myanmar; Nauru; Nepal; Niue; Pakistan; Palau; Papua New Guinea; Philippines; Samoa; Solomon Islands; Sri Lanka; Chinese Taipei; Thailand; Timor Leste; Tonga; Tuvalu (observer); Vanuatu; Vietnam
- CFATF:** Anguilla; Antigua and Barbuda; Aruba; Bahamas; Barbados; Belize; Bermuda; Virgin Islands; Cayman Islands; Curaçao; Dominica ; Dominican Republic; El Salvador; Grenada; Guatemala; Guyana; Haiti; Jamaica; Montserrat; Sint Maarten; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Suriname; Trinidad and Tobago; Turk and Caicos Islands; Venezuela.
- EAG:** Kazakhstan; Kyrgyzstan; Tajikistan; Uzbekistan.
- ESAAMLG:** Angola; Botswana; Ethiopia; Kenya; Lesotho; Malawi; Mauritius; Mozambique; Namibia; Rwanda; Seychelles; Swaziland; Tanzania; Uganda; Zambia; Zimbabwe.
- GAFILAT:** Bolivia; Chile; Colombia; Costa Rica; Cuba; Ecuador; Guatemala; Honduras; Nicaragua; Panama; Paraguay; Peru; Uruguay.

GIABA: Benin; Burkina Faso; Cabo Verde; Côte d'Ivoire; Gambia; Ghana; Guinea Bissau; Guinea; Liberia; Mali; Niger; Nigeria; Senegal; Sierra Leone; Togo.

MENAFATF: Algeria; Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Libya; Mauretania; Morocco; Oman; Palestinian Authority; Qatar; Saudi Arabia; Sudan; Syria; Tunisia; United Arab Emirates; Yemen.

MONEYVAL: Albania; Andorra; Armenia; Azerbaijan; Bosnia and Herzegovina; Bulgaria; Croatia; Cyprus; Czech Republic; Estonia; Georgia; Guernsey; Hungary; Holy See; Isle of Man; Israel; Jersey; Latvia; Liechtenstein; Lithuania; Malta; Moldova; Monaco; Montenegro; Poland; Romania; San Marino; Serbia; Slovak Republic; Slovenia; FYR Macedonia; Ukraine.

Other jurisdictions are not included in the analysis used in this report, either as they did not provide information in time (Belarus; Comoros; Sao Tome and Principe; Turkmenistan); as their regional AML/CFT body (GABAC) was not yet a part of the FATF's Global Network (Cameroon; Central African Republic; Chad; Republic of Congo; Gabon and Equatorial Guinea); or as they did not participate in an FSRB at the time information was provided (Gibraltar; Madagascar and Iran⁸).

⁸ Iran is not a member of the FATF Global AML/CFT network, but the FATF has reviewed Iran's measures to cut off terrorist finance, and remains particularly and exceptionally concerned about Iran's failure to address the risk of terrorist financing, as noted in the FATF's public statement.