

## **Pakistan in the FATF Grey -list: Compliance and Policy Readjustments**

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### **Abstract:**

The global politics underwent a drastic shift especially after the 9/11 and Financial Action Task Force (FATF) became a lynchpin institution for monitoring counter financing of terrorism, and money laundering. It expanded its scope and power to categorize countries with weak financial institutions and urged them to comply action plan. Pakistan was put into the grey-list for slow progress regarding compliance to United Nations Security Council Resolutions (UNSCR-1617,1267 and 1373). The FATF asked Pakistan to comply 27-point Action Plan to delist from the grey-list. Pakistan adopted several concrete measures including Amendment in Anti-money laundering Act (2010), enhanced role of Federal Board of Revenue (FBR), Federal Investigation Agency (FIA), State Bank of Pakistan (SBP) and stringent measures by interior ministry of Pakistan to choke financial lifelines of terrorist networks. The paper is comprised of secondary data collected from various electronic and printed publications. The objective of the study is to highlight Pakistan's compliance to FATF action plan. This paper highlights Pakistan's compliance to FATF grey -list by adopting structural measures and it also provides concrete recommendations.

**Key Words:** FATF, Counter Financing Terrorism, Money Laundering, Action Plan, Pakistan, Grey-list

### **FATF - An Overview**

Financial Action Task Force (FATF) is an intergovernmental body established in 1989 on the occasion of G-7 meeting in Paris. Promoting

effective implementation of regulatory operational measures for countering money laundering, terrorist financing and similar threats to international financial system that falls under its tasks which have broadened gradually over time. The FATF comprises of 35 members and two regional organizations. China, India, United States, United Kingdom and Japan as its prominent members.

The FATF proposed certain recommendations, initially issued in 1990 acting as a guideline which all countries should meet in order to effectively play their part in countering the threat to financial institutions. These recommendations were aimed at increasing the transparency of the financial system and provide the countries with a framework to investigate and take action against the notorious activities. The FATF calls all the states to comply with all of the stated provisions. Moreover, these recommendations have also been revised in 1996, 2001, 2003, and 2012 in order to align them with the recent developments and to make sure that they remain suitable for global implementation.

The FATF, in collaboration with other international stakeholders monitors the progress of the countries in countering their respective threats to financial system and the black money that is possibly used for aiding terrorism or related crimes. The FATF is a decision-making body.<sup>1</sup> and its Plenary meets thrice a year to evaluate the progress of the different states regarding their legal, regulatory and operational measures to combat money laundering and terrorism financing. It relies on self-assessments and periodic mutual evaluation reports by experts to verify if the members

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<sup>1</sup> James K. Jackson, "The Financial Action Task Force: An Overview", *Congressional Research Service*, March 23, 2017  
<https://fas.org/sgp/crs/misc/RS21904.pdf> (accessed June 07, 2020)

are complying with the provisions of FATF or not. States can become members of FATF by adhering strictly to the stated protocols. Moreover, The FATF does not have any implementation mechanism against the members violating the terms and can only eliminate the members if not adhering to the stated principles. For example, in 2013 Turkey was warned that its membership will be suspended if it did not criminalize the illegal tax evasion being practiced.

### **Expansion of the FATF Mandate and its Influence after War against Terrorism**

Initially, FATF was established to keep a check on money laundering, tax evasion and the misuse of financial institutions. Money laundering was a major problem in the 1980s which refers to illegal transfer of money through illegal channels, since the highly complex nature of international monetary system, there is plenty of space for defections in money transactions. Hence, the G-7 launched the initiative to curtail threats to the banking system and to the financial institutions. However, following the deadly attacks on the World Trade Centre on 9 September 2001, the FATF expanded its scope to include terror financing as its core concern, introduced new measures and urged states to comply with the updated requirements. Hence, terror-financing was treated as the central focus of the FATF.

Tracing terror-financing without a strong institutional arrangement was a very difficult task since the terrorist networks use very complex, complicated and concealed methods to channel their funding. For instance, certain Non-Governmental Organizations (NGOs) have previously veiled themselves that they are providing social services for the needy people but

sometimes such organizations have been found involved in terror-financing. For example Global Relief Fund<sup>2</sup> started in U.S. as a charity organization to provide financial assistance to war-affected Muslim states such as Bosnia and Afghanistan, yet it was revealed in 2001 that this NGO had affiliation with Al-Qaeda.

The FATF plenary meeting held at Washington D.C on 29<sup>th</sup> and 30<sup>th</sup> October 2001, introduced additional eight recommendations<sup>3</sup> for the purpose of counter financing of terrorism. The FATF aimed to figure out the sources and methods of terror-financing. It also devised mechanism for the countries to adopt counter-measures. Moreover, the scope of the FATF further expanded in the light of the 2008-2009 global recession as struggling financial systems are more vulnerable to illegal activities such as money laundering and terror-financing. That is why historically roots of all evils were traced back to the origin of capitalism. But the point is that in recession fragile economies are unable to control drug trafficking, human trafficking, terror-financing and related criminal activities because even these practices also to contribute indirectly in economies. The FATF has recently drawn the subject of financing weapons of mass destruction under its surveillance.

The expansion of the FATF influence is reflected in the special additional recommendations which compelled the states to ratify UN instruments

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<sup>2</sup> Adeel Mukhtar, "Money Laundering, Terror Financing and FATF: Implications for Pakistan", *Journal of International Affairs*, Vol.3 No.1(2018):31  
<http://www.ipripak.org/wp-content/uploads/2018/10/Article-2-2-Oct-2018-ED-SSA.pdf>(accessed August 12,2020)

<sup>3</sup> OECD, "FATF Cracks Down on Terrorist Financing" (*Washington, D.C. Organization for Economic Co-operation and Development*, 2001),  
<https://www.oecd.org/newsroom/fatfcracksdownonterroristfinancing.htm> (Accessed September 27,2020)

which were presented against terror financing. The recommendations also requested the states to equate terror- financing with money laundering and penalize the criminals accordingly. Similarly, all the properties and wealth of the terrorist, terrorist organizations and those entities which supported the terrorists were to be seized and confiscated. Likewise, all financial institutions, if tracked any suspicious activity which could have links to terror-financing should immediately report the case to the concerned authorities.

The new recommendations also propose that all countries should cooperate with each other through effective intelligence sharing in order to nip terror financing and avoid providing any sort of safe havens to those who have indulged in terror-financing activities. In addition, the governments should make sure that all the individuals or other entities which serve as a channel should be licensed and registered and should be operating in accordance with the forty recommendations of the FATF. Similarly, all the transactions should be subject to intensified scrutiny and should contain complete information such as complete name, address, contact number of the originator and the receiver of the money transfer and if any such information is missing, then the government should take action against the institutions which are allowing such money transfers. Furthermore, taking into consideration the fact that certain NGOs are vulnerable and can be used by terrorist as a cover for lethal activities, therefore there should be a close check on NGOs and their activities in order to monitor that they are not facilitating terrorist activities directly or indirectly.

In addition, in 2012, the UNSC embraced resolution 1617, “demanding all U.N. parties to actualize the FATF 40 points proposal on tax evasion and

the nine suggestions on terrorist financing”.<sup>4</sup> All states were directed to comply with the respective resolutions.

### **Pakistan in the Grey List**

Pakistan remains under the increased monitoring of FATF, Dr Marcus Pleyer President of FATF announced on 25 February 2021 that “what is essential now Pakistan completes the action plan.”<sup>5</sup>

According to the FATF website Pakistan needs to continue working on three remaining strategically important deficiencies

- i. “Demonstrate that Terror Financing investigations and prosecutions target designated entities
- ii. Demonstrate that TF prosecutions result in effective sanctions
- iii. Demonstrate effective implementation of targeted sanctions against designated terrorist groups (under UNSCR-1267,1373)”<sup>6</sup>

In Pakistan, money laundering and terror-financing has been able to pick ground due to the instability of neighbouring Afghanistan and Iran. The

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<sup>4</sup> Khaleeq Kiani, “All Eyes on FATF Plenary Beginning Today” DAWN News, February 22, 2021 <https://www.dawn.com/news/1608722/all-eyes-on-fatf-plenary-beginning-today> (Accessed April 14, 2021)

<sup>5</sup> Mubarak Zeb Khan, “Pakistan Optimistic About Exiting FATF Grey List”, DAWN News, February 21, 2021 <https://www.dawn.com/news/1608488> (Accessed September 9, 2020)

<sup>6</sup> Mutual Evaluation of Pakistan, Pakistan’s Progress in Strengthening measures to Tackle Money Laundering and Terrorist Financing, FATF, Website, <http://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-pakistan-2020.html> (Accessed October 20, 2020)

long border that Pakistan shares with Afghanistan has been a constant source of contention as it had been used for illegal economic activities. Moreover, weak institutional regulation and ineffective laws has been a major source of money laundering, for example in 2013, there were \$9 billion illegally transferred from Pakistan to abroad, which is an alarming situation.<sup>7</sup> The international community has repeatedly called upon Pakistan for not doing enough to terminate the above stated issues.

In February 2018, the nomination of Pakistan for monitoring under the International Cooperation Review Group (ICRG) was put forward by FATF. In response, the then Pakistani finance minister Miftah Ismael, offered to present a report in order to satisfy the FATF on its progress and requested that the final decision to be made after the FATF evaluates the report presented by Pakistan. Initially, this demand was accepted, the meeting concluded on a positive note and the then Defence Minister of Pakistan Khwaja Asif even tweeted that the decision to put Pakistan on the grey list has been postponed<sup>8</sup>.

However, due to immense pressure from the U.S. Pakistan was placed on the Anti-money laundering (AML) and Countering Financing of Terrorism Compliance (CFT) list also known as the “grey list” as a result of a meeting held on 29<sup>th</sup> June 2018 in Paris by the FATF plenary. The reason allocated for putting Pakistan into the grey list was that it has “strategic deficiencies” in its efforts towards mitigating the issues of money

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<sup>7</sup> Mohiuddin Aazim, “The rise and rise of remittances,” DAWN News, January 18, 2021 <https://www.dawn.com/news/1602001> (Accessed April 13, 2021)

<sup>8</sup> Maria Irfan, “Pakistan Under Grey List Of Financial Action Task Force (Fatf)”, *Pakistan Institute For Parliamentary Services*, 2018, Website, [https://www.pips.gov.pk/sites/default/files/10\\_PIPS\\_Parliamentary\\_Research\\_Digest\\_Oct\\_%202018.pdf](https://www.pips.gov.pk/sites/default/files/10_PIPS_Parliamentary_Research_Digest_Oct_%202018.pdf) (Accessed November 27, 2020)

laundering and terror-financing. The decision was taken on the basis of a monitoring report of the ICRG<sup>9</sup>. The ICRG stated four areas<sup>10</sup> of concern : (i) deficiencies in the monitoring of money laundering (AML) and counter-terrorism financing (CFT) regimes, (ii) cross-border illegal movement of currencies by terrorist groups, (iii) lacking the implementation of UN Security Council Resolution(UNSCR) 1267 and 1373 for mitigation terrorism and (iv) ineffective investigation coupled with prosecution of terror-financing<sup>11</sup>.

The report exhibited that Pakistan had shown some progress on three out of the four major areas of concern whereas cross-border smuggling of cash was the only area where Pakistan admitted slow progress and lack of success<sup>12</sup>. This decision by FATF had a strong backing of the U.S, UK, France and Germany who asserted that Pakistan has failed to take necessary measures against terror-financing on its soil.

The FATF also had concerns that there were some shortcomings in imposing adequate sanctions against institutions which were not complying with the AML/CFT violations. Likewise, Pakistan was also blamed that it didn't demonstrate inter-agency cooperation between the federal and provincial authorities to eliminate terror-financing.

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<sup>9</sup> Asad Ullah Khan, "Fatf Grey List: Time For Pakistan To Take Bold Steps", *ISSI*, July 11, 2018

[http://issi.org.pk/wp-content/uploads/2018/07/IB\\_Asad\\_July\\_11\\_2018.pdf](http://issi.org.pk/wp-content/uploads/2018/07/IB_Asad_July_11_2018.pdf)

<sup>10</sup> "FATF places Pakistan on „grey list“ despite efforts to thwart decision”, *Pakistan Today*, June 28, 2018 , <https://www.pakistantoday.com.pk/2018/06/28/fatf -places-pakistan-on-grey-list-despite-efforts-to-thwart-decision/> (Accessed July 11,2020)

<sup>11</sup> *Pakistan Today*, June 28, 2018 ,

<sup>12</sup> Shahbaz Rana, "Pakistan formally placed on FATF grey list", *The Express Tribune*, June 30, 2018, <https://tribune.com.pk/story/1746079/1-pakistan-formally-placed-fatf-grey-list/> (Accessed December 7,2020)

Furthermore, the lack of substantial efforts to end cross border illegal transfer of money was also mentioned as one of the chief concerning elements. Similarly, non-implementation of the UNSCR 1267 and 1373 and not freezing the assets of U.N identified terrorists and terrorist organization was also termed as the reason for placing Pakistan on the grey list<sup>13</sup>.

The acting U.S. Secretary of State Alice Wells stated that the decision to place Pakistan in the grey list was partly due to its inefficiency to take concrete actions against Hafiz Saeed, the culprit behind Mumbai attacks and terrorist organizations such as Jaish-e-Muhammad and other sectarian organizations. Pakistan's Anti-terrorism court has already convicted (September 2020) Jamatud Dawa leader Hafiz Saeed in case of terror financing for five and half years<sup>14</sup>.

According to the FATF terms and conditions if a minimum of three countries still support Pakistan to stay out of this then Pakistan will be delisted from FATF. But the U.S. lobbied to Saudi Arabia, China and Turkey to convince them to make the decision against Pakistan. Likewise the Indian government resorted to China and promised them support in the FATF leadership in the future. Hence, New Delhi played a central role to place Pakistan on the grey list. Other sources say that it was the U.S. who convinced China on the grounds that it would be given vice president-ship of the FATF if it supported the proposal of putting Pakistan on the grey list. Similarly, Saudi Arabia was influenced by the U.S. lobbying as Saudi

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<sup>13</sup> Mehak Adil, "FATF "Grey List" – The Way Forward For Pakistan" , *Courting the Law*, Nov 29, 2019, <http://courtingthelaw.com/2018/11/29/commentary/fatf-grey-list-the-way-forward-for-pakistan/> (December 12,2020)

<sup>14</sup> Rana Bilal, "Hafiz Saeed Convicted in another terror financing case," *DAWN News*, November 19, 2020 <https://www.dawn.com/news/1591261> (Accessed June 23, 2020)

Arabia is an observer state and it wants to upgrade itself to full member for which it will require the support of U.S. afterwards. Hence, Pakistan could not attain support of its allies China and Saudi Arabia, who failed to support Pakistan at that moment<sup>15</sup>. Ironically, Saudi Arabia and China have strong bilateral relations with Pakistan but Indo-US convergence of interest pulled Saudi Arabia and China into the orbital influence of the U.S. Turkey on the other hand stood by Pakistan's side and opposed the proposal yet Turkey's support couldn't keep Pakistan out of FATF grey list.

The Pakistani delegation was headed by Dr. Shamshad Akhtar, who presented Pakistan's case before the FATF. Dr. Akhtar briefed and repeatedly advocated the case for Pakistan and asserted that Pakistan has taken monumental steps to adhere with the FATF provisions and is continuing to do so at an expedited rate by curbing the financing of terrorism, formulating effective laws and more stringent regulation and implementation<sup>16</sup>.

Previously, Pakistan was placed in the grey-list twice, once in 2008 and second from 2012 to 2015. However, considering its colossal efforts such as taking action against organizations such as Jamaat-ud-Dawa, Falah-e-Insaniyat Foundation and Lashkare Tayyba, it was removed from the list in 2015. The news of placing Pakistan was unjustified in the sense that placing the country on the FATF grey list is made while evaluating its financial status. On the other hand, this time Pakistan's crippling economy

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<sup>15</sup> Yasmeen Aftab Ali, "Pakistan and FATF grey list", *Pakistan Today*, July 3, 2019 <https://www.pakistantoday.com.pk/2018/07/03/pakistan-and-fatf-grey-list/> (Accessed July 25, 2020)

<sup>16</sup> Web Desk, "FATF decides to place Pakistan on Grey List", *The Nation*, June 28, 2018 <https://nation.com.pk/28-Jun-2018/fatf-decides-in-favour-of-keeping-pakistan-on-grey-list> (Accessed August 2, 2020)

was not taken into consideration and the decision was made spontaneously.

### **Action Plan between FATF and Pakistan**

After Pakistan's placement on the grey list in June 2018, a 27-points action plan was designed which span over a time period of fifteen months by the FATF which Pakistan must comply if it wanted to avoid being blacklisted<sup>17</sup>. The ministry of finance stated that it is bound to meet the initial targets by February 2019 and all 27 targets by September 2019. These 27-point action plan comprised a number of guidelines which Pakistan must effectively act upon.

According to the measures proposed by FATF, Pakistan was directed to invest unprecedented number of efforts to identify every sort of terrorist activity and take legal action against them. It envisaged that Pakistan must ban the various organizations such as Haqqani network and Jaishe-e-Muhammad (JeM). Likewise, the money transactions of all such radical groups needed to be effectively tracked and terminated in order to devoid them of the capital resources. Moreover, the measures also included that Government of Pakistan's steps in order to comply with AML/CFT provisions of the FATF, through sanctions upon institutions defying the respective norm. A better coordination to be reflected in the working of the federal and provincial authorities to counter narcotics-smuggling and cash smuggling.

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<sup>17</sup> "Pakistan passes 26-point action plan to comply with FATF," *Pakistan Today*, June 27, 2018 <https://www.pakistantoday.com.pk/2018/06/27/pakistan-passes-26-point-action-plan-to-comply-with-fatf/> (Accessed July 25, 2020)

Pakistan was directed to investigate various non-profit organizations such as Falah-i-Insaniyat due to the reasons that either a number of terrorist groups were acting under the covers of social welfare organizations and were utilizing the funds for their lethal activities or were indirectly aiding them through financial assistance. Similarly, all the terrorism financing prosecution are reflective of the fact that effective sanctions were imposed on the individuals who were involved in terror-financing. Moreover, apart from the domestic circle, Pakistan would also aid the international community against cases of terrorism, wherever needed.

The FATF placed cross -border transportation of currency as a high concern and allocated six months to Pakistan to deal with these cash-courier with an iron hand and at the same time improve its customs units. Furthermore, all the assets of the UN designated groups are to be seized with the imposition of administrative sanctions as well. Pakistan was given one year time to take action against all the UN designated terrorists and to submit report on how effectively they were being sanctioned. Lastly, the UNSCR 1267 and 1373 needed to be complied with.

The 27-points agenda contained eight commitments relating to tracking and curtailing terror-financing mechanisms, four points relate to halting currency movement across the border, whereas five recommendations are concerned with the improvement in the backing mechanisms and their supervisions to ensure that enables them to become least vulnerable to terror-financing activities.

Few months afterwards, a plenary meeting of the FATF convened from 24<sup>th</sup> June till 29<sup>th</sup> June,2020 which pointed out that “it has identified Pakistan as a jurisdiction with strategic AML/CFT deficiencies”. Another

set of guidelines concerning money laundering and terror-financing was given to Pakistan for compliance. It included the following aspects:

1. The identification and evaluation of the risks of terror-financing should be a high priority along with the supervision is carried out at risk-sensitive bases.
2. AML/CFT violations should be responded by through effective sanctions which would resultantly trigger compliance of AML/CFT by the financial institutions.
3. Emphasizing the point that the concerned authorities are effectively tracking and effectively taking action against illegal money and fraudulent transactions.
4. Taking into consideration the detrimental result of terror-financing, the competent authorities should take concrete steps to discern cash couriers, which are instrumental for terror-financing and track any illicit cross-border movement of currency
5. In order to effectively counter terrorism, a strong level of coordination is a dire requirement. Hence the provincial and federal authorities should work in concert to curtail terror-financing and money laundering.
6. All the law enforcement agencies should cover the maximum range of terror-financing activities and should deal with an iron hand, the individuals involved in such activities along with those individuals who have been acting on their behalf and those organizations which have been endorsing such criminals.

7. The judiciary and prosecutors who are dealing with the culprits should be given enhanced support and cooperation in order to elevate the effectiveness of the sanctions imposed.

8. All terrorists designated as per UN resolution 1267 and 1373 and those acting on their behalf should be subjected to targeted financial sanctions such as prohibition on any sort of movements of funds, ceasing access to funds and financial services and freezing the current assets.

9. Enforcement of administrative and criminal penalties to be imposed on the culprits with the cooperation of provincial and federal authorities.

10. Ensuring that the facilities and services possessed by the designated people are no longer in their usage and are deprived of all the resources.

### **Pakistan's Compliance to the FATF**

Pakistan has constantly been under the threat of being blacklisted by the FATF due to non-compliance to FATF guidelines. Pakistan was included in the FATF grey-list for the second time on 28<sup>th</sup> June 2018 when it failed to fulfil 10 out of 11 effectiveness parameters regarding money laundering and terror financing.<sup>18</sup> Ever since Pakistan was expected to work on anti-money laundering and countering financing terrorism laws to de-list it from FATF grey-list.

Government of Pakistan in July 2018, was tasked with this responsibility. The government had to take certain steps that should conform to the parameters and set standards of the FATF. In August 2018 Pakistan submitted its compliance report on 27-point action in Asia Pacific Group

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<sup>18</sup> Dr Kamaal Monnoo, "FATF & Pakistan's position" *The Nation*, 29 August, 2019. <https://nation.com.pk/28-Aug-2019/fatf-pakistan-s-position> (Accessed July 27, 2020)

(APG) of FATF for its scrutinization as per the due procedure Pakistan needs to go through three separate evaluations to ensure the removal of its name from the grey-list until October 2019, the APG's evaluation being one of the three. This report comprised of the details of the measures taken by the Pakistani Government to counter the terror financing and money laundering from February 2018, "when Pakistan was nominated by the FATF for being monitored by its ICRG commonly known as grey list" to October 2018.<sup>19</sup> Pakistan's compliance in the seven areas were reviewed by the APG most importantly these areas are related to the financial and insurance services. These areas include measures and safeguard against money laundering and terror financing by banned outfits and non-government organizations through banking or non-banking systems, capital markets, corporate or non-corporate sectors. It has been a matter of great importance for Pakistan, over the last year, to ensure that it is taking right steps in the right direction. Pakistani delegation headed by the governor of the State Bank of Pakistan (SBP) Reza Baqir, put forward Pakistan's case along with its compliance report. Pakistan put forward its stance that it is effectively taking measures that ought to be taken according to the agreed agenda points between FATF and Pakistan. They defended the case of Pakistan by highlighting that Pakistan had always tried to take certain initiatives to comply with the norms of the international organizations and financial regimes. There are conflicting reports in media regarding the outcome of this session in Australia; Pakistan maintains that its report was generally well received among the

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<sup>19</sup> News Desk, "FATF body reviews Pakistan's anti-money laundering actions", *Daily Times*, 22 August 2019.  
<https://dailytimes.com.pk/451845/fatf-body-reviews-pakistans-anti-money-laundering-actions/>. (Accessed July 29, 2020)

members of the APG while on the contrary the forces opposing Pakistan, who are well connected and continue to build pressure, claim otherwise implying that Pakistan has been placed at “Enhanced Expedited Follow Up List”<sup>20</sup>.

### **Pakistan’s Measures against Hawala Hundi Culture and Money Laundering**

The Hawala/Hundi (Alternative Remittance System) are financial services,” traditionally operate outside the conventional financial sector, where the value of funds is moved from one geographic location to another.”<sup>21</sup>

One of the major challenges being faced by the state is the transfer of cash through hawala and hundi (Alternate Remittance Service), the shifting of money to and from the country without any physical movement of money, and illegal transfer of the money from the country by concealing the original source or origin of the country that is commonly known as money laundering. Under the instructions and guidelines of FATF Pakistan needs to take extensive and concrete measures to counter both phenomena.

In 1988 United Nations adapted the Convention Political Declaration and Action Plan Against Money Laundering and The United Nation Convention Against Transnational Organized Crime in 2000 to outlaw the offences of money laundering and terror financing and bind the states to

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<sup>20</sup> Khaleeq Kiani, “Asia Pacific Group Keeps Pakistan on Enhanced Follow-up List,” *DAWN News*, October 12,2020 <https://www.dawn.com/news/1584508> (Accessed April 13,2021)

<sup>21</sup> “International Best Practices: Combating the Abuse of Alternative Remittance Sytem” *Financial Action Task Force* <https://www.fatf-gafi.org/documents/documents/internationalbestpracticescombatingtheabuseofalternativeremittancesystems.html> (Accessed April 13,2021)

abide by these laws<sup>22</sup>. But effectivity of these laws is suppressed when it is confronted by the operational and capacity issues at domestic level. In order to ensure the effectivity and implementation of these laws' states need to develop their own respective local laws that are concrete enough to tackle the illicit actives in the domain of finance. And pave the way for the upholding of the principled ethics and norms of international regimes.

The Cabinet Committee for Disposal of Legislative Cases (CCLC) headed by Minister of Law and Justice Barrister Farough Naseem finalized many amendments and rules, some of which are as follow.

#### ***Amendments Made in Anti Money Laundering (AML) Act 2010***

Since June 2018, Pakistan has reviewed its anti-money laundering and counter-terrorism financing (AML/CTF) strategies. Pakistan already has an Anti-Money Laundering (AML) Act 2010 that can provide a strong foundation to curb the financial terrorism especially in the form of Money laundering and hawala hundi. The current government of PTI decided to amend that existing laws by introducing strong amendments to make these offences strongly punishable. It introduced key amendments to AML act 2010 as part of the finance supplementary bill 2019 to adhere to the requirements of FATF<sup>23</sup>. Some amendments were made in the areas related to the certain agencies i-e. Federal Investigation Agency (FIA), Securities and Exchange Commission of Pakistan (SECP) etc. that are

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<sup>22</sup> Ali Nawaz Chohan, "Anti-money laundering and counter terror financing laws", *Pakistan Today*, 30 August, 2018.  
<https://www.pakistantoday.com.pk/2018/08/29/anti-money-laundering-and-counter-terror-financing-laws/>. (Accessed July 30, 2020)

<sup>23</sup> Khaleeq Kiyani, "Money laundering to be made non-bailable offence", *DAWN News*, 23 January, 2019.  
<https://www.dawn.com/news/1459232/money-laundering-to-be-made-non-bailable-offence>. (Accessed 28 June, 2020)

working on the matters relating to FATF. These amendments clearly enhanced the punishment for those involved in illegal transfer of funds by making it as a non-bailable offence, increasing the punishment of these crimes up to 10 years and fine up to Rs 5 million. It was also proposed that certain clauses of anti-money laundering bill should also be the part of Anti-terrorism Act, 1997.

Right after the adoption of these measures, FIA reported to the prime minister that there has been a visible decrease in the cases of Hawala/Hundi and the impact of these measures was observed in the stock market that showed positive signs in March, 2019.

All these steps include a visible determination by the authorities, but the true essence of these decisions would be established only by the complete implementation.<sup>24</sup> Government is taking all of these steps with the goal to curtail the illegal flow of money from the country and to fulfil the standards of international financial regimes. This Money Laundering Act (MLA) got passed by the National Assembly of Pakistan with majority on 30<sup>th</sup> September 2019. This MLA that was amended with proposed alteration involves various stakeholders including State bank of Pakistan (SBP), Federal Investigation Agency (FIA), Securities and Exchange Commission of Pakistan (SECP) and Federal Board of Revenue (FBR). Following are some of the measures taken by or assigned to these institutions by the government.

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<sup>24</sup> Sannaullah Khan, "Govt decides to amend anti-money laundering law with stricter punishments", *DAWN News*, 14 March, 2019. <https://www.dawn.com/news/1469483>. (Accessed July 1, 2020)

## Enhanced Role of FBR

Government has also worked on the lines to initiate collaborative relation between various investigating institutions and FBR to halt the money being laundered out of Pakistan. It has been proposed to enhance and incite the role of FBR in the investigation of tax evasion. As it is evident that FBR has central role for containing the illegal transfer of the money, the role of the customs department of the institution should be empowered to take necessary actions against the smuggling of the currency, specifically U.S. dollar, from the country.<sup>25</sup> Along with that government has also set up a special cell called FATF cell within the federal board of revenue to implement the FATF action plan for Pakistan. This cell is supposed to make sure that FBR is working to curtail smuggling of the money from the country. The FBR's recent vigorous campaign against the benami land and accounts in the country is also the part of the implementation of the 27-point agenda-plan in which the institutions are recovering heavy amount of benami property back. (taking benefits of undocumented properties, while maintaining those in possession of someone else's name). The Parliament passed the Benami Transactions Prohibition Act, 2017 which was passed on February 1, 2017 to take a legal action against those involved in such illegal practices.<sup>26</sup>

## Steps taken by FIA

The custom department of FBR and FIA collectively work against the money laundering and crimes related to Alternative remittance system

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<sup>25</sup> Kalbe Ali, "Changes to laws against money laundering finalized", *DAWN News*, 02 October 2018. <https://www.dawn.com/news/1436245>. (Accessed July 1, 2020)

<sup>26</sup> "Rule to Implement Benami Law Notified", *The News International*, March 12, 2019 <https://www.thenews.com.pk/print/443112> -rules-to-implement-benami-law-notified (Accessed June 26, 2020)

(hawala /hundi). Alternative remittance systems are financial services, traditionally operating outside the conventional financial sector, where value or funds are moved from one geographic location to another.

In order to comply with the FATF action plan, the role of FIA is also intensified. A special unit has also been established in FIA to monitor the compliance of institutions with the FATF's action plan. FIA's role has been very pivotal in this regard. They took remedial steps to halt the money laundering and human trafficking especially taking place through the Khyber Pakhtunkhwa (KPK) of Pakistan by chocking the routes used by the proscribed organizations.<sup>27</sup> The civil and military leadership have collectively decided to work against the smuggling and trafficking issues across the Torkham border in district Khyber, Tehsil Landikotal, Khyber Pakhtunkhwa (KPK).

### **Role of Security and Exchange Commission of Pakistan (SECP) and State Bank of Pakistan (SBP)**

The amendment in the Foreign Exchange Regulation Act (FERA) 1947 and Protection of Economic Reforms Act (PERA) 1992, consisted of the certain salient features that enhanced and upgraded the role of SECP and SBP in the context of FATF's compliances. The main reason behind the amendments in the clauses of this Act was to restrict the free movement of foreign currency within the country, to increase the punishment in case of foreign exchange violations and to give explicit power to the institutions to take immediate action against any illegal action. It also gave the mandate

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<sup>27</sup> Shakeel Qarar, "FATF compliance unit established in FIA", *DAWN News*, 19 july,2019. <https://www.dawn.com/news/1495003>.

of empowering the tribunals to act against any violator of the foreign exchange law.<sup>28</sup>

It has been observed during the proposition of these amendments that the instructions regarding countering money laundering issued by the State Bank of Pakistan (SBP) were not communicated properly to the public. So, it was decided to publicize the rules and notifications to streamline the matter through various means of media. It was also proposed that decisions and regulations should not only focus on the money laundering but also facilitate the relocation of the money for needful purposes. The SBP imposed heavy fine of around Rs 805 million on 10 banks for violating anti money laundering and counter financing of terrorism (AML/CFT) laws.<sup>29</sup> It is clear that the compliance of AML/CFT is being pursued under the strict guidance of the FATF with the sole purpose of pulling Pakistan out of the grey-list. All these amendments were vetted by the Cabinet Committee for Disposal of Legislative Cases (CCLC) and were presented in the federal cabinet that ratified the amendments for further procedures.

### **Measures Initiated by Interior Ministry**

Over the last two and half years, Pakistan has started an organized campaign against the banned organizations which have been involved in the terror financing or hate speech and despite being banned they are operating under different names to avoid the action. The stringent action

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<sup>28</sup> Mustaq Ghuman, "Hundi/Hawala prevention: amendments to rules & regulations finalized", *Business Recorder*, 24 December, 2018.

<https://fp.brecorder.com/2018/12/20181224433974/>. (Accessed August 12, 2020)

<sup>29</sup> Samaa Digital, "State bank fines 10 banks for violating money laundering laws," *Samaa News*, 6 September 2019.

<https://www.samaa.tv/money/2019/09/state-bank-fines-10-banks-for-violating-money-laundering-laws/>.

against the terror financing network is the key for Pakistan to exit the FATF grey -list.

The National Counter Terrorism Authority (NACTA) clamped down the operations and assets of 70 such banned organizations in Pakistan in the start of last. According to the Counter Terrorism Department (CTD) of Punjab the common escape of these outlets is to raise charities and funds in the name of religion and then use it for terror financing.<sup>30</sup> The crackdown against those outfits is clearly in compliance with the directives of FATF. The major crackdown was against the leadership of Lashkar -e-Taiba (LeT), Jamat-ud-Dawa (JuD) and Falah-e-Insaniat Foundation (FIF), which are all banned by the United Nations. Hafez Saeed the founder of all three organizations was arrested by the CTD and all his accounts were frozen. He was booked for terror financing.

Government has also moved one step forward and formulated a group of proscribed organizations, terming them as ‘high risk’, and have started re-examining and monitoring their financial and other operations to ensure that they are not violating any financial administrative and legal regimes. All these organizations are now under the constant lens of scrutiny by all the major state institutions mainly their registration, operations, funds collection procedures and bank accounts are being closely monitored.

Pakistan is evidently taking all these steps to comply with the 10-point agenda plan of FATF for Pakistan that clearly highlighted terror financing

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<sup>30</sup> Ayesha Tanzeem, “Pakistan Registers Terror Financing Cases Against Leader of Banned Militant Group”, *VOA*, 3<sup>rd</sup> July 2019. <https://www.voanews.com/south-central-asia/pakistan-registers-terror-financing-cases-against-leader-banned-militant-group>. (Accessed July 24,2020)

as one of the major issues for the country responsible for its name in the grey-list. Pakistan is trying to demonstrate that it has now effective enforcement mechanisms for all these penalties and punishment but to depict a more seasoned actions there is a strong need of collaborative measures and actions between provinces and federal government keeping in view the working gap that has been present between the federation and the provinces because of various disagreements on the power sharing after the 18<sup>th</sup> amendment in the constitution.

### **Recommendations on the Basis of Findings**

- FATF should give Pakistan some relaxation in the view that its economy is already in a very challenging situation and taking into consideration the fact that the current government is committed to meet the stated requirements.
- The FATF needs more internal reforms in order to ingress its reach to the developed countries which become tax havens yet are not bound to cooperate in this regard.
- With respect to Pakistan, despite the fact that laws curbing money laundering and terror financing have been made, it is crucial that their implementation is carried out with true essence. The existing loopholes in countering terror-financing needs to be dismantled for example, different banned organizations re-emerge with new names and continue to operate which poses a serious obstruction in eliminating such groups. Therefore, laws which can root out the underlying sources of money laundering and terror-financing are crucial.

- The laws against money laundering should be properly implemented by awarding severe punishments. Pakistan also needs to intensify its diplomatic efforts in order to gain cooperation from other countries such as Panama, U.K. and Switzerland.
- A documented economy is the hallmark of any stable and progressive economy, thereby Pakistan needs a more documented economy which would be less vulnerable to defections, money-laundering and terror-financing.
- State Bank of Pakistan should launch an initiative that can aid to create awareness about the various mechanisms which can make the system less vulnerable to money-laundering and terror-financing.
- Cash Couriers must be identified, for which the Federal Board of Revenue must play its part efficiently
- National Counter Terrorism Authority (NACTA) is suggested to enhance level of coordination with relevant stakeholders.
- The capacity of the Judiciary should be enhanced so the judges can penalize the cases related to terrorism, money-laundering and terror-financing networks more effectively.
- The Financial Monitoring Unit (FMU) should effectively cooperate with the international community in order to identify the cases of international terrorism.
- Pakistan has to counter the Indian propaganda to push Pakistan into FATF black -list.

- In international politics lobbying matters, Pakistan's friendly states including China, Saudi Arabia, Turkey and Malaysia must support at all levels.
- To gain U.S. support in FATF, Pakistan should link it with facilitation of US-Taliban negotiations as diplomatic courtesy.

### **Conclusion**

The FATF has increased its influence by combatting terrorist financing making it as its supreme priority and by strengthening the integrity of financial sector. The FATF is proactively pursuing to address strategic deficiencies in the framework to combat money laundering, terrorist financing and proliferation. Pakistan's compliance to FATF Action Plan has been satisfactory but it lacks in lobbying to amass support from different member states. It is a herculean task to comply FATF within short span of time but the progress already made, has been more than expected. It can be established that Grey-listing of Pakistan had serious implications for Pakistan's economic security. Pakistan has taken sufficient measures and the remaining three points out of 27 Action plans will soon be complied as desired by FATF.

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