

## FINANCIAL MARKETS

### FATF Updates List of AML/CFT Deficient Jurisdictions

On October 18, the Financial Action Task Force (FATF) published its updated list of jurisdictions that have strategic anti-money laundering (AML) and counter-terrorist financing (CTF) deficiencies for which they have developed an action plan with the FATF. The FATF updates this list three times a year, the last update being in June 2019.

Since June, the following jurisdictions are no longer subject to monitoring and have been removed from the list:

- Ethiopia
- Sri Lanka
- Tunisia

The following jurisdictions continue to have strategic deficiencies and remain on the list:

- the Bahamas
- Botswana
- Cambodia
- Ghana
- Pakistan
- Panama
- Syria
- Trinidad and Tobago
- Yemen

And the following jurisdictions have been added to the list:

- Iceland
- Mongolia
- Zimbabwe

Each jurisdiction on the list has an agreed action plan with FATF, with commitments ranging from 'improve understanding' of AML/CFT in the jurisdiction, to specific regulatory changes.

This is not the list of countries for which financial institutions are required to undertake enhanced due diligence. (For EU and UK firms, for example, that list is maintained by the European Commission, [here](#).) FATF noted that firms should take this information into account when conducting money laundering risk assessments and due diligence.

The October list is available [here](#). The next list will be published in February 2020.

## DERIVATIVES

See “CFTC’s Energy and Environmental Markets Advisory Committee to Meet November 7” in the CFTC section.

## CFTC

### **CFTC, Among Other US Financial Regulatory Agencies, Joins the Global Financial Innovation Network**

On October 24, the Commodity Futures Trading Commission (CFTC) joined the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the Securities and Exchange Commission in announcing that it will be joining the Global Financial Innovation Network (GFIN). The GFIN was formed to establish a framework for cooperation among financial services regulators on innovation-related topics and a vehicle for sharing different experiences and approaches. It also seeks to provide a more efficient way for innovative firms to interact with regulators and navigate among jurisdictions as they look to scale new ideas.

The CFTC and other US financial regulators have proactively sought to enhance regulatory clarity and understanding for all stakeholders and identify emerging regulatory challenges and risks. The CFTC’s participation in the GFIN furthers these objectives, aligns with the CFTC’s regulatory agenda and advances financial and market integrity in the United States and abroad.

The CFTC, along with the other agencies mentioned, join 46 other GFIN members from around the globe, working to facilitate greater collaboration and cooperation among financial authorities.

### **CFTC’s Energy and Environmental Markets Advisory Committee to Meet November 7**

The Commodity Futures Trading Commission’s Energy and Environmental Markets Advisory Committee (EEMAC) recently announced that it will be holding a public meeting on November 7 at the CFTC’s Washington, DC headquarters.

The agenda for the meeting will focus on the following three topics:

- the global energy transition: evolving standards impacting physical markets;
- exchange-traded environmental derivatives contracts; and
- the impact of the global energy transition on market participants’ use of the energy and environmental derivatives markets.

The meeting is open to the public with seating on a first-come, first-served basis. Members of the public also may watch a live webcast or listen to the meeting via conference call using a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed.

Additional information about the meeting is available [here](#).

## UK DEVELOPMENTS

### **FCA Publishes SAR and STOR Guidance**

On October 18, the Financial Conduct Authority (FCA) published a letter giving guidance on the distinction between suspicious activity reports (SARs) and suspicious transaction and order reports (STORs). The letter was sent in response to a request by UK Finance, a trade association, following a meeting of the ‘SARs Collaboration Working Group.’

In the letter, the FCA acknowledged that there is ‘significant overlap’ between the civil offences in the Market Abuse Regulation (MAR) and the criminal offences set out in the wider financial crime regime such as the Criminal Justice Act 1993. The letter explains that:

- STORs must be submitted to the FCA when ‘any person professionally arranging or executing transactions ... has a reasonable suspicions that an order or transaction ... could constitute insider dealing, market manipulation’ or an attempt to do either. This includes buy-side (e.g., investment managers), firms which professionally trade on their own account (e.g., proprietary traders), and non-financial firms if they trade on their own account (e.g., industrial firms for hedging purposes);
- SARs must be submitted to the National Crime Agency (NCA) when the firm knows or suspects that certain criminal offences have also occurred; and
- a firm’s obligation to submit a SAR is not satisfied by submitting a STOR, and vice versa. The letter states, ‘firms will have to consider, on a case by case basis, whether to submit a STOR, SAR or both.’

The letter also provides a link to the FCA’s Financial Crime Guide, which includes specific guidance on the adequacy of systems and controls for financial crime, as well as links to a recent FCA money-laundering thematic review, a Regulatory Technical Standard issued by the European Commission, and to a recent Q&A issued by the European Securities and Markets Authority (ESMA).

The letter is available [here](#).

### **FCA Publishes *Market Watch* Newsletter**

On October 18, the Financial Conduct Authority (FCA) published issue 62 of the *Market Watch* newsletter. The focus of the newsletter is on personal account dealing (PAD) and transaction reporting.

PAD is meant to be tightly controlled in order for firms to ‘minimize the risk’ of conflicts and market abuse. The newsletter states, ‘We are concerned how often we are seeing apparent breaches of PAD policies and the issues which have come to light as a result.’ These breaches include:

- employees across the business deliberately not declaring accounts or opening accounts in the names of relatives who are not actually involved in the trades;
- employees trading in the firm’s own shares, or related products such as spread bets, in contravention of the PAD policy;
- research analysts and fund managers trading against their own recommendations;
- following and front-running client orders; and
- employees trading on their own account multiple times a day, potentially impacting their ability to carry out their job and to serve clients’ best interests.

In addition, the newsletter outlined the FCA’s findings from a recent study of PAD activity and controls at a sample of wholesale brokers, and highlighted the following concerns:

- some firms who require their employees to report PAD trades to them were getting very low volumes of reports, which may indicate that not all trades are being reported by employees;
- none of the firms in the sample had submitted a suspicious transaction and order report (STOR) relating to PAD in the past year — this is in contrast to other types of firms who regularly do submit STORs about PAD; and
- there were ‘significant differences’ between the firms in the sample regarding their pre- and post-trade analysis of PAD, in that some firms perform analysis to try and identify market abuse or other misconduct, whereas others do not.

In terms of transaction reporting, the newsletter follows on from *Market Watch* 59 (please see the [April 19 edition of \*Corporate & Financial Weekly Digest\*](#)) and provides further guidance on filling specific fields in order to resolve a number of data quality issues. The newsletter also emphasizes that errors and omissions must be reported promptly by the firm, regardless of whether the transaction reporting is outsourced, and that the regular reconciliations of front office trading records must be done with data samples provided by the FCA, not by a third party.

The newsletter is available [here](#).

## EU DEVELOPMENTS

See “[FATF Updates List of AML/CFT Deficient Jurisdictions](#)” in the *Financial Markets* section.

For additional coverage on financial and regulatory news, visit [Bridging the Week](#), authored by Katten’s [Gary DeWaal](#).

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\* Click [here](#) to access the *Corporate & Financial Weekly Digest* archive.

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