



Iran's Stance among Three Approaches to FATF Action Plans¹

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Abstract:

The Financial Action Task Force is a young international body with rather few member-states. However, it is quite influential and determinative in international relations, global economy and even peace process in different areas. FATF Recommendations have been approved and supported by UN resolutions and other documents issued by the United Nations General Assembly and Security Council. Consequently, they have been adopted by most jurisdictions and incorporated in their domestic laws and regulations. This paper tries to have a brief description of FATF methodology in evaluating how different jurisdictions comply with the Recommendations. Example are also presented about what techniques FATF assessors use to appraise the effectiveness of implementation of the Recommendations in practice. Before dealing with Iran's interaction with FATF, the approaches taken by a couple of other countries is looked upon. Among all countries which have been the subject of the Group's in periodical Public Statements and also statements about "High-risk and non-cooperative jurisdictions", two cases besides Iran have been selected for a comparative study of their interactions with the Group. Considering different practical approaches in compliance with the Recommendations, the article tries to first have a look at the path taken by Turkey in drastically improving its status in AML/CFT ranking in FATF reports. Then, the case of the North Korea is studied briefly. Finally, in the light of the findings and the economic, legal and political concerns of the Islamic Republic of Iran, the possibility of reaching a reconciliation between this country and FATF is deliberated.

Keywords: Money Laundering, FATF Recommendation, Mutual Evaluation, Financing of Terrorism

1. Introduction

The Financial Action Task Force is an inter-governmental organization established for

combating money laundering, financing of terrorism, proliferation of weapons of mass destruction and other international financial

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1. This article is extracted from a Ph.D. thesis entitled "An Evaluation of the Role of Financial Action Task Force (FATF) on International Transparency of States; with a Focus on the Mutual Relationship between the Group and Islamic Republic of Iran."

crimes. FATF was founded in 1989 at G7 Summit by 16 countries; and although the number of its member states is still below 40; the standards set by the Group and its Recommendations are adopted by more than 180 countries.

The Financial Action Task Force fulfills its essential duty in setting standards through Recommendations which are updated according to international changing requirements. The supervisory task of the group is also accomplished by periodical assessment sessions and issuance of guidelines, reports, public and special statements and Mutual Evaluation Reports (MER). The monitoring mission is quite inclusive and covers all member-states as well as non-members in respect of their conduct in anti-money-laundering and combating terrorism financing and confronting other international financial crimes. The major privilege of the member-states of the Group is a special mechanism called "Mutual Evaluation" in which the adequacy of the legislative and executive structure of the countries is constantly monitored to make sure that they are capable and competent enough to prevent criminals from using their financial systems for their illegal activities.

The Financial Action Plan Force classifies high-risk and non-cooperative countries according to reports received about their insufficient measures in combating money laundering, financing of terrorism and WMD¹ proliferation. In FATF Public Statements countries mainly fall in two different categories in terms of deficiencies in their fighting against FATF-recognized financial crimes:

1. Jurisdictions with strategic AML²/CFT³ deficiencies that have not made sufficient progress in addressing the deficiencies. Such jurisdictions receive an "action plan" from the Group to remedy defi-

ciencies or eliminate defects within a proposed timetable. The list of jurisdictions falling in this category which is also named by media as the "gray list", has included from 7 to 12 states in the last decade.

2. Non-cooperative jurisdictions that ignore FATF standards and Recommendations. According to FATF Public Statements, as the result of non-cooperation of these so-called blacklisted jurisdictions, the international community faces increasing risks of crimes associated with money laundering, financing of terrorism and WMD proliferation.

In addition to black-listed and gray-listed jurisdictions (these titles are used by media and cannot be found in FATF publications) sometimes under special circumstances, FATF shows special concerns about a country, and giving an action plan to it, asks other jurisdictions to apply due diligence in their financial transactions with the country until the obligation under the action plan are satisfied.

In the present paper, an overview of FATF methodology and mechanism for assessment of the states' compliance will be

explained first. Then the interaction between Turkey and Financial Action Task Force over the last decade and also the headline stance of North Korea in this respect along the consequences of each of these approaches, will be reviewed. At the end, there will be a look upon the challenges that Islamic Republic of Iran faces in either implementing FATF Recommendations and Action Plan or moving towards the Group's so-called black list.

1. Weapons of Mass Destruction

2. Anti-Money Laundering

3. Combating the Financing of Terrorism

I: FATF Methodology

The most revealing document for studying the mechanism that the FATF uses for assessment of the conduct of countries in regards to abiding by its standards is called “Guidance on Capacity Building for Mutual Evaluation and Implementation of the FATF Standards within Low Capacity Countries”. The publication is produced by FATF as guidance to identify a number of principles and specific mechanisms and procedures being implemented to ensure effective prioritization and implementation of the established standards on money laundering and terrorist financing.

There are 40 FATF Recommendations which cover different elements and phases involved in confronting money laundering, financing of terrorism and WMD proliferation and similar financial crimes of the same nature. These categories include AML/CFT policies and coordination, money laundering and confiscation, terrorism financing and financing of proliferation, preventive measures, transparency, responsibility of authorities and international cooperation. According to the capacity building bulletin, in the assessment process to determine a country’s compliance with FATF Recommendations, not all 40 Recommendations and 9 Special Recommendations are of equal significance and priority. Based on the guideline, they fall in 3 different categories namely “Core Recommendations”, “Key Recommendations” and “Other Recommendations”.

In the classification mentioned above – which was first introduced in FATF 2008 Guidance and Capacity Building publication, Core Recommendations are for:

- riminalization of money laundering and financing of terrorism (Recommendation no. 1 and Special Recommendation no. 2)

- Customer due diligence and record keeping (R5 and R10); and suspicious transaction reporting (R13 and SR 5).

There is no reference to “Key Recommendations” in 2008 publication, but in later Mutual Evaluation Reports on different countries, such as 2014 on Turkey, Key Recommendations are classified next after Core Recommendations in terms of importance and priority. Accordingly, Key Recommendations include Recommendations 3,23,24,26,35,36, 40 and special Recommendations 1,3 and 5.

FATF has also released a publication named “Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems”, as a guideline to assist assessors in evaluation of target countries’ compliance with international AML/CFT standards. The methodology has two phases. The first stage is the **technical compliance** assessment which aims at appraisal of specific requirements of the FATF Recommendations, mainly as they are related to legal and institutional framework of the target country, and the powers and procedures of the relevant authorities there.

The second stage of the methodology includes the **effectiveness assessment** which is quite different from assessment of technical compliance. It addresses the adequacy of the implementation of the FATF Recommendations in the target country, and evaluates the extent to which the jurisdiction has been successful in achieving a defined set of outcomes that are central to a reliable and effective AML/CFT system.

A: Technical Compliance Assessment:

In the process of the technical compliance assessment of the target country’s legal and executive framework in relation with FATF

Recommendations, the first step will be data collection. The main source of the information required for this purpose is the official reports submitted by the jurisdiction under assessment about risks linking to financial crimes such as money laundering, financing of terrorism and WMD proliferation in that country, as well as information about the measures taken by that jurisdiction to curb risks and combat crimes. Of course, the assessors check the authenticity of the reports they receive carefully and match them with information they receive from other reliable sources like NGOs and international organizations. According to the FATF guidelines, technical assessment involves taking many factors into account. Structural elements such as political stability and political integrity, the government commitment to its international obligations, transparency and rule of law are among those important elements.

In technical compliance assessment of each countries behavior with FATF recommendations, the result of the evaluation is classified as “compliant”, “largely compliant”, “partially compliant” and “non-compliant”.

B: Effectiveness Assessment

Evaluation of the effectiveness of each country's policies and efforts based on FATF methodology means estimating to what extent the financial system and economies can mitigate the risks and threats of money laundering, financing of terrorism and WMD proliferation. The procedure designed by FATF for this appraisal is like a pyramid. At the top of this pyramid we have the “High Level Objective” which requires the financial system and the whole economy to be safeguarded against threats posed by money laundering, the financing of terrorism and WMD proliferation.

Accomplishing the High Level Objective depends on attaining some “Intermediate

Outcomes” which - according to FATF methodology - incorporates three stages, each consisting of eleven “Immediate Outcomes” in combating money laundering and financing of terrorism. In fact, FATF assessors focus on how much the target country has been successful in fulfillment of those eleven Immediate Outcomes. According to FATF methodology, determining the degree of country's overall accomplishment of Intermediate outcomes and the High level Objective is beyond the scope of the assessors' responsibility and power, and is resolved by the representatives of FATF member-states. For the purpose of appraising achievements in Immediate Outcomes, assessors need to come up with answers to the two following questions for all eleven immediate outcomes which form the base of the effectiveness assessment pyramid. The questions are:

1. How successful the country has been in achieving each immediate outcome?
2. How can the country improve its degree of effectiveness?

Assessors have their special system of rating and ranking jurisdictions accomplishments. Effectiveness of Immediate Outcomes can be marked with four possible ratings. Here we may have:

- High level of effectiveness
- Substantial level of effectiveness
- Moderate level of effectiveness
- Low level of effectiveness.

As already mentioned, FATF assessors evaluate countries for both technical compliance and effectiveness assessment to make sure that they implement Recommendations and meet the standards. According to the methodology and guidelines published by the

FATF, assessors use special operation techniques for this purpose

II: FATF Assessment in Practice

After giving a brief description of the FATF methodology for assessment of countries' compliance with Recommendations, it is time to have a look at a case where the described methodology is applied. In order to make the appropriate selection from all those countries which have been subject to Mutual Evaluation do far, all FATF Public Statements and other reports such as High-risk and other monitored jurisdiction" and "Improving Global AML/CFT Compliance: On-going Process" released over the last decade were studied. As the result of this investigation, Turkey was selected for its drastic changes in ANL/CFT regime and ups and downs in its interactions with the FATF.

A: Turkey and Its Interaction with FATF

As a transcontinental country located on the Anatolian peninsula straddling east Europe and west Asia, Turkey is a geopolitically important country. The Country shares borders with Middle East countries like Iran, Iraq and Syria. It is also bordered by CIS countries like Azerbaijan, Armenia and Georgia and also with Balkan countries like Bulgaria and Greece. This significant geopolitical situation and political and military unrest in some of Turkey's neighboring countries, makes Europe show special concern to both domestic and foreign financial transactions in the country, as well as the judicial and executive systems regulating trade and banking there.

Turkey joined the FATF in 1991. And the financial activities within the country have been invariably monitored by the Group ever since it became a member. This constant supervision once led the country to be expelled from the Group for allegedly lack of confor-

mity with Recommendations and guidelines. Turkey has also been a party to the 1988 Vienna convention since 1996 and also entered into 1999 CFT convention in 2002. The country joined the 2000 Palermo Convention in 2003. Due to the special attention of the FATF members to the country's compliance with the Group's Recommendations and with standards against money laundering and financing of terrorism, the country has been subject to mutual assessment process two times in 2007 and 2014. The mutual evaluation reports (MER) published after both meetings are very elaborate in covering Turkey's legal and executive measures and shortcomings in fighting against money laundering and financing of terrorism. The reports also evaluate to what extent the country has been successful in complying with FATF Recommendations and accomplishing its targets.

In the time span between the two mutual evaluation processes in 2007 and 2014, in all FATF Public Statements, Turkey was classified as one of the few jurisdictions with strategic AML/CFT deficiencies without sufficient progress in addressing the deficiencies and accomplishing their duties in confronting crimes in accordance with FATF Recommendations.

In this article, effort will be made to go over main points in FATF Mutual Evaluation Reports and FATF periodical statements on Turkey, to catch up with what this country has gone through in order to meet the Group's requirements. For this purpose, the key elements stipulated in 2007 MER will be followed by reviewing legislative and executive steps taken by Turkish authorities in the process led to satisfying FATF demands.

1. Technical Compliance and Effectiveness Assessment in 2007 MER for Turkey:

Having briefly introduced the FATF assessment mechanism, it is time to go over the major points in 2007 and 2014 MER on Turkey and look at the progress that the country has made between these two evaluations.

We should keep in mind that according to FATF operational guidelines, mutual evaluation- as the name suggests - is merely an objective report with no judgment; and only deals with observations and statistics about the target country. In fact, assessors have no obligation for drawing a general conclusion about the target country's conduct. Judgment is made later and made public in statements released at the end of the relevant FATF meetings.

Studying the 2007 MER on Turkey prepared by a team of FATF assessors, we find that from 40 Recommendations and 9 Special Recommendations, the country has been evaluated as "Compliant" for only 3 Recommendations (R10T R19 & R20). It also worth mentioning that among these 3 compliant Recommendations, only one of them (R10) belongs to Core Recommendations. The country's assessment for 12 other Recommendations has been marked "Largely Compliant" (R2, R3, R4, R14, R26, R28, R31, R36, R37, R39, R40 and Special Recommendation 9). Among there LC Recommendations, we can find only one Core Recommendation (R2) and four Key Recommendations (R3, R26T R36 7 R40)

In 2007 MER, we see that assessors have recognized 22 Recommendations as "Partially Compliant" and 11 Recommendations as "Non-Compliant". Among these LC and NC Recommendations, there exist some important ones such as Core Recommendations R1, R5, R13 and SR4, and also Key Recommendations R23, R24, R35 and SR1, SR3 and SR5 about financing of terrorism for which Turkey has performed poorly.

Actually, the Core Recommendations for which Turkey could not get a passing mark in 2007 MER were about very important issues such as monitoring financial institutions, customer due diligence, correspondent banking, financing of terrorism and reporting of suspicious transactions. This degree of Turkey's divergence from targets and standards – especially in Core Recommendations and Key Recommendations – urged FATF to keep a constant eye on the country and push the jurisdiction to enhance its legislative and executive sectors to satisfy the requirements of the Recommendations.

The pressure from FATF member states as well as other jurisdictions which followed its Recommendations compelled Turkey to take serious steps to remedy the deficiencies discovered by the Group assessors in 2007 MER. The country was also obligated to submit periodical reports of its combat against money laundering and financing of terrorism and other financial crimes to the FATF.

In 2007 MER, Turkey was accused of not sufficiently taking care of thirty-seven Recommendations which were rated "partially compliant" or "noncompliant" according to the MER. Now, the country was supposed to show more cooperation and gradually fix the problems.

The official reports submitted to FATF by Turkey along with information received from other sources, led to great dissatisfaction of the Group over the country's lack of willingness to fully cooperate. FATF dissatisfaction with Turkey for neglecting its AML and CFT obligations grew to the extent that the country was listed by the Group as one of the jurisdictions with strategic deficiencies and without sufficient progress in addressing the defects and accomplishing their duties in confronting crimes in accordance with Rec-

ommendations. For a few years after 2007 MER, in almost all public statement released at the end of consecutive FATF meetings which are held three times a year, member states as well as other jurisdictions were advised by the Group to be cautious about the risks involved in their financial transactions with Turkey.

In FATF Public Statement published after October 2011 meeting, we read:

Despite Turkey's high-level political commitment to work with the FATF to address its strategic AML/CFT deficiencies, Turkey has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Turkey should work on addressing these deficiencies, including by:

- (1) adequately criminalizing terrorist financing (Special Recommendation II);
- (2) implementing an adequate legal framework for identifying and freezing terrorist assets (Special Recommendation III).

Every year, FATF holds three meetings in February, June and October. The case of Turkey, its measures in compliance with Recommendations and the Action plan for improving its AML/CFT rank, as well as the result of its efforts in this respect was discussed by FATF members in every meeting after February 2012. In each session, members expressed their dissatisfaction over the country's slow progress and warned against the consequences of its non-conformity and encouraged Turkey to implement adequate legislative and executive measures to comply with the Recommendations and the Action Plan.

In the Public Statement next year in October 2012, a serious warning was issued according to which Turkey membership would have been suspended unless Turkey could have fulfilled two conditions before the next meeting in February 2013. The two critical conditions were:

- adequately criminalizing terrorist financing
- implementing an adequate legal framework for identifying and freezing terrorist assets.

The same Public statement also called upon countries to take additional steps as necessary proportionate to the risks arising from the deficiencies associated with Turkey.

In the early 1910s, Turkey was the only NATO member in the FATF so-called gray list. On the one hand, there was a growth in terrorist activities inside the country which targeted its infrastructures and even innocent civilians. On the other hand, terrorists easily utilized the country's financial system for financing their international terrorist activities. (Sax, Joe, et al, 2013) Here, Despite strong domestic objections and security concerns, Turkey took the FATF warning seriously and complied with the Group's demand.

According to predictions in media of that time, if Turkey had not abided by the FATF action plan; it would have experienced some undesirable consequences such a sharp currency depreciation, severe political and social crisis, restrictions in international banking correspondence, international investment drop, deprivation from many global resources and finally, deterioration of its relations with western countries which was very crucial to Turkey.

Two weeks ahead of the FATF deadline, on February 7, 2013, Turkey's parliament

finally passed a law for coping with financing of terrorism. On the same date, Reuters in an editorial wrote that if the parliament had not adopted the bill for identification and punishment of terrorists and freezing of their assets within the deadline; the country would have definitely faced the risk of falling in the FATF black list along with Iran and North Korea and losing its membership in the Group, and as a result, the credit ranking of the country would have dropped sharply.

As a result of Turkey's positive and complying measures, it was praised in the next Public Statement in February 2013 for its "significant steps towards improving its CFT regime, including by enacting a new law that addresses many of the shortcomings identified in Turkey's terrorist financing offence and creates the legal basis for the freezing of terrorist assets." The group also cancelled its decision to suspend Turkey's membership; but at the same time announce that "in spite of this positive step, there still remain a number of on-going shortcomings in the Turkish counter-terrorist financing regime. Turkey must address these shortcomings in order to reach a satisfactory level of compliance with the FATF standards." Of course removing the country's name from the list of jurisdictions with strategic deficiencies needed more time and deliberation and was postponed to further investigations in this regard.

In the next meeting in June 2013, the Group announced that since they had not assessed the new regulations passed in the country due to its very recent nature; they had not yet determined the extent to which the new law addresses the on-going shortcomings in the Turkish counter-terrorist financing regime. The Public statement held that Turkey should clarify the remaining concerns in order to ensure that it reaches a satis-

factory level of compliance with the international standards.

Even in the next two Public Statements, we find the same declaration according to which the country still needed to address the remaining strategic deficiencies and continue the process of implementing its action plan. In the FATF "High-risk and non-cooperative jurisdictions" report dated 4 February 2014 the group resorted to UN resolutions and asserts that "certain concerns remain, and Turkey should take further steps to implement an adequate legal framework for identifying and freezing terrorist assets under UNSCRs 1267 and 1373."

Turkey's efforts in following the Action Plan and avoiding the unanticipated consequences of being black-listed by the FATF finally resulted in its removal from the list of jurisdictions with strategic deficiencies in the Public Statement in June 2014. From that date, the country was classified as one of the jurisdictions described as "Improving Global AML/CFT Compliance: On-going Process" due to their progress in substantially addressing their action plan agreed upon with the FATF. Then, the 2014 MER on Turkey ended the international concerns over the money laundering activities and financing of terrorism in that country.

2. Technical Compliance and Effectiveness Assessment in 2014 MER for Turkey

The distinguishing difference between the MER2007 and MER2014 is in the latter one assessors paid more attention to the rank and weight of the Recommendations under examination. According to 2014 report, Turkey had made a significant progress in implementing Core Recommendations. Having enacted new laws and regulations on money laundering and financing of terrorism, the country's grade in Recommendations number 1, 5, 11, 13 and Special Recommendations

number 2 and 4 had improved from Non-Compliant or Partially Compliant to Compliant or Largely Compliant.

In terms of Key Recommendations, - especially for Recommendations 23, 35 and Special Recommendations 1 and 3, we also witness a similar improvement. For Other Recommendations the situation is promising as well.

According to MER 2014, Turkey had managed to reach a satisfactory level in Core Recommendations. For Key Recommendations, in 4 out of 5 cases, targets had been achieved and good progress had been made for the only Recommendation which was not been completely fulfilled, (R 3). As it turns out; this degree of accomplishment was enough to change the position and reputation of Turkey among FATF members.

3. *Measures Taken by Turkey in Compliance with FATF*

The most important step taken by Turkey in compliance with FATF guidelines, Recommendations and Action Plan in the years before 2014 was adopting new AML/CFT laws and amending the existing ones. Some of these attempts are listed below:

- a) Amendment of the Turkish Penal Code No. 5918 year 2009, which facilitated punishment of ML/FT criminals and confiscation of their properties.
- b) Law No. 6415 on the Prevention of the Financing of Terrorism (Dated 7 February 2013.)
- c) Establishing MASAK and giving it the responsibility to coordinate all AML/CFT obligations of different legislative or executive bodies within the country

What Turkey did –as summarized above– seems to have saved the country from some inevitable undesired consequences. However, not all jurisdictions have shown the same compliance enthusiasm and countries like North Korea have taken a different path.

B: Democratic People's Republic of Korea and its Confrontation with FATF

In today's integrated global economy, it is not easy for a country to isolate itself from the rest of the world. Globalization is an inevitable requirement and global village appears to be no longer a western fantasy. In such an environment, North Korea has apparently selected to keep distance from the rest of the world and insists on closing its doors to globalization. Nonchalant about the consequences of their self-selected isolation, which deprives the country from industrialization and attraction of foreign investment, North Koreans stick to their ideological preferences. The result of this approach is that the country which was once the most economically developed East Asian country outside of Japan (Andrei Lankov; 2016, p. 4) now is not able to provide the basic needs of its citizens.

The isolation and poverty which has engulfed North Koreans, East Bloc colony. roots in the country's negligence in late 1970s when industrialization had already begun in all neighboring countries, but DPRK relied on financial aids of the Soviet Union (USSR) and enjoyed the privileges of an East Bloc subordinate state until the dissolution of the Soviet Union. Naturally, the fall of the superpower led to the cutoff of the financial aids and left North Korea quite helpless. (French, 2016, p. 163)

While some experts classify North Korea as an underdeveloped country, its government is believed to run very sophisticated

financial networks. It is accused of being “the only government on earth actively promoting and engaging in large-scale criminal activities, run by operatives sanctioned by the ruling party. These activities include (but are not limited to) counterfeit U.S. currency, counterfeit cigarettes, sales of illegal drugs, illegal export of minerals, including gold, and of course, arms sales. (Bechtol, 2018, p. 59) All these illegal financial activities are committed with the help of their collaborators and the whole this mafia-like network is organized and run by the North Korean leader and his family. (Bechtol, 2018, p. 62)

1. DPRK and the 4 Conventions

Among those four international obligatory conventions which FATF urges countries to join, Democratic People's Republic of Korea has already become a party to 3 of them. The country entered the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 2007. It also joined the International Convention for the Suppression of the Financing of Terrorism in 2013 with some reservations and ratified United Nations Convention against Transnational Organized Crime in 2016.

2. DPRK and Interaction with FATF

North Korea is neither a Financial Action Task Force member, nor it has joined any of the FATF-style regional bodies (FSRBs). According to the Group's statements and reports, the country was classified as one of the “jurisdictions with strategic AML /CFT deficiencies that have not made sufficient progress in addressing the deficiencies” until 2010, and received advice and assistance from FATF to improve its AML/CFT regime. In February 2011, following the dissatisfaction with the country's lack of willingness to cooperate, the Group started some tougher

measures against DPRK, and asked members and other jurisdictions to advise their financial institutions to apply due diligence in their financial transactions with the country and also apply counter-measures to protect the international financial system from the ongoing and substantial money laundering and terrorist financing (ML/FT) and financing of WMD proliferation risks emanating from the DPRK.

Today, after almost a decade, North Korea is still black-listed by FATF and suffers the consequences of its non-compliant approach.

C: Interaction between Islamic Republic of Iran and Financial Action Task Force

As an inter-governmental body, FATF tries to “to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.” For this purpose, the Group urges countries to “take immediate steps to become party to and implement fully the Vienna Convention, 1988; the Palermo Convention, 2000; the United Nations Convention against Corruption, 2003; and the Terrorist Financing Convention, 1999.”

The Islamic Republic of Iran is not a member of FATF or any of its regional bodies (FSRBs) and has not joined CFT and Palermo conventions yet. However, the country has already passed some laws in line with the Recommendations and against money laundering and finance of terrorism and organized crimes. Iran has also entered into United Nations Convention against Illicit Traffic In Narcotic Drugs and Psychotropic Substances (Vienna Convention 1988) and Merida Convention 2003; and incorporated those conventions into its domestic legislation. Iranian government has also sent several

bills for ratification of Palermo and CFT to the parliament; and while the bills have been passed by the parliament, they have not received the approval of Iran's Guardian Council to become executable. In responding to FATF statements and reports, the country has repeatedly expressed its determination to overcome the existing obstacles and comply with the standards.

In Iran's legal system, you cannot find a specific law identified as Financial Crimes Act. Instead, financial offenses are included and criminalized within a variety of bodies of law (Pahlavan. M.J et al, 2018). Some of the most important instances of related legislations include Law on Punishment of the Disruptors in the Economic System of the Country, 1990, the Electronic Trade Act, and above all - the Law on the Implementation of Article 49 of the Constitution, according to which the government is responsible for confiscating illegitimate wealth resulting from usury, usurpation, bribery, embezzlement, theft, gamble, misuse of Islamic government endowments, misuse of government contracts and transactions, uncultivated lands and others belonging to the public, houses of ill repute, and other illegitimate source. There are also some important articles in the Islamic Penal Code of the country which deal with combating financial crimes such as bribery, embezzlement, fraud and crimes of the same nature to those under the Group's Recommendations.

1. Iran and Money Laundering and Vienna Convention 1988

In 1991 Iran joined United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. From then on, the country was legally bound to criminalize all money laundering activities and incorpo-

rate the convention content into its domestic judicial system. Accordingly, in 2002, Iranian parliament passed the first anti-money laundering law; but the first version of the bill faced some formal challenges by the country's Guardian Council for final approval. (Chelungar, Elnaz, 2015) However, the amended bill was finally enacted and approved in 2007. Even before this final approval and application, due to the sensitivity of the matter and in order to end allegations of prevalence of money laundering activities in the country, the Money and Credit Council of Iran had enforced some anti-money-laundering measures in the banking system since early 2002. (Chelungar, Elnaz, 2015). The Combating Money Laundering Act of the Islamic Republic of Iran has undergone some amendments and improvements recently to fulfill new domestic and international requirements.

2. Iran and United Nations Convention against Transnational Organized

Islamic Republic of Iran signed Palermo convention in December 2000, but the convention has not been fully approved and ratified yet. The government's proposed bills for the country's accession to the convention have been accepted by the parliament but rejected by the Guardians Council for a variety of reasons. Later, in explaining the country's concerns over accepting FATF Action Plan, some of these concerns and drawbacks will be elaborated.

3. Iran and the United Nations Convention against Corruption

Merida Convention 2003 is one of the most important international documents in the field of financial hygiene of the states, The Islamic Republic of Iran became a party to the convention in 2008. Consequently, Iranian par-

liament passed a Law named “Promoting the Financial Hygiene and Fighting against Corruption” for the purpose of fulfillment of its obligation according to the international law. The bill was advised for execution in 2011, after being approved by the Guardian Council. Nazari and Vatankhah (Nazari Monazam, Mehdi & Vatankhah, Hamid.2016) declare that corruption as a crime is not recognized in Iranian legal system; but some forms of this criminal offense might have been inadequately included in separate pieces of legislation. However, in a comparative research made by Dr. Nazari Nejad and Dr. Esfandiari Far (Nazari Nejad, Mohammad & Esfandiari Far, Khashayar.2016), these experts conclude that despite some differences between the Iranian bill and the Convention in form, the domestic law is prepared exactly in accordance with the content of the Convention and with the same purpose of preventing corruption and improving financial hygiene. According to Nazari Nejad and Esfandiari, the domestic law is even more elaborate and sophisticated than the international convention for introducing a specialized court for related crimes.

4. *Iran and Terrorist Financing Convention*

The geographic location of Iran and the ideological nature of the regime have made Iran vulnerable to terrorist activities which have been targeting the country for decades. As a victim of international terrorism, the country has been trying to solve its drawbacks in joining the CFT; and bills for entering into the convention have been sent to the parliament a couple of times. The country, however, has some ideological concerns and security issues for approving and implementing the bill for the time being. Some of these obstacles will be explained later in the article.

5. *Iran and FATF Statements and Action Plan*

The fact that Iran is not a member of FATF or FSRBs,² is not important. What matters is that the country should abide by the Group's recommendations and adopt and execute its action plan. (Alipour, 2016, 124) Not being a member state, Iran has never been subject to Mutual Evaluation procedure; but its name has appeared recurrently in the Group's statements since 2008 and shifting between FATF so-called grey list and black list.

In its statement dated 28 February 2008, FATF advised Iran to Improve its AML/CFT deficiencies and also urged other countries to “advise their financial institutions to take the risk arising from the deficiencies in Iran's AML/CFT regime into account for enhanced due diligence.” From that statement on, encouragements and warnings were repeated in FATF meetings and statements until 2012, when Iran entered the Group's black list and was there for four years. (Alipour, 2016, p. 126)

After adoption of the Joint Comprehensive Plan of Action (JCPOA) between Iran and the P5+1 and especially since 2017, there emerged great optimism that Iran would stick to FATF Action Plan and solve the remaining issues with the group soon. Unfortunately, when the United States left JCPOA and announced massive economic sanctions against Iran; the situation changed for the worse. On the one hand, Iran lost its trust in the western countries and had no hope that complying with FATF Recommendation would bring about any new financial opportunity for the country. On the other hand, the security concerns became bolder and more serious in the new hostile atmosphere. Anyway, FATF Action Plan for Iran expired in January 2018, while according to the Public Statement, the country had not completed its obligations under it.

1. FATF-style regional bodies

The FATF has admitted that Iran has had some accomplishments in implementing the Recommendations and taking steps according to the Action Plan. In the Public Statement in February 2019 we read that:

“In November 2017, Iran established a cash declaration regime. In August 2018, Iran has enacted amendments to its Counter-Terrorist Financing Act and in January 2019, Iran has also enacted amendments to its Anti-Money Laundering Act. The FATF recognizes the progress of these legislative efforts.”

However, according to FATF, Iran’s efforts and achievements have not been timely and enough. Therefore, the Statement continues:

Iran’s action plan expired in January 2018. In February 2019, the FATF noted that there are still items not completed and Iran should fully address:

1. adequately criminalizing terrorist financing, including by removing the exemption for designated groups “attempting to end foreign occupation, colonialism and racism”;
2. identifying and freezing terrorist assets in line with the relevant United Nations Security Council resolutions;
3. ensuring an adequate and enforceable customer due diligence regime;
4. ensuring the full operational independence of the Financial Intelligence Unit and clarifying that the submission of STRs for attempted TF-related transactions are covered under Iran’s legal framework;

5. demonstrating how authorities are identifying and sanctioning unlicensed money/value transfer service providers;
6. ratifying and implementing the Palermo and TF Conventions and clarifying the capability to provide mutual legal assistance;
7. ensuring that financial institutions verify that wire transfers contain complete originator and beneficiary information.

Iran’s economy has experienced great shocks over the last two years. There has been a drastic depreciation of the national currency. The country has lost its financial ties with many of its traditional business partners. It has trouble selling oil and purchasing goods. Foreign direct investment has dropped dramatically and as the credit ranking of the country has fallen; risk rate of business with Iran has raised a lot. The FATF has also threatened that if Iran fails to enact the Palermo and Terrorist Financing Conventions soon, the Group will fully lift the suspension of counter-measures and blacklists the country again.

6. Iran’s Concerns in Complying with FATF Recommendations and Action Plan

Complying with FATF Recommendations has some requirements for which Iran might not be ready for the time being. Here is a list of some of these concerns that are repeated in the arguments raised by opponents of compliance with FATF:

- a) *Disclosure of classified information*: One of the requirements under the Action Plan and Recommendation number 29 is establishing a Financial Intelligence Unit (FIU). Leak of information from

- such a center will definitely cost a lot to a country which is faced with and economic war and has resorted to underground banking and secret invisible international trade.
- b) *Stages after full Implementation of the Action Plan*: There is a worry about what comes next if Iran fulfills the requirements of the Action Plan, when it is introducing as the first step in a longer process.
- c) *FATF decision making procedure*: In international organizations and groups like FATF, decision is usually made by consensus. Therefore, there is no guarantee that after Iran's full compliance, the consensus of the members be in favor of ending all accusations and restrictions against the country.
- d) *Joining Palermo Convention*: Adherence to the "United Nations Convention Against Transnational Organized Crime and The Protocols Thereto" is one of the requisites of FATF compliance. Mutual legal assistance and extradition conditions stipulated in Palermo convention has led to some insecurity about the fate of Islamic freedom fighters supported by Iran who might be considered criminals in other countries.
- e) *Joining CFT Convention*: As a supporter of Islamic Jihadi groups, Iran finds it difficult to become a party to The "International Convention for the Suppression of the Financing of Terrorism. According to Article 154 of constitution of Islamic Republic of Iran, this country "supports the just struggle of the oppressed against oppressors in every corner of the world." Therefore, providing material, spiritual and even military support for jihadi groups is one of the principles of Iran's foreign policy; and since some countries recognize jihadists as terrorist groups; after joining CFT, Iran will have to end its support of Islamic freedom fighters.
- f) *Implementation of Anti-Iran Security Council Resolutions*: According to Recommendations number 6 and 7 countries should implement targeted financial sanctions to comply with United Nations Security Council resolutions relating to terrorism and WND proliferation. Complying with the Recommendations inter alia involves implementation of resolutions 1929 and 1267 and other Security Councils resolutions which are issued against Islamic Republic of Iran.

Conclusion

According to FATF methodology and procedures, both in technical compliance assessment and effectiveness evaluation, FATF assessors only check how much the target country has been successful in fulfillment of Immediate Outcomes, while representatives of FATF member-states determine whether the country has been successful in accomplishments of Intermediate Outcomes and the High level Objective. This procedure means that there is a strong probability that determining the countries' overall compliance

with Recommendations and standards be tainted by political bias. This can explain the existing double standard and discrimination between Iran and some other countries which enjoy safe haven despite their documented and proven financing of terrorism, financing of WMD proliferation and other international financial crimes.

Whatever the reason is, Islamic republic of Iran is on the threshold of FATF black-list; and if the country doesn't comply with FATF demands, Iranian people must pay for the consequences which might be even tougher than the 2012 to 2016 boycott. As it turns out, the solution might be beyond just sticking to the Action Plan or abiding by the Recommendations. What can save Iran from the current adverse circumstances, would be redefinition of its national interests and reconsideration of its international policies to change the western contentious politics for the better.

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