



# The importance of Anti Corruption measures in the Fight against ML/TF

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# Introduction



- Corruption manifests itself in multiple forms. Bribery and theft of public funds are corruption offences and generally committed for the purpose of obtaining private gain. Since Money laundering is the process of concealing illicit gains generated from criminal activity, when the proceeds of a corruption offence are laundered, these illicit gains can be enjoyed without detection and confiscation.
- Corruption can lead to the theft, wastage, and misuse of scarce resources, resulting in unnecessary suffering and death. It can also entrench elite privilege and inequality and undermine institutions of accountability with lasting consequences.



## Sectors susceptible to Corruption

- Public Procurement
- Public Infrastructure
- State-Owned Enterprises (SOEs)
- Customs Administration
- Service Delivery in Sectors (Land, Health, Ports)





# FATF Recommendations and the fight against Corruption

“By effectively implementing the FATF Recommendations, countries can:

- better safeguard the integrity of the public sector
- protect designated private sector institutions from abuse
- increase transparency of the financial system
- facilitate the detection, investigation and prosecution of corruption and money laundering, and the recovery of stolen assets.” \*

\* Source: FATF- Corruption: A Reference Guide and Information Note on the use of the FATF Recommendations to support the fight against Corruption. Accessed on November 15, 2022 here: <https://www.fatf-gafi.org/media/fatf/documents/reports/Corruption%20Reference%20Guide%20and%20Information%20Note%202012.pdf>



# FATF Recommendations and the fight against Corruption

## *Safeguarding the integrity of the public sector*

As per R.26 (Regulation and Supervision of Financial Institutions) and R.29 (FIUs), government agencies must possess sufficient operational independence and autonomy to ensure freedom from undue influence or interference to reduce the likelihood of being under the influence or control of corrupt officials.

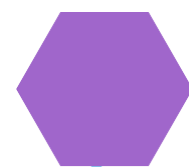
As per R.1, 8, 26, 28, 29, 30, 32, 37 and 39), **adequate budgetary resources** must be provided to key government agencies to fully and effectively perform their functions as being so equipped can reduce the incentive to engage in corrupt activities.

As per R. 8, 26, 28, 29, 30, 32, 37 and 39, staff of key government agencies must have **required skills, received adequate training, and maintain high professional standards** in an effort to foster a culture of honesty, integrity and professionalism.



## **FATF Recommendations** **and the fight against** **Corruption**

### ***Protecting designated*** ***private sector*** ***institutions from abuse***



As per R. 26 (Regulation and supervision of financial institutions) and R.28 Regulation and supervision of DNFBPs, employees must be **screened** to prevent corrupt persons from infiltrating or otherwise criminally abusing a financial service provider.

As per R. 18 (Internal controls and foreign branches and subsidiaries) and R. 23 (DNFBPs: Other measures) designated private sector institutions must **implement internal control systems and audit functions** to ensure compliance with AML/CFT measures and assist in detection of corruption.

As per R. 1, 8, 17, 18, 26, 27 and 28, designated private sector institutions (Financial Institutions, DNFBPs and VASPs) must be subject to adequate **supervision and monitoring** by authorities with sufficient supervisory, inspection and sanctioning powers to ensure compliance with AML/CFT measures with the aim of deterring and facilitating the detection of corruption and other criminal activity.



# FATF Recommendations and the fight against Corruption

## *Increasing transparency in the financial sector (1)*

\* – such as Heads of State, senior politicians, senior government judicial or military officials, senior executives of state-owned corporations and important political party officials, or members of senior management of international organisations.

As per R. 10 (Customer due diligence [CDD]), R. 12 (Politically exposed persons), R. 15 (New technologies), R. 17 (Reliance on third parties) and R. 22 (DNFBPs: CDD), the identity of the customer must be verified by designated private sector institutions when establishing business relationships or conducting transactions on behalf of customers.

As per R. 11 (Record keeping) and R. 22 (DNFBPs: CDD) measures such as customer identification, transaction and account records, and business correspondence must be kept and made available to authorities on a timely basis to ensure that there is a reliable paper trail that can be used to trace the proceeds of corruption and used as evidence to prosecute corruption and other crimes.

As per R. 12, risk management systems must be implemented for PEPs to increase the possibility of detecting instances where public officials and other persons entrusted with prominent public functions\* are abusing their positions for private gain.





**FATF**

**Recommendations**

**and the fight  
against Corruption**

***Increasing  
transparency in the  
financial sector (2)***

As per R. 24 and R. 25, transparency of ownership must be available by granting authorities timely access to adequate and accurate information which identifies the individual(s) who own or control legal persons (e.g. companies) and legal arrangements (e.g. trusts) which would make it difficult to hide the proceeds of corruption within a company or trust.

As per R. 16 (Wire transfers) and R. 32 (Cash couriers) transparent movement of assets must be possible in order to trace the movement of corruption proceeds. Wire transfers can be used to quickly move the proceeds of corruption and obscure their source. To mitigate this risk, wire transfers must be accompanied by accurate and all required information that identifies the person who sent the transaction and to whom the transaction is being sent.

R. 9 (Financial institution secrecy laws) states that financial secrecy laws must not inhibit the implementation of the AML/CFT measures, including those aimed at increasing the transparency of the financial system thereby facilitating the prevention, detection and prosecution of corruption. The relevant legislation and mechanisms to alert authorities must be in place.



**FATF**

**Recommendations**  
**and the fight against**  
**Corruption**  
***Detection,***  
***investigation,***  
***prosecution and***  
***recovery of stolen***  
***assets (1)***

\* By ensuring that the related money laundering and corruption conduct can both be investigated and prosecuted, corrupt persons may be punished even if the corruption offence cannot be pursued.

As per R. 29 (FIUs), an FIU must be established and equipped with adequate resources and powers, to receive and analyse suspicious transaction reports and other relevant information, disseminate disclosed information to the proper authorities for further investigation. Requirements also apply to suspicious transaction reports that may be related to corruption.

R. 3 (Money laundering offence), R.4 (Confiscation and provisional measures), R. 30(Responsibilities of law enforcement and investigative authorities) and R.31 (Powers of law enforcement and investigative authorities).

The laundering of proceeds from all serious offences, including a sufficiently broad range of corruption and bribery offences, must be criminalised and applied to both natural and legal persons, regardless of whether they committed the predicate offence or are a facilitating third party. The law enforcement authorities must have sufficient powers to carry out their functions and to “follow the money trail”, and trace back and investigate the underlying corruption offence. \*



# FATF Recommendations and the fight against Corruption

## *Detection, investigation, prosecution and recovery of stolen assets* (2)

When countries have effective laws and procedures to freeze, seize and confiscate stolen assets, the proceeds of corruption and laundered property, perpetrators are deprived of the incentive and objective for engaging in corrupt activities. The authorities should have sufficient powers to trace and freeze assets, including in co-operation with foreign counterparts.

Countries should also have effective mechanisms for sharing assets confiscated as a result of co-ordinated law enforcement actions and consider establishing funds into which confiscated assets may be deposited for law enforcement, health, education or other appropriate purposes.

These requirements facilitate the protection and compensation of the victims of corruption and bribery, and the recovery of stolen assets, even if such assets have been concealed abroad (R.4 (Confiscation and provisional measures) and R. 38 (Mutual legal assistance: freezing and confiscation)).



# FATF Recommendations and the fight against Corruption

## *Detection, investigation, prosecution and recovery of stolen assets* (3)

To fight cross-border corruption, countries need to implement effective laws and mechanisms which enable them to provide a wide range of mutual legal assistance, execute extradition requests and otherwise facilitate international co-operation.

It is also important for countries to have mechanisms that facilitate domestic co-operation and co-ordination for all authorities (policy makers, the FIU, law enforcement, supervisors and other competent authorities) at the policy and operational levels (R. 2 (National cooperation and coordination), R. 36 - 40 (International Co-operation)).



## Corruption and COVID-19



During the pandemic, very large sums of unplanned money was spent on different sectors, e.g., health care, social security and economic stimulus.

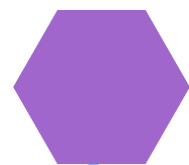
Billions of dollars were being raised, borrowed, and spent by countries, circumventing standard procurement and other accountability procedures in an aim to control the spread and aftermath of COVID-19.

Large scale emergency spending by governments led to exposure of corruption risks which could undermine the effectiveness of government responses. Strains placed on the public sector response presented significant opportunities for corruption to flourish.



## Measures to curb corruption

*World Bank*



The World Bank stated that it is critical for collaboration between agencies take place in the fight against the scourge of corruption.

A Paper \* by the World Bank entitled, “Enhancing Government Effectiveness and Transparency- The Fight Against Corruption” proposed several initiatives aimed at addressing corruption, most notably:

Open Government Initiatives GovTech, Asset and Interest Declaration (AID), Beneficial Ownership Transparency and Exchange of Tax Information and Collaboration on Tax Crimes.

\* Source: Enhancing Government Effectiveness and Transparency The Fight Against Corruption by the World Bank Group, Revised on October 3, 2020, Accessed on November 18, 2022 at <https://star.worldbank.org/publications/enhancing-government-effectiveness-and-transparency-fight-against-corruption>



## Measures to curb corruption

*World Bank*

### Open Government Initiatives

Open government measures can directly or indirectly lead to a reduction in corruption in the right direction. Over time, with a holistic approach tailored to the context, open governance may help change behaviors so that public resources are directed not to the pockets of individuals but rather to the common good.

#### GovTech

To gain greater traction for addressing fraud and corruption, data needs to be captured and linked with other data. Mandating the use of the system and validating and analyzing data using Artificial Intelligence (AI) or other methods can prove to be effective.

#### Asset and Interest Declaration (AID)

AID systems have increasingly become a multipurpose tool aimed at preventing conflicts of interest, detecting unjustified assets and building broader integrity of public service. Romania reversed a long history of inactivity on tackling corruption with the introduction of AID forms for a wide range of public officials, together with a verification mechanism focused on detecting and sanctioning unjustified variations of wealth, conflicts of interest and incompatibilities.



## Measures to curb corruption

*World Bank*

### Beneficial Ownership Transparency

The use of publicly available registers of the beneficial owners of corporate entities (beneficial ownership registers) is beginning to have an impact in two ways: (1) helping enforce illicit enrichment laws,<sup>6</sup> and (2) helping detect and prevent conflicts of interest in public procurement. One of the important milestones is the development of the Beneficial Ownership Data Standard (BODS), a framework for representing information about people, companies, and relationships as structured data, in a standardized format that can be replicated across countries and systems.

### Exchange of Tax Information and Collaboration on Tax Crimes

Useful mechanisms include the establishment of bilateral agreements or MOUs to share information, while respecting relevant privacy laws within the country; the establishment of a national task force to enhance collaboration and improving inter-connectivity among databases.

The ability of tax administrations to be involved in prosecuting financial crimes is often made easier when tax crimes are recognized as predicate offenses to money laundering because it means that a person may be charged with the offense of money laundering and the predicate offense of tax evasion.





## Measures to curb corruption

**FATF**

The FATF in their Best Practices Paper \* the use of the FATF Recommendations to combat corruption stated that there are key agencies involved in the fight against money laundering and corruption and underscored the importance of co-operation between AML/CFT and Anti-Corruption (AC) experts as follows:

- Co-ordination among authorities and understanding of roles

Authorities should be involved in multi-agency committees or co-ordination mechanisms to ensure that corruption risks are considered in developing a risk-based approach to AML/CFT and to ensure information sharing occurs.

AC authorities should understand their roles in the jurisdiction, including the powers and processes available to obtain information from financial institutions and DNFBPs to enhance their ability to effectively utilise AML/CFT measures in the fight against corruption.

\* Source FATF Best Practices Paper: The use of the FATF Recommendations to combat corruption. Accessed on November 18, 2022 at <https://www.fatf-gafi.org/media/fatf/documents/recommendations/BPP-Use-of-FATF-Recs-Corruption.pdf>



## Measures to curb corruption

*FATF*

- **Law enforcement agencies**

Joint investigations provide the opportunity to bring together AML/CFT and AC experts in corruption investigations and to trace and target the proceeds. Engagement between Law enforcement agencies and policy and law makers should be done to ensure that there are no unnecessary legal or institutional obstacles in using AML/CFT measures in corruption investigations.

- **Regulatory authorities**

AML/CFT regulatory authorities should ensure that their staff understand the risks of money laundering of proceeds derived from corruption faced in their jurisdiction and that sufficient attention is given to assessing compliance with PEPs requirements during supervision, particularly in jurisdictions that face a higher level of corruption-related risk and for financial institutions that have a greater level of exposure to that risk.



## Measures to curb corruption

*FATF*

- **Financial intelligence units**

FIU staff should be adequately trained to identify corruption related STRs based on the risks particular to that jurisdiction. Working with AC authorities to develop parameters for the dissemination of corruption related STRs, or any other information relevant to the laundering of the proceeds of corruption, and the result of any related analysis is also useful. FIUs could also consider using asset disclosure information, where available, in their analysis of STRs related to corruption.

- **Engagement with the private sector**

Regulatory authorities and FIUs should work in partnership with financial institutions and DNFBPs to prevent and combat corruption, in line with Recommendation 34, including by providing:

- ✓ guidance or detailed instructions on PEPs requirements
- ✓ typologies and indicators of corruption-related money laundering, and
- ✓ feedback on STRs relating to corruption where possible.



## Measures to curb corruption

*FATF*

- **International co-operation**

AC and AML/CFT authorities should work together to ensure that legal frameworks and processes are instituted, as required by international instruments such as the UNCAC, and the FATF Recommendations.

AC authorities should engage with FIUs regarding the appropriate use of FIU international networks and mechanisms which facilitate information sharing.

- **Asset recovery**

Countries should consider the full range of legal avenues to ensure that their asset confiscation framework is effective in asset recovery, in line with UNCAC and other international AC instruments.



# FATF Recommendations

## FATF Recommendations

- A AML/CFT POLICIES AND COORDINATION**
  - 1 Assessing risks & applying a risk-based approach
  - 2 National cooperation and coordination
- B MONEY LAUNDERING AND CONFISCATION**
  - 3 Money laundering offence
  - 4 Confiscation and provisional measures
- C TERRORIST FINANCING AND FINANCING OF PROLIFERATION**
  - 5 SRII Terrorist financing offence
  - 6 SRIII Targeted financial sanctions related to terrorism & terrorist financing
  - 7 Targeted financial sanctions related to proliferation
  - 8 Non-profit organisations
- D PREVENTIVE MEASURES**
  - 9 Financial institution secrecy laws
  - 10 Customer due diligence
  - 11 Record keeping
  - 12 Politically exposed persons
  - 13 Correspondent banking
  - 14 Money or value transfer services
  - 15 New technologies
  - 16 Wire transfers
  - 17 Reliance on third parties
  - 18 Internal controls and foreign branches and subsidiaries
  - 19 Higher-risk countries
  - 20 Reporting of suspicious transactions
  - 21 Tipping-off and confidentiality
  - 22 DNFBPs: Customer due diligence
  - 23 DNFBPs: Other measures
- E TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS**
  - 24 Transparency and beneficial ownership of legal persons
  - 25 Transparency and beneficial ownership of legal arrangements
- F POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES**
  - 26 Regulation and supervision of financial institutions
  - 27 Powers of supervisors
  - 28 Regulation and supervision of DNFBPs
  - 29 Financial intelligence units
  - 30 Responsibilities of law enforcement and investigative authorities
  - 31 Powers of law enforcement and investigative authorities
  - 32 Cash couriers
  - 33 Statistics
  - 34 Guidance and feedback
  - 35 Sanctions
- G INTERNATIONAL COOPERATION**
  - 36 International instruments
  - 37 Mutual legal assistance
  - 38 Mutual legal assistance: freezing and confiscation
  - 39 Extradition
  - 40 Other forms of international cooperation



**Thank you!**



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