

# Pushing Iran to Take Steps Against Terrorist Financing

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## ABOUT THE AUTHORS



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Brief Analysis

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**By focusing on Tehran's struggle to reach an acceptable legal definition of terrorism, Washington can avoid further politicizing the traditionally technocratic effort to bring Iranian banks in line with international norms.**

**E**arlier this month, the Euromoney Iran Conference was held in Paris with the aim of bringing together "Iranian bankers and industrial leaders with their international counterparts to discuss and debate the key issues around Iran's reintegration into the global economy." Kicking off the event, Iranian Central Bank governor Valiollah Seif vowed full cooperation with the international community to implement standards set forth by the Financial Action Task Force (FATF).

This week, the FATF convenes in the same city to review Iran's progress on a reform plan designed as a first step at bringing the country into compliance with anti-money laundering and counter-terrorist financing (AML/CFT) standards. Despite taking a flurry of legislative and regulatory measures in recent months, the organization may find that Tehran has yet to meet the conditions required for removal from the FATF's so-called blacklist. Seif's remarks belie the fact that a key item on his country's FATF action plan remains pending: full criminalization of terrorist financing.

## WHAT'S AT STAKE?

**I**ran has been mentioned alongside North Korea on the FATF's Public Statement of jurisdictions that fail to address strategic deficiencies in AML/CFT since the list's inception in 2009. After implementing the nuclear deal, Iran sought to reengage the FATF, in an acknowledgement that its noncompliant status represented another barrier to reintegration with the global financial system.

For a number of years, the FATF had called on national-level regulators in member states to implement "countermeasures" against Iran given "the risk of terrorist financing emanating from [there] and the threat it poses

to the international financial system." Beyond reputational damage, such measures place real requirements on banks looking to do business with Iran. In June 2016, the FATF suspended these countermeasures for one year based on Tehran's commitment to implement a mutually agreed AML/CFT action plan. The suspension was extended at FATF plenaries in June and November 2017.

Some parties are now calling for the countermeasures to be reimposed given Iran's failure to meet deadlines on elements of its action plan. The latest FATF meeting comes at a time when the United States has asked the European Union to look at what restrictions they can place on Iran in response to President Trump's threat to withdraw from the nuclear deal, absent a supplementary agreement addressing what Washington has laid out as the deal's flaws.

Yet others suggest that Tehran is ready to graduate from the FATF monitoring process. They argue that debates on Iran have politicized the technocratic, consensus-driven affairs of the organization's thirty-seven members, which include Russia and China. Writing in the English-language Iranian newspaper the *Financial Tribune* on February 8, Hossein Gharbi warned that the FATF's credibility is at stake. "Apart from a couple of relevant draft legislations sent to the parliament for final approval," he argued, "Iran has proved successful in applying a satisfactory level of standards in many areas of financial and banking transactions."

## INCOMPLETE ACTION ON TERRORIST FINANCING

**W**here Tehran continues to fall short, however, is in criminalizing terrorist financing. One key problem is that the definition of terrorism laid out in Iran's CFT law exempts "actions taken by nations, groups, or liberation organizations for the purpose of putting an end to foreign occupation, colonialism, and racism." Although the FATF only requires that countries adopt UN-level sanctions, which do not list Iranian-sponsored groups such as Hamas and Hezbollah, similar CFT exemptions **have not been acceptable to the task force in the past** (<http://www.washingtoninstitute.org/policy-analysis/view/iran-faces-challenges-in-implementing-its-fatf-action-plan>).

Nonetheless, twin bills pending with the Iranian parliament appear to retain this exemption. For example, the bill on ratifying the UN Convention on the Suppression of the Financing of Terrorism notes that Iran's recognition of "the struggles of peoples against colonial domination and foreign occupation" does not allow it to recognize the convention's "written framework of terrorism." Likewise, **a sister bill containing amendments to Iran's CFT law** ([http://cabinetoffice.ir/files/fa/news/1396/8/30/11809\\_266.pdf](http://cabinetoffice.ir/files/fa/news/1396/8/30/11809_266.pdf)) notes that terrorist designations will only be issued in line with **Article 154 of the constitution** (<http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>), which supports "the struggles of the oppressed for their rights against oppressors anywhere in the world." It is unclear if the amendments override language from the 2016 CFT law that explicitly exempts "resistance organizations" from the definition of terrorism.

Even with these qualifications, the legislation continues to face domestic political opposition from hardline factions in Iran, and the government has doubled down on its commitment to support such groups amid the debate. Rejecting criticism of the UN Convention Against Transnational Organized Crime (UNTOC)—which the parliament ratified in mid-January as a separate step toward compliance with FATF standards—the Foreign Ministry issued the following statement on January 29: "In its joining document, the government of the Islamic Republic has expressed its reservation that the implementation of the convention should not dispute the legitimate right of nations under colonial domination and foreign occupation for fighting against aggression, occupation, and for self-determination." Officials added that the UNTOC does not cover the activities of so-called "freedom groups," and that "distinguished experts" had "rigorously vetted...the effectiveness of reservations signatory states voice upon the acceptance of the convention," presumably arguing that the conflict of law exempted Iran from such constraints. Yet parliamentary critics of Iran's accession to the UNTOC argued that the reservations were "worthless" and amounted to calls for disarming the Islamic Revolutionary Guard Corps and Hezbollah.

## A LONG ROAD AHEAD

Completing its action plan is only the first step for Iran in the FATF process. The government has requested to undergo its first full assessment against FATF standards (or "mutual evaluation") late this year, according to the IMF. In that assessment, Iran will be reviewed against an earlier set of FATF standards that were updated in 2012 to put greater emphasis on AML/CFT effectiveness rather than just technical compliance. Looking ahead to the next level of FATF standards, the IMF has encouraged Tehran to prioritize three tasks: improving its understanding of money laundering and terrorist financing risks, enhancing its regulatory and supervisory frameworks, and bolstering entity transparency.

In the meantime, Iranian companies face a catch 22: they continue to engage in deceptive practices to overcome the reluctance that international banks have exhibited about processing payments related to Iran, but such practices are the very thing that causes this reluctance in the first place. In November 2017, the accounts of Iranian businesses in China, Dubai, and Malaysia were blocked after petrochemical companies were discovered falsifying bills of lading to obscure the Iranian origin of goods in order to secure trade financing. "We still have to transfer our money through ways we did during the sanctions," explained one Iranian petrochemical official to the domestic press. China in turn has pointed to stepped enforcement on its banks in preparation for its own mid-2018 FATF assessment.

## MAKING THE TECHNICAL CASE

Despite these dilemmas, Iran has completed many of the tasks required under its FATF action plan, so there is some hope that a compromise position will prevail. It has promulgated new regulations on the cross-border movement of cash and other anti-money laundering controls, in addition to ratifying the UNTOC. Although these efforts have faced domestic political opposition, they have also found support among those who recognize that the core of such reforms is a commitment to greater transparency in the country's financial system. The advancements come at a time when Iranian financial officials are facing significant public pressure to address failures in various credit institutions, which helped trigger the December protests.

Even so, it is in America's interest that Iran remain on the FATF list of high-risk and noncooperative jurisdictions for now. That requires making the technical case against Tehran, and there is a strong technical case to be made. Despite numerous Iranian meetings with FATF officials over the past eighteen months, the country's pending AML/CFT legislation retains traditionally unacceptable exemptions for "resistance" organizations. By focusing on the technical case, the U.S. delegation to the FATF plenary can make the debate about the task force's integrity, and not about Iran.

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