



Financial Action Task Force

Groupe d'action financière

FATF Guidance Document

Guidance Paper The Implementation of Financial Provisions of UN Security Council Resolution 1803

17 October 2008

Please note that this document refers to the FATF Recommendations as last updated and published in October 2004, and does not yet take into account the 2012 revision of the FATF Recommendations.

See www.fatf-gafi.org/recommendations for the 2012 FATF Recommendations, including the conversion table from the old Recommendation to the new FATF Recommendation.

GUIDANCE ON THE IMPLEMENTATION OF THE FINANCIAL PROVISIONS OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 1803

Objectives

1. The purpose of this guidance is to assist jurisdictions in implementing the financial provisions of paragraph 10 of United Nations Security Council Resolution (S/RES/) 1803(2008) by:

- (a) Providing background information and definitions that jurisdictions should consider when applying this guidance.
- (b) Describing vigilance that jurisdictions should encourage their financial institutions to apply to their relationships, accounts or transactions involving banks domiciled in Iran, and their branches and subsidiaries abroad, for purposes of avoiding activities that contribute to proliferation sensitive nuclear activities or to the development of nuclear weapon delivery systems, including activities that violate or evade either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006); or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008).
- (c) Describing actions that jurisdictions should consider concerning supervision of activities involving banks domiciled in Iran, or their branches or subsidiaries abroad, in order to avoid such activities contributing to proliferation sensitive nuclear activities, or to the development of nuclear weapon delivery systems.
- (d) Outlining a common approach to address the specific risks identified in S/RES/1803(2008) of Iranian banks contributing to proliferation sensitive nuclear activities and to the development of nuclear weapon delivery systems.

2. This guidance is not binding and is not directly related to any of the Financial Action Task Force (FATF) 40 + 9 Recommendations, and therefore it is not considered in the FATF mutual evaluation or assessment process. It is intended solely to assist jurisdictions in developing guidance for financial institutions to fulfil the preventative intent of paragraph 10 of S/RES/1803(2008). This guidance is not intended to extend the scope of paragraph 10 of S/RES/1803(2008). It should be considered in conjunction with the FATF's previously-issued guidance as described below in paragraphs 3, 4 and 5. Jurisdictions should implement this guidance according to their legal framework and regulatory principles.

Background

3. In June 2007, the FATF adopted *Guidance Regarding the Implementation of Financial Provisions of UNSCRs to Counter the Proliferation of Weapons of Mass Destruction (WMD)* (the Proliferation Financing Guidance) to assist countries in: (i) implementing the targeted financial sanctions contained in S/RES/1718(2006), S/RES/1737(2006) and S/RES/1747(2007); (ii) implementing the activity-based financial prohibitions contained in S/RES/1695(2006) and S/RES/1737(2006);

and (iii) establishing a framework for further study of broad-based measures to combat proliferation financing under S/RES/1540(2004) and S/RES/1673(2006).¹

4. In September 2007, the FATF adopted an annex to the Proliferation Financing Guidance to address *Financial Sanctions against a Financial Institution designated pursuant to UNSCRs relating to the Prevention of WMD Proliferation* (the Designated Financial Institution Annex). This annex deals with the case of a designated bank in particular under S/RES/1747(2007), although similar considerations apply with respect to other designated financial institutions.

5. In October 2007, the FATF adopted *Guidance Regarding the Implementation of Activity-based Financial Prohibitions of UNSCR 1737* (the Activity-Based Financial Prohibitions Guidance) to assist jurisdictions in implementing the activity-based financial prohibitions in paragraph 6 of S/RES/1737(2006). This guidance was specifically welcomed by the United Nations Security Council in a subsequent resolution, S/RES/1803(2008).

6. On 3 March 2008, the United Nations Security Council adopted S/RES/1803(2008), which contains the following financial provisions:

- (a) Paragraph 7: “Decides that the measures specified in paragraphs 12, 13, 14 and 15 of resolutions 1737(2006) shall apply also to the persons and entities listed in Annexes I and III to this resolution, and any persons or entities acting on their behalf or at their direction, and to entities owned or controlled by them and to persons and entities determined by the Council or the Committee to have assisted designated persons or entities in evading sanctions of, or in violating the provisions of, this resolution, resolution 1737(2006) or resolution 1747(2007)”.²
- (b) Paragraph 10: “Calls upon all States to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, in particular with Bank Melli and Bank Saderat, and their branches and subsidiaries abroad, in order to avoid such activities contributing to the proliferation sensitive nuclear activities, or to the development of nuclear weapon delivery systems, as referred to in resolution 1737(2006)”.

Definitions

7. The term *Iranian banks* refers to all banks domiciled in Iran, and their branches and subsidiaries abroad. References to *financial institutions* in relation to a jurisdiction include branches and subsidiaries of Iranian banks operating in that jurisdiction.

Vigilance regarding financial institutions’ activities with Iranian banks

8. Jurisdictions should ensure that financial institutions comply with existing legal requirements that implement: (i) the FATF Recommendations, in particular, Recommendations 5, 7 and Special Recommendation VII; and (ii) targeted financial sanctions pursuant to S/RES/1737(2006), S/RES/1747(2007) and S/RES/1803(2008). Jurisdictions should encourage financial institutions to consider transactional and customer information collected through their existing AML/CFT obligations and customer due diligence programmes to identify transactions, accounts (including correspondent accounts), or relationships (such as joint ventures or jointly owned banking operations or facilities) with Iranian

1 S/RES/1540(2004) and S/RES/1673(2006) were renewed in S/RES/1810(2008).

2 See the following FATF guidance on implementing targeted financial sanctions: the Proliferation Financing Guidance, the Designated Financial Institutions Annex and the Activity-Based Financial Prohibitions Guidance.

banks. Jurisdictions should encourage financial institutions to apply, on the basis of a risk based approach, the risk mitigation practices described in Paragraphs 9, 10, 11 and 12 below in order to avoid transactions, accounts and relationships with Iranian banks, and particularly Bank Melli and Bank Saderat, that contribute to proliferation sensitive nuclear activities or to the development of nuclear weapon delivery systems, in particular, by violating or evading either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006), as defined in the FATF Activity-Based Financial Prohibitions Guidance; or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008).

9. Jurisdictions should encourage financial institutions to apply the following risk mitigation practices with respect to enhanced monitoring of any financial transactions with Iranian banks, and particularly with Bank Melli and Bank Saderat:

- (a) Require that all information fields of payment instructions are completed which relate to the originator and beneficiary of the transaction in question and, if they are not, to obtain that information or refuse the transaction.
- (b) Monitor transactions and, on a risk-based approach, apply enhanced scrutiny³ to those transactions that present a risk of violating or evading either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006); or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008).
- (c) With respect to high risk transactions as identified in subparagraph (b), obtain additional information to avoid transactions that violate or evade either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006); or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008). To the extent necessary to avoid transactions prohibited under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008), such additional information should include information on the: (i) parties to the transaction; (ii) source of funds; (iii) beneficial ownership of the counterparty; and (iv) purpose of the transaction or payment. Financial institutions could be encouraged to consult with competent authorities, as permitted by existing legal frameworks, in seeking additional information to assist them in avoiding such prohibited transactions,
- (d) Refuse to process or execute transactions when the financial institution has been unable to clarify that such transactions do not violate or evade either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006); or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008). With respect to such transactions, jurisdictions should consider encouraging financial institutions to take the follow-up actions identified in section V of the FATF Activity-Based Financial Prohibitions Guidance.

10. Jurisdictions should encourage financial institutions to apply the following risk mitigation practices with respect to correspondent relationships with Iranian banks, and particularly with Bank Melli and Bank Saderat:

- (a) Subject all transactions with Iranian banks to the risk mitigations measures set forth in paragraph 9 above.

3 Enhanced scrutiny should be applied to high risk transactions flagged through monitoring. Straight-through processing would not be disrupted for transactions not flagged as high risk. Post-event monitoring should apply, in accordance with a risk based approach, to all transactions.

- (b) Conduct a risk assessment of direct correspondent relationships with Iranian banks using information gathered in implementing Recommendation 7 and other information, as appropriate, in order to:
 - (i) Assess as far as possible the respondent Iranian bank's business (correspondent banking, private banking, trade finance, others) in order to properly handle the related risks. This assessment should take into account, as far as possible, the amount of business the respondent Iranian bank handles for Iranian government entities.
 - (ii) Assess whether the respondent Iranian bank has adequate controls to detect and prevent sanctions evasion, in order to avoid contributing to proliferation sensitive nuclear activities or to the development of nuclear weapon delivery systems, in particular, by violating or evading either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006); or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008).
 - (iii) Assess whether the respondent Iranian bank has adequate customer due diligence procedures or other controls to detect shell companies or front companies and to ascertain the beneficial ownership of such entities.
- (c) Amend policies, procedures and controls to mitigate the specific risks identified pursuant to the risk assessment described in sub-paragraph 10(b) above.
- (d) Review and, if necessary, terminate or amend agreements related to the maintenance of correspondent relationships with or for the benefit of Iranian banks, based upon the risk assessment described in sub-paragraph 10(b) above.

11. Jurisdictions should also encourage financial institutions to take adequate steps to satisfy themselves that their correspondent relationships with other banks are not used to bypass or evade the risk mitigation practices described in this guidance.

12. Jurisdictions should encourage financial institutions to apply, on the basis of a risk based approach, the transactional and account-based risk mitigation practices described in paragraphs 9, 10 and 11 above to any other relationships that they may have with Iranian banks. Such relationships may include direct relationships such as joint ventures or joint banking operations or facilities conducted with Iranian banks, or customer-based relationships with such joint ventures or joint banking operations or facilities.

Guidance for competent authorities

13. Competent authorities should consider the risk posed by foreign branches and subsidiaries of Iranian banks located within their territories for the purposes of supervision and monitoring. In this regard, competent authorities should consider taking the following steps, consistent with their legal framework and regulatory principles, with respect to these foreign branches and subsidiaries to ensure they have adequate systems and controls in place to prevent activities from contributing to proliferation sensitive nuclear activities or to the development of nuclear weapon delivery systems, including by violating or evading either: (i) the activity-based financial prohibitions contained in S/RES/1737(2006), as defined in the FATF Activity-Based Financial Prohibitions Guidance; or (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008).

- (a) Placing the branch or subsidiary under enhanced supervisory oversight to:

- (i) Ensure that the risk mitigation practices described above in paragraphs 8, 9, 10, 11 and 12 are being implemented.
 - (ii) Ensure compliance with existing legal requirements that implement: (i) the FATF Recommendations, in particular Recommendations 5, 7 and Special Recommendation VII; (ii) the targeted financial sanctions issued under S/RES/1737(2006), S/RES/1747(2007) or S/RES/1803(2008); and (iii) activity based financial prohibitions contained in S/RES/1737(2006).
- (b) Taking supervisory action against any branch or subsidiary that fails to comply with the binding risk mitigation practices referred to and described in subparagraphs 13(a)(i) and (ii) above, including revoking licences in cases of significant or sustained non-compliance.⁴

14. Competent authorities should consider transactions, accounts or relationships that their financial institutions may have with Iranian banks, and particularly Bank Melli and Bank Saderat, as high risk for purposes of enhanced supervision and monitoring. The purpose of such enhanced supervisory and examination practices is to encourage implementation of the risk mitigation steps described in paragraphs 8, 9, 10, 11 and 12 above.

15. Competent authorities should encourage Iranian banks located within their territory to identify high risk customers and transactions, and apply enhanced scrutiny to such high risk customers and transactions, in accordance with the FATF's Activity-Based Financial Prohibitions Guidance. Competent authorities should also encourage Iranian banks located within their territory to incorporate specific measures to counter the risk of proliferation finance, in accordance with the FATF's Proliferation Financing Guidance.

16. Subject to information-sharing arrangements and applicable law, competent authorities that are notified pursuant to paragraph 9(d) should consider informing immediately the competent authority of other jurisdictions that may be relevant to the reported transaction, as appropriate.

17. Due to the particular risks associated with Bank Melli and Bank Saderat as identified in S/RES/1803(2008), jurisdictions should consider adopting additional preventive measures with respect to these two Iranian banks.

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⁴ The risk mitigation practices referred to in subparagraphs 13(a)(i) and (ii) contain both binding and non-binding risk mitigation practices. Supervisory action should focus on binding risk mitigation practices.

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- (b) Paragraph 10: “Calls upon all States to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, in particular with Bank Melli and Bank Saderat, and their branches and subsidiaries abroad, in order to avoid such activities contributing to the proliferation sensitive nuclear activities, or to the development of nuclear weapon delivery systems, as referred to in resolution 1737(2006)”.

Definitions

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- (c) Amend policies, procedures and controls to mitigate the specific risks identified pursuant to the risk assessment described in sub-paragraph 10(b) above.
- (d) Review and, if necessary, terminate or amend agreements related to the maintenance of correspondent relationships with or for the benefit of Iranian banks, based upon the risk assessment described in sub-paragraph 10(b) above.

11. Jurisdictions should also encourage financial institutions to take adequate steps to satisfy themselves that their correspondent relationships with other banks are not used to bypass or evade the risk mitigation practices described in this guidance.

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- (b) Taking supervisory action against any branch or subsidiary that fails to comply with the binding risk mitigation practices referred to and described in subparagraphs 13(a)(i) and (ii) above, including revoking licences in cases of significant or sustained non-compliance.⁴

14. Competent authorities should consider transactions, accounts or relationships that their financial institutions may have with Iranian banks, and particularly Bank Melli and Bank Saderat, as high risk for purposes of enhanced supervision and monitoring. The purpose of such enhanced supervisory and examination practices is to encourage implementation of the risk mitigation steps described in paragraphs 8, 9, 10, 11 and 12 above.

15. Competent authorities should encourage Iranian banks located within their territory to identify high risk customers and transactions, and apply enhanced scrutiny to such high risk customers and transactions, in accordance with the FATF's Activity-Based Financial Prohibitions Guidance. Competent authorities should also encourage Iranian banks located within their territory to incorporate specific measures to counter the risk of proliferation finance, in accordance with the FATF's Proliferation Financing Guidance.

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