

São Tomé e Príncipe removed from FATF blacklist

On 18 October 2013, the Financial Action Task Force ('FATF'), the global standard setting body for anti-money laundering and combating the financing of terrorism ('AML/CFT'), announced that São Tomé e Príncipe ('STP') is removed from the list of countries that have strategic deficiencies in their AML/CFT standards and that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies.

The FATF observed that, while STP has made recent progress, its AML/CFT framework still contains a number of strategic deficiencies. However, given the small size of the country (1002 km² and approx. 170,000 inhabitants) and its low impact on the international financial system, the FATF decided that STP should continue to work closely with the International Governmental Action Group against Money Laundering in West Africa ('GIABA').

The position of STP shows the difficulties that small (and poor) countries face in complying with the demands made by the international community to regulate activities that, considered from a domestic perspective, may not have the highest priority and demand considerable resources.

STP is a party to a number of international treaties and conventions in the field of AML/CFT. It also introduced in 2010 legislation for the prevention of and combat against money laundering and terrorism financing (*Lei No. 15/2008*). However, this law was considered insufficient and STP therefore, in spite of this legislation, remained on the FATF's blacklist.

Various actions have been taken (with support from national and international organisations) to consider the improvements that had to be made. On 10 May 2013 GIABA published a detailed report with an assessment of the applicable legislation and structural measures and practices that have been put in place in respect of AML/CFT, as well as setting out various recommendations for improvement in order to ensure that STP can meet international standards.

The STP Parliament further adopted, on 15 August 2013, a fully amended and restated law in respect of AML/CFT (*Lei No. 8/13*). This law was published in the Official Gazette (*Diário da República*) on 15 October 2013 and came into force 15 days later. The new legislation should now comply with current international standards.

The following areas are of particular interest to note:

- There is a clear description of the crimes of money laundering and terrorism financing activities. Legal entities can also be held criminally liable.
- The law defines the persons that can be held responsible for the criminal activities. This includes individuals who manage legal entities. A special regime applies to lawyers.
- The law describes the sanctions that can be imposed and the assets that can be confiscated in connection with the criminal activities. It also deals with the application of the proceeds of the sale of these assets and fines imposed in connection with infractions.
- The law describes the various preventative measures that should be taken by the persons and entities that are subject to its rules, including in relation to politically exposed persons, correspondent banking, electronic transfers and phantom banks. It also contains requirements in respect of policies and record keeping.
- The central bank of STP is designated as the supervisory body for financial institutions. The other persons and entities that are subject to the law (eg casinos, real estate agents, notaries, auditors, lawyers),

are subject to the supervision of the regulatory body to which they normally report.

- A central agency, the Financial Information Unit ('UIF'), is designated as the central agency in STP with responsibility for receiving, reporting, analysing and exchanging information about suspect transactions.
- The law further provides a basis for national and international cooperation and for the implementation of national regulations for the execution of UN sanctions against persons and entities in STP.

The fact that STP has been removed from the FATF's blacklist is a positive development. It is also positive that STP, with the help from international organisations, has been taking serious steps to ensure that its AML/CFT regulations and infrastructure will comply with international standards.

It should however also be recognised that countries like STP have limited resources to investigate and combat these types of criminal activity and therefore remain, in spite of the regulatory infrastructure they may have in place, vulnerable. Furthermore, the countries may have difficulties complying with the increasing (international) regulatory demands that are imposed upon them without external technical and financial assistance.

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