

FINCEN CAUTIONS FINANCIAL INSTITUTIONS ON NORTH KOREA, IRAN & JURISDICTIONS EXHIBITING STRATEGIC AML AND TERRORIST FINANCING DEFICIENCIES

The US Financial Crimes Enforcement Network's ("FinCEN's") first "Advisory" of 2019 highlights restrictions on business activity with North Korea and Iran, and notes other jurisdictions with strategic AML and terrorism financing deficiencies.¹ The FinCEN Advisory follows recent publications by the Financial Action Task Force ("FATF") on similar issues.² US financial institutions should review the Advisory to ensure compliance with their AML, combating the financing of terrorism ("CFT"), and sanctions obligations.

The Advisory reminds US financial institutions that US sanctions and other measures often prohibit them from doing business with the Democratic People's Republic of Korea ("DPRK") and Iran, including persons located and domiciled in those countries. For example, US sanctions generally prohibit US financial institutions from engaging in direct or indirect commercial, financial, or trade activity with the DPRK, unless the activity is authorized by the US Treasury's Office of Foreign Assets Control ("OFAC") or exempted by statute. Similarly broad OFAC sanctions prohibit US financial institutions from engaging in transactions involving Iran. In addition, Iran is subject to US secondary sanctions targeting critical sectors of its economy, including the energy, shipping, shipbuilding, and financial sectors. A more fulsome discussion of US and

¹ *Advisory on the Financial Action Task Force-Identified Jurisdictions with Anti-Money Laundering and Combatting the Financing of Terrorism Deficiencies*, FIN-2019-A001 (Mar. 8, 2019) available at https://www.fincen.gov/sites/default/files/advisory/2019-03-08/FAFT_Advisory_March_final_508.pdf.

² See FATF Public Statement (Feb. 22, 2019) available at <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2019.html>; *Improving Global AML/CFT Compliance: On-going Process* (Feb. 22, 2019) available at <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-february-2019.html>; *Outcomes FATF Plenary, 20-22 February 2019* (Feb. 22, 2019) available at <http://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-plenary-february-2019.html>. The FATF is a 38-member intergovernmental body that establishes international standards to combat money laundering and to counter the financing of terrorism and proliferation of weapons of mass destruction.

international sanctions, prohibitions, and other measures targeting the DPRK and Iran appears in the FinCEN Advisory.

The Advisory also notes that the FATF recently characterized the following jurisdictions as having strategic AML/CFT deficiencies:

- The Bahamas
- Botswana
- Cambodia (added this year)
- Ethiopia
- Ghana
- Pakistan
- Serbia
- Sri Lanka
- Syria
- Trinidad and Tobago
- Tunisia
- Yemen

The FinCEN Advisory reminds US financial institutions that doing business with persons in deficient jurisdictions may require enhanced due diligence, transaction monitoring, and other measures to detect and prevent known or suspected money laundering and/or terrorist financing activity.

We expect US banking and securities regulators to focus significant regulatory and enforcement attention on AML, CFT, and sanctions compliance in 2019. Thus, US financial institutions should review their risk-based compliance policies, procedures, and practices, and ensure that they align with the views expressed by FinCEN in the Advisory.

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