

Pressemitteilung
Basel, 14 September 2016

Schlechte Noten für Österreich - Österreich zeigt gravierende Mängel in der effektiven Bekämpfung von Geldwäsche

Die Financial Action Task Force (FATF), eine der OECD beigeordnete Expertenkommission zur Bekämpfung von Geldwäsche, veröffentlichte heute ihren neuesten Bericht zu Österreich. Die FATF hat in Österreich zum dritten Mal ein solches Länderexamen durchgeführt. Geprüft wurde der Stand der Umsetzung von internationalen Standards zur Verhinderung und Bekämpfung von Geldwäsche und deren effektive Umsetzung.

Laut dem Bericht erfüllt die österreichische Gesetzgebung zwar einen Großteil der FATF Empfehlungen; das Land bekommt aber ungenügende Noten für die effektive Umsetzung dieser gesetzlichen Rahmenbedingungen. Von 11 Kriterien zur Umsetzung hat Österreich in 8 Kriterien ungenügende Wertungen bekommen.

Konkret wird die Effektivität der Strafverfolgung von Geldwäschetatbeständen bemängelt. Österreich verfügt zwar grundlegend über Kapazitäten um Verdachtsfälle von Geldwäsche aufzudecken; dies führt in der Folge aber nur selten zu rechtskräftigen Verurteilungen, was mit hohen rechtlichen Hürden erklärt wird, denen Staatsanwälte unterworfen sind. Zum Beispiel dürfen Strafverfolgungsbehörden bei Ermittlungen auf Verdacht auf Geldwäsche erst nach einem richterlichen Beschluss Konten einsehen, und dafür besteht eine hohe Beweislast. Zudem müssen betroffene Banken einzeln abgefragt werden, da es kein zentrales Kontoregister gibt. Der Bericht hebt hervor, dass die direkte Kontrolle der Banken in Sachen Geldwäschebekämpfung durch die FMA verstärkt werden sollen, und die Meldestelle für Geldwäsche (FIU) ihre analytischen Fähigkeiten ausbauen soll.

Österreich gilt als bedeutender Finanzplatz und spielt als Drehscheibe zu Osteuropa eine gewichtige Rolle im Kampf gegen Finanzkriminalität. Es fehlt in Österreich laut der FATF Experten an einer dieser bedeutenden Rolle angemessenen Risikoanalyse und einer entsprechend formulierten nationalen koordinierten Strategie zur Geldwäschebekämpfung.

Das Basel Institute on Governance veröffentlicht jährlich den **Basel AML Index** (index.baselgovernance.org), der das Geldwäscherisiko in rund 150 Ländern beurteilt. Dazu stellt das Basel Institut aufgrund verschiedener Datenquellen, so insbesondere der Resultate der FATF Untersuchungen, statistische Vergleiche und Analysen an. Dabei schneidet Österreich im Vergleich mit den anderen von der FATF geprüften Ländern nur mittelmäßig ab und liegt unter den untersuchten OECD Ländern sogar nur an vorletzter Stelle. Um das Risiko zu vermeiden, dass Österreich in Zukunft auf einer Überwachungsliste der FATF landet, scheinen Korrekturmaßnahmen bei der Qualität der Umsetzung der Geldwäschebekämpfung in Österreich dringend angeraten (siehe die beiliegende Übersichtstabelle 3 und die detaillierte Hintergrundanalyse).

Press release and background note – **English Version**
Basel, 14 September

Background

The FATF is the leading international standard setter in AML/CFT related matters. Its 40 Recommendations, first issued in 1990 and revised multiple times, most recently in 2012, are the most widely recognized standards followed by countries around the world to combat money laundering and terrorist financing. The FATF regularly conducts thorough reviews of its member countries' legal and institutional framework through which the 40 recommendations are translated into domestic law and practice. In recent years, as legal frameworks have broadly been harmonised along the lines of these standards, the FATF under the new assessment methodology includes an assessment of effective enforcement and implementation in addition to assessing technical compliance.

The FATF assessment results are of considerable importance for a country's economic performance and reputation, as they are considered by foreign investors and have an effect on the attractiveness of a country's financial services industry and its access to international markets. They may also impact negatively on external risk assessments by professional organisations or independent rankings such as the *Basel AML Index* (see below). When the performance is particularly weak, countries may even be put on watch lists or high risk lists by the FATF or related organisations.

Critical FATF Assessment of Austria's Anti-Money Laundering System

In a recent review of Austria's anti-money laundering (AML) and counter financing of terrorism (CFT) system by the Financial Action Task Force (FATF), *Austria was found to have a solid AML framework but to fall short in its effective implementation.* This is the third compliance review by the FATF, and the first one under the new FATF assessment methodology, which puts particular emphasis on the effectiveness of enforcement and implementation.

Austria's FATF evaluation 2016 in a nutshell

Overall, the FATF compliance evaluation rated Austria as "compliant or "largely compliant" with 26 out of 40 of the FATF recommendations. The remaining 14 recommendations were considered partly compliant and none was rated non-compliant. This is a similar result to the previous assessment conducted in 2014. However, Austria has fared considerably worse when the effectiveness of Austria's AML system is being measured as well. This is also reflected in the Basel AML Index where Austria, when the new FATF evaluation results are taken into account, has worsened its score from 3.33 to 5.41 (see table 1 below).

FATF Mutual Evaluation Reports	FATF assessment based on the previous methodology (standardised 0=low risk 10=high risk)		FATF assessment based on the new methodology (standardised 0=low risk 10=high risk)			
	Country	Previous Compliance average	Date	Compliance average	Effectiveness average	Final weighted average score 1:2
Austria	3.33	02/2014	3.50	6.36	5.41	09/2016

Table 1 - Austria's FATF scores 2014 and 2016 (Source Basel AML Index)

While certain weaknesses in the compliance of the legal framework with applicable standards remain, the worsened score of Austria in this year's FATF evaluation is mostly due to issues relating to the effectiveness of implementation. Indeed none of the 11 effectiveness criteria were rated "high level" for Austria; only 3 received a "substantial" effectiveness rating, and the other 8 criteria were considered either "moderate" (6) or "low" (2). As this was the first assessment for Austria under the new methodology, one can assume the assessors acted with a certain caution, in particular as even lower marks might have put Austria on FATFs High Risk or Improving Global Compliance list; it would have been the first European jurisdiction on that list.

Austria's main effectiveness weaknesses according to the FATF report:

1. Austria lacks a systematic national AML/CTF policy and national coordinated understanding of money laundering and terrorist financing risk, although being an important regional and international financial centre. In relation to Austria's "gatekeeper role" to Central, Eastern and South-Eastern Europe, its national risk assessment does not provide a targeted and holistic picture of money laundering and terrorism financing risks present in the country.
2. Austria's Financial Intelligence Unit (FIU) which is responsible for the analysis of suspicious activity reports received by reporting entities and forwarding them to law enforcement conducts sound financial analysis but does not fulfil its role as intelligence gathering unit. The FATF report criticizes the FIU's failure to conduct strategic analysis to identify AML/CFT trends and patterns.
3. The FATF further notes that Austria has the capacity to investigate and prosecute money laundering cases as well as a good legal foundation, but in practice the prosecutor face problems in pursuing such investigations, as the Austrian procedural legislation requires a high legal burden. Every disclosure of bank accounts for investigations must be approved by courts, but "in order to obtain a court order to access bank records, it is necessary for law enforcement to provide extensive details about the facts of the case, including information showing that access to bank records is necessary to solve the alleged crime". Additionally, the freezing of bank accounts is challenging due to similar high requirements to achieve it such as the need to prove a predicate offence and the need to prove that assets will flee in order to freeze bank accounts. Consequently, the report finds that the current practice of the Austrian legal system is not "well suited for complex money laundering investigations and court proceedings". Law enforcement authorities and prosecutors are discouraged to pursue complex financial crimes and do not focus on seizing and confiscating proceeds of crime as a goal in itself, the FATF report says.

These obstacles prolong investigations and may be a cause for the high rate of dismissed investigations and hence a low rate of money laundering convictions (see table 2 below).

	2012	2013	2014	2015
ML investigations	1 328	1 189	1 158	1 036
ML prosecutions	65	77	115	125
Number of cases of ML conviction	19	17	44	45
Number of persons with (preliminary) conviction for ML	21	17	55	
Number of persons with final conviction for ML	11	8	27	58

Table 2 - Statistics on Money Laundering investigations, prosecutions and convictions (Source FATF MER Austria, 2016)

4. Austria's financial supervision generally works well, the FATF states, and the financial markets regulator (FMA) has an understanding of ML/TF risks on the institutions it supervises. However, the FATF raises concerns regarding its effective monitoring of the banks. The FMA has for instance identified 7 banks as high risks, but failed to conduct appropriate on-site visits. Between 2011 and 2015, four of those seven banks had received only one on-site inspection each.

How does Austria compare to other countries in the FATF Mutual Evaluation Reviews?

The Basel Institute annually analyses and compares all FATF Mutual Evaluation Reviews (MERs) in the context of calculating the scores of the Basel AML Index. The results of these calculations are presented in table 3 below which illustrates how countries that have already undergone the MER under the new methodology compare to each other. (More information about the Basel AML Index along with a report detailing the findings and methodology is available at: index.baselgovernance.org)

Whilst Austria's overall FATF score at 5.41 (on scale from 0 (low risk) to 10 (high risk)), when compared to all countries included in the index, lies in the midfield, a peer group comparison among OECD member countries positions Austria almost at the very end of the ranking just before Norway.

When we look at the rating for the technical compliance component only – in other words, for the compliance of legislation with international standards – Austria fares relatively well, although Spain for example, with a rating of 1.50, demonstrates that much better results can be achieved. When we look at the rating on the effectiveness of the AML/CFT framework, however, the results call for swift corrective action by the Austrian competent authorities. Austria's average effectiveness rating of 6.36 is very bad; when compared with other peer countries that have been evaluated under the new methodology (Spain 3.49, Italy 4.24), it becomes clear that there is a serious issue that needs addressing.

Table 3: Average Scores based on FATF MERs assessment of 40 recommendations including effectiveness measurement by the Basel Institute (0=low risk, 10=high risk)

FATF Mutual Evaluation Reports	FATF assessment based on the previous methodology (standardised 0=low risk 10=high risk)		FATF assessment based on the new methodology (standardised 0=low risk 10=high risk)			
	Previous Compliance average	Date	Compliance average	Effectiveness average	Final weighted average score 1:2	Date
Spain	3.90	06/2006	1.50	3.94	3.13	12/2014
Italy	3.40	02/2009	2.83	4.24	3.77	02/2016
Cuba	NA	NA	2.33	5.15	4.21	09/2015
Armenia	4.79	07/2005	2.25	5.45	4.39	12/2015
Malaysia	3.88	06/2007	2.25	5.45	4.39	09/2015
Australia	4.76	06/2005	4.17	4.85	4.62	04/2015
Belgium	2.43	06/2005	3.33	5.45	4.75	04/2015
Austria	3.33	02/2014	3.50	6.36	5.41	09/2016
Norway	3.88	06/2005	4.42	6.06	5.51	12/2014
Costa Rica	7.15	06/2005	4.83	7.27	6.46	12/2015
Samoa	7.21	07/2006	5.08	7.27	6.54	09/2015
Serbia	5.42	12/2012	4.58	7.58	6.58	06/2016
Trinidad & Tobago	6.11	05/2014	3.75	8.18	6.70	06/2016
Tunisia	4.44	06/2014	4.83	8.48	7.27	05/2016
Ethiopia	NA	NA	4.19	9.39	7.66	06/2015
Sri Lanka	7.21	07/2006	6.25	9.39	8.35	09/2015
Vanuatu	6.67	03/2006	6.83	10.00	8.94	09/2015
Uganda	8.89	08/2007	7.67	10.00	9.22	04/2016

Table 3 - FATF Scores based on Basel Institute's methodology

Annex

Background note on the FATF Assessments and the Basel Institute on Governance

The Financial Action Task Force

The Financial Action Task Force (FATF) is an inter-governmental body, established in 1989 by a Group of Seven (the G-7 Summit in Paris) in response to the fight against money laundering. Since then the FATF sets the standards for the measures that countries need to take to combat money laundering as well as terrorist financing, and issues respective recommendations in order to strengthen the financial system against financial crime. The FATF had originally issued 40 Recommendations relating to money laundering and 9 relating to terrorist financing. In 2012, however, the Recommendations were revised and redrafted to form a total of 40 Recommendations.

The FATF Assessment (Mutual Evaluation Reports)

The FATF assesses adherence to the 40 recommendations and their effective implementation, through a process of mutual evaluation. This involves a peer review evaluation of each member country to assess whether they fully comply with each recommendation. The evaluations are conducted by an assessment team consisting of representatives from the FATF members or an FATF Style Regional Body and published as Mutual Evaluation Report (MERs).

The FATF assesses formal compliance with those standards, and their effective implementation, through a process of mutual evaluation. This involves for each country an assessment by experts from other countries of whether they are fully compliant with each recommendation, or if not, where they fall short.

There have been three rounds of mutual evaluations based on the old methodology internationally. The FATF has adopted in 2013 a new methodology for assessing compliance, which combines an assessment of technical compliance with the FATF Recommendations with an effectiveness assessment of the AML/CFT system. As a result, the current MERs provide two components in their evaluations:

1. The technical compliance assessment focuses on the relevant legal and institutional framework of the country and provides the following rating for each 40 recommendation: compliant, largely compliant, partially compliant or non-compliant.
2. The effectiveness assessments evaluate whether a country implements its AML/CFT framework successfully in practice and is working effectively by providing the following rating: high-level of effectiveness, substantial level of effectiveness, moderate level of effectiveness and low level of effectiveness.

The Basel AML Index

The Basel AML Index, released once per year by the Basel Institute on Governance, provides a risk rating of countries based on the quality of the concerned country's AML and countering the financing of terrorism (AML/CFT) framework and related factors such as perceived corruption, financial sector standards and public transparency. The Basel AML Index is based on 14 indicators using publicly available sources including the FATF, Transparency International, the World Bank and the World Economic Forum. The scores are aggregated as a composite index using a qualitative and expert-based assessment (see index.baselgovernance.org).

The FATF MERs are the primary source for the Basel AML Index and the Basel Institute has been analysing the FATF MERs since 2012 by creating a unique methodology and database for comparative purposes.

So far the FATF has conducted and published at least 18 MERs under the new assessment methodology. For these countries the Basel Institute created a table translating the FATF assessments and their rating into a standardised scoring scale (0=low risk, 10=high risk) indicating the risk level of a country towards money laundering and terrorism financing. The results combine the average of the technical compliance with the 40 recommendations with the average of the effectiveness rating at a ratio of 1:2 between technical compliance and effectiveness (see FATF overview table above for the final results). For a detailed methodology please see the 2016 Basel AML Index report at: index.baselgovernance.org.

About the Basel Institute on Governance

The Basel Institute on Governance is an independent not-for-profit competence centre specialised in corruption prevention and public governance, corporate governance and compliance, anti-money laundering, criminal law enforcement and the recovery of stolen assets.

Based in Switzerland, the Basel Institute's multidisciplinary and international team works around the world with public and private organisations towards its mission of tangibly improving the quality of governance globally, in line with relevant international standards and good practices.

For media or general inquiries about this press release or the Basel AML Index, please contact:

Gretta Fenner, Managing Director: +41 61 205 55 11

Or email: info@baselgovernance.org