

Kenya and Namibia Added to the FATF Grey List—Practical Implications for Businesses

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On 23 February 2024, the Financial Action Task Force (“FATF”) added Kenya and Namibia to its list of high-risk countries for anti-money laundering (“AML”) purposes, informally referred to as the “FATF Grey List,” due to strategic deficiencies in their AML laws and enforcement regimes. HM Treasury took the same action on 26 February 2024, rendering the same countries high risk under the UK’s money laundering rules. The European Union has not yet taken the same action, but it is likely to do so in the near future. Other notable African countries that have been and are still considered high money laundering risk include Cameroon, Nigeria and South Africa. Mauritius was listed as a high-risk country in 2020 and was removed after almost two years.

The practical implication of this development is that UK fund managers, advisers and other regulated financial services firms are required to conduct more onerous “enhanced customer due diligence” in relation to their customers and counterparties based in Kenya and Namibia. This involves measures such as:

- seeking additional independent, reliable sources to verify due diligence and other information provided by the customer;
- taking additional steps to understand the background, ownership and financial situation of the customer, as well as the other parties to a transaction;
- taking further steps to be satisfied that transactions are consistent with the purpose and nature of the business relationship; and
- increasing the monitoring of the business relationship, including greater scrutiny of transactions.

These enhanced AML checks should be undertaken in relation to any new customers or transactions associated with Kenya and Namibia, adding to firms’ compliance obligations. Moreover, firms should consider applying closer scrutiny of existing customers and transactions, based on the level of AML risk that they present. If and when Kenya and Namibia are placed on the EU’s list of high-risk third countries, there

may be significant implications for development finance institutions that receive EU funds, as they have previously curtailed their investment activity in relation to listed countries. Note however that once a country is removed from the list we have seen development finance institutions resume their previously curtailed investment activity shortly thereafter.



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