MP-IDSA

Issue Brief

India's Mutual Evaluation Report 2024: Assessment and Implications

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Summary

The Financial Action Task Force (FATF) published India's mutual evaluation report on 19 September 2024. The exhaustive report highlights key aspects of India's approach to Anti-Money Laundering (AML) and Countering Terrorist Finance (CFT) risks and the FATF's assessment of counter-measures adopted by India in this regard.

Introduction

The Financial Action Task Force (FATF) adopted India's mutual evaluation report during its June 2024 Plenary meeting.[1] The report underwent a procedural quality and consistency review according to established procedures and was released on 19 September 2024 on the FATF website. The FATF, established in 1989, is a 40-member 'global money laundering and terrorist financing watchdog'. Its evolving global standards, policy guidelines and inspection mechanisms assist over 200 member countries, international organisations and groupings, in maintaining common global standards against corruption, organised crime and terrorism.

FATF fulfils its mandate in consultation with its 40 core members, nine associate members,[2] international financial bodies like the World Bank and International Monetary Fund, observer bodies like the United Nations, Egmont Group of Financial Intelligence Units (FIUs)[3] and increasingly, private stakeholders. This makes the FATF one of the most influential organisations involved with regulatory mechanisms for safeguarding the international financial system against crime and terrorism.

Countries are periodically assessed for compliance based on FATF guidelines at an interval of approximately 5 to 11 years.[4] This inspection checks two parameters—effectiveness and technical compliance. Effectiveness is judged on the implementation of laws, policies and regulations. This assessment focuses on application of a country's resources against high-risk threats instead of easier-to-achieve lower-risk options. It is evaluated on 11 key parameters called 'Immediate Outcomes' (IOs). By comparison, technical compliance checks the enactment of laws, laying down procedures and regulations in line with the 40 FATF recommendations.[5]

IOs are classified as High, Substantial, Moderate and Low. Technical compliance is graded as Complaint, Largely Complaint, Partially Complaint and Non-Complaint. Effectiveness and technical parameters do not have a similar weightage when categorising a country's review process post-evaluation. The decision to place a country in the 'Gray' or 'Black' List indicates this differentiation, based on the following guidelines:[6]

- When a country refuses to participate in its mutual evaluation or stalls its publication or,

[1] "**Anti-Money Laundering and Counter-Terrorist Financing Measures: India**", FATF, September 2024.

[2] "**FATF Members**", FATF.

[3] "**FATF Observers**", FATF.

[4] India was first assessed in 2009, however, the follow-up mutual assessment was delayed due to the adverse impact of COVID-19. See "**Procedures for the FATF AML/CFT/CPF Mutual Evaluation, Follow-Up and ICRG**", FATF, May 2024, p. 6.

[5] See "**FATF Methodology**", FATF.

[6] "**High-Risk and Other Monitored Jurisdictions**", FATF.

- Nominated by FATF members for money laundering or terrorist financing limitations or,
- Achieves a poor rating during a mutual evaluation which may include:
    - Twenty or more non-compliant or partially-complaint ratings in technical compliance or,
    - Rated non-complaint or partially-complaint on three or more of recommendations 3, 5, 6, 10, 11 or 20 or,
    - Rated low or moderately low on effectiveness on 9 or more of the 11 Immediate Outcomes, with a minimum two lows; or,
    - Receives a low effectiveness rating for 6 or more of the 11 Immediate Outcomes.

Based on these deficiencies a jurisdiction can be placed under the 'Increased Monitoring' (often termed Gray) List or the 'Call for Action' (Black) List.

India's approach to strengthening its Anti-Money Laundering (AML) and Countering Terrorist Finance (CFT) campaign is based on a thorough risk assessment emerging from internal and external threats. This assessment is the basis for formulating its strategy for countering money laundering and terrorist finance. Accordingly, India undertook a National Risk Assessment in 2022 and followed it with a comprehensive National Strategy for AML/CFT in 2023. Unfortunately, both these documents are not available in public domain. However, their core tenets are listed in India's mutual evaluation report. These are highlighted to understand India's concerns and policy adopted to counter them. The FATF assessment is based on the implementation of this strategy and the scope for further improving the effectiveness of India's response.

National Risk Assessment 2022

The FATF has since long proposed a risk-based approach to fight money laundering and terrorist finance. Countries have adopted this as the basis for evaluating threats at the national and sectoral levels. India is no exception to this guidance with the first risk assessment being undertaken in 2011 after the preceding mutual evaluation report in 2010.[7] As a prelude to formulating its strategy to fight money laundering, terrorist finance and the finance of proliferating Weapons of Mass Destruction (WMD), a three-pronged approach was adopted to assess the nature, scope and scale of risk posed for each of these aspects. This does not imply that India's methodology was the same for each area of assessment. Conversely, given the diversity of threats, sources of finance, means of transfer and utilisation of proceeds,

[7] **"Anti-Money Laundering and Counter-Terrorist Financing Measures: India"**, no. 1, p. 16.

Indian agencies suitably structured their processes to accurately reflect the reality of challenges faced by the country.

The National Risk Assessment 2022 (NRA 22) was a collaborative and cohesive exercise. It included all major national agencies involved in AML/CFT and private entities. The exercise was overseen by a Joint Working Group (JWG) and an inter-ministerial committee.[8] Instead of using pre-existing models, the Indian team adopted a hybrid methodology that assessed risks on four factors—threat, vulnerability, consequence and mitigation. Sectoral risks were evaluated on multiple data points through a mixed qualitative and quantitative approach.

> Quantitative sources included the incidence of the predicate crime reported, quantum of the proceeds of crime generated from the offence, impact of the offence on citizens, security and integrity of India, how widespread incidence of the crime is across the country (regional variation), complexity of the techniques of money laundering (ML), extent of cross-border movement of the proceeds as well as the involvement of politically exposed persons (PEPs) in the offences.[9]

Qualitative inputs were based on interviews and inputs from agencies. Accordingly, threats and vulnerabilities were graded on five levels leading to a five-point gradation for a final assessment. This led to the following risk-based threat assessment:[10]

- Frauds, forgery, illicit drug trafficking and corruption were graded as high and medium risks.
- The instruments used to launder proceeds of crime are hawala, cash couriers, shell companies, offshore instruments and trade-based money laundering.
- Real estate, banking and securities were rated as high, high-medium and medium threats.

With this as the threat assessment for money laundering, terrorist finance assessment was based on the evaluation of investigations and intelligence inputs. It was built on a quantitative analysis of the six identified sectors on the basis of sources, channels of transfer and usage of funds. Accordingly, external sources and trafficking were identified as the gravest threat and hawala and cash courier as the most common transfer mechanism. Increasingly, virtual assets are also emerging as a significant threat.[11] Non Profit Organisations (NPOs) were identified as a risk for terrorist finance in the risk assessment by India, though with varying degree and extent across the sectors.

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[8] Ibid., p. 17.

[9] Ibid.

[10] Ibid., p. 18.

[11] Ibid.

National Strategy for AML/CFT

Based on the NRA22, India has formulated its National Strategy for AML/CFT in 2023. According to the report, India has outlined a six-point strategy. This includes

> devoting more resources to the investigation of high-risk predicate threats; developing the supervisory regime of some of the sectors that have more recently been brought into the scope of the AML/CFT framework (real estate agents, company secretaries and accountants); deepening the framework for beneficial ownership; and identifying and assessing risks associated with NPOs.[12]

The second aspect of the strategy focusses on seven key areas to include greater emphasis on investigation, detection and prosecution of money laundering and terrorist finance cases. The strategy aims at a comprehensive and cohesive approach to AML/CFT, especially in comparison with the past.

The report acknowledges an all-of-government approach of the strategy with the focus on creating guidance for legislative, executive and institutional reforms. It noted that the '2023 Action Plan focuses on prevention, detection, investigation, capacity building, cooperation and outreach'.[13] The assessment team did indicate the need for better 'prioritisation as well as greater specificity in the actions proposed'.[14] This would imply more specific targets rather than broad guidelines for execution agencies. On its part, the Indian side confirmed their plan to give achievable targets for each agency for implementation by 2025.

India's Mutual Evaluation 2024

India's mutual evaluation was delayed because of the adverse impact of COVID-19 and was eventually undertaken over 2023–24. The evolution in the process can be gauged from the scope of India's mutual evaluation in 2010 when compared with 2024. In 2010, the mutual evaluation was conducted based on FATF's 40 recommendations and nine Special Recommendations concerning terrorist finance. Over time, these were merged and became a comprehensive list of 40. Despite these improvements, it was realised that in addition to the technical validation of laws, processes and regulations, it was equally important if not more, to focus on the effectiveness of implementation. This saw the introduction of 11 'Immediate Outcomes' that have become the focus of physical evaluation by the FATF-mandated team of experts on behalf of the organisation that conducts the exercise.[15]

[12] Ibid., p. 27.

[13] Ibid., p. 50.

[14] Ibid.

[15] **"FATF Methodology"**, no. 5.

The 2024 mutual evaluation report is for all practical purposes a book-sized volume packed with facts, observations and recommendations. It is not feasible to focus on each area evaluated by the team of experts. This brief will highlight the key aspects of the report, with specific reference to areas that allow scope for improving India's commendable efforts since the last assessment in 2010. India's performance on the IOs is listed below.

Table 1: Effectiveness Rating

IO.1 Risk policy and coordination	IO.2 International cooperation	IO.3 Supervision	IO.4 Preventive measures	IO-5 Legal persons and arrangements	IO.6 Financial intelligence
Substantial	**Substantial**	**Moderate**	**Moderate**	**Substantial**	**Substantial**
IO.7 ML investigation & prosecution	IO.8 Confiscation	IO.9 TF investigations & prosecution	IO.10 TF preventive measures & financial sanction	IO.11 PF financial sanctions	
Moderate	**Substantial**	**Moderate**	**Moderate**	**Substantial**	

Note: Effectiveness ratings can be High, Substantial, Moderate or Low

Source: Anti-money laundering and counter-terrorist financing measures India: Mutual Evaluation Report, FATF.

Table 2: Technical Compliance Based on FATF 40 Recommendations

R.1 Assessing risk and risk-based approach	R.2 National cooperation and coordination	R.3 Money laundering offence	R.4 Confiscation and provisional measures	R.5 Terrorist financing offence	R.6 Targeted financial sanctions – terrorist & terrorist financing
LC	C	LC	LC	LC	LC
R.7 Targeted financial sanctions – proliferation	R.8 Non-profit organisations	R.9 Financial institution secrecy laws	R.10 Customer due diligence	R.11 Record keeping	R.12 Politically exposed persons
LC	PC	C	LC	C	PC
R.13 Correspondent banking	R.14 Money or value	R.15 New technologies	R.16 Wire transfers	R.17 Reliance on	R.18 Internal controls and foreign

	transfer services			third parties	branches and subsidiaries
C	LC	LC	C	LC	LC
R.19 Higher-risk countries	R.20 Reporting of suspicious transactions	R.21 Tipping off and confidentiality	R.22 DNFBPs Customer due diligence	R.23 DNFBPs – Other measures	R.24 Transparency & BO of legal persons
LC	LC	C	PC	C	LC
R.25 Transparency & BO of legal arrangements	R.26 Regulation and supervision of financial authorities	R.27 Powers of supervision	R.28 Regulation and supervision of DNFBPs	R.29 Financial Intelligence Units	R.30 Responsibilities of law enforcement and investigative authorities
LC	LC	C	LC	LC	C
R.31 Powers of law enforcement and investigative authorities	R.32 Cash couriers	R.33 Statistics	R.34 Guidance and feedback	R.35 Sanctions	R.36 International instruments
LC	LC	C	LC	LC	C
R.37 Mutual legal assistance	R.38 Mutual legal assistance: freezing and confiscation	R.39 Extradition	R.40 Other forms of international cooperation		
LC	LC	C	LC		

Note: Technical compliance rating can be Complaint (C), Largely Complaint (LC), Partially Complaint (PC) and Non-Complaint (NC).

Source: Anti-money laundering and counter-terrorist financing measures India: Mutual Evaluation Report, FATF.

These two tables are India’s report card on achieving technical compliance and the implementation of AML/CFT policy, safeguards and measures to fight ML and FT.

The technical compliance rating suggests that other than three areas including Non-Profit Organisations (NPOs—politically exposed persons), (PEPs—people in influential positions to include political and non-political administrative entities) and designated non-financial businesses and professions (DNFBPs—which include areas like the gems and jewellery trade and property dealing that are exposed to large transactions, despite not being financial institutions are liable to exploitation for ML/TF), India has done well. This includes a perfect rating of 'Compliant' for 12 recommendations.

The more difficult challenge for India and most other countries remains to excel at the implementation aspect of the review. In this category, the country scores six 'Substantial' and five 'Moderate' ratings. None of the areas are graded 'High'. This becomes a more relevant area of focus and analysis for this brief. A comparative assessment of the implementation record of other countries is instructive in this regard. The selection includes the BRICS countries except for Russia after its suspension from the FATF on 24 February 2023, QUAD countries (USA, Japan and Australia in addition to India) and a mix of developed and developing countries.

Table 3: Comparative Mutual Evaluation Record for Effectiveness through Immediate Outcomes

Country	IO1	IO2	IO3	IO4	IO5	IO6	IO7	IO8	IO9	IO10	IO11
India	SE	SE	ME	ME	SE	SE	ME	SE	ME	ME	SE
USA	SE	SE	ME	ME	LE	SE	SE	HE	HE	HE	HE
Australia	HE	SE	ME	ME	SE	ME	SE	SE	HE	HE	HE
Japan	SE	SE	ME	ME	ME	SE	ME	ME	ME	ME	ME
Germany	SE	SE	ME	ME	ME	ME	ME	SE	SE	ME	ME
Indonesia	SE	SE	ME	ME	ME	SE	ME	ME	SE	ME	ME
Singapore	SE	SE	ME	ME	ME	SE	ME	ME	LE	ME	SE
China	SE	ME	ME	LE	LE	ME	ME	SE	SE	LE	LE

South Africa	ME	ME	ME	ME	LE	ME	ME	ME	LE	LE	ME
Brazil	SE	SE	ME	ME	ME	ME	ME	ME	ME	ME	ME
Turkey	SE	SE	ME	ME	ME	ME	ME	ME	ME	LE	LE
Pakistan	LE	ME	LE	LE	LE	LE	LE	LE	LE	LE	LE

Source: **FATF**

HE	High Effectiveness
SE	Substantial Effectiveness
MC	Moderate Effectiveness
LE	Low Effectiveness

It is not the intention to selectively highlight India's record either positively or negatively through this assessment. Several countries evaluated by the FATF have a record that is better or worse than this limited selection. This selection is meant to be representative of a larger grouping inspected by the FATF and its regional affiliates.

The comparison suggests that the US and Australia have a better record of effectiveness, except for a low enforcement rating for IO5 (Supervision of legal persons and arrangements) in the case of the US. On the other hand, India has performed better than a large section of developed and developing nations on most implementation parameters. This includes Germany, China, Singapore, Japan and Turkey, amongst others.

The case of Pakistan highlights the possibility of a disastrous outcome when a country flouts international norms and guidelines. This led to its inclusion in the Gray List of the FATF after nomination by the US, UK, France and Germany in 2018. Pakistan's nomination and inclusion is reinforced by the outcome of its mutual evaluation report reflected in the selection above.

India's implementation record suggests potential for improvement in five spheres. These include:

- Supervision of financial institutions, DNFBPs and Virtual Assets Service Providers (VASPs).

- Application of preventive measures by financial institutions, DNFBPs and VASPs.
- Investigation and punishment for ML offences.
- Investigation and punishment of TF offences.
- Terrorists and terror organisations prevented from raising and moving funds.

When this is related to the partially complaint rating for recommendation 8, 12 and 22, which deal with Non-Profit Organisations (NPOs),[16] Politically Exposed Persons (PEPs)[17] and Designated Non-Financial Businesses and Professions (DNFBPs),[18] related to the 40 recommendations, these vulnerabilities are reinforced. On the other hand, when this is compared with India's previous rating in 2010, it emerges that these sectors have witnessed substantial improvement. This must be seen from the perspective of their sheer numbers and scale. Gem and jewellery trade and property alone represent 12 per cent and overall DNFBPs 15 per cent of India's Gross Domestic (GDP). Similarly, India has over three million NPOs of which 2,86,000 fall within the definition of the FATF.[19]

Conclusion

The Brief outlined India's NRA 22, National Strategy for AML/CFT 23 and the key findings of India's Mutual Evaluation Report 2024. The report highlights the strides made by India over time in its AML/CFT endeavours in great detail. It simultaneously indicates areas where the country can enhance effectiveness of counter measures. Collectively, the mutual evaluation report is India's report card on a vital aspect of national security and the international effort to fight these challenges. It also provides an iterative understanding of improvements over time and guidelines for a roadmap to improve regulations, structures and procedures. This endeavour can be facilitated by bringing in greater transparency by placing in the public domain the NRA and National Strategy for AML/CFT, given the role of public and private sectors in the all-of-government approach adopted by India.

[16] **"Anti-Money Laundering and Counter-Terrorist Financing Measures: India"**, no. 1, p. 138.

[17] Ibid., p. 143.

[18] Ibid., p. 5.

[19] Ibid., p. 25.

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