

Financial Action Task Force (FATF) Blacklisting of Myanmar as a ‘High-Risk Jurisdiction’: Potential Impacts on the People of Myanmar and Requests from NGOs

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1. Background and Context

The people of Myanmar and those seeking to support them with relief and basic services are facing a complex multidimensional crisis with ongoing, internal armed conflicts, insecurity, inflation, and socio-economic instability. More than 1.3 million people are internally displaced and about 40 percent of Myanmar’s population is living below the poverty line. Local and international humanitarian actors are making efforts to meet pre-existing and emerging humanitarian needs across the country undertaking great personal security risks amidst severe funding and access constraints. Myanmar’s Humanitarian Response Plan is currently 20.7 percent funded, which has impeded delivery of lifesaving assistance to people in need in conflict areas.

The possibility of FATF’s blacklisting of Myanmar is a potentially harmful development for NGOs and local civil society organisations (CSOs) supporting vulnerable communities. This designation, taken together with increasing economic sanctions and other legal and diplomatic measures from U.N. member states due to intensified human rights violations, would further weaken Myanmar’s already fragile economy and have a lasting and damaging impact on the lives and livelihoods of civilians. Such a designation, and additional restrictive measures, would further obstruct remittances and foreign aid flows into the country, cutting off the people of Myanmar and NGOs supporting them from access to necessary international and domestic financial systems to sustain operations/programmes aimed at saving lives.

This will also have a negative impact on local grassroots coordination, civil society groups, and ordinary persons in Myanmar, who are increasingly reliant on informal aid modalities for their livelihoods and the provision of support to those most in need in Myanmar. Moreover, with the collapse of the local economy, the digital economy, and the inconsistent access to physical cash around the country, there has been an emerging reliance on a diverse range of solutions to support the supply and economic chains from collapsing. The consequences of the FATF blacklisting may initiate unreasonable restrictions on these diverse aid modalities and unduly limit the existing humanitarian and civil society space.

Based on the FATF’s analysis of unintended consequences resulting from the implementation of its own standards (de-risking; financial exclusion; undue targeting of non-profit organizations (NGOs) and curtailment of human rights),¹ FATF’s blacklisting of Myanmar will further restrict vulnerable people’s limited access to lifesaving and life sustaining humanitarian aid and liquidity, and have a significant impact on the already shrinking civil society space in the country.

¹ [FATF, Mitigating the Unintended Consequences of the FATF Standards](#)

2. Potential Impacts of FATF Blacklisting of Myanmar as a 'High-Risk Jurisdiction'

1. Blacklisting would further tighten Myanmar's financial systems, impacting remittances, humanitarian programme funds transfers and other international financial transactions that are related to the basic needs of a population. This would push Myanmar's population further into extreme poverty and deprivation.
2. Additional hurdles created for foreign financial institutions conducting transactions (for example, de-risking measures by banks) with Myanmar would limit humanitarian and development funding flows from foreign donors, resulting in severe restrictions on vulnerable communities' access to food, medicines and lifesaving humanitarian assistance. NGOs already face severe restrictions, and this could make it almost impossible to pay staff or suppliers in order to run relief and support operations.
3. Blacklisting would likely create further shrinking of Myanmar civil society space through increased scrutiny of legitimate NGO operations and funding sources, imposition of arbitrary and disproportionate administrative and operational burdens and daily interference in delivery of humanitarian and other support services to people in need.
4. Blacklisting could escalate safety and security risks for NGOs and their staff/volunteers as they deliver assistance through formal and informal financial aid modalities to communities in need in an insecure and overregulated operational environment.

The consequences of a blacklisting designation, if implemented, fall into one of two categories: 1) bank de-risking and financial exclusion or 2) undue targeting of NGOs through the imposition of bureaucratic and administrative impediments (BAI)– as described below. The potential implications are far reaching and will adversely impact both Myanmar communities and NGOs supporting them.

1. *Bank de-risking and financial exclusion*

Banks in Myanmar are already applying strict Know Your Customer (KYC) procedures for their NGO clients, who are currently unable to obtain registrations from the State Administrative Council (SAC), essentially de-risking these groups. Banks are concerned that they may be considered in breach of their Anti-Money Laundering/Combating the Financing of Terrorism (AML/CTF) duties if they continue banking with NGOs with expired or invalid registrations. As a result, NGO transactions are delayed, stopped, frozen or recalled, and many NGOs are shut out of the formal banking system.

The current experience of NGOs demonstrates that the pretext of strict KYC and verification standards for AML/CFT compliance can lead to de-risking that restricts or even prohibits the ability of NGOs to carry out their critical programming. FATF blacklisting would add onerous due diligence requirements for international financial transfers with Myanmar financial institutions, and risks making an extremely challenging banking environment even worse for NGOs.

NGOs also use formal non-banking as well as informal financial services, including business-to-business cash transfers, mobile financial modalities, and informal systems such as *hundis*.² In many conflict-affected areas in Myanmar where formal banking options are not available, and for the provision of cross-border assistance, these alternative systems are the most quick and efficient and often, the only means to reach communities in need in Myanmar. However, NGOs are finding it more difficult to access them because the CBM is also tightening the KYC processes for these mechanisms.

The blacklisting of Myanmar by FATF would push financial institutions outside the country to de-risk Myanmar banks, making donor fund transfers into the country extraordinarily difficult, if not impossible, and increase costs for those transfers. As noted by financial industry experts, most financial institutions would “avoid servicing accounts linked to Myanmar rather than undertake the additional paperwork for the ‘enhanced due diligence’ required for a country on the FATF blacklist”.³

2. *Undue targeting of NGOs through the imposition of bureaucratic and administrative impediments (BAI)*

Since February 2021, NGOs have faced significant impediments ranging from: legal, fiduciary, security and reputational threats and vulnerabilities, which affect their ability to maintain safe and effective operations.

- a. Lack of registration and MoUs: The lack of a license to operate in Myanmar through valid registrations and Memoranda of Understanding (MoUs), has resulted in restricted access to banking and financial services. In this uncertain operational environment, NGOs are unable to obtain/renew their registrations as NGO registration processes are indefinitely suspended. NGOs are also unable to renew MoUs with the SAC Ministries/Departments at this time. Yet, banks continue to ask for valid registration and MoU documents and support letters from SAC Ministries/Departments as part of KYC processes, which are not currently being issued to them.
- b. NGO Association Registration Law reforms and impacts: For the past few years, there have been talks about reform of the NGO Association Registration Law of 2014. As per available information, the amendment process is underway and has resulted in the suspension of NGOs’ registration renewal processes until the new law is enacted. NGOs have expressed concerns that the proposed new law would require mandatory registration and is likely to increase operational restrictions, curb humanitarian access and place unreasonable levels of scrutiny impacting humanitarian and developmental agencies, staff, partners and projects. This would be contrary to international law, humanitarian

² Hundi, an informal value transfer system for sending cash domestically or internationally, is widely adopted by Myanmar citizens and offshore migrant workers.

³ [Myanmar faces blacklisting risk by global financial crime watchdog – KANYAW.](#)

principles and limit if not fully restrict NGOs' abilities to provide humanitarian relief to vulnerable populations.

- c. Physical access barriers and interference in operations: Physical access of NGOs to communities in need in conflict-affected and hard-to-reach areas are regularly impeded through movement restrictions, such as delays and denials of travel authorisations for humanitarian workers and checkpoint investigations and delays, placed mainly by the authorities but also by other conflict parties. Attempts to interfere in the implementation of humanitarian activities were reported in the form of additional administrative requirements to secure access, which is contrary to international law and humanitarian principles. The administrative reporting burden for NGOs has escalated in the past year by means of an increased number of information requests, including private and confidential staff and beneficiary data, in violation of global data protection standards.
- d. Increasing safety and security risks for NGO staff/volunteers: The intensification of bureaucratic and administrative impediments related to access including the imposition of arbitrary financial regulations on NGOs, has exposed individual staff of NGOs and local partner organisations, mainly Myanmar nationals, to heightened safety and security risks with increasing threats to their personal safety including physical violence, arrests and detentions.

Overly restrictive NGO laws and practices in other country contexts have resulted in the suspension or withdrawal of NGOs from certain geographies. Given the expansion and intensification of the conflict and the growing needs of 14.4 million Myanmar nationals in need (OCHA: 2022), the people of Myanmar with additional vulnerabilities do not necessarily have the resources to sustain their wellbeing without humanitarian relief – effectively depriving them of their basic human rights.

3. Requests for support from FATF Member States

1. Recognise the devastating humanitarian impact of blacklisting on 14.4 million people in need in Myanmar, who will be denied access to basic services such as food, shelter, health, and education, if Myanmar loses access to the international financial system and aid flows are unduly restricted. NGOs in Myanmar are heavily reliant on funding from several key FATF Member States, including the US, the UK, Germany, and Australia.

To ensure effective and efficient use of their funds, FATF Member States are therefore urged to reconsider the listing of Myanmar as a 'high-risk jurisdiction' owing to the severe impacts of such a designation on the needs of vulnerable communities of Myanmar.

2. Refrain from compelling states like Myanmar who, in order to comply with FATF actions such as blacklisting, may adopt legislative and other measures that may jeopardise or curtail legitimate NGO operations (freedom of peaceful assembly and of association).

FATF should review their due diligence requirements and issue additional guidance as appropriate.

3. In line with the risk-based approach set out in FATF Recommendation 8 on non-profit organisations and Recommendation 29 on the role of the Financial Intelligence Unit (FUI), FATF actions on Myanmar such as grey/blacklisting should apply focused and proportionate measures based on identified risks and threats that are in line with international human rights principles and due process norms. Systemic and sustainable safeguards should be put in place in line with the risk-based approach and proportionality principle, to mitigate the unintended negative effects of FATF actions on Myanmar.

In addition, FATF should consider issuing a public statement emphasising the need for preserving and protecting legitimate NGO activities to ensure continuity of urgent life-saving aid delivery to the people of Myanmar.

4. Recognise and enable both formal and informal financial aid modalities in Myanmar in the current political and operational environment to avoid de-banking and financial exclusion. Alternative money transfer modalities are widely used and accepted for humanitarian actors across all regions of the world where there are sanctions, such as Syria, Nigeria, Afghanistan, Yemen, and elsewhere. FATF blacklisting of Myanmar should not disable these modalities.