

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2023/1219

of 17 May 2023

amending Delegated Regulation (EU) 2016/1675 as regards adding Nigeria and South Africa to the table in point I of the Annex and deleting Cambodia and Morocco from that table

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) The Union has to ensure the effective protection of the integrity and proper functioning of its financial system and the internal market from money laundering and terrorist financing. Directive (EU) 2015/849 therefore provides that the Commission should identify high-risk third countries which have strategic deficiencies in their regimes on anti-money laundering and countering financing of terrorism (AML/CFT) that pose significant threats to the financial system of the Union.
- (2) Commission Delegated Regulation (EU) 2016/1675 ⁽²⁾ identifies high-risk third countries with strategic deficiencies.
- (3) Considering the high level of integration of the international financial system, the close connection of market operators, the high volume of cross-border transactions to and from the Union, as well as the degree of market openness, any AML/CFT threat posed to the international financial system is also a threat to the financial system of the Union.
- (4) In accordance with Article 9(4) of Directive (EU) 2015/849, the Commission takes into account recent available information, in particular the recent Financial Action Task Force (FATF) public statements, the FATF list of 'Jurisdictions under Increased Monitoring', and FATF reports of the International Cooperation Review Group in relation to the risks posed by individual third countries.

⁽¹⁾ OJ L 141, 5.6.2015, p. 73.

⁽²⁾ Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (OJ L 254, 20.9.2016, p. 1).

- (5) Since the latest amendments to Delegated Regulation (EU) 2016/1675, the FATF has updated its list of 'Jurisdictions under Increased Monitoring'. At its plenary meeting in February 2023, the FATF added Nigeria and South Africa to that list and deleted Cambodia and Morocco from that list. Given those changes, the Commission has conducted an assessment for the identification of high-risk third countries in accordance with Article 9 of Directive (EU) 2015/849.
- (6) In February 2023, Nigeria made a high-level political commitment to work with the FATF and the *Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent en Afrique de l'Ouest* (GIABA), which is its FATF-style regional body (FSRB), to strengthen the effectiveness of its AML/CFT regime. Since the adoption of its mutual evaluation report in August 2021, Nigeria has made progress on some of the actions recommended in that report to improve its system, including by improving its AML/CFT legislative framework and updating its assessment of inherent money laundering/terrorism financing/proliferation financing risks, and has strengthened its implementation of targeted financial sanctions. Nigeria will work to implement its FATF action plan by: (1) completing its residual money laundering/terrorism financing risk assessment and updating its national AML/CFT strategy to ensure alignment with other national strategies relevant to high-risk predicate offences; (2) enhancing formal and informal international cooperation in line with money laundering/terrorism financing risks; (3) improving AML/CFT risk-based supervision of financial institutions and designated non-financial businesses and professions, and enhancing implementation of preventive measures for high-risk sectors; (4) ensuring that competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal persons, and applying sanctions for breaches of beneficial ownership obligations; (5) demonstrating an increase in the dissemination of financial intelligence by the Financial Intelligence Unit and its use by law enforcement authorities; (6) demonstrating a sustained increase in money laundering investigations and prosecutions in line with money laundering risks; (7) proactively detecting violations of currency declaration obligations, and applying appropriate sanctions and maintaining comprehensive data on frozen, seized, confiscated and disposed assets; (8) demonstrating a sustained increase in investigations and prosecutions of different types of terrorism financing activities in line with risk, and enhancing inter-agency cooperation on terrorism financing investigations; and (9) conducting risk-based and targeted outreach to non-profit organisations at risk of terrorism financing abuse and implementing risk-based monitoring for the subset of non-profit organisations that are at risk of terrorism financing abuse without disrupting or discouraging legitimate activities of non-profit organisations.
- (7) In February 2023, South Africa made a high-level political commitment to work with the FATF and the Eastern and Southern Africa AML Group (ESAAMLG), which is its FSRB, to strengthen the effectiveness of its AML/CFT regime. Since the adoption of its mutual evaluation report in June 2021, South Africa has made significant progress on many of the actions recommended in that report to improve its system, including by developing national AML/CFT policies to address higher risks and newly amending the legal framework for terrorism financing and targeted financial sanctions, among others. South Africa will work to implement its FATF action plan by: (1) demonstrating a sustained increase in outbound mutual legal assistance requests that help facilitate money laundering/terrorism financing investigations and confiscations of different types of assets in line with its risk profile; (2) improving risk-based supervision of designated non-financial businesses and professions, and demonstrating that all AML/CFT supervisors apply proportionate and effective sanctions for noncompliance; (3) ensuring that competent authorities have timely access to accurate and up-to-date beneficial ownership information on legal persons and arrangements, and applying sanctions for breaches of violation by legal persons to beneficial ownership obligations; (4) demonstrating a sustained increase in law enforcement agencies' requests for financial intelligence from the Financial Intelligence Centre for its money laundering/terrorism financing investigations; (5) demonstrating a sustained increase in investigations and prosecutions of serious and complex money laundering and the full range of terrorism financing activities in line with its risk profile; (6) enhancing its identification, seizure and confiscation of proceeds and instrumentalities of a wider range of predicate crimes, in line with its risk profile; (7) updating its terrorism financing risk assessment to inform the implementation of a comprehensive national counter financing of terrorism strategy; and (8) ensuring the effective implementation of targeted financial sanctions and demonstrating an effective mechanism to identify individuals and entities that meet the criteria for domestic designation.

- (8) The Commission's assessment therefore concludes that Nigeria and South Africa should be considered as third-country jurisdictions which have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the EU. Nigeria and South Africa should therefore be added to the table in point I of the Annex to Delegated Regulation (EU) 2016/1675.
- (9) The Commission has reviewed the progress in addressing the strategic deficiencies of Cambodia and Morocco. These are countries listed in Delegated Regulation (EU) 2016/1675 but deleted from the FATF list of 'Jurisdictions under Increased Monitoring' in February 2023.
- (10) The FATF has welcomed the significant progress made by Cambodia and Morocco in improving their AML/CFT regimes and has noted that these countries have established legal and regulatory frameworks to meet the commitments in their respective action plans on the strategic deficiencies identified by the FATF. Cambodia and Morocco are therefore no longer subject to the FATF's monitoring process under its ongoing global AML/CFT compliance process and will continue to work with their FSRBs to further strengthen their AML/CFT regimes.
- (11) As Cambodia and Morocco have strengthened the effectiveness of their AML/CFT regimes and addressed technical deficiencies to meet the commitments in their action plans on the strategic deficiencies identified by the FATF, the Commission's assessment of the available information leads it to conclude that Cambodia and Morocco no longer have strategic deficiencies in their AML/CFT regimes. It is therefore appropriate to delete Cambodia and Morocco from the table in point I of the Annex to Delegated Regulation (EU) 2016/1675.
- (12) Delegated Regulation (EU) 2016/1675 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Delegated Regulation (EU) 2016/1675, in point I, the table is replaced by the table in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

'No	High-risk third country ⁽¹⁾
1	Afghanistan
2	Barbados
3	Burkina Faso
4	Cayman Islands
5	Democratic Republic of the Congo
6	Gibraltar
7	Haiti
8	Jamaica
9	Jordan
10	Mali
11	Mozambique
12	Myanmar
13	Nigeria
14	Panama
15	Philippines
16	Senegal
17	South Africa
18	South Sudan
19	Syria
20	Tanzania
21	Trinidad and Tobago
22	Uganda
23	United Arab Emirates
24	Vanuatu
25	Yemen

⁽¹⁾ Without prejudice to the legal position of the Kingdom of Spain with regard to sovereignty and jurisdiction in relation to the territory of Gibraltar.'