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To cite this article: Juliet Ibekaku-Nwagwu (2026) Is the Financial Action Task Force Fit for the Future?, The RUSI Journal, 171:5, 76-92, DOI: [10.1080/03071847.2026.2711617](https://doi.org/10.1080/03071847.2026.2711617)

To link to this article: <https://doi.org/10.1080/03071847.2026.2711617>



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Published online: 02 Sep 2026.



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Is the Financial Action Task Force Fit for the Future?

Juliet Ibekaku-Nwagwu

As the Financial Action Task Force (FATF) shapes global standards, its enforcement – especially greylisting – raises concerns about fairness and effectiveness in developing countries. Juliet Ibekaku-Nwagwu analyses the FATF's ratings of African countries and examines how they compare with other assessments. She highlights structural tensions, and argues for more legitimate, context-sensitive processes, while recommending managerial cooperation and interactive compliance, rather than sanctions, to foster a fairer and more effective global financial integrity regime.

The analysis in this article shows that the Financial Action Task Force's (FATF) norms and processes for policymaking and compliance are not fit for the future. To correct its course, the FATF needs to consider the issues of fairness, legitimacy and the impact of excluding developing and emerging economies from its membership. It is critical that the FATF considers how the failure to address the issues discussed in this article may undermine its legitimacy if lower-income countries feel consistently and unfairly penalised.

By examining the systems through which the FATF's decisions are made, and how power is distributed among members and non-members,¹ this article identifies what is missing and how the

gaps can be addressed. To undertake this task, the article draws on the mutual evaluation reports (MERs) of 22 greylisted African countries² and theories of international norm compliance.³ This analysis highlights the importance of interaction, legitimacy and fairness in securing compliance, particularly where a norm lacks treaty status. These perspectives offer a useful lens for examining the FATF's transnational mandate and impact.⁴

The article also examines how norms, such as the FATF Recommendations, align with anti-money laundering, counter-financing of terrorism, and proliferation financing (AML/CFT/PF) rules already encapsulated in treaty norms, while reinforcing states' obligations

1. Financial Action Task Force (FATF), 'Ministers Give FATF an Open-Ended Mandate', 1989, <<https://www.fatf-gafi.org/en/publications/Fatfgeneral/Fatf-mandate.html>>, accessed on 20 January 2026. The mandate distinguishes between the 40 members – referred to as executive members in this article – and others who are indirectly represented by the FATF-style Regional Bodies (FSRBs), forming what is described by FATF as a 'global network'.
2. African countries greylisted under the fourth round of mutual evaluations are: Algeria; Angola; Botswana; Burkina Faso; Cameroon; Côte d'Ivoire; the Democratic Republic of the Congo; Ghana; Kenya; Mali; Mauritius; Mozambique; Morocco; Namibia; Nigeria; Senegal; South Sudan; South Africa; Tanzania; Tunisia; Uganda; Zimbabwe. See FATF, '“Black and Grey” Lists', October 2023, <<https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html>>, accessed on 20 January 2026.
3. Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1996); Lon L Fuller, *The Morality of Law*, revised edition (New Haven, CT: Yale University Press, 1965); Jutta Brunnée and Stephen J Toope, *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge: Cambridge University Press, 2010); Harold Hongju Koh, 'Why Do Nations Obey International Law?', Review Essay, *Yale Law Journal* (Vol. 106, No. 8, 1996), pp. 2599–660; Harold Hongju Koh, 'Jefferson Memorial Lecture: Transnational Legal Process After September 11th', *Berkeley Journal of International Law* (Vol. 22, No. 3, 2004), pp. 337–54; Thomas M Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990); Thomas M Franck, *Fairness in International Law and Institutions* (Oxford: Clarendon, 1998).
4. Koh, 'Jefferson Memorial Lecture: Transnational Legal Process After September 11th Lecture'.



to international legal norms.⁵ It argues that combining a managerial model of cooperation and interactional compliance is better than coercion, sanctions and greylisting. The recommendations provided are by no means comprehensive, but they do allow for the analysis of the FATF's compelling influence.⁶

As mentioned above, this article is enriched by a desk review of the MERs of 22 African countries that were greylisted under the fourth round of the FATF evaluation process.⁷ It is triangulated with findings from the global money laundering and financial crime risk ranking published by the Basel Institute on Governance in 2025 – the 2025 Basel AML Index⁸ – and Basel's Special Report on Sub-Saharan Africa, also published in 2022 (it is also referred to in this article as the Basel Special Report on Africa).⁹ The Special Report on Sub-Saharan Africa examined jurisdictions on the

greylist as of 2022 and highlights the impact of greylisting, while arguing that it triggered reforms in the listed countries.

FATF Norms, Soft Law and Compliance

Norms, rules and standards are used interchangeably in this article to refer to the various standards developed through FATF processes. The article proceeds from the premise that while FATF Recommendations are not laws, they are norms that have acquired partial legality through widespread adoption by states and non-state actors (NSAs) and incorporation into domestic legal frameworks.¹⁰ Given the complex ways in which FATF norms emerge and are published,¹¹ lacking in interaction or negotiation,

5. FATF, 'The FATF Recommendations', 2012, updated October 2025, <<https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>>, accessed on 2 February 2026. This version reflects the series of amendments, the latest in 2025.

6. Georgios Pavlidis, 'The Dark Side of Anti-Money Laundering: Mitigating the Unintended Consequences of FATF Standards', *Journal of Economic Criminology* (Vol. 2, December 2023).

7. FATF, 'Jurisdictions Under Increased Monitoring - 24 October 2025', 24 October 2025, <<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/increased-monitoring-october-2025.html>>, accessed on 2 February 2026.

8. Basel Institute on Governance, 'Basel AML Index 2025: 14th Public Edition – Global Money Laundering and Financial Crime Risk Ranking', 2025, <<https://index.baselgovernance.org/api/assets/1cdb5e5f-f4c2-4738-918b-f2c4271c6313.pdf>>, accessed 21 January 2026.

9. Basel Institute on Governance, 'Special Report: FATF Grey-Listing in Sub-Saharan Africa', 2022, <<https://index.baselgovernance.org/api/assets/f2c74bc1-2760-4bea-a118-aaa96b9cdf09>>, accessed 21 January 2026.

10. Ben Hayes, 'Counter-Terrorism, "Policy Laundering" and the FATF: Legalising Surveillance, Regulating Civil Society', *Transnational Institute/Statewatch*, 2012, <<https://www.statewatch.org/media/documents/analyses/no-171-fatf-report.pdf>>, accessed 21 January 2026.

11. *Ibid.*; Pavlidis, 'The Dark Side of Anti-Money Laundering'.

it raises some questions for consideration: for example, why have states and NSAs continued to comply, and why is compliance weaker in some jurisdictions?¹²

International law theorists have long argued that the obligation to a legal norm is founded on the presumption that, in the absence of any other countervailing factors, a state will comply with its obligation under international law.¹³ This is captured by the doctrine of *Pacta Sunt Servanda* – notably that treaties are adhered to in line with Article 26 of the Vienna Convention on the Law of Treaties, based on state consent.¹⁴ FATF norms were neither negotiated as a treaty, nor adopted as one. However, in the process of domestic diffusion of FATF norms, FATF Recommendations 3 and 4 note that countries should consider and accede to the various UN Conventions that cover a wide range of offences such as trafficking in drugs, human trafficking, money laundering, corruption and transnational organised crime, as well as confiscation of proceeds from such crimes.¹⁵ It could thus be argued that FATF norms have gained partial legitimacy by relying on established treaties.¹⁶

However, some scholars argue that FATF norms constitute soft laws.¹⁷ For others, this has a corresponding effect on the level of compliance that the FATF can demand of members.¹⁸ Lon Fuller rejected the notion that norms are only complied with because of sanctions or coercion, or because they are binding. He proposed that ‘fidelity’ to law is engendered through ‘interaction’,¹⁹ and

espoused that the process of law creation through adherence to the criteria of legality is what makes law efficacious.²⁰ The eight criteria of legality which he considered relevant to confer legitimacy to norms are: congruence between rules and how it is administered; generality; promulgation; clarity; non-retroactivity; non-contradiction; realism in demands; and constancy.²¹ His views suggested that ‘soft laws’ – often described as non-binding by positivist scholars²² – can and do command fidelity when they meet the criteria of legality. Several scholars share this view.²³ They advanced Fuller’s ‘interactional’ approach and argued that the obligation to laws or norms, rather than the state’s consent, is what leads to compliance.²⁴

Jutta Brunnée and Stephen J Toope lean towards Fuller. They argue that ongoing interaction sustains compliance.²⁵ Harold Hongju Koh proposed that a transnational legal process grounded in interaction, interpretation and internalisation – rooted in a social purpose – compels compliance,²⁶ while others proposed a managerial model for compliance in international regulatory regimes. In agreement with these views, this article proposes that compliance is promoted when a framework grounded in the right process and fairness is adopted during the emergence of norms.²⁷ Thomas M Franck defined legitimacy as ‘a property of a rule or rule-making institution which exerts a pull towards compliance on those addressed normatively, because they believe that the rule or institution has come into being and

12. Julia C Morse, ‘Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing’, *International Organization* (Vol. 73, No. 3, 2019), pp. 511–45. Morse asks the same questions about how a relatively weak institution that lacks legally binding authority could compel obligation from states.
13. Louis Henkin, *How Nations Behave: Law and Foreign Policy*, 2nd edition (New York, NY: Columbia University Press, 1979).
14. Vienna Convention on the Law of Treaties, 23 May 1969, <https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtmsg_no=XXIII-1&chapter=23&Temp=mtmsg3&clang=_en>, accessed 29 May 2026; Chayes and Chayes, *The New Sovereignty*, p. 2.
15. ‘United Nations Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances’, 1988; ‘United Nations Convention Against Transnational Organized Crime and the Protocols Thereto’, 2000; ‘United Nations Convention Against Corruption’, 2003.
16. Chayes and Chayes, *The New Sovereignty*, p. 2. The authors note that soft laws are accepted and enforced as constraints by measures that differ only slightly from formal conventions.
17. Nicholas W Turner, ‘The Financial Action Task Force: International Regulatory Convergence Through Soft Law’, *New York Law School Review* (Vol. 59, No. 3, 2014/15), pp. 547–59; Saby Ghoshray, ‘Compliance Convergence in FATF Rulemaking: The Conflict Between Agency Capture and Soft Law’, *New York Law School Law Review* (Vol. 59, No. 3, 2014/15), pp. 521–46; Alan Boyle, ‘Soft Law in International Law-Making’, in Malcolm D Evans (ed), *International Law*, 5th edition (Oxford: Oxford University Press, 2018), pp. 119–37.
18. *Ibid.*; Ghoshray, ‘Compliance Convergence in FATF Rulemaking’. Morse suggests that despite its limitations, FATF relies on a non-complier list to generate policy changes. See Morse, ‘Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing’.
19. Fuller, *The Morality of Law*, p. 3; See also Lon L Fuller, ‘Law and Human Interaction’, *Sociological Inquiry* (Vol. 47, No. 3–4, 1977), pp. 59–89.
20. Fuller, *The Morality of Law*, pp. 194–95.
21. *Ibid.*
22. Contrast with John Austin, *The Province of Jurisprudence Determined and the Uses of the Study of Jurisprudence* (London: Weidenfeld & Nicholson, 1954); H L A Hart, ‘Positivism and the Separation of Law and Morals’, *Harvard Law Review* (Vol. 71, No. 4, 1958), pp. 593–629. Each insisted that a law must come from a recognised authority or commander.
23. Brunnée and Toope, *Legitimacy and Legality in International Law*, p. 53.
24. Brunnée and Toope, *Legitimacy and Legality in International Law*, p. 53.
25. Brunnée and Toope, *Legitimacy and Legality in International Law*.
26. Koh, ‘Why Do Nations Obey International Law?’.
27. Franck, *Fairness in International Law and Institutions*, p. 24.

operates in accordance with general principles of the right process'.²⁸ His legitimacy criteria aligned with Fuller's criteria in recognising four indicators of a norm's legitimacy, namely 'rule clarity or determinacy, symbolic validation through rituals or other formalities, conceptual coherence, and adherence to the right process or conformity with the organised normative hierarchy of the international rule system'.²⁹ He contended that 'the degree to which a rule is obeyed affects the degree to which a rule is cognizable as a valid obligation that leads to compliance'.³⁰

From a rational perspective, Julia C Morse views the FATF enforcement model, which focuses on non-compliant states' greylisting, as an effective tool as it compels states to comply with FATF norms through transnational market pressure.³¹ She argued that these 'global pressures could lead transnational market actors to serve as outside enforcers by punishing foreign countries that fail to comply with multilateral rules'. In her view, such market actors may include banks and non-financial institutions that may decide not to open accounts or engage in correspondent banking because of the risks of dealing with jurisdictions on the FATF's greylist.³² In contrast to Morse, this article takes a normative approach. It argues that states comply with FATF norms because of their prior identity and what they consider appropriate within their given context.³³

In essence, contrary to the cost-and-benefit rationale for compliance proposed by Morse,³⁴ Koh's transnational legal process, Brunnée and Toope's interactional compliance model and Franck's legitimacy framework help to explain why states comply with FATF norms. These further show

how the FATF and member countries can develop an interactional compliance framework that is legitimate, which recognises that countries might face contexts where it is difficult to implement the transnational effects of FATF norms. At the same time, it balances the developmental, political and social structures that support the emergence, cascade and internalisation of such norms.³⁵

FATF's Governance, Decision-Making and Legitimacy Gaps

A core aspect of the FATF's work is ensuring compliance with the rules, norms and laws related to ML/FT/PF.³⁶ Although the FATF works with states as the central actor, it has increasingly realised that its work cannot achieve the desired effectiveness without demanding compliance from NSAs, including financial institutions (FIs), designated non-financial businesses and professions (DNFBPs), and non-profit organisations (NPOs).³⁷ A constructivist reading of actors' roles shows that FATF norms, the states' and NSAs' interests are mutually constitutive.³⁸ Therefore, a central argument of this article is that the parties should cooperate rather than spend resources on greylisting and sanctions.³⁹

Even though it is recognised as a global institution, the FATF is not a treaty-based organisation. Rather, it is an intergovernmental agency housed by the Organisation for Economic Co-operation and Development in Paris. It was set up as a task force in July 1989 at the G7 Summit in Paris.⁴⁰ The FATF operates in accordance with its mandate and high-level principles in

28. *Ibid.*

29. *Ibid.*

30. Franck, *The Power of Legitimacy Among Nations*, p. 44; Brunnée and Toope, *Legitimacy and Legality in International Law*, p. 99.

31. Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist', p. 511.

32. *Ibid.*

33. Brunnée and Toope, *Legitimacy and Legality in International Law*. See also James G March, Johan P Olsen, 'The Institutional Dynamics of International Political Orders', *International Organization* (Vol. 52, No. 4, 1998), pp. 943–69. They explain how norms influence states' compliance through identity and logic of appropriateness. See also Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999).

34. Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist', p. 512. This author refers to the greylist as the 'non-complier list'.

35. Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization* (Vol. 52, No. 4, 1998), pp. 887–917.

36. FATF, 'FATF Ministers Give FATF an Open-Ended Mandate', 12 April 2019, <<https://www.fatf-gafi.org/en/publications/Fatfgeneral/Fatf-mandate.html>>, accessed 3 February 2026.

37. Wendt, *Social Theory of International Politics*; FATF, 'The FATF Recommendations'. R8 requires countries to monitor non-profit organisations (NPOs) for possible vulnerability to terrorist financing, R10 requires financial institutions (FIs) to undertake surveillance of customers and report infractions, and R22 requires designated non-financial businesses and professions (DNFBPs) to undertake and report infractions.

38. FATF, 'The FATF Recommendations'. See R1, which requires FIs and DNFBPs to undertake risk assessments.

39. Chayes and Chayes, *The New Sovereignty*, p. 2.

40. G7 Summit, 'Economic Declaration', 16 July 1989, <<https://g7.utoronto.ca/summit/1989paris/communique/index.html>>, accessed 3 February 2026.

collaboration with FATF-Style Regional Bodies (FSRBs).⁴¹ The FATF refers to itself as a 'global network' of more than 200 jurisdictions. It brings together representatives from its 40 executive member nations, two regional organisations (the Gulf Cooperation Council and the European Commission), nine FSRBs⁴² and large observer organisations. Since its establishment, South Africa is the only country from Africa to have been admitted to FATF executive membership. While it is fair to assume that a normative framework for cooperation in global AML/CFT/PTF space is in place, it is not evident from the FATF's mandate.⁴³

In the FATF, decision-making is consensus-based. The Plenary is the ultimate authority on all technical issues.⁴⁴ Meeting three times a year in Paris, the Plenary is the highest organ and can overrule mutual evaluation findings by consensus. When it cannot convene, the FATF employs alternative decision-making procedures, such as consultations or written requests to members, to address urgent matters between meetings. There have been persistent criticisms of the dominance that developed economies have over the FATF executive.⁴⁵ Scholars such as Saby Ghoshray and Ben Hayes criticised the process for being influenced by the interests of a few Western countries.⁴⁶ Arguably, the consensus criterion may not guarantee legitimacy and support from a variety of members.

Consultation and Interaction

Scholars have criticised the publication and adoption in 1990 of the first set of 40 Recommendations due to inadequate consultation and lopsided decision-making processes.⁴⁷ They also criticised the nine Recommendations adopted after the 9/11 terrorist attacks.⁴⁸ They argue that the amendments followed a US-led effort to ensure that countermeasures to the financing of terrorism were globally adopted.⁴⁹ Although the Recommendations and other policy documents have undergone iterations over the years, and were updated most recently in October 2025,⁵⁰ concerns remain over their legitimacy and impact.⁵¹ The process of amending Recommendations has met resistance as scholars have argued that it is influenced by US foreign policy on AML/FT, and pushed through the FATF without adequate deliberation.⁵² Hayes argued that inadequate consultation or interaction led to unintended consequences – a view held by other scholars.⁵³ The FATF's recent consultative process, which it asserts provides a forum for experts and states to discuss policies before adoption, presents a departure from lack of transparency in rule-making.⁵⁴ This article agrees that creating such an 'epistemic community' around its core objectives would indeed strengthen the FATF's capacity to accommodate experts from lower-capacity countries.⁵⁵

41. FATF, 'High-Level Principles for the Relationship Between the FATF and the FATF-Style Regional Bodies', 2012, updated February 2019, <<https://www.fatf-gafi.org/en/publications/Fatfgeneral/High-levelprinciplesfortherelationshipbetweenthefatfandthefatf-styleregionalbodies.html>>, accessed 3 February 2026. This version reflects amendments made in 2016 and 2019.

42. The African FSRBs include: Action Group Against Money Laundering in Central Africa (GABAC); Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG); Middle East and Northern Africa (MENA) FATF; Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA).

43. FATF, 'High-Level Principles for the Relationship Between the FATF and the FATF-Style Regional Bodies'.

44. FATF, 'FATF Ministers Give FATF an Open-Ended Mandate'.

45. Ghoshray, 'Compliance Convergence in FATF Rulemaking'; Hayes, 'Counter-Terrorism, "Policy Laundering" and the FATF'.

46. *Ibid.*

47. *Ibid.* Hayes criticised the inclusion, without adequate consultation, of NPOs as high-risk entities.

48. FATF, 'FATF Ministers Give FATF an Open-Ended Mandate'.

49. Ghoshray, 'Compliance Convergence in FATF Rulemaking'; Hayes, 'Counter-Terrorism, "Policy Laundering" and the FATF'. Morse, a former US state official, confirms this widely held view about the US influence. See Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing'.

50. FATF, 'Consolidated Processes and Procedures for Mutual Evaluations and Follow-Up: "Universal Procedures"', 2023, amended December 2025, <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Universal-Procedures-2023.html>>, accessed 3 February 2026. This version reflects 2025 amendments.

51. Hayes, 'Counter-Terrorism, "Policy Laundering" and the FATF'; Ghoshray, 'Compliance Convergence in FATF Rulemaking'.

52. FATF, 'Mitigating Unintended Consequences', 2021, <<https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html>>, accessed 3 February 2026. Acknowledging some of the challenges highlighted by Hayes and other scholars, in this 2021 report, FATF committed to make changes to its consultative process.

53. Louis de Koker, John Howell and Nicholas Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force', *Risks* (Vol. 11, No. 5, 2023); Kateryna Boguslavskaya, 'FATF Grey List: Truth and Myths', Basel Institute on Governance, 6 February 2025, <<https://baselgovernance.org/blog/fatf-grey-list-truth-and-myths>>, accessed 4 February 2026; Pavlidis, 'The Dark Side of Anti-Money Laundering'.

54. Ghoshray, 'Compliance Convergence in FATF Rulemaking'; FATF, 'Jamaica and Nigeria to Join FATF Guest Initiative', 23 July 2025, <<https://www.fatf-gafi.org/en/publications/Fatfgeneral/Jamaica-Nigeria-FATF-Guest-Initiative.html>>, accessed 2 April 2026. This is one of the FATF initiatives aimed to address concerns over inclusion and the unintended consequences of the FATF Recommendations and greylisting.

55. On epistemic communities, see Peter M Haas, 'Introduction: Epistemic Communities and International Policy Coordination', *International Organization* (Vol. 46, No. 1, 1992), pp. 1–36; Adler argues that an epistemic community of experts allow for interaction, interpretation and for norms to be sustained over time, thus leading to compliance. See Emanuel Adler, 'The Emergence of Cooperation: National Epistemic Communities and the International Evolution of the Idea of Nuclear Arms Control', *International Organization* (Vol. 46, No. 1, 1992), pp. 101–45.

Risk-Based Approach

Most countries face challenges in identifying and mitigating ML/FT/PF risks. The risk-based approach requires countries, FIs and DNFBPs to identify, assess and understand the risks to which they are exposed, and take appropriate mitigation measures in accordance with the level of risks, in contrast to the rule-based approach.⁵⁶ Scholars have argued that the risk-based approach mechanism may have unintentional negative economic impact on listed countries.⁵⁷ For example, Recommendation 1 (R1) makes it mandatory not only for countries to identify and assess their risks, but also to ensure that preventive measures correspond to these risks. Countries are most likely to be sanctioned through greylisting, where they fail to meet the compliance rating for R1 because it is considered critical to a country's understanding of its ML/FT/PF risks. Additionally, once a country is greylisted, data shows that it often results in unintended consequences that are difficult for the FATF to mediate.⁵⁸

The technical and effectiveness thresholds set by the risk-based and greylisting approaches have led to enduring challenges in the Global South. These raise tensions between the need for technical compliance and substantive effectiveness, and between formal assessment routines and developmental realities.⁵⁹ In criticising the greylisting procedure, Louis de Koker, John Howell and Nicholas Morris noted that 'punitive measures could be avoided where countries have already committed to addressing the identified risks through a clear action plan to avoid potential negative impact on development aid and economic and social harms'.⁶⁰

The data from African countries examined in this article support the views of these scholars, which are reinforced by the FATF's report showing that, despite the application of these punitive measures, persistent gaps remain in investigative capacity, beneficial ownership transparency and cross-border case handling.⁶¹

Evaluation Methodology: Technical Versus Effectiveness Compliance

The FATF has transitioned from its focus on legal frameworks to a dual assessment of technical compliance and effectiveness. The initial peer review process emphasised legal compliance. However, the recognition that this does not equate to effective outcomes led to the adoption of a 2013 methodology, which introduced the need for effectiveness criteria based on 11 immediate outcomes (IOs). These outcomes represent key goals that states must meet or face sanctions.⁶² Undoubtedly, this has posed challenges for low-capacity countries in the Global South due to competing demands for limited resources.⁶³ Scholars have argued that the effectiveness evaluation, which was intended to be context-specific and 'commensurate with risks', has become a subjective tool under which most low-capacity countries are branded as 'high risk' requiring increased monitoring.⁶⁴

56. FATF, 'The FATF Recommendations'. See R1.

57. de Koker, Howell and Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force', p. 7.

58. de Koker, Howell and Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force'.

59. *Ibid.*; See Basel Institute on Governance, 'Basel AML Index 2025'; Boguslavskaya, 'FATF Grey List'.

60. de Koker, Howell and Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force', p. 23.

61. FATF, 'Report on the State of Effectiveness and Compliance with the FATF Standards', April 2022, <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Fatfgeneral/Effectiveness-compliance-standards.html>>, accessed 11 March 2026; FATF, 'FATF Launches New Procedure to Address Unintended Consequences Affecting Non-Profit Organisations', 10 July 2025, <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Financialinclusionandnpoissues/new-procedure-unintended-consequences-npos-2025.html>>, accessed 11 March 2026. For other critical views, see Mark Nance, 'Julia C. Morse. 2022. The Bankers' Blacklist: Unofficial Market Enforcement and the Global Fight Against Illicit Financing. (Ithaca: Cornell University Press) Michele Riccardi. 2022. Money Laundering Blacklists. (New York: Routledge). Nkechikwu Valerie Azinge-Egbiri. 2021. Regulating and Combating Money Laundering and Terrorist Financing: The Law in Emerging Economies. (New York: Routledge)', book review, *Review of International Organizations* (Vol. 17, No. 4, 2022), pp. 899–910.

62. FATF, 'Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems', 2013, updated December 2025, <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html>>, accessed 20 March 2026. This version includes updates from 2022 amendments.

63. de Koker, Howell and Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force'.

64. Basel Institute on Governance, 'Basel AML Index 2025'. See Table 1 in the Annex on data from African greylisted countries.

Procedure for FATF Sanctions

There are two sanction processes, formally referred to as 'jurisdictions under increased monitoring' and 'high-risk jurisdictions' subject to a call for action.⁶⁵ These processes are how the FATF enforces its compliance mandate,⁶⁶ and are often referred to as 'greylist' and 'blacklist'.⁶⁷ Although the FATF lacks official enforcement authority and does not require countries to publish sanctions, this name-and-shame strategy, overseen by the International Cooperation Review Group (ICRG), is considered its most effective instrument for promoting compliance.⁶⁸ As of October 2025, the FATF has reviewed 139 jurisdictions. It has publicly identified 114, and removed 86 following ICRG approvals, while 24 remain under increased monitoring.⁶⁹

The ICRG process, initiated in 2007 and refined in 2009 and 2015, aims to identify countries with weak or inadequate AML/CFT systems. Jurisdictions can enter the ICRG under the following three circumstances: poor mutual evaluation results (including significant non-compliance ratings); lack of participation in an FSRB; or specific risk nominations from FATF members. Poor MERs are the most frequent reason for referring jurisdictions. Jurisdictions that are considered not to have met the effective outcome are subjected to a one-year observation period to avoid greylisting. On average, countries spend 12 months to three years before being removed from the list.⁷⁰

Scholars have observed that being placed on a greylist has led to various types of negative consequences, even when unintended.⁷¹ Once greylisted, other jurisdictions – particularly the executive members of the FATF, which represent more than half of the global economy – take significant actions such as publishing financial advisories.⁷² There are two measures that have a particular impact. The first is requiring enhanced due diligence (EDD) of all transactions from these countries; the second is sanctioning FIs and DNFBPs that fail to apply the EDD. This has led to what is known as 'de-risking' or the cutting off of an entire class of customers.⁷³ This means that risk-averse firms and those fearing possible sanctions from regulators take additional steps to block transactions with greylisted countries. Additionally, financial institutions may exit entire business categories to avoid complex compliance rather than properly managing risks.⁷⁴

There are two measures that have a particular impact. The first is requiring enhanced due diligence (EDD) of all transactions from these countries; the second is sanctioning FIs and DNFBPs that fail to apply the EDD.

65. FATF, 'Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems'.

66. Mark T Nance, 'Naming and Shaming in Financial Regulation: Explaining Variation in the Financial Action Task Force on Money Laundering', in H Richard Friman (ed), *The Politics of Leverage in International Relations: Name, Shame, and Sanction* (London: Palgrave Macmillan, 2015), pp. 149–170.

67. FATF, '“Black and Grey” Lists'; John Everington, 'Assessing the Impact of FATF's Grey List', *The Banker*, 21 February 2024, <<https://www.thebanker.com/Assessing-the-impact-of-FATF-s-grey-list-1707734050>>, accessed 13 January 2026.

68. Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing'.

69. FATF, 'Jurisdictions Under Increased Monitoring - 24 October 2025'.

70. Basel Institute on Governance, 'Basel AML Index 2025'. See Table 1 in the Annex on data from African greylisted countries.

71. Basel Institute on Governance, 'Basel AML Index 2025'.

72. US Financial Crimes Enforcement Network (FinCEN), 'Advisory on the Financial Action Task Force-Identified Jurisdictions with Anti-Money Laundering, Combating the Financing of Terrorism, and Proliferation Deficiencies', FinCEN Advisory FIN-2020-A009, 6 November 2020, <<https://www.fincen.gov/system/files/advisory/2020-11-06/FATF%20October%202020%20Advisory%20FINAL%20508.pdf>>, accessed 13 February 2026; European Commission, 'Commission Delegated Regulation (EU) 2025/1184 of 10 June 2025 Amending Delegated Regulation (EU) 2016/1675', *Official Journal of the European Union* (L2025/1184, 16 July 2025); See Nigerian Ministry of Finance, 'Nigeria Welcomes Removal of the Country from EU AML/CFT High-Risk List', 2026, <<https://finance.gov.ng/nigeria-welcomes-european-commissions-removal-of-the-country-from-eu-aml-cft-high-risk-list/>>, accessed 12 March 2026. Morse aligns with the view that the non-complier list is an effective tool in the hands of financial institutions to compel compliance. See Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing'.

73. FATF, 'Mitigating Unintended Consequences'; Boguslavskva, 'FATF Grey List'.

74. Morse, 'Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing'.

Findings from the Analysis of MERs of Greylisted African Countries

Table 1 (see Annex) shows data collected from the MERs of 22 countries published on the websites of the FATF and the FSRBs. The data shows the widespread listing of African countries, with West Africa accounting for the largest number of sanctioned countries.⁷⁵ The data were analysed to examine the duration each country was listed and the time it took to substantially achieve an effective outcome before it was delisted. Notably, while the listings were in effect, each country's financial system was excluded from international transactions.⁷⁶

This data was helpful in examining the tensions related to compliance with the risk-based approach and to other measures introduced during the fourth round of evaluation. The findings help to situate the dynamics of the FATF sanctions regime through the lens of Franck's legitimacy test.⁷⁷ He noted that '[i]n determining the fairness of a norm or rule, it must be firmly rooted in a framework of formal requirements about how rules are made, interpreted and applied, while a belief in the legitimacy of the rule reinforces perception of its fairness and encourages compliance'.⁷⁸ In analysing the data, this test was found to be relevant to determining the fair and legitimate application of the enforcement measures.⁷⁹

The analysis for Table 1 found that, of the 139 jurisdictions assessed, Africa accounted for nearly a third (30%) of the countries on the greylist for increased monitoring.⁸⁰ Of the 22 countries, 14 were delisted over the past 13 years, with an average listing period of three years,⁸¹ while eight countries remain on the list. Predominantly, the reasons for greylisting were: weak implementation of beneficial ownership transparency (R24/25); lack of risk-based supervision of the DNFBP sector (R22/23/28); weak targeted financial sanctions for TF and PF (R6/7); inadequate

utilisation of financial intelligence unit (FIU) intelligence (IO6); weak enforcement of ML/TF or poor investigation and prosecution outcome (IO7/IO9); weak confiscation data (IO8) relative to risks identified in the countries; and weak prevention measures for cash couriers related to systems for declaration of movement of cash in and out of the countries (R32).

The data in Table 1 affirmed the findings from the 2025 Basel AML Index⁸² and the Basel Special Report on Africa.⁸³ However, while acknowledging the disproportionate impact of greylisting, the Basel Special Report on Africa did not examine or critique the rationale for including African countries that score below the global and regional average as high risk. For example, it noted that the region's average risk is 6.58 out of 10, while the global average is 5.25. Using the Basel Special Report on Africa to triangulate the data in Table 1, it was found that scores for two countries placed on the greylist – Botswana (5.07), and Mauritius (5.03) – were within the range that could have escaped the consequences of greylisting while ongoing interaction and management of the strategic deficiencies were addressed.⁸⁴ This is also the case with South Africa (5.81) and Ghana (5.70), given the low level of risks in these two countries. When these four countries were compared with the 2025 AML Index in Table 2, there is an even more compelling reason to reconsider the process and the rationale for greylisting.⁸⁵ In line with this article's contention, the 2025 AML Index highlighted the need to consider countries' contexts when assessing their AML/CFT/PF risks.⁸⁶

Using a different statistical method that groups jurisdictions into natural patterns in the data rather than fixed cut-off points,⁸⁷ the 2025 Basel AML Index categorised countries into 'low', 'medium', and 'high risk'. Lower-risk countries are within the 4.70 risk band; medium-risk countries range from 4.70 to 6.08; and high-risk countries

75. FATF, 'Jurisdictions Under Increased Monitoring - 24 October 2025'. By FSRB, the number of countries is: GIABA (5); GABAC (2); MENA; and ESMAALG (8). Note that most of the countries have been delisted as of October 2025, while eight countries remain listed.

76. FATF, 'Jurisdictions Under Increased Monitoring - 24 October 2025'. See EU and FinCEN advisories which contributed significantly to the exclusion or derisking by firms. See de Koker, Howell and Morris, 'Economic Consequences of Greylisting by the Financial Action Task Force', p. 7.

77. Franck, *Fairness in International Law and Institutions*, p. 8.

78. *Ibid.*

79. *Ibid.* Ghoshray also argues that FATF rule-making process lacks transparency. See Ghoshray, 'Compliance Convergence in FATF Rulemaking', p. 525.

80. Basel Institute on Governance, 'Basel AML Index 2025'.

81. See Table 1 in the Annex on data from African greylisted countries.

82. Basel Institute on Governance, 'Basel AML Index 2025'.

83. Basel Institute on Governance, 'Special Report: FATF Grey-Listing in Sub-Saharan Africa'.

84. Chayes and Chayes, *The New Sovereignty*.

85. Basel Institute on Governance, 'Basel AML Index 2025'.

86. Basel Institute on Governance, 'Basel AML Index 2025', p. 18.

87. Basel Institute on Governance, 'Basel AML Index 2025'. Note that 'Jenks natural breaks' – a statistical method that groups jurisdictions according to natural pattern – were applied to the data rather than fixed cut-off points.

Table 2: Comparing Risk Scores Between the 2022 Basel Special Report on Africa and the 2025 Basel AML Index Report

Countries	Special Report on Sub-Saharan Africa 2022 Risk Scores	AML Index Report 2025 Risk Scores	2025 Categorisation*
Botswana	5.07	4.12	LR
Mauritius	5.03	4.65	LR
Namibia	Not included	4.78	MR
Tunisia	Not included	4.75	LR
Morocco	Not included	5.04	MR
Ghana	5.70	5.13	MR
Tanzania	6.33	5.51	MR
South Africa	5.81	5.63	MR
Burkina Faso	6.63	5.75	MR
Zimbabwe	6.70	5.99	MR
Côte d'Ivoire	Not included	6.05	MR
Nigeria	6.77	6.18	HR
Mali	7.28	6.22	HR

* Low risk (LR): below 4.70; medium risk (MR): 4.70 to 6.08; high risk (HR): above 6.08.

Sources: Basel Institute on Governance, 'Basel AML Index 2025 – 14th Public Edition: Assessing Global Money Laundering and Financial Crime Risk Ranking', Basel Institute on Governance, December 2025, pp. 38–44, <<https://baselgovernance.org/publications/basel-aml-index-2025>>, accessed 21 January 2026; Basel Institute on Governance, 'Special Report: FATF Grey-Listing in Sub-Saharan Africa', 2022, p. 6, <<https://index.baselgovernance.org/api/assets/f2c74bc1-2760-4bea-a118-aaa96b9cdf09>>, accessed 21 January 2026.

range from 6.08 and above.⁸⁸ It argued for the emphasis to be placed on proportionality based on geographical assessments. The findings from the Basel AML Index showed a significant shift relative to the scores in the Basel Special Report on Africa and the ranking of countries in their MERs in Table 2 showed that most countries fell within the medium-risk band.

This article argues that although Basel noted that the changes in the 2025 AML Index reflect the work done between the countries' greylisting and delisting periods, the findings from Table 1 point to a different outcome: rather than greylisting, a more cooperative model of engagement would have led to a more effective and legitimate outcome.

88. Basel Institute on Governance, 'Basel AML Index 2025'.

Specific Findings

First, the analysis of the data shows that most greylisted jurisdictions are low-income countries. The exceptions are Nigeria and South Africa, which have large financial systems and substantial exposure to the international financial system. Notably, South Sudan was greylisted in 2021 rather than receiving technical assistance to build an effective AML/CFT/CPF system, due to its weak governance structures.⁸⁹

Second, the FATF notes that the effectiveness outcome is to be applied at the highest level with a view that 'financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening the financial sector integrity and contributing to safety and security'.⁹⁰ However, the data showed that even where a country is considered low risk due to its low level of exposure to the international financial system, the reasons for greylisting included inadequate risk assessment, the financing of terrorism, and non-implementation of FATF rules on targeted financial sanctions.⁹¹

Third, where the threat of money laundering is significantly lower than in most European and North American countries, low-income countries were expected to provide data on investigations, prosecutions and confiscations commensurate with the risks, even where such data did not exist.⁹² Significantly, it was observed that the lack of effective outcomes in IO7, IO8 or IO9 has a significant influence on the IO6 outcome since investigators depend largely on intelligence from FIUs. In contrast, prosecutors rely on credible investigation reports to present a good case in court. Arguably, in countries not exposed to large-scale grand corruption or money laundering, data on prosecutions and investigations would be minimal. Additionally, since suspicious transaction reports (STRs) can only be filed when the FI or DNFBPs have determined that a given set of transactions poses risks, it would be inappropriate to request STRs that simply

do not exist. The same rationale or justification could be attributed to the low number of currency transaction reports (CTRs) submitted to the FIU in contexts where most greylisted countries are very small economies. It is unlikely that these countries have substantial interaction with international FIs; thus, the data for STRs and CTRs are expected to be proportional to the size of the economy.

In support of this view, Abram Chayes and Antonia Handler Chayes suggest that when a country can justify its reasons for lagging in meeting its obligations to external bodies, such a justification should not be considered as non-compliant. Rather, it should be considered as a basis for developing remedial interventions.⁹³

Fourth, despite having commenced the fourth round in 2012, the FATF has continued to amend the Recommendations and other normative frameworks at every Plenary. This has led to the recent adoptions of new standards on beneficial ownership and asset recovery, among others.⁹⁴ This may place a burden on countries as they struggle to engage with the ICRG process while also trying to improve their laws in line with the new standards.

The FATF's approach to enforcement and the calculation of the benefits of sanctions have led to situations in which greylisted countries are subject to financial advisories and to exclusion from international financial transactions. This has occurred regardless of whether the FATF approved the sanctions. The observed impact of greylisting sees, on average, declines of capital inflows of 7.6% of GDP, foreign direct investment of 3% of GDP, portfolio inflow of 2.9% of GDP, and other investment of 3.6% of GDP.⁹⁵ Given these adverse impacts, this article proposes that the appropriate approach would be to negotiate a model that uses the period of increased monitoring to provide technical assistance, address capacity gaps, and ensure that countries meet the required effectiveness measures.⁹⁶

The challenges outlined above have continued to undermine the FATF's legitimacy, leading to power asymmetry and geopolitical tensions.⁹⁷

89. FATF, 'Jurisdictions Under Increased Monitoring - 24 October 2025'. FATF noted that South Sudan has failed to meet its commitment and deadlines. It is suggested that, given the conflict situation in South Sudan, a managerial model of engagement, rather than greylisting, is required.

90. FATF, 'Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems'.

91. As shown in Table 1 in the Annex, Botswana and Mauritius are an interesting case study. Given the long-term impact of greylisting, it is argued that Ghana and South Africa could have been considered for managerial support rather than greylisting.

92. Basel Institute on Governance, 'Basel AML Index 2025'.

93. Chayes and Chayes, *The New Sovereignty*, p. 15.

94. FATF, 'Amendments to the FATF Standards to Strengthen Global Asset Recovery', 16 November 2023, <<https://www.fatf-gafi.org/en/publications/Fatfrecommendations/amendment-fatf-standards-global-asset-recovery.html>>, accessed 7 April 2026.

95. Boguslavskaya, 'FATF Grey List'.

96. Chayes and Chayes, *The New Sovereignty*.

97. Basel Institute on Governance 'Basel AML Index 2025'.

Lingering issues of procedural and distributive justice regarding the FATF's enforcement measures have generated tensions and require resolution.⁹⁸ Some of these challenges are linked to the limited representation of developing economies and NSAs in the FATF's executive membership, the validity of the decision-making procedures, inadequate time between the issuance of new norms and their implementation, use of consensus rather than voting as a means of decision-making and in flagging countries for greylisting, as well as the legitimacy of the mechanism for determining countries for greylisting.

There are also growing concerns that the expansion of FATF Recommendations over time has not led to consideration of its transnational legal mandate. As Koh argued, limitations in articulating the transnational nature of a norm directly affect how nations comply.⁹⁹ The same is true of FATF mandates. The FATF's transnational legal features – impacting states and NSAs alike, albeit without treaty-binding effect – mean that the organisation has a responsibility to act in accordance with international rules that are fair to all countries.¹⁰⁰ Such features, which Koh and Franck consider will 'pull towards compliance', include interaction, interpretation and internalisation.¹⁰¹ This article argues that interaction and internalisation, rather than greylisting, are required for a transnational regime to be accepted in a country, leading to greater compliance. For Franck, the legitimacy of procedures and the substantive fairness of rules, norms or laws lead to voluntary compliance.¹⁰² He observed that '[t]o be effective, a system must be seen to be effective, its decisions must be arrived at discursively in accordance with what is accepted by the parties as a right process'.¹⁰³

Even by the FATF's own account, its data on effectiveness shows that the fourth round of evaluations led to mixed outcomes. Although technical compliance improved globally, with 76% improvement compared with 36% in 2012, effectiveness lags even among developed countries. This is particularly so in cross-border investigations, misuse of corporate vehicles and beneficial ownership transparency.¹⁰⁴ There are several questions that flow from the above findings. Why are only low- and middle-income countries penalised for failures that apparently have a global reach? Why is it that Western banks and multinationals can receive and retain corrupt funds or pay bribes and never get greylisted, while the countries of origin are persistently sanctioned?

One example of a lopsided compliance sanction is the recent review of FATF Recommendations 4 and 38 on asset recovery and confiscation capacity, which reveals deep-rooted concerns about weak compliance among members.¹⁰⁵ The FATF's former president noted that only 1% of looted assets are recovered or returned to their countries of origin.¹⁰⁶ The weakness in this regime has undoubtedly had a disproportionate impact, as illicit funds that are supposed to be confiscated and returned to victims' countries remain in Western banks.¹⁰⁷ Significantly, available data suggest that these victim countries are mostly those on the greylist due to limited capacity and resources.¹⁰⁸

98. Franck, *Fairness in International Law and Institutions*, p. 7.

99. Koh, 'Why Do Nations Obey International Law?', p. 2646.

100. Franck, *Fairness in International Law and Institutions*, p. 7.

101. *Ibid.*

102. Franck, *Fairness in International Law and Institutions*, p. 13.

103. Franck, *Fairness in International Law and Institutions*, p. 7.

104. Basel Institute on Governance, 'Basel AML Index 2025'; Hayes, 'Counter-Terrorism, "Policy-Laundering" and the FATF'. Hayes noted that the significant effect of NPO derisking is felt more in countries where 'suspicion' is high that terrorism is prevalent. This occurs even when there has not been evidence to that effect.

105. Oscar Solorzano, 'FATF Seeks to Change the Landscape of International Asset Recovery: What This Means for Latin America', Basel Institute on Governance, 5 July 2024, <<https://baselgovernance.org/blog/fatf-seeks-change-landscape-international-asset-recovery-what-means-latin-america>>, accessed 7 April 2026.

106. FATF, 'FATF-INTERPOL Partnership: Igniting Global Change to Take the Profit Out of Crime', 20 September 2023, <<https://www.fatf-gafi.org/en/publications/Methodsand Trends/FATF-Interpol-partnership.html>>, accessed 2 April 2026.

107. *Ibid.*

108. Stolen Asset Recovery Network, 'The Database | Stolen Asset Recovery Initiative (StAR)', 2003, <[https://star.worldbank.org/asset-recovery-watch-database/database-search?geosearch=Nigeria&f\[0\]=geosearch_fe:151](https://star.worldbank.org/asset-recovery-watch-database/database-search?geosearch=Nigeria&f[0]=geosearch_fe:151)>, accessed 3 February 2026.

Recent Changes and Implications

Some scholars argue that FATF enforcement strategies have worked.¹⁰⁹ However, it is important to examine why the FATF is constantly moving the goalposts by revising the rules, recommendations and methodology. Arguably, such changes try to address the legitimacy gaps, while working under the presumption that light-touch amendments to the Recommendations – without a structural and institutional review – will address the problems. This article disagrees with this approach, noting that more is required to build a FATF fit for the future. Ultimately, the FATF, states and NSAs must interact and agree on the form of organisation they want.

In recognition of the challenges highlighted in this article and in response to persistent complaints, the FATF once again updated the Recommendations and methodology in 2022.¹¹⁰

The new rules emphasise proportionality as the basis for applying risk-based approaches with the intention that countries whose financial centres are worth more than \$10 billion will be considered first for greylisting. Least developed countries, as defined by the UN, will be considered a high-risk situation in fewer circumstances.¹¹¹ The FATF also took steps to foster inclusiveness and strengthen global AML/CFT/PT capacity by incorporating selected countries into a ‘guest initiative’ that allows selected members of FSRBs to participate in plenaries and related working group meetings for one year, starting in October 2025.¹¹² It has been argued that the ‘proportionality’ test will address the challenges faced by least developed countries, and that the guest initiative will gradually improve inclusion. However, it is too early to assess the impact of these changes.

Recommendations

Despite its limitations as a rationalist account of why countries comply with treaty regimes,¹¹³ Chayes and Chayes’ framework articulates an alternative managerial and cooperative theory of change that can replace greylisting, financial advisories and sanctions, reducing their negative effects on low-income countries.

They suggested that reasons for non-compliance could be traced to ambiguity and the indeterminacy of the treaty, the limitation on the parties’ capacity to carry out their undertakings and the temporal dimension of the social, economic and political changes contemplated by regulatory treaties.¹¹⁴ They argued that although these could be justifications for non-compliance, the test of whether there was wilful non-compliance is inherently subjective; therefore, non-compliance should first be considered not wilful and should be addressed through dialogue and diplomatic engagement.

In addition, their proposal recognises that the interactional process for dealing with non-compliance or weakness identified in a state should include: development of data about the situation and parties under regulation; identification of a behaviour that raises significant compliance questions; diagnosis of the sources of deviant behaviour; examination of the non-complying party’s capacity to carry out its obligation; offers of technical assistance to redress any undercapacity; the threat or invocation of a dispute settlement mechanism; and, where the need arises, the consideration of an amendment of the norms to address persistent gaps.¹¹⁵

109. Boguslavskaya, ‘FATF Grey List’; Morse, ‘Blacklists, Market Enforcement, and the Global Regime to Combat Terrorist Financing’.

110. FATF, ‘Procedures for the FATF AML/CFT/CPF Mutual Evaluations, Follow-Up and ICRG’, 2022, updated December 2025, <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/5th-Round-Procedures.html>>, accessed 3 February 2026.

111. Basel Institute on Governance, ‘Basel AML Index 2025’.

112. FATF, ‘Jamaica and Nigeria to Join FATF Guest Initiative’, 2025.

113. Chayes and Chayes, *The New Sovereignty*, pp. 9–17.

114. *Ibid.*

115. *Ibid.*

Overall, this article finds that these recommendations reflect the need for transparency as an overarching element for building legitimacy and compliance. To address geopolitical tensions, a dispute settlement platform is recommended. This will prevent, in a timely manner, misinterpretations of FATF greylisting procedures, the application of financial sanctions and unintended consequences. The members of such a body must be drawn from all regions of the world and must be experts in specific aspects of FATF functions and substantive crimes. The dispute settlement mechanism can be formed of two persons from each region, working on a rotational basis for one or two years. This touches on the issue of fairness and the extent to which the FATF and the FSRBs can serve as judges in their own cases. Having conducted the assessment, it should be the responsibility of another person or an independent body to determine what constitutes non-compliance.¹¹⁶

Given the complexity of the FATF risk-based approaches, it is relevant to address the issue of capacity building and the development of a community of experts across countries and regions.¹¹⁷ The roles of these experts would be to support countries for one year before they are evaluated. It is recommended that the Montreal Protocol¹¹⁸ approach to funding low-capacity countries, which ensures they meet basic compliance and effectiveness ratings before evaluation, be adopted to address the disproportionate impact of FATF rules.¹¹⁹

Finally, consideration should be given to an interactive compliance regime that examines how norms – such as FATF rules – emerge and are negotiated. This should have a view to reaching a shared understanding of the most important criteria and ultimately ‘pull states towards compliance’ more effectively than any sanctions regime.¹²⁰ This article argues that a combination of the managerial model of Chayes and Chayes, and the interactive compliance framework proposed by Fuller and Brunnée and Toope, will set the FATF on a path towards greater legitimacy and enhanced compliance.¹²¹

Conclusion

The article aimed to evaluate the extent to which FATF norms, membership, policymaking and compliance processes are fit for purpose. It examined the systems through which the FATF’s decisions are made and how power is distributed among members and non-members. This helps to answer the question of what is required to make the FATF fit for the future. To undertake this task, it drew on theories of international norm compliance scholars by highlighting the importance of interaction, legitimacy and fairness in securing compliance, particularly where a norm lacks treaty status.

The article provided a limited analysis of information collected from MERs of 22 African countries; this data was triangulated with the 2025 Basel AML Index and the Basel Special Report for Africa. This article recommended that a combination of a managerial model and an interactional compliance framework will create greater legitimacy and enhanced compliance with FATF norms. It is suggested that future work on this topic could focus on extended interviews with state and NSAs from greylisted countries to gather primary data and to better understand their interpretations of FATF norms, processes and impact. ■

Juliet Ibekaku-Nwagwu is a doctoral researcher at the School of Law, Politics and Sociology, University of Sussex, UK. She was a former Director of the Nigerian Financial Intelligence Unit, and previously worked as a Legal Expert at the FATF-styled regional body – the Intergovernmental Action Group Against Money Laundering in West Africa (GIABA). Her research interests include transnational legal order, international legal compliance, asset recovery and return and victim compensation.

116. Fuller, *The Morality of Law*, p. 6. This aligns with his expectation that norms should not be contradictory and that attorneys cannot be judges in their own case.

117. Chayes and Chayes, *New Sovereignty*, p. 15; Brunnée and Toope, *Legitimacy and Legality in International Law*; Adler, ‘The Emergence of Cooperation’.

118. Montreal Protocol on Substance That Deplete the Ozone Layers, 1987; See remarks made by Shinya Murase et al., in *Proceedings of the ASIL Annual*, ‘Compliance-Control in Respect of the Montreal Protocol’ (Vol. 89, 1995), pp. 206–19.

119. Montreal Protocol on Substance That Deplete the Ozone Layers.

120. Brunnée and Toope, *Legitimacy and Legality in International Law*, p. 99; Franck, *The Power of Legitimacy among Nations*, p. 26; Koh, ‘Why Do Nations Obey International Law?’, p. 2646.

121. Chayes and Chayes, *New Sovereignty*, p. 10.

Annex

Table 1: African Greylisted Countries

Country	Date Greylisted	Date Exited/ Status	Key Non-Compliance Issues	Effectiveness (11 Immediate Outcomes)	Technical Compliance (40 FATF Recommendations)
Removed from Greylist (14 countries)					
1 Tunisia	November 2017	June 2019 (19 months)	DNFBPs supervision absent; NPO oversight inadequate; TF sanctions not implemented; FIU capacity weak; limited STR reporting.	0 HE, 0 SE, 5 ME, 6 LE (54.5% LE)	10 C, 26 LC, 4 PC, 0 NC (90.0% C/LC)
2 Botswana	October 2018	October 2021 (36 months)	Broad MER gaps across all 40 Recommendations; legislative holes in TF/PF offences; risk-based supervision absent; sanctions framework deficient; BO transparency incomplete.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	7 C, 25 LC, 6 PC, 1 NC, 1 NA (82.1% C/LC)
3 Ghana	October 2018	June 2021 (32 months)	DNFBPs supervision absent; TF investigation/prosecution weak; NPO TF risk not assessed; BO/transparency gaps; STR quality low.	0 HE, 1 SE, 4 ME, 6 LE (54.5% LE)	13 C, 22 LC, 5 PC, 0 NC (87.5% C/LC)
4 Zimbabwe	October 2019	March 2022 (29 months)	Effectiveness gaps across most IOs; FIU under-capacitated; BO transparency deficient; ML investigations minimal; TFS not implemented without delay.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	20 C, 17 LC, 3 PC, 0 NC (92.5% C/LC)
5 Mauritius	February 2020	October 2021 (20 months)	Risk-based supervision not implemented; TF/PF TFS framework absent; BO registry incomplete; FIU operational capacity limited; supervisory sanctions non-dissuasive.	0 HE, 0 SE, 4 ME, 7 LE (63.6% LE)	26 C, 14 LC, 0 PC, 0 NC (100.0% C/LC)
6 Uganda	February 2020	February 2024 (48 months)	National AML/CFT strategy absent; TF criminalisation deficiencies; BO access framework not established; supervisory framework not risk-based; interagency coordination weak.	0 HE, 0 SE, 0 ME, 11 LE (100.0% LE)	16 C, 9 LC, 10 PC, 5 NC (62.5% C/LC)
7 Burkina Faso	February 2021	October 2025 (56 months)	BO registry not established; TFS implementation absent; DNFBPs oversight absent; FIU capacity insufficient; AML/CFT strategy not operationalised; security crisis constrained reform.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	10 C, 22 LC, 8 PC, 0 NC (80.0% C/LC)

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Country	Date Greylisted	Date Exited/ Status	Key Non-Compliance Issues	Effectiveness (11 Immediate Outcomes)	Technical Compliance (40 FATF Recommendations)
Removed from Greylist (14 countries)					
8 Morocco	February 2021	February 2023 (24 months)	ML investigations weak; TFS not implemented without delay; DNFBPs oversight deficient; BO access framework incomplete; FIU-LEA cooperation limited.	0 HE, 1 SE, 7 ME, 3 LE (27.3% LE)	5 C, 34 LC, 1 PC, 0 NC (97.5% C/LC)
9 Senegal	February 2021	October 2024 (44 months)	Broad action plan items (national strategy, supervision, TF investigations, NPO assessment, BO framework, FIU capacity, TFS effectiveness); all resolved by October 2024.	0 HE, 0 SE, 1 ME, 10 LE (90.9% LE)	11 C, 25 LC, 4 PC, 0 NC (90.0% C/LC)
10 Mali	October 2021	June 2025 (44 months)	NRA not disseminated; supervision absent (FIs and DNFBPs); legal persons risk not assessed; FIU/LEA capacity weak; ML/TF not investigated; BO framework non-existent; TFS (TF and PF) not effective.	0 HE, 0 SE, 1 ME, 10 LE (90.9% LE)	6 C, 18 LC, 14 PC, 2 NC (60.0% C/LC)
11 Mozambique	October 2022	October 2025 (36 months)	GIFiM (FIU) capacity weak; ML/TF investigations minimal; AML/CFT supervision not risk-based; TF/PF TFS framework deficient; BO access incomplete.	0 HE, 0 SE, 0 ME, 11 LE (100.0% LE)	5 C, 8 LC, 24 PC, 3 NC (32.5% C/LC)
12 Tanzania	October 2022	June 2025 (32 months)	Risk-based supervision not implemented; ML/TF casework weak; TFS implementation delayed; NPO TF risk not assessed; BO framework incomplete; FIU operational gaps.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	7 C, 13 LC, 16 PC, 4 NC (50.0% C/LC)
13 South Africa	February 2023	October 2025 (32 months)	DNFBP supervision not risk-based; BO access inadequate; FIU-LEA financial intelligence usage low; confiscation results below risk profile; TFS awareness weak; 22-item action plan completed.	0 HE, 0 SE, 8 ME, 3 LE (27.3% LE)	5 C, 32 LC, 2 PC, 0 NC, 1 NA (94.9% C/LC)
14 Nigeria	February 2023	October 2025 (32 months)	AML/CFT legislative gaps; BO register not operationalised; DNFBPs supervision absent; coordination between agencies weak; 19-point action plan completed.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	13 C, 23 LC, 4 PC, 0 NC (90.0% C/LC)

Country	Date Greylisted	Date Exited/ Status	Key Non-Compliance Issues	Effectiveness (11 Immediate Outcomes)	Technical Compliance (40 FATF Recommendations)
8 Countries on FATF Greylist as of February 2026					
15 South Sudan	June 2021	Still listed	Foundational AML/CFT architecture nascent; no functional FIU; supervision absent; BO framework non-existent; TFS not operational; ML/TF investigations absent.	Not in Excel file	Not in Excel file
16 Democratic Republic of the Congo	October 2022	Still listed	AML/CFT supervision not functional; TF framework weak; TFS not operational; LEA enforcement capacity critically low; BO framework absent; FIU under-resourced.	0 HE, 0 SE, 0 ME, 11 LE (100.0% LE)	2 C, 5 LC, 22 PC, 11 NC (17.5% C/LC)
17 Cameroon	June 2023	Still listed	BO framework non-existent; AML/CFT supervision absent (FIs and DNFBPs); FIU dissemination insufficient; TFS not implemented; ML investigations minimal; STR reporting negligible.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	6 C, 28 LC, 4 PC, 2 NC (85.0% C/LC)
18 Namibia	February 2024	Still listed	BO framework deficient; DNFBP supervision absent; FIU capacity insufficient; TF/PF TFS not effective; interagency cooperation weak; risk-based supervision not implemented.	0 HE, 0 SE, 6 ME, 5 LE (45.5% LE)	8 C, 27 LC, 5 PC, 0 NC (87.5% C/LC)
19 Kenya	February 2024	Still listed	ML/TF prosecutions absent; DNFBP supervision deficient; VASP framework non-existent; TFS (TF/PF) not effective; BO coverage incomplete.	0 HE, 0 SE, 2 ME, 9 LE (81.8% LE)	19 C, 9 LC, 10 PC, 2 NC (70.0% C/LC)
20 Algeria	October 2024	Still listed	Weak understanding of ML/TF risks; limited ML investigations and prosecutions; insufficient TF detection; weak implementation of TFS; limited BO access; inadequate risk-based supervision.	0 HE, 2 SE, 3 ME, 6 LE (54.5% LE)	2 C, 18 LC, 11 PC, 8 NC, 1 NA (51.3% C/LC)

Is the Financial Action Task Force Fit for the Future?

Country	Date Greylisted	Date Exited/ Status	Key Non-Compliance Issues	Effectiveness (11 Immediate Outcomes)	Technical Compliance (40 FATF Recommendations)
8 Countries on FATF Greylist as of February 2026					
21 Angola	October 2024	Still listed	Weak understanding of ML/TF risks across competent authorities and the private sector; insufficient risk-based supervision of financial institutions and DNFBPs; low ML investigations and prosecutions despite Angola's high-risk profile; limited ability to identify, investigate and prosecute TF cases; inadequate implementation of TFS without delay; insufficient access to BO information by competent authorities.	0 HE, 0 SE, 3 ME, 8 LE (72.7% LE)	7 C, 16 LC, 14 PC, 3 NC (57.5% C/LC)
22 Côte d'Ivoire	October 2024	Still listed	Limited resources for financial intelligence analysis and law-enforcement investigations; weak oversight of DNFBPs such as lawyers, accountants and real-estate agents; weak BO registers and transparency mechanisms; low number of ML prosecutions and confiscations; limited coordination among FIU, LEAs and judicial authorities.	0 HE, 0 SE, 3 ME, 8 LE (72.7% LE)	6 C, 24 LC, 7 PC, 3 NC (75.0% C/LC)

Source: FATF, 'Consolidated Assessment Ratings-4th Round Ratings', <<https://www.fatf-gafi.org/content/dam/fatf-gafi/Global-Network/consolidated-assessment-ratings-2022-methodology.xlsx.coredownload.inline.xlsx>>, accessed 21 January 2026.

Key:

AML: Anti-money laundering	MER: Mutual evaluation report
BO: Beneficial ownership	ML: Money laundering
C: Compliant	NC: Non-compliant
CFT: counter financing of terrorism	NPO: Non-profit organisation
DNFBPs: Designated non-financial businesses and professions	NRA: National risk assessment
FIU: Financial intelligence unit	PC: Partially compliant
HE: High effectiveness	PF: Proliferation financing
IOs: Immediate outcomes	SE: Substantial effectiveness
LC: Largely compliant	STR: Suspicious transaction report
LE: Low effectiveness	TF: Terrorist financing
LEA: Law enforcement agencies	TFS: Targeted financial sanctions
ME: Medium effectiveness	VASP: Virtual asset service providers