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Bringing back 'ill-gotten' wealth

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The task force set up by the PTI government for bringing back what is called the 'ill-gotten' wealth of Pakistanis parked in foreign countries has already held its first meeting early this week. Meanwhile, the Federal Bureau of Revenue (FBR) is expected to start getting information on such overseas assets of Pakistanis from September 1, 2018 through legal channels.

According to official sources, the Automatic Exchange of Information (AEOI) is an initiative of the Organisation of Economic Cooperation and Development (OECD) members. Though the OECD has prepared a list of 124 countries for the purpose Pakistan, to start with, would receive information from 60 countries including the UAE, the United Kingdom and Switzerland from next month.

Since a big chunk of the ill-gotten wealth of Pakistanis is suspected to have been stashed in the UK, it would be instructive for both the task force and the FBR to closely read the laws that cover money laundering in the UK.

To start with, it would be educative to study closely UK government's plans to create a register of beneficial ownership information of overseas companies or other legal entities that own or buy UK property or participate in UK central government procurement.

The UK's Financial Conduct Authority (FCA) and the National Crime Agency (NCA) have launched a review of the activities of the country's high street banks following revelations about multi-billion dollar money laundering scams.

Money laundering is not as easy to identify and combat as many assume. Moreover, it is worth noting that the UK has taken, or is in the process of taking, some concrete steps to try to address some of the vulnerabilities in its system that money launderers exploit.

The UK's Criminal Finances Bill 2016, it is believed will help to tackle proceeds of crime in the country through Unexplained Wealth Orders (UWOs). These will allow high court judges, after an application from a UK enforcement authority, to give notice of a UWO on property where the respondent is a politically exposed person entrusted with prominent public functions by an international organisation or a country outside the European Economic Area, or there are reasonable grounds for suspecting involvement in serious crime. The respondents must then explain how they acquired these assets. Any failure to respond adequately will mean the property is presumed to be recoverable. Interim freezing orders can also apply to avoid the respondent disposing assets while source of wealth is ascertained.

The EU's Fourth Money Laundering Directive seeks to tighten some of the perceived weaknesses around due diligence requirements for potential money laundering 'enablers', particularly Trust or Company Service Providers (TCSPs), entities used to form companies or other legal persons. They may also act, or arrange for another person to act, as the director, company secretary or nominee shareholder for another person or to provide addresses for firms. A TCSP in Edinburgh allegedly helped to set up a Scottish Limited Partnership, made up of two companies based in the Seychelles, believed to be the beneficiary of $1 billion fraudulently moved out of the Moldovan banking system.

A particular vulnerability has been the previous vagueness around whether customer due diligence should be required when TCSPs register a company on behalf of someone else. Given that this may be a 'one-off transaction' and there may be no further oversight of the business once it is established, this does not necessarily trigger customer due diligence as it is not seen as initiating a 'business relationship'. The recent UK government consultation on the Fourth Money Laundering Directive suggests this will be clarified explicitly as a business relationship in future, thus requiring TCSPs to know more about the companies they are registering.

While efforts are being made to bring back the 'looted' money of Pakistanis parked in foreign countries equally effective measures are being introduced under pressure from Financial Action Task Force (FATF) to curb the outflow of wealth from countries like Pakistan through illegal avenues, some of which is suspected to be falling in the hands of terrorists.

Having been already placed in the grey list Pakistan has made "a high-level political commitment" to work with the global watchdog and Asia/Pacific Group on Money Laundering (APG) to strengthen its anti-money laundering (AML) and combating the financing of terrorism (CFT) regime.

According to FATF's statement, following the decision Pakistan has committed to "address its strategic counter-terrorist financing-related deficiencies".

The statement said Pakistan will work to implement its action plan to accomplish these objectives, including by:

1) Demonstrating that terrorist financing risks are properly identified, assessed, and that supervision is applied on a risk-sensitive basis.

2) Demonstrating that remedial actions and sanctions are applied in cases of AML/CFT violations, and that these actions have an effect on AML/CFT compliance by financial institutions.

3) Demonstrating that competent authorities are cooperating and taking action to identify and take enforcement action against illegal money or value transfer services (MVTS).

4) Demonstrating that authorities are identifying cash couriers and enforcing controls on illicit movement of currency and understanding the risk of cash couriers being used for terrorist financing.

5) Improving inter-agency coordination, including between provincial and federal authorities, on combating terrorist financing risks.

6) Demonstrating that law enforcement agencies (LEAs) are identifying and investigating the widest range of terrorist financing activity and that terrorist financing investigations and prosecutions target designated persons and entities, and persons and entities acting on behalf or at the direction of the designated persons or entities.

7) Demonstrating that terrorist financing prosecutions result in effective, proportionate and dissuasive sanctions and enhancing the capacity and support for prosecutors and the judiciary.

8) Demonstrating effective implementation of targeted financial sanctions against all 1267 and 1373 designated terrorists and those acting for or on their behalf, including preventing the raising and moving of funds, identifying and freezing assets (movable and immovable), and prohibiting access to funds and financial services.

9) Demonstrating enforcement against targeted financial sanctions violations including administrative and criminal penalties and provincial and federal authorities cooperating on enforcement cases.

10) Demonstrating that facilities and services owned or controlled by designated persons are deprived of their resources and the usage of the resources.

Earlier on June 20, the Securities and Exchange Commission of Pakistan (SECP) in compliance with the FATF's recommendations issued the Anti-Money Laundering (AML) and Countering Financing of Terrorism Regulations (CFTR), 2018.

Prior to that, on June 8, the National Security Committee (NSC) had reaffirmed its commitment to cooperate with FATF and strive towards realising "shared objectives".

President Mamnoon Hussain recently approved an ordinance to amend a section of the country's Anti-Terrorism Act, enabling authorities to act against terrorists and terror organizations proscribed by the UN Security Council, including sealing their offices and freezing bank accounts. The ordinance is apparently a move to comply with the FATF requirement.

FATF was established in 1989 to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and combating other related threats to global financial system.

It has developed a series of recommendations that are recognized as international standard for combating money laundering and financing of terrorism. Tackling terrorism-related financing remains the top priority for FATF. The FATF is an intergovernmental organisation coordinating efforts to combat money laundering and terror financing.

Since 2014, FATF has been assessing whether countries' measures to stop dirty money are actually working in practice - whether they are effective - in addition to the extent to which laws are in place on paper.

To date, it has assessed nearly 50 countries across the world. Average global anti-money laundering effectiveness stands at just 32 percent. This means that most countries fail to prevent corrupt individuals and their professional enablers from stealing money and getting away with it, at enormous cost to citizens.

Overall, just seven countries score above 50 percent: the USA, Spain, Italy, Switzerland, Australia, Portugal and Sweden. However, even these relative high-scorers are below the 70 percent mark.

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