

Commission Delegated Regulation (EU) 2018/212 adds on AML/FTP “high-risk third countries”

At the beginning of March the Commission Delegated Regulation (EU) 2018/212 of 13 December 2017 came into force. Through this amendment, the European Commission added Sri Lanka, Trinidad and Tobago, and Tunisia to the list of „high-risk third countries“. This followed the FATF’s evaluation as noted in Public Statements and the FATF document ‘Improving Global AML/CFT Compliance: ongoing process’. This exercise forms part of the Commission’s obligation to update the list of countries which poses a threat in the EU’s anti-money-laundering and countering terrorist financing strategy. While the Commission’s obligation does not stop at adding but comprises of a re-examination of the third countries which pose a thread, no country has been removed from the list since preceding additions in the previous amendments.

The current high-risk third country list subsequent to amending Delegated Regulation (EU) 2016/1675 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council now reads as follows:

1. Afghanistan
2. Bosnia and Herzegovina
3. Guiana
4. Iraq
5. DVR Laos
6. Syria
7. Uganda
8. Vanuatu
9. Yemen

10. Ethiopia (since 13.02.2018)
11. Sri Lanka (from 06.03.2018)
12. Trinidad and Tobago (from 06.03.2018)
13. Tunisia (from 06.03.2018).

While this source of law is not binding, the content of the Delegated Regulation forms an obligatory part of any risk management system. As per the directions of the FIAU and the MGA in their consultation document which outlines in an unexhaustive matter what is expected from licensees to comply with the new Regulations, which are in turn part of the Malta's efforts to transpose the EU's 4th AML Directive, we should understand that this update is relevant to MGA licensed iGaming operators. Reference is made to 'Geographical Risk' section (iv) of part Section 2.2.2 of the section entitled 'Risk Factors Specific to the Gaming Sector'. Here whilst addressing, how licensees are to go about a risk-based approach to AML/FFT, geographical risk is included and defined as follows: 'the risk posed to the licensee by the geographical location of the business/economic activity and the source of wealth/funds of the business relationship'.

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