

# A steep climb ahead as South Africa races to delist from FATF greylisting

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It has been a year since South Africa was grey listed by the Financial Action Task Force (FATF), and under a year shy of having to demonstrate its improvements in bolstering anti-money laundering and financial crimes measures.



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And for a country widely considered to be the most advanced African economy, the changes made between now and then could spell an opportunity not only to improve its tainted public perception but crucially, enhance its already world-class financial systems. However, achieving that will be a steep climb.

According to co-founder of global compliance advisory, Provenance, Ruan Botha, “The February 2023 greylisting of South Africa by FATF is still quite recent and the full effects are yet to be canvassed; however, from what we have seen in other jurisdictions and feedback from the private and public sectors grey listing can have significant repercussions on a country’s reputation in the global financial landscape.”

When FATF – an intergovernmental body that assesses countries’ ability to combat illicit financial activity – grey listed SA, a jointly agreed action plan was adopted listing 22 action items linked to the strategic deficiencies identified in the Anti Money Laundering, Countering the Financing of Terrorism and Countering Proliferation of Financing regime, also known as the AML/CFT/CPF regime.

In its latest update on progress made, the South African Treasury noted that the February 2024 FATF plenary adopted a report by the joint group, confirming that five of the 22 action items were now addressed or largely addressed.

These relate to the legal provisions criminalising terrorist financing and proliferation financing, as well as bolstering SA's targeted financial sanctions regime. This includes increasing the utilisation of financial intelligence from the Financial Intelligence Centre to support money laundering investigations and enhancing the resources of AML/CFT supervisors.

Despite the incremental progress being made, Treasury conceded that it remains "a tough challenge" to address all 17 of the remaining action items by the February 2025 deadline.

The country's checkered history of state capture and its subsequent decimation to the structural fabric of law-enforcement agencies poses a further impediment to its ability to regain credibility in efforts against AML/CFT enforcement.

## Grey listing impact analysis

Experts at Provenance expanded, "The long-term effects of the grey listing can lead to eroding investor confidence, dampening of market sentiment, and potentially hinder foreign investment.

"Moreover, being grey listed can strain banking relationships as financial institutions may become more cautious in their dealings with South African counterparts, likely leading to increased scrutiny and compliance requirements asked of SA entities and individuals, and ultimately hinder access to international finance at a competitive or feasible interest rate."

The aforementioned extends to investors both domestic and foreign, from engaging with the South African market especially when it comes to accessing international finance at a competitive or feasible interest rate.

Effective AML/CFT/PPF policies and measures are key to the integrity and stability of the international financial system.

## Compliance enhancement strategies

While South Africa is taking concrete steps to address the FATF's concerns through its regulatory authorities, a spotlight has also been cast on financial institutions needing to adopt stricter customer due-diligence, enhanced risk assessments, and potentially increased transaction monitoring.

Milton Osborn, director of funds and corporate at commercial law firm, Osborn Wellsted Paulsen, explained: "While the grey listing presents some challenges, the focus on robust compliance could, if implemented effectively, serve as a model for a stronger financial system in South Africa, ultimately benefiting both domestic and international investors."

Osborn continued, "The country's journey to de-listing requires continued focus on effectively implementing the recent legislative reforms. Demonstrating a sustained commitment to robust AML/CFT/CPF practices across all sectors, including law enforcement and beneficial ownership identification, will be crucial. Additionally, ensuring international co-operation and information exchange with FATF authorities is paramount."

For Osborn, the grey listing presents an opportunity to enhance the country's already world-class financial systems. Ultimately enhanced compliance frameworks not only address FATF concerns but also bolster investor confidence and transparency. Furthermore, international collaboration can lead to knowledge sharing and improved AML/CFT/CPF practices across the region.



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“While challenges exist, South Africa's proactive approach, evidenced by legislative amendments and financial institution adaptations, is encouraging. The 2025 deadline is ambitious, but continued focus and a results-oriented approach can pave the way for de-listing and a stronger financial future,” Osborn noted.

In a show of increasingly bolstered enforcement mechanisms following the grey listing, the Financial Sector Conduct Authority (FSCA) recently imposed a R16m administrative sanction on Ashburton Fund Managers for FICA (Financial Intelligence Centre Act) violations.

The Provenance experts further highlighted how since the grey listing, the Companies and Intellectual Property Commission (CIPC) reinforced and amended the requirement for entities to disclose beneficial ownership to a more stringent 5%.

“It is evident that South African financial institutions are in the process of adapting their compliance frameworks to meet the heightened scrutiny post-grey listing by implementing more robust AML/CFT/CPF measures, conducting thorough due diligence on clients and transactions, and enhancing reporting mechanisms.”

## **An opportunity to rectify and rebuild trust**

Fortunately, it isn't all doom and gloom. Grey listing poses a chance for jurisdictions to fix issues, enhance regulations, and bolster compliance, signaling commitment to global standards and risk mitigation – an encouraging prospect for investors.

The experts agreed that investors and fund managers navigating the challenges posed by the grey listing could look at diversification strategies, including exploring offshore opportunities in jurisdictions with stronger regulatory frameworks and lower compliance risks.

International finance centres (IFCs) like Jersey offer a unique advantage in facilitating diversification.

With its political and economic stability, strong regulations, and expertise, investors have access to a variety of products and services to access global markets.

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