

The Legal Status of the Financial Action Task  
Force in the International Legal System

# International and Comparative Business Law and Public Policy

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# The Legal Status of the Financial Action Task Force in the International Legal System

*By*

Ilda Cristina Ferreira



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## Library of Congress Cataloging-in-Publication Data

Names: Ferreira, Ilda Cristina, author.

Title: The legal status of the Financial Action Task Force in the international legal system / by Ilda Cristina Ferreira.

Description: Leiden ; Boston : Brill/Nijhoff, 2025. | Series: International and comparative business law and public policy | Includes bibliographical references and index. |

Identifiers: LCCN 2024045461 | ISBN 9789004715127 (hardback) | ISBN 9789004715134 (ebook)

Subjects: LCSH: Financial Action Task Force. | Money laundering—Law and legislation. | Money laundering—Prevention—International cooperation. | Banking law—Criminal provisions. | Terrorism—Finance—Law and legislation—Criminal provisions. | Banks and banking, International—Corrupt practices.

Classification: LCC K5223 .F47 2025 | DDC 345/.0268—dc23/eng/20240926

LC record available at <https://lcn.loc.gov/2024045461>

Typeface for the Latin, Greek, and Cyrillic scripts: "Brill". See and download: [brill.com/brill-typeface](https://brill.com/brill-typeface).

ISSN 2667-3495

ISBN 978-90-04-71512-7 (hardback)

ISBN 978-90-04-71513-4 (e-book)

DOI: 10.1163/9789004715134

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*To my parents  
In memory of my grandparents*





# Contents

<b>Preface</b>	XI
<b>Acknowledgements</b>	XII
<b>List of Abbreviations</b>	XIII
<b>1 Introduction</b>	1
<b>2 Description of the Financial Action Task Force</b>	8
1 Historical Background and Raison d'Être	8
2 Legal Nature and Mandate	11
2.1 <i>Character and Mandate</i>	11
2.2 <i>Lifespan</i>	15
2.3 <i>Legal Nature</i>	17
2.4 <i>Political Accountability</i>	23
3 Internal Legal Order	25
3.1 <i>The FATF Bodies</i>	25
3.1.1 The Plenary	25
3.1.2 The President	27
3.1.3 The Steering Group	28
3.1.4 The Secretariat	29
4 Membership, Affiliation and Observers	31
4.1 <i>Membership</i>	31
4.2 <i>Associate Membership</i>	39
4.3 <i>Observers</i>	41
5 Budgetary Matters	42
6 Policy and Lawmaking Powers	45
6.1 <i>FATF Recommendations</i>	47
6.2 <i>Typologies, Best Practices and Guidance Papers</i>	55
7 Monitoring and Sanctioning Powers	58
7.1 <i>Mutual Evaluation Process</i>	59
7.1.1 Common Methodology	63
7.1.2 Follow-up Process	67
7.1.3 The 5th Round of Mutual Evaluations	70
7.2 <i>Sanctioning Power: 'Name and Shame' Policy and Countermeasures</i>	76
7.2.1 Non-Cooperative Countries and Territories	78
7.2.2 The FATF's Grey and Black Lists	83
7.3 <i>Technical Assistance</i>	88

8	The FATF Regional Bodies	90
8.1	<i>The Caribbean Financial Action Task Force</i>	91
8.2	<i>The Asia-Pacific Group on Money Laundering</i>	93
8.3	<i>The Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism</i>	94
8.4	<i>The Eastern and Southern Africa Anti-Money Laundering Group</i>	95
8.5	<i>The Inter-Governmental Action Group against Money Laundering in West Africa</i>	95
8.6	<i>The Financial Action Task Force of Latin America</i>	96
8.7	<i>The Task Force on Money Laundering in Central Africa</i>	97
8.8	<i>The Eurasian Group on Combating Money Laundering and Financing of Terrorism</i>	98
8.9	<i>The Middle East and North Africa Financial Action Task Force</i>	98
8.10	<i>Some Singularities</i>	99
9	External Relations	104
9.1	<i>International and Regional Co-operation and Third Countries</i>	104
9.1.1	The IMF and the WB	107
9.1.2	The UN/UNSC	109
9.1.3	The G-20	111
9.1.4	Third Countries	114
9.2	<i>Private Sector and Civil Society Outreach</i>	116
9.2.1	Private Sector	116
9.2.2	Civil Society Outreach	118
3	<b>International Organisations</b>	121
1	Definitions and Criteria	121
1.1	<i>'Common Characteristics', Nuances and Diversity of Design Patterns</i>	130
1.2	<i>Sui Generis Cases</i>	138
1.2.1	The Inter-Parliamentary Union	138
1.2.2	The International Criminal Police Organisation	141
1.2.3	The General Agreement on Tariffs and Trade	144
1.2.4	The Commonwealth	149
1.2.5	The Nordic Council	151
1.2.6	The Organisation for Security and Co-operation in Europe	154

	1.2.7	The Black Sea Economic Co-operation	158
	1.2.8	The European Union	160
1.3		<i>Finding Common Ground among International Organisations</i>	163
2		IOs as Subjects of International Law and Theoretical Approaches	166
	2.1	<i>International Personality and Capacity</i>	166
	2.2	<i>Theoretical Approaches to International Personality</i>	172
	2.3	The ICJ Opinion in <i>Reparation of Injuries Suffered in the Service of the UN</i>	181
3		Summary	188
<b>4</b>		<b>The Financial Action Task Force as an International Organisation</b>	<b>193</b>
1		A New Perspective on the Legal Status of the FATF	196
2		Membership	196
3		Created under International Law	197
	3.1	<i>The Constitutional Framework of the FATF</i>	198
	3.2	<i>The High-Level Principles and Objectives for FATF and FATF-Style Regional Bodies</i>	201
4		An Organ of Its Own with a Distinct Will	205
	4.1	<i>FATF's Reports and Action Plans</i>	207
	4.2	<i>High-Level Missions or Letters to Governments</i>	212
	4.3	<i>Public Interventions and Statements</i>	213
5		To Operate on the International Plane According to International Law	217
	5.1	<i>Key Institutional Decisions and Actions</i>	219
	5.1.1	Core Institutional Change	219
	5.1.2	The Relationship between the FATF and the FSRBS	220
	5.1.3	The Global Network	226
	5.1.4	The Brand and Reputation Issues	228
	5.2	<i>Key Regulatory and Operational Actions and Their External Impact</i>	230
	5.2.1	The FATF Recommendations and Their Normative Dimension	231
	5.2.2	Emergence of Customary International Law	249
	5.2.3	Mutual Evaluation Process and Blacklisting	257
6		External Recognition by Other Subjects of International Law	271
	6.1	<i>The FATF's Legal Status and External Participation</i>	271
	6.2	<i>FATF's Institutional Participation</i>	273

6.3	<i>FATF's External Impact in Other IOs and International Institutions</i>	274
6.3.1	The Council of Europe	274
6.3.2	The European Union	276
6.3.3	The UNSC and Other International Institutions	280
7	The Relevance of the Will of the Members	282
8	Summary	288
<b>5</b>	<b>Relevance and Challenges</b>	<b>290</b>
1	Why Does the FATF Case Matter? Why Is It Relevant to International Institutional Law and Public International Law?	290
1.1	<i>The FATF as an Institutional Model</i>	293
1.1.1	The Asia-Pacific Group on Money Laundering	293
1.1.2	The Global Forum on Transparency and Exchange of Information for Tax Purposes	295
1.1.3	FATF Cyber-Style Security Body Proposal	298
1.2	<i>The FATF as a Model at Operational Level</i>	299
1.3	<i>The FATF Regime as a Model for Other Regimes of Global Concern</i>	301
2	Implications and Challenges as a Subject of International Law with Public Authority	305
2.1	<i>The FATF as a Subject of International Law and Public Authority</i>	305
2.2	<i>FATF's Exercise of Public Functions, Gaps and Improvement</i>	321
2.2.1	The 'Club-Member' Character	321
2.2.2	Unbalanced Relationship with the FSRBs Jurisdictions and Risk of Detachment	325
2.2.3	Accountability, Sovereignty, Transparency	329
2.2.4	Unintended Consequences	338
3	Summary	349
<b>6</b>	<b>Conclusion</b>	<b>353</b>
	<b>Bibliography</b>	<b>357</b>
	<b>Index</b>	<b>375</b>

# Preface

*If we have a prince said Pliny to Trajan, it is so that he may preserve us  
from having a master*

IN JEAN-JACQUES ROUSSEAU, *Second Discourse*, 1753

This book is based on my doctoral (DPhil) dissertation submitted to the Faculty of Law of the University of Hong Kong in 2023 which has been updated, revised and improved.

In this process, I would like to express my gratitude to the Dissertation Committee, especially Professor Michelle Gallant for her valuable contribution and words of encouragement and to my outstanding supervisor Professor Simon Young.

This book addresses an important and recognised organisation – the Financial Action Task Force (FATF), the world's leading organisation responsible for the integrity, security, transparency of the international financial system, via international standards to counter money laundering, the financing of terrorism and the proliferation financing of weapons of mass destruction, and its legal position in the international legal system.

I first became aware of the FATF in 1999, during the Portugal's presidency of the organisation. For the past two decades, I have been following its activities and those of the Asia-Pacific Group on Money Laundering. As a legal counsel in international law, I have witnessed the gradual metamorphosis from a specialised technical body into a complex and multi-layered organisation, whose legitimacy is undermined by the lack of clarity regarding its legal standing.

I became intrigued with the organisation's scope and far-reaching impact of its policies and measures to respond to global trends and threats that pose a risk to the international financial system, as well as how members, non-members, IOs and other international actors have accepted and implemented them, without close scrutiny (checks and balances) and questioning its legal status.

In this regard, a word of deep appreciation to Mr. Gil Galvão, President of the FATF in 1999–2000 and, for many years, head of delegation of Portugal to the FATF, to Mr. Duarte Chagas, senior legal counsel of the Gaming Inspection and Coordination Bureau of the Macao Special Administrative Region and to Professor Simon Young for their expertise, wisdom and insightful comments.

The topic may be of interest in the fields of Public International Law, Law of International Organisations or International Institutional Law, International Economic Law, International Relations, and to a potential audience of policy-decision makers, scholars, legal practitioners, lawyers, regulators, and students.

# Acknowledgements

I would like to express my deepest gratitude to my supervisor, Professor Simon Young for the understanding and generosity shown during this long process as well for the unwavering support for the thesis' direction and insightful comments that enriched this project over the years.

A word of appreciation to the Faculty of Law and its staff at the University of Hong Kong and a special thanks to the Education and Youth Development Bureau of the Macao Special Administrative Region for its scholarship for my doctoral programme.

It is very difficult to name all the colleagues and friends that throughout the last 10 years have helped me and given me the strength to overcome the various challenges and complete this almost lifetime project; to all my gratitude. Nevertheless, acknowledgements have to be made to Ana Bento, Ana Paula Barros, António Costa, Carlos Morais José, Diane Aguiar, Diogo Baptista, João Palla, Mário Duque, Miguel Rosa Duque, Paula Mendonça, Paulo Cardinal, Rui Simões and Vera Varela.

I am profoundly grateful and in debt particularly to Isira Makuloluwe, Joaquim Menano, Selina Lei and Silvia de Sousa for their support and guidance with the English language, research referencing and editorial process.

I also need to express my special thanks to my Brill publishers, especially Beth Derr and the editors' team who kindly support me in revising my dissertation, a project that landed in the printed pages of Brill.

Finally, and most important to my family who never gave up believing in me and my stubbornness. I would like to thank my daughter and son, who bring light into my life, for their encouragement, patience and kindness, particularly for the time I did not spend with them. I am also indebted to my sister and parents for their unconditional support and love.

# Abbreviations

ADB	Asian Development Bank
AEOI	Automatic Exchange of Information
AfDB	African Development Bank
AML	Anti-Money Laundering
APG	Asia-Pacific Group on Money Laundering
APUNCAC	Additional Protocol to the Merida Convention
ASEAN	Association of Southeast Asian Nations
AU	African Union
BCBS	Basel Committee on Banking Supervision
BENELUX	<i>Union Économique Benelux</i>
BIS	Bank for International Settlements
BO	Beneficial Ownership
BSEC	Black Sea Economic Co-operation
BSTDB	Black Sea Foreign Trade and Investment Bank
CAN	Andean Community
CARIN	Camden Asset Recovery Inter-Agency Network
CBRS	Correspondent Banking Relationships
CDD	Customer Due Diligence
CEMAC	Customs and Economic Union of Central Africa
CFATF	Caribbean Financial Action Task Force
CFT	Countering Financing of Terrorism
CICAD	Inter-American Drug Abuse Control Commission
CICTE	Inter-American Committee against Terrorism
CLAB	Anti-Money Laundering Liaison Committee of the Franc Zone
CoE	Council of Europe
COPS	Conference of the Parties
COSUNS	Co-operating and Supporting Nations
CPF	Countering Proliferation Financing
CPLP	Community of Portuguese Language Countries
CSCE	Conference on Security and Co-operation in Europe
CTED	Counter-Terrorism Committee Executive Directorate (see UNCTED)
CTITF	United Nations Counter-Terrorism Implementation Task Force
DARIO	Draft Articles on the Responsibility of International Organisations
DNFBPS	Designated Non-Financial Businesses and Professions
EAG	Eurasian Group on Combating Money Laundering and Terrorist Financing
EBA	European Banking Authority
EBRD	European Bank for Reconstruction and Development

ECB	European Central Bank
ECG	Evaluations and Compliance Group
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
EFTA	European Free Trade Association
EOIR	Exchange of Information on Request
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EU	European Union
EUROJUST	European Union Agency for Criminal Justice Co-operation
EUROPOL	European Union Law Enforcement Agency
FAO	Food and Agriculture Organisation
FATF	Financial Action Task Force
FIFA	Fédération Internationale de Football Association
FIS	Financial Institutions
FIUS	Financial Intelligence Units
FSB	Financial Stability Board
FSRBS	Financial Action Task Force-Style Regional Bodies
FT	Financing of Terrorism
FUR	Follow-up Report
GABAC	Task Force on Money Laundering in Central Africa
GAFILAT	Financial Action Task Force of Latin America
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
GIFCS	Group of International Finance Centre Supervisors
GNCG	Global Network Co-ordination
HKSAR	Hong Kong Special Administrative Region
HLPOS	High-Level Principles and Objectives
HR	Human Rights
HRC	Human Rights Council
IAEA	International Atomic Energy Agency
IAIS	International Association of Insurance Supervisors
IBRD	International Bank for Reconstruction and Development
ICAO	International Civil Aviation Organisation
ICC	International Criminal Court
ICITO	Interim Commission for the International Trade Organization
ICJ	International Court of Justice

ICRG	International Co-operation Review Group
IDB	Inter-American Development Bank
IFCS	International Financial Centres
IFIS	International Financial Institutions
IGP	Internal Governance Principles
ILC	International Law Commission
ILO	International Labour Organisation
IMF	International Monetary Fund
IMO	International Maritime Organisation
INote	Interpretive Note
INTERPOL	International Criminal Police Organisation
IO	International Organisation
IOC	International Olympic Committee Board
IOM	International Organisation for Migration
IOSCO	International Organisation of Securities Commissions
IPU	Inter-Parliamentary Union
ITLOS	International Tribunal for the Law of the Sea
ITO	International Trade Organisation
ITTO	International Tropical Timber Organisation
JCPOA	Joint Comprehensive Plan of Action
JEM	Joint Experts' Meeting
KRA	Key Recommended Actions
KYC	Know Your Customer
LCCS	Low-Capacity Countries
ME	Mutual Evaluation
MENAFATF	Money Laundering and Terrorist Financing to Countries in the Middle East and North Africa Region
MER	Mutual Evaluation Report
MERCOSUR	Southern Common Market
ML	Money Laundering
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MoU	Memorandum of Understanding
MSAR	Macao Special Administrative Region
MSBS	Money Service Businesses
MTOS	Money Transfer Operators
MVTS	Money Value Transfer Services
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organisation
NCCT	Non-Cooperative Countries and Territories

NGOS	Non-Governmental Organisations
NPOS	Non-Profit Organisations
NRA	National Risk Assessment
OAS	Organisation of American States
OECD	Organisation for Economic Co-operation and Development
OGBS	Offshore Group of Banking Supervisors
OMCT	World Organisation against Torture
OPEC	Organisation of the Petroleum Exporting Countries
OSCE	Organisation for Security and Co-operation in Europe
OTIF	Intergovernmental Organisation for International Carriage by Rail
PDG	Policy Development Group
PEPS	Politically Exposed Persons
PF	Proliferation Financing
RBA	Risk-Based Approach
ROSC	Risk-Based Reports on the Observance of Standards and Codes
RTMG	Risk, Trends and Methods Group
RUSI	Royal United Services Institute
SCO	Shanghai Co-operation Organisation
SDD	Simplified Customer Due Diligence
SEATO	Southeast Asia Treaty Organisation
SR	Special Recommendation
STRS	Suspicious Transaction Reports
TC	Technical Compliance
TCRR	Technical Compliance Re-Ratings
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UIC	International Union of Railways
UIT	International Telegraph Union
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNCTE	United Nations Conference on Trade and Employment
UNCTED	United Nations Counter-Terrorism Committee Executive Directorate
UNEP	United Nations Environmental Program
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNGAS	United Nations General Assembly
UNIDO	United Nations Industrial Development Organisation
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UPO	United Planning Organisation
UPU	Universal Postal Union

VA	Virtual Assets
VASPs	Virtual Assets Service Providers
VCLT	Vienna Convention on the Law of the Treaties
WB	World Bank
WCO	World Customs Organisation
WG	Working Group
WHO	World Health Organisation
WMD	Weapons of Mass Destruction
WMO	World Meteorological Organisation
WTO	World Trade Organisation

