



The new FATF Best Practice Paper on NPOs

At its June 2015 plenary session The Financial Action Task Force (**FATF**) adopted a new **Best Practices Paper (BPP)** for the implementation of the FATF's **Recommendation 8**. The BPP includes **key Non Profit Organisation (NPO) comments and asks** that were submitted during the consultation process.

Highlights of the BPP changes include: (1) respect for international obligations regarding freedom of association, assembly and expression as well as humanitarian law; (2) requirement for a broader national risk assessment, which would facilitate a targeted approach to identifying only those circumstances or organisations most at risk and help develop a response accordingly; (3) recognition that no additional regulations should be applied if existing legislation and other measures (such as self-regulation mechanisms) are sufficient to mitigate the risks.

The BPP clearly indicates that counter-terrorism measures should not apply to the entire NPO sector (since not all NPOs are at risk of abuse) and states that government overregulation of the NPO sector is not a desirable outcome of implementing the FATF standards. In addition, the importance of outreach to NPOs and regular dialogue to develop a collaborative relationship is emphasized. A list of the most important NPO asks that were accepted and included in the BPP is annexed below.

Over the last few years, NPOs have worked tirelessly to raise awareness about the restrictive practices in the implementation of Recommendation 8 at the national level, which has resulted in the [closing of civic space](#) in many countries. Despite the limited time for consultations on the BPP provided by the FATF and concerns about the lack of clarity about the process, the [Transnational Civil Society Working Group](#) (including 180 non profits) provided substantial input to the draft BPP and will continue advocating against the negative impact of FATF measures on NPOs.

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For further information on the substantive changes in the document, contact Vanja Skoric, ECNL Senior Legal Advisor (vanja@ecnl.org.hu)

Has your organization or others you know of experienced difficulties or constraints in its work due to restrictions justified by the FATF counterterrorism measures? Please [let us know!](#)

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Changes in the new BPP June 2015, based on NPO asks

- An obligation to respect freedom of association, assembly and expression, and international humanitarian law are added in the "Purpose and Context" section which strengthens the ask of non-derogation of international obligations.
- The BPP specifically states that good practices are not mandatory elements of the FATF standards and that these are included as examples only and should not be used as a "checklist of requirements applied to all NPOs". This should facilitate understanding of the good practices and not add to their misuse.
- There are clear statements upfront that not all NPOs are deemed high risk. There is more emphasis on the broader national risk assessment under Recommendation 1, which will help build the argument for a targeted risk-based approach towards implementing counter terrorism (CT) measures.
- There is much emphasis on the risk-based approach towards the NPO sector. The BPP repeatedly notes that a "one size fits all" approach would not be consistent with Recommendation 1 and a proper implementation of the risk-based approach. In addition, it reiterates that Recommendation 8 does not require the same measures to be applied to all NPOs.
- All references to "best practice" have been changed to "good practice", in order to indicate that these should not be used as a checklist or 'gold standard' of measures to be applied to all NPOs.
- The BPP notes that current existing regulation(s) and/or other measures may sufficiently address the terrorism financing (TF) risk to the sector, emphasizing the use of "regular" measures without the need to overregulate the NPO sector.
- The BPP specifically states that detailed registration procedures for NPOs, additional reporting requirements, requirements for appointing designated staff responsible for counter-terrorism compliance, and an external audit of the organization, may not be appropriate for countering the financing of terrorism (CFT) purposes for those NPOs facing little to no TF risk. This clearly indicates overregulation and is not a desirable outcome of implementing Recommendation 8.
- The BPP recognizes the efforts of the NPO community to promote transparency within their operations and to prevent misuse of the sector. This again stresses the possibility of avoiding overregulation by taking into account the existing self-regulatory measures of the sector.
- The importance of outreach to NPOs and regular dialogue to develop a collaborative relationship is emphasized.
- The whole structure of the BPP has been reorganized: importantly, section IV was renamed, reflecting the NPO comment on it, to: "Actions NPOs Can Take to Protect against TF Abuse", as opposed to "Best Practice for NPOs". This minimizes the possibility of misinterpreting section IV as a checklist for governments in regulating the NPO sector.
- Examples of measures which countries have implemented and those which NPOs have implemented have been moved to Annex 1 and Annex 2 respectively. There is an additional Annex 3, a list of representational and self-regulatory organizations.
- All references to the word 'should' have been removed from section IV on NPOs. This is important because it clarifies that the BPP is a non-binding document with no obligations required of NPOs.

This paper is produced under the project: "Standing up Against Counter-Terrorism Measures that Constrain Civic Space". The project is supported in part by the grant from the Open Society Human Rights Initiative"