Combatting Restrictions On Civic Freedoms Arising From Counter-terrorism & Anti-money Laundering Rules
EVALUATION CYCLE

Combatting Restrictions On Civic Freedoms Arising From Counter-terrorism & Anti-money Laundering Rules
• FATF evaluation methodology from 2014
• Includes *effectiveness component* - reviews implementation of standards beyond mere laws and regulation
• Focuses on **impact of existing AML/CFT measures**
• Methodology used by FATF, FATF-Style Regional Bodies (FSRBs) and other assessment entities (WB, IMF...)

*Combatting Restrictions On Civic Freedoms Arising From Counter-terrorism & Anti-money Laundering Rules*
• Coming from **peer countries** (members of the same FSRB)

• Commonly from **justice, financial services, financial intelligence** or similar background

• Training – reportedly **now includes all 40 Recommendations**
• Support evaluator’s team and country
• Ensure compliance with process and procedures
• Focus on quality and consistency
• Assist in interpretation of standards, methodology and process
• Ensure that evaluator’s team and country to have access to relevant documentation
• Ensure confidentiality of process
• Important point for engagement for civil society
• Technical compliance component: assess whether laws, regulations or other required measures are in force and in effect, and that the supporting institutional framework is in place

• Effectiveness component: assess whether AML/CFT systems are working, and the extent to which the country is achieving a defined set of outcomes
• **PRE - preparations for evaluators’ visit**
  evaluation team is being formed
  - preparatory materials shared
  - technical compliance: check of laws and regulations begins (desktop review)

• **DURING - onsite visit of evaluators**
  - evaluators meet and discuss effectiveness of AML/CFT system
  - meet with government officials, institutions and representatives from diff sectors, incl. NPOs

• **POST – after evaluators’ visit**
  - evaluators prepare the Mutual Evaluation Report (MER)
  - discuss and refine inputs and comments from the country and the FATF Secretariat
  - MER adopted by FATF plenary and published
  - Follow up
Combatting Restrictions On Civic Freedoms Arising From Counter-terrorism & Anti-money Laundering Rules
• **Final result** of evaluation process
• Includes **findings and recommendations** for follow up
• **Two main parts:**
  - findings on the effectiveness and the implementation of the immediate outcomes
  - findings on technical compliance
• **MER** also includes **ratings** on all individual Immediate Outcomes and Recommendations
• Compliant
• Largely Compliant
• Partially compliant
• Non compliant
## Table of ratings for assessment conducted against the 2012 FATF Recommendations, using the 2013 FATF Methodology.

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• Executive Summary
  - priority actions listed for that country
• First few sections
  - explain country’s background on ML/TF risks and overall context
• National policy and regulatory framework for AML/CFT, preventive measures, supervision, cooperation
  - evaluation of level of effectiveness in implementing the FATF standards (IO 10)
• Findings on R8 and NPOs
  - includes rating on R8
• Specific recommendations from evaluators
MERs include various **findings on implementing R8 requirements**, particularly on issues of coordination, monitoring and oversight of NPO sector.

Some also include **direct recommendations** on what countries should improve within their regulatory framework.

Regulatory activity should start with **thorough and satisfactory risk assessment of NPOs and review of existing measures**, to design targeted and proportionate response.
• Developing an **additional regulatory framework** after a partially-compliant rating on Recommendation 8

• **Belgium authorities**: engaged with key NPO sector actors on developing potential additional regulation to fulfil R8 requirements

• Despite MER stating that **Hungary** should undertake a review of the NPO sector and conduct targeted outreach, the country used MER wording to justify adopting restrictive legislation that targets all NGOs (register as “foreign-supported” and brand public materials)
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EVALUATION CYCLE

- Start over
- Setting the timeline
- Early preparation for evaluation
- Start of evaluation phase 1 - review of frameworks
- Evaluation visit
- Drafting MER
- Publication MER
- Follow up procedure (regular or enhanced)
- Follow up report
- 5 year semi-evaluation and report
- Start over...
• After adopting and publishing MER:
  - country could be placed in either a regular or an enhanced follow-up procedure depending on its overall rating and compliance with FATF standards
• Follow-up intended to continuously monitor and assess the progress in implementing the AML/CFT standards
Combatting Restrictions On Civic Freedoms Arising From Counter-terrorism & Anti-money Laundering Rules
• **Regular Follow-up**
  - default mechanism to ensure continuous monitoring
  - applies to all countries, they report back to FATF/FSRB 2,5 years after the MER
  - follow-up evaluation after five years: main focus on areas in which there have been changes, high risk areas or priority areas for action

• **Enhanced Follow-up**
  - FATF/FSRB Plenary can decide
  - country reports back more frequently than for regular follow-up (frequency may vary)
  - country will undergo a follow-up evaluation after five years
FOLLOW UP REPORTS

- All include information on latest situation on **technical compliance** (which may be used to justify re-ratings) and **effectiveness**

- **Regular follow-up reports**: focus on re-ratings for technical compliance and/or demonstrating progress in addressing shortcomings in MER

- **Enhanced follow-up reports**: outline of country’s strategy for addressing issues identified in MER; then focus on re-ratings for technical compliance and/or demonstrating progress in addressing shortcomings in MER
• **Effectiveness** is key focus of methodology
• Evaluators ask for an *effective, targeted approach*
• Untargeted measures that restrict the operating space of the entire NPO sector should be **considered - not effective**
• Evaluators can challenge effectiveness and use of resources when regulation is imposed on the entire sector
• **Evaluations could be an entry point to emphasize that overregulation is ineffective**
• If **no outreach** to the non-profit sector was conducted, if there was no discussion about terrorism financing and risks within the NPO sector, it is **difficult for the country to score well on R8**

• MERs also cite whether NPOs **showed awareness of their sectorial vulnerabilities** to CFT threats
Evaluation teams in general do not include a specialist or expert on civil society

Evaluators are less knowledgeable on issues that might affect civil society and the effectiveness of measures under R8

There is often a lack of government outreach to civil society about the evaluation process

Application of R8 in some cases has meant the shrinking of the financial, operational and political space of civil society in general – counterproductive to mitigating terrorist threats
Questions asked on FATF assessment of NPO sector (visit 2016)

1. How are NPOs vulnerable to terrorist financing?
2. Have NPOs taken steps to address vulnerabilities?
3. What information/guidance is given by the government/ regulatory authority to NPOs re terrorist financing
4. National Risk Assessment – were you involved in the process?
5. What were NPOs experience of the registration process?
6. Have there been any inspections of registered NPOs?
7. To the extent that it has been possible, what has been the government/regulators approach on terrorist financing?
8. What work still needs to be done? How do you think you could get more support from the authorities?
9. To what extent is country applying focussed proportionate measures to NPOs?
10. What kind of sanctions could governments/regulator apply?
11. Do you agree with the National Risk Assessment findings?
12. Are there any ways the government could improve re CFT?
LEARNINGS

• **Governments not reaching out** – either for the risk assessment or ahead of the onsite visit/after

• **CSOs not aware of evaluation visit** and how to get involved / no clear transparent process

• **CSOs not knowing how to contact the evaluators** – or how to send them additional information

• Government/evaluators approaching **only a few CSOs**

• **Not much expertise** among evaluators about the sector

• Evaluators’ questions **unexpected** and **not always clear**
How to engage?
1. Before onsite visit
   - National / NPO risk assessment – involve NPOs
   - Targeted approach / measures – discuss with NPOs

2. Meeting with evaluators
   - NPO perception of risk – discuss with evaluators
   - Effectiveness of current measures – discuss with evaluators

3. After evaluators’ visit, keep tabs on:
   - FATF plenary session(s)
   - Recommendations from MER
   - “Follow-up” reports
1. Challenges

Note down concrete and practical common challenges for NPO engagement in the evaluation process in your countries and give examples, where existing, on how you overcame them.

2. Opportunities / Entry points

Note down “ideal” NPO engagement points during evaluation process in a timeline sequence.
• Pushback on new restrictions not based on risk assessment / not targeted / not proportionate
• Conduct shadow risk assessment of NPO sector using relevant methodology (experts needed)
• Engage with authorities on upcoming evaluation and follow up
• Engage with FSRB/ FATF directly on upcoming evaluation and follow up
THANK YOU

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