



## Global NPO Coalition meeting with FATF Secretariat working group

Thursday, 10<sup>th</sup> September 2020

### Agenda:

1. FATF Strategic Review: Progress at FATF end + highlights of Global NPO Coalition input
2. De-risking: Recent developments (C20/contact with GPFI/AFI toolkit/EBA)
3. AML/CFT developments at the EU level - regulatory glut/alignment issues. UBO.
4. Setting up an established mechanism to share updates and emerging issues at the regional or country level as they arise

### Participants:

#### FATF:

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#### Global NPO Coalition:

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**Apologies:** Emma O'Leary and Haroun Atallah

## Strategic Review

1. The FATF Secretariat mentioned that the purpose of the review was to determine the **shape of the evaluation process** beyond the fourth round – looking at improving the structure and functioning of the Mutual Evaluation process. The Review is **NOT looking into the FATF Recommendations** themselves.
2. To that end, **three project teams** are looking at the:
  - a. Mutual Evaluation process
  - b. referral and the ICRG (International Cooperation Review Group) process [looking at high-risk and non-cooperative jurisdictions]
  - c. methodology itself
3. There will be a 5<sup>th</sup> round of Mutual Evaluations.
4. In terms of the overall shape of the process (project team 1), there will be a **desk-based technical compliance review**, as well as an **enhanced scoping phase that will look at the Immediate Outcomes (IOs)** for all the different countries, based on effectiveness.
5. There will be a **horizontal thematic review conducted periodically**. The details have not been determined yet but it will explore topics of the FATF members' choosing on a somewhat regular basis outside of the actual schedule of the MERs themselves.
6. The Review is set to be completed by June 2021.
7. More information could not be shared ahead of the October FATF plenary given matters will be up for debate and discussion during the plenary. Once the plenary is over, the Secretariat will have a better idea on the base level framework of the Review to which NPOs and others can then provide input. Meanwhile, the Global NPO Coalition is **welcome to provide input** on a high-level basis – the Secretariat will ensure that it is disseminated to the Strategic Review group and the three project teams. [Our input was submitted after the call – [see here](#)]
8. The highlights of that input were outlined:
  - a. The Global NPO Coalition would like a discussion on whether the existing country evaluation/assessment framework for the NPO sector and for Recommendation 8 should be the same as for other sectors and for other FATF recommendations – given the unique nature of the sector, **is the current approach appropriate/feasible/effective** for the purposes of achieving the FATF goals?
  - b. Considering the low levels of Recommendation 8 compliance, low levels of NPO risk assessments actually conducted, and generally low levels of NPO risk reported, are there approaches that could fit better? Drawing from an-NPO specific RA (which the Coalition helped develop with the World Bank)?
  - c. The current one-size-fits-all evaluation methodology does not really allow for specific nuances of the NPO sector, and the Coalition would like the FATF to open the discussion on the **revision of the country evaluation methodology for the implementation of Recommendation 8 to be more in line with the collaborative, specific approach that the NPO risk assessment methodology already includes**, and more conducive to full respect of international human rights and humanitarian law obligations, as required by Recommendation 8.
9. **Given the resource-intensiveness of an evaluation, and the generally low risk of the sector at large, are there leaner approaches that could ensure more effective evaluations**, and that at the same time do not cause disruption of legitimate charitable activity and that fully respect IHL/IHRL/IRL?
10. The Secretariat mentioned the time lag between the amending of standards/issuance of guidance and implementation on the ground. **Is it merely a question of downward percolation or is it a question of the FATF not doing enough?** That is what the Strategic Review is trying to answer. The FATF/Strategic Review process has to be open to the possibility that it is the latter. Given that the Recommendation was revised 4 years ago, maybe best to look at greater guidance or education. The World Bank has filled a gap (in terms of targeted Risk Assessments) but there may be more that can be done to avoid the serious chilling effect on the ability of NPOs to go about their legitimate business.

## De-risking

11. Developments on the **de-risking** front were outlined. On the C20 (the civil society engagement group of and for the G20), unlike other years, the Global NPO Coalition has not engaged as a Coalition due to sensitivities among partners/members regarding the host country Saudi Arabia. That said, a few members have engaged in the process and have managed to make some incremental progress, namely:
  - a. Getting the International Financial Architecture (IFA) group of the C20 to flag de-risking as an issue and **calling on the Global Partnership for Financial Inclusion (GPFI) and others to take concrete actions to address this**. This went into the [C20 policy pack](#) sent to the G20 leaders. The need for **robust sectoral risk assessments** was also highlighted.
  - b. Those engaging in the process will be organizing **a panel on financial integrity and financial inclusion** at the Oct [C20 Summit](#) (ahead of the virtual G20 convening in Nov). It will be a solution-oriented discussion with multiple stakeholders – standard setters, NPOs, banks, technology providers and financial inclusion bodies: with **the aim of the session being to get the GPFI to include NPOs in their financial inclusion agenda and policies**.
12. The European Banking Authority (EBA) [put out a call for input on the de-risking of NPOs](#) in the common market, looking for empirical evidence of this. The Global NPO Coalition circulated the call widely among its constituencies. The EBA [also organized a panel discussion](#) around this issue and members of the Coalition took part, making it clear that there was plenty of empirical evidence and that the need now is to actively work on solutions. The EBA might be designated the new supervisory authority under the EU's single rulebook on AML/CFT, so it is important that they are aware of the ramifications of the issue
13. The FATF Secretariat said that de-risking remains a focus area and is **very much on the FATF agenda – both short-term and long-term**. The long-term agenda has been disrupted by Covid-19. In the short-term, work continues (guidance/intervention tools/Risk Assessments) on the de-risking of the **remittances** sector and the **correspondent banking** sector.
14. Others involved in finding solutions to the short-term crisis include the Industrial Fund for Agricultural Development (IFAD), who are looking to keep **remittance corridors open**, and the Committee on Payments and Market Infrastructures (CPMI), who are working **on cross-border payments**, with an ambitious set of measures aimed at reducing costs and burdens and delays and make the system work better. The FATF is working with these initiatives, including through Corridor Risk Assessments, and the general **streamlining and harmonization of rules** to lighten the load.

## EU regulations and Beneficial Ownership

15. The EC published an ambitious **Action Plan on AML/CFT** and the European part of the NPO coalition submitted written comments. The questionnaire and policies cluster into different ideas within this action plan. A short update on the key points that were raised for each:
  - a. Ensuring an effective implementation of the EU framework: There were concerns about its **'effectiveness'**. The fragmented implementation of the EU AMLD has had a chilling effect on the NPO sector (several cases of **national over-regulation**), including governments who have **designated NPOs as obliged entities**. More **guidance** is needed.
  - b. On the reinforced rulebook at EU level: the move from directive to regulation would be welcome if it were in line with the risk-based approach and were to avoid overregulation (so **need to clarify how BO policy applies to the sector**, and also clarifications needed around obliged entities and the fact that NPOs are not to be considered as such)
  - c. On the third cluster around EU-level supervision, again, **NPOs are not obliged entities** and should not be subject to any additional supervision (they are already supervised at the national level). Furthermore, NPOs need **better access to FIU information** to better

understand what the NPO abuse-scenarios/typologies look like, so that they can help mitigate the risk.

- d. On the enforcement of EU criminal law and information exchange (public–private partnerships) – these need to be carefully designed and **privacy and ethical issues** taken fully into consideration.
  - e. Around the last cluster on strengthening the EU’s global role: there is an ambition on the part of the EU to have a stronger voice/play a larger role in the FATF setup – what are the FATF’s views on this? Concerns that EU-level policy on AML/CFT sometimes goes beyond what the FATF Standards set out.
16. How does the FATF envision Recommendations 24/25 going forward given that the EU policy on Beneficial Ownership goes beyond what the FATF sets out in its Recommendations? In the 5th AMLD, e.g., there is a **requirement for separate public beneficial ownership registers of all legal entities/foundations/trusts, including NPOs**, something that is not necessarily risk-based.
  17. The Secretariat would not comment on the EU’s Action Plan, as the EU is a member, but the FATF is following work on the Action Plan closely.
  18. On Recommendations 24/25, the FATF Policy Development Group (PDG) project is reviewing the requirements of transparency and beneficial ownership. The **project touches on the necessity to clarify the different nature and different risks of legal persons** so that countries can implement this better. **Privacy concerns** that NPOs have are being looking into. More guidance and clarification is definitely needed. The FATF might propose that changes be considered in the Standard as well as in the methodology. **The risk-based approach should be a core element in the assessment of Immediate Outcome 5.** The 24 Nov PSCF event on Beneficial Ownership is at planning stage – there will be outreach to the private sector as well as to NPOs in due course. The Best Practice Paper on Recommendations 24/25 is [on the website here](#).

#### Ongoing engagement: way forward

19. Given the usefulness/productiveness of interactions (today and over this past summer) with the Secretariat, the Coalition brought up the issue of **ongoing engagement, also at the regional level**. NPOs have had mixed experiences engaging with the different regional bodies. It would be helpful to create **some kind of mechanism** so that the FATF Regional Bodies and NPOs can establish regular ongoing communications about issues of concerns to NPOs, especially now in light of the implementation of UN Security Council Resolution 2462. The Coalition would welcome suggestions on how this could be materialized and also, on the FATF side, what they see as the best path forward to establishing such a mechanism.

#### Regional engagement

20. The Coalition provided an update on the NPO **Regional Risk Assessment survey in 17 Latin American countries**.

#### Follow-up

21. The Secretariat rounded off the call by saying that given the number of follow-up item – Beneficial Ownership, the Private Sector Consultative Forum, next steps in terms of finalizing the Strategic Review after the October plenary – **another call can be organized between the Secretariat and the Global NPO Coalition**. The outcomes of the FATF plenary can be discussed and also how the Coalition can contribute to new work that comes out of that and to feed into all of the different workstreams mentioned above.