



Global NPO Coalition on FATF submission to the FATF Strategic Review process

Discussing the framework for country-level evaluation of Recommendation 8 implementation

The Global NPO Coalition on FATF welcomes the Strategic Review and its focus on improving the structure and functioning of the FATF Mutual Evaluation process, with a view to making it more targeted, timely and risk-based.

Within this Strategic Review process, we would like to initiate a discussion on whether the **existing country evaluation/assessment framework for the NPO sector and for Recommendation 8** – the same as for other sectors and for other FATF Recommendations – is fully appropriate, feasible or effective for the purposes of achieving the goals of the FATF. This derives from the consideration that the NPO sector is hugely varied and very different in terms of its operations from other private sector stakeholders that are subject to FATF Recommendations. It plays a special role in society and its human rights, humanitarian and expressive functions are protected by international humanitarian and human rights law – which is not the case with any other sector subject to the FATF Recommendations.

Drawing from the tailor-made, customized and collaborative Risk Assessment methodology recently developed for the NPO sector by the World Bank in a consultative process with the sector, we argue that FATF can undertake a similar approach with the **Mutual Evaluation/country assessment methodology as applied to Recommendation 8**. The current one-size-fits-all methodology cannot easily or effectively fit all sectors, as it does not allow for the specific nuances of the NPO sector and its internationally-protected role. To achieve its goals, the FATF could adapt the features of the NPO Risk Assessment methodology that make it uniquely effective for the NPO sector and use it for the Mutual Evaluation process of Recommendation 8.

This is particularly timely considering that the Mutual Evaluation reports in the last round of country evaluations have shown countries across the globe struggling significantly to achieve effective implementation of Recommendation 8 under the current system. Only 5 countries have been deemed fully compliant on Recommendation 8 since the 2015 evaluation cycle. Moreover, [statistics from the latest UN CTED report](#) show low levels of effective and proportionate implementation in line with the requirements to not restrict legitimate NPO activities: *“fewer than 50 per cent of reporting States indicated that their approach to non-profit organizations was risk-based and in accordance with international human rights obligations. Most States did not respond to this question.”* (see paras 76–80 of the report).

In addition, the same report finds that the level of the risk for the NPO sector was overwhelmingly medium, low or not available: *“54 per cent of responding States indicated that they had never identified cases of terrorism financing through the non-profit sector, and around one-third indicated that they had. Most States that had conducted a risk assessment of their non-profit sector indicated that the vast majority in the sector were low risk, but that some non-profit organizations presented specific features (e.g., operating in sensitive geographic zones,*



being located on the periphery of large cities, or making significant use of the Internet) that might present higher risks.” (paras 80–85).

It would be prudent for the FATF to discuss the **proportionality and cost-effectiveness** of NPO sector assessment and Recommendation 8 implementation in its current format and framework considering the low risk in the NPO sector as a whole. Through our in-country work, and our work with governments, we have become aware of the enormous amounts of time, resources and staff that countries expend on the Risk Assessment and Mutual Evaluation cycles, including for ensuring Recommendation 8 implementation under the current methodology. We would encourage the FATF to consider how this resource-intensive process could be reformed and made proportionate to the low risk of the sector, while at the same time being cognizant of the dangers of over-regulating the sector. Based on existing country practice and experience, risk in the NPO sector lies in only a very small subset of the sector. Relevant proportionate and targeted measures are needed only if existing measures are insufficient to mitigate risk in that subsector. At the same time, any new measures introduced must be compatible with the country’s obligations under international humanitarian, human rights and refugee law, as also required by UNSCR 2462.

Are there leaner approaches that could be more effective, with more collaborative mechanisms to include NPO sector input in the Risk Assessment and Mutual Evaluation processes? Could the FATF consider formats that are less disruptive to legitimate NPO activities and more conducive to the full respect of international human rights, refugee and humanitarian law?

For these reasons, we strongly suggest that the FATF open the discussion on the **revision of the country evaluation methodology for the implementation of Recommendation 8** to be more in line with the participatory and specific approach that the World Bank’s NPO Risk Assessment methodology already includes, and more conducive to the full respect of international human rights and humanitarian law obligations.

In addition, we submit an **annex of recommendations suggesting crucial improvements to the existing country-level NPO-sector assessment.**



Annex: Proposals for Methodology for 5th Round of FATF Mutual Evaluations

Global NPO Coalition on FATF – September 2020

Issue	Proposal
<p>Lack of a formal process for stakeholder input can cause confusion about what, how and when NPOs can engage in the MER process: what can be submitted and when, what form the input should take and how the on-site visit would work. This can result in the lack of important contribution from NPOs and concerns about the evaluation team’s overreliance on government input. Currently, Appendix 2 of the FATF Methodology presents the list of authorities and businesses that are usually involved in the on-site visit and vaguely states "Any other agencies or bodies that may be relevant (e.g. reputable academics relating to AML / CFT and civil societies)" (page 35).</p>	<p>Make NPO participation mandatory in the evaluation process.</p> <p>Develop and publish guidance for stakeholders on when and how to provide input into the evaluation process</p> <p>Set up a web-based process or a regular email address for FATF and FATF-Style Regional Bodies that NPOs can use to submit comments during the evaluation process, as was successfully done in FATF’s open public comment process for revision of R8.</p> <p>In authoritarian/repressive countries, CSOs could seek to provide their input through secure channels, e.g. through international contacts, civil-society-friendly embassies or EU representation. Such input should be considered by the evaluators.</p>
<p>FATF perception that NPOs’ desire to engage during the on-site visit can potentially undermine evaluators’ independence.</p>	<p>Provide NPOs with a means of input that is standardized and reach out to a broader group of NPOs to allow for diverse opinions that can help inform the evaluators.</p>
<p>Without clear standards for submissions, NPO stakeholders may not provide information that is potentially useful. Standards for submissions should be specific as to concrete issues to be addressed, length and other criteria, so that evaluators, who have reams of documents to review, can get the best information in the limited time they have.</p>	<p>FATF provides stakeholders with specific guidance for written submissions, and also makes publicly-available materials that evaluators consult so as to help inform the sector.</p>



<p>Immediate Outcome 10 does not easily translate into a template for NPO input. It is organized as a tool for evaluators and the format reflects this. The concepts in it however, could form the basis of a template for input.</p>	<p>FATF creates an optional template based on Immediate Outcome 10.</p>
<p>The Scoping Paper defines the parameters of the MER, so that by the time civil society has an opportunity to contribute, the issues it is concerned with may have been excluded from the MER</p>	<p>Provide guidance on how NPOs can submit input to evaluators prior to the visit, particularly prior to completion of the scoping paper, as it defines the parameters of the evaluation. There could be FATF templates for inputs made available to NPOs.</p> <p>Set a date for receipt of written input that allows evaluators to consider it when drafting the Scoping Paper.</p>
<p>Over-regulation not dealt with in many MERs</p>	<p>Be aware and address the problem of over-regulation in the effectiveness component of the evaluation, as it often impedes the implementation of the FATF standards and negatively influences country ratings on R8. Address whether or not measures taken are consistent with the IHL/IHRL/IRL obligations and UNSCR 2462.</p> <p>Be aware and address the problem of over-regulation with regard to the effects of the interpretation and implementation of R8, as it leads to the de-risking of NPOs. Provide guidance on the way evaluators address de-risking in the country evaluation (as recommended by the study of Center for Global Development https://www.cgdev.org/publication/does-financial-action-task-force-fatf-help-or-hinder-financial-inclusion-study-fatf)</p>



<p>Inconsistent approach to MER review of R8</p>	<p>Facilitate communication between evaluators and NPOs during the on-site visit. To the extent possible, create consistent practices between countries on such contacts. Recognize diversity within the NPO sector in different country contexts.</p> <p>Work with evaluators to achieve consistency in how countries are rated on R8 implementation, including review of whether or not a country conducts outreach on the Risk Assessment, and outreach and engagement during the evaluation process.</p> <p>Develop clearer guidance for governments and evaluators about the effectiveness review – especially on how to measure effectiveness. It should be clear that the "rule-based" approach which affects the entire NPO sector is not in line with FATF standards, but an "evidence-based" or informed and targeted approach is.</p> <p>Evaluators ask for an effective, targeted approach. From the point of view of the evaluation, untargeted measures that restrict the operating space of the entire NPO sector should be considered as non-compliant and inconsistent with the country's obligations under IHL/IHRL/IRL and UNSCR 2462. The evaluators can challenge the effectiveness and the use of resources of the country when they discover regulation imposed on the entire sector.</p>
<p>Improve the Risk Assessment and Mutual Evaluation processes in order to make it easier for countries to prepare and for NPOs to engage in.</p>	<p>Develop a genuine and continuous dialogue between the various stakeholders and NPOs, and concrete guidance for governments and evaluators</p>



<p>On-site meeting issues</p>	<p>Evaluators should meet with CSOs that work on money laundering, corruption and/or terrorist financing and human rights as well as the wider CSO sector, in particular those who may be affected by a country’s implementation of AML/CFT recommendations, such as humanitarian organizations</p> <p>Governments/FATF or FATF-Style Regional Bodies/evaluators should contact local CSOs/umbrella organizations or networks to make sure a representative selection of CSOs is invited to the meeting.</p>
<p>Evaluation teams do not include NPO experts and evaluators often do not have the necessary background needed to assess the sector effectively</p>	<p>Review NPO sector self-regulation practices in addition to laws and regulations</p> <p>Raise awareness among evaluators that untargeted measures and overregulation restricting the general operating space of the entire NPO sector will be considered ineffective (some evaluations already do this, so this practice should be standardized). Evaluators must be made aware that evaluations could also be used to stress the fact that governments should not overregulate NPOs in order to be consistent with Immediate Outcome 10.</p> <p>Ensure that evaluators are cognizant of the country’s obligations under IHL/IHRL/IRL and UNSCR 2462.</p>
<p>Evaluations conducted by FSRBs vary widely and do not always apply the principles of R8 or IO 10.</p>	<p>FSRBs should streamline their methodology and approach on evaluation and NPO engagement. FATF Member States should provide the necessary capacity to FSRB Secretariats on NPO engagement and on effectiveness standards.</p>



FATF training programmes could be a vehicle for educating all stakeholders about the proper evaluation of R8 and the measuring of outcomes in accordance with IO 10.

The FATF conducts Assessed Country Trainings in some countries upon request, which includes practical guidance on how to put the evaluation process together and how to prepare for it given the evaluation timeline. Preparation for the evaluation of R8, information on NPO-relevant issues for the sector in the country (including broader developments in the country that may be relevant), and guidance on how to engage NPOs could be included as a part of that training. Include information on UNSCR 2462 and obligations under IHL/IHRL/IRL.

The "Global Network Coordination Group", which includes all FATF and FSRB Secretariats, the International Monetary Fund and the World Bank, deals with coordination and horizontal issues, sharing good practice. They could share evaluation-related material developed by the FATF Secretariat among members to help facilitate and simplify the process. These might include templates and guidance on NPO engagement in the process.