

Meeting Summary:

Title	FATF Partner Consultative Forum
Date of meeting	20th, 21st, 22nd March 2017
Location	UN Vienna, Austria
Type/Purpose of Meeting/Context	Private Sector Consultative Forum

[See here for the FATF Chairman's Summary of Outcomes from the FATF Private Sector Consultative Forum](#)

NPO PCF participants summary ** Chatham House Rules**

Focus of the Private Sector Consultative Forum (PSCF):

- Financial inclusion
- Terrorist financing, which will remain a priority for FATF in the future
- Correspondent banking
- Derisking and its many drivers
- Beneficial ownership
- Information sharing

It was reiterated in the opening remarks to the PSCF meeting that 'not all NPOs present a high CFT risk'.

Global priorities for AML/CFT in 2017:

- Focus on evaluations and consistency of recent evaluation reports (4th evaluation round), which focuses on effectiveness (immediate outcome 4 and 10). Role of global network of FATF Style Regional Bodies (FSRBs).
- Three main aims include:
 - o Making evaluation reports more accessible and readable
 - o Ensuring relevance of reports – the reports are snapshot in time, there is a five-year follow-up process after the evaluation for each country, so that the report becomes a live document
 - o Ensuring the effectiveness and consistency of the methodology
- Challenges: Mainly logistics-based. Almost 250 assessors needed to meet evaluations target.
- Producing guidance for a risk based approach (RBA) – Is risk-based-approach guidance needed for different sectors?
- Focus on terrorism financing (information sharing within financial-services-provider groups)

FATF looking at definition of correspondent banking (burdensome due diligence), derisking, working towards financial inclusion (need for simplified due diligence) and proliferation of financing.

- They have reached out to the data protection sector, and will follow-up on this later.
- Within the information-sharing area, they are looking at information sharing from private to private sector; public to private and public to public.

Banking representatives spoke of the need for a collaborative approach with the public sector and with financial crime authorities. Liaising with the NPO sector was mentioned. Four points to change/review: correspondent banking; record keeping/deleting; data; wire transfer regulation. Concern was raised that NPOs (development/human rights) are being derisked by banks.

The money transfer (MTN) industry presented the negative impact of derisking on its work, painting a picture of a stifling environment, and of compliance/liability. There is no remittance-sector-wide common standard, an issue that is being sought to be addressed. An intervention stated that minimum standards were not enough to satisfy banks. However, data on how much of the resources went into the wrong hands was unavailable.

The primary vulnerability of the legal sector was discussed since the sector is unwilling to collaborate enough around money laundering detection. The goal is to educate lawyers and identify red flags for the client relationship. Issues around confidentiality and the client-privacy-privilege were also discussed. More engagement with FATF and other stakeholders was welcomed.

Lia van Broekhoven, representing the Global NPO Coalition on FATF:

- Introduced the Global Coalition, co-chairs and the holders of the first NPO seats at the PSCF.
- Provided a summary of the work of the NPO Coalition so far – Recommendation 8 and Interpretative Note (IN) changes were a real breakthrough – now clear risk based approach, and no broad-brushing of entire NPO sector at risk.
- Said that the NPO Coalition would focus on the following issues in the future: National Risk Assessments, Mutual Evaluation Reviews, and the effective implementation of Recommendation 8 at the national level. A number of FATF Style Regional Bodies and the NPO coalition have started a dialogue on ways the coalition would be able to support the implementation of the new R8 at the country level.
- Also said that besides working on whether Recommendation 8 works in practice, want to focus on derisking which affects not only NPOs but other sectors (e.g. remittances).
- Summarized findings of the [Charity & Security financial access report](#), including reference to the proposed ‘safe harbour’ approach being discussed in the UK and reference to the multi-stakeholder round table meetings initiated by the World Bank and ACAMS (Association of Anti-money Laundering Specialists) which has developed workstreams to identify tangible solutions to the derisking of (humanitarian) nonprofits

On a question about a repository of due diligence measures, it was mentioned that it is under consideration by the NPO Coalition and particular members.

Specific sessions:

1. Dialogue on FinTech and RegTech: Opportunities and challenges

FinTech: Financial Technology, an industry known for championing software and technology in the financial sector. They are also popular for generally challenging traditional banking and incumbent institutions. More: <https://e27.co/blockchain-dummies-101-guide-next-hot-fintech-trend-20160913/>

RegTech: Regulatory Technology is the use of new technology to facilitate the delivery of regulatory requirements. RegTech is technology that seeks to provide ‘nimble, configurable, easy to integrate, reliable, secure and cost-effective’ regulatory solutions (Deloitte).

More: <https://complyadvantage.com/what-is-regtech/>

Issues discussed: Know your customer (KYC), customer due diligence (CDD), data sharing, data protection, AML/CFT abuse potential for digital financial products, possibilities of FinTech and RegTech in combating TF and ML

Questions and exchange with FATF made clear that FATF has an interest in seeing how FinTech/RegTech can be of use to ML/TF efforts but also sees certain risks with the use of these new innovative tools. FATF wants to stay ahead of curve – no intention to interfere/overregulate but to

take a risk based approach with regard to FinTech – flexible regulation. FATF will visit San José in May to discuss regulation and FinTech and RegTech with companies that are ahead of the curve.

2. Terrorist Financing Risk Indicators (identifying risks of individuals/entities engaging in TF) – presentation of FATF report and discussion:

A banking representative said that information and intelligence sharing is key. And so is conducting network analysis of network activity, to identify persons of interest. Three examples were given of how to identify a person of concern with multiple links and activities. One activity on its own is not suspicious, however, activities joined together can provide a basis for suspicion. References to charities made in several examples (e.g. donating to a charity linked to a certain group). The speaker was in favour of Facebook and similar entities, e.g., becoming reporting entities

A comment from the floor stated that if information is too accessible, it becomes less valuable. How can we work actively to reach out to entities with information without making it worthless? Risk-based judgements have to be made.

FATF: Need to look at ways of reaching out to other sectors. Period of transition in FATF. Growth of FinTech and RegTech has prompted this.

NPO request to see TF risk indicators report or any aspects relevant to NPOs. This was noted by FATF. Later response by FATF Secretariat: no reference about NPOs in this particular report, nor any TF risk indicators relate to NPOs.

3. Financial inclusion:

- Objective of the discussion was how tech could promote financial inclusion.

There was a presentation on a technology-driven approach to include under-served customers in the banking system, facilitated by the government, creating millions of bank accounts (mobile banking system), after creating user profiles.

Mention was made on how financial exclusion implies higher ML/TF risks – often happening in low income groups in higher risk regions. About 2 billion people/individuals excluded from financial services – how to get them on board? Blockchain for KYC information – could reduce costs significantly. Discussions also revolved around financial inclusion for refugees, for people with disabilities and for women. In FATF's view, gender has not played a role so far in terms of regulation. Mechanisms of countries to gather information about customers, particularly those who don't have identity documents. This is an area of interest for the prevention of terrorist financing.

FATF: There are 2 approaches to the issue 1) banks need to comply with AML/CFT requirements, and 2) financial inclusion is important, but not an FATF concept. Government needs to give reassurance where reassurance is due and muster technology that can support it. FATF are in the process of updating the financial inclusion guidance. Now trying to develop a supplement to the guidance.

4. Transparency of Beneficial Ownership (BO) – Legal Arrangements:

- From viewpoint of trusts.

There is difficulty around identifying the beneficial ownership (BO) of trusts because of the absence of universality. Takes on average six months to open a Trust.

It was argued that there is no need to include trusts in BO transparency – trust structure guarantees that no abuse happens. Trustees cannot do their job if they do not undertake effective controls

You cannot run a Trust without knowing everything that Recommendation 25 needs you to know – so no need to include trusts in Recommendation 25.

Trusts, EU and FATF:

Trusts and EU Legislative proposals: 4th and de facto 5th AML Directive have included full transparency of BO of trusts and similar legal arrangements (for those with a legitimate interest). EU efforts going beyond FATF Recommendations 24/25. There are FATF member states calling for FATF to go further regarding Trusts. The EU Parliament has explicitly referred to Trust-like arrangements and even asks for full public access (not just for those with a legitimate interest). EU data protection supervisor now looking into data protection concerns. The importance of meetings where different sides can engage was emphasised.

The slightly one-sided, defensive presentations by the trust law industry was criticised – there is a vulnerability of the trust sector for ML issues in particular; several abuse cases have been identified. The need for further guidance on how to identify other legal arrangements which are similar to express trusts within the context of Recommendation 25 in particular in civil law countries was mentioned.

5. Correspondent Banking:

- Objective of discussion was to follow-up on the guidance and its usefulness.

Correspondent Banking guidance from FATF developed in 2016: important not to have perception that all bank to bank transactions are looked at as high risk.

Need for national guidance for full implementation and interpretation – not many national versions. Possible need to revise definition of correspondent banking. Respondents said that the guidance is not mandatory and it is important for countries to do something with this guidance.

It is important to re-visit the Correspondent Banking definition. The definition is not consistent with the definition in the FATF standard.

Conversation similar to NPO Recommendation 8 – first detailed guidance, then need to change definition and Rec to reflect the guidance.

6. Best practices on overcoming obstacles to information sharing:

Barriers to information sharing were discussed.

Banks viewed laws as impediments to information sharing - secrecy laws and data privacy laws are barriers, as outlined in a survey.

Information sharing is at the heart of an AML framework. Encourage a public-private partnership. Look to FATF for standards. Support sharing info for financial crime purposes. The context of sharing information has to be taken into account.

Data protection authorities, banking supervisors should sit together and find a solution. Information sharing is the best way forward supported by appropriate protections rather than firms taking risks with types of decisions. The quality and management of data is key when discussing sharing information.

Council of Europe, Courts – Human Rights Convention: Financial information is private information. There is enough room for sharing of information. But you need justification for sharing, under the courts' definition. Most of what has been said does not comply with European standards on human rights. Sharing information because we might use it at some point is not enough. The aforementioned comment highlights the challenge. The balance between people's human rights and right to privacy of information.

FATF Private Sector Consultative Forum (NPOs):

MORNING: Sharing experiences on engagement with non-profit organisations – The Evaluation Process:

FATF Secretariat: Briefly summarised 2016 revisions of Recommendation 8 and Interpretative Note (taking a clear risk based approach) and Immediate Outcome 10. The methodology was also updated towards the end of 2016. The revised standards were used for the first time in Ireland and Denmark in late 2016. Reports are only expected in September 2017. Thanks given to the NPO Coalition for their collaboration, and outreach. The greater and improved collaboration in the past few years has been very important and useful.

Clarification of the process: The mutual evaluation process takes 14 months, involving the authorities of that country. It takes an all-of-government approach e.g. ministries, law enforcement etc. FATF see the mutual evaluation (and evaluation by evaluators who come with a different legal background) as a good opportunity for a country to have foreign, unbiased experts assess a country independently and objectively. In an early stage of the process, the country has to provide a huge amount of info to FATF (policies, guidance etc. developed at country level) to show technical compliance as well as “effectiveness” of existing measures to address risks. Effectiveness is assessed in terms of whether existing initiatives are achieving the desired AML/CFT objectives. Governments should undertake outreach to the NPO sector during the evaluation process (when doing the risk assessment, analysis of technical compliance and effectiveness review and development of potential mitigation measures). Evaluators are appointed by FATF, and FATF Secretariat remains the bridge between the evaluators and the governments. Ahead of the onsite visit, the assessors interact with the assessed government. There is no interaction directly between the assessors and the private sector (e.g. NPO, banks) until the onsite visit. The evaluators decide with whom they want to talk but there may be recommendations made by the government. One ministry will take the lead in engagement. All assessors on the team have access to all of the information.

NPO Coalition: Thanks given to ‘drivers’ of the NPO Coalition.

In the third round, the country evaluations was a purely box-ticking exercise and a mere check for technical compliance. Since there was no incentive not to over-regulate and plenty of scope for misinterpretation around the standard, overregulation has been the result in several countries, with the extent that even countries which closed down the space for the entire NPO sector scored well on the evaluation. That has now changed somewhat with the inclusion of the effectiveness component in the evaluation and the clear commitment to a risk based approach. Countries not undertaking a risk based approach and/or entering into untargeted or disproportionate mitigation measures will not be seen to be complying with the standard.

Key learnings from a London event on how NPOs have experienced the evaluation process were presented to kick off the debate. There were many comments from NPOs that the FATF mutual evaluations were not open processes and governments did not reach out to their NPO sector around Recommendation 8 issues. NPOs were not always aware of the evaluation taking place and if/how to engage. Another issue raised was the fact that evaluators do not seem to have NPO expertise since they evaluate 40 recommendations, and only R8 is specifically focused on NPOs. There was frustration that there was no feedback after the evaluation until the Mutual Evaluation Report is published months later. Therefore, the NPO Coalition has felt the need to raise awareness of the process in

various countries with the NPO sector. There is growing awareness in the NPO sector about FATF, which is good. The London meeting concluded that governments need to be made aware that they should undertake outreach to their NPO sectors during the entire evaluation process starting with the risk assessment (at least hear views from the NPO sector), followed by technical compliance and effectiveness review, development of potential new mitigation measures and follow up process. Targeted NPO training for evaluators was also mentioned especially since the new TREIN director was in the room.

Lessons Learned also taking into account presentations of the day:

Representatives from government and the NPO sector stated that in some cases, engagement with the NPO sector started too late. It was highly recommended that NPOs be brought into the discussion much earlier. A country felt that the assessment could have been better worded if NPOs had been involved in the process earlier. This country used pre-onsite phase to engage with NPOs, and to agree/define the subset of NPOs.

The importance of sustained outreach to the NPO sector not only pre- but also during and after the onsite visit was highlighted. The on-site visit should not be the only input point – written input could be submitted to the evaluators via the FATF secretariat.

Countries up for evaluation were eager to understand whom to talk to from government side and if it was possible to influence which NPOs the evaluators talk to. Some countries appear to have only invited high-risk NPOs to engage during the on-site visit. The sector did not get consulted during the assessment on which parts of the NPO sector are at higher risk, which appear, in this case, to be service NPOs. One NPO representative questioned how other NPOs (e.g. women peacemaker groups which are affected by CT measures) can engage in the process. Other NPO representatives also stressed the need to ensure that evaluators do not only talk to government-friendly sections of the NPO sector and to include advocacy organizations

An FATF Style Regional Body said that its Secretariat goes to upcoming evaluated country for a 3-day workshop before the evaluation process begins. This includes a 1-day meeting with the private sector including NPOs to inform them about the evaluation jointly with the country's government. Usually NPOs and private sector do not know when the evaluation will take place or are contacted just before the onsite visit. NPOs should be contacted and engaged with much earlier.

In some countries, it was mentioned that FATF recommendation was taken as a green card to suppress civil society – FATF evaluations could even be a tool to counter overregulation in case no outreach happened and no targeted/risk based approach is undertaken. However there is no guarantee that governments would treat the sector any better if the governments get a non-compliant rating. More guidance for governments is hence recommended. Another NPO representative stated that governments may also use the FATF evaluation to try to fix perceived risks too quickly without doing a proper assessment. It was mentioned that FATF has, de facto, become a powerful charity regulator in the world. FATF credibility in this space is up for debate in the future.

In certain other countries, efforts are underway by NPOs to engage with their governments in the evaluation follow-up process.

Can FATF evaluation take derisking of NPOs into account?

FATF looks at banks derisking through lens of how banks are implementing preventive approaches and R4, and if they are sufficient. But they don't look specifically at the relationship between banks and NPOs. The new language however says 'proportionate measures', 'risk-based approach', 'to vulnerable NPOs identified by the country'. Includes looking at what guidance is provided by the government to the private/NPO sector. Are the measures of the country mitigating the risk? If they are accelerating the risks of TF, then that will be criticised by FATF.

What documents do evaluators look at – how can NPOs engage?

A document/template for NPOs to make comments may be useful. Assessors get thousands of pages of material. The more precise the document, the more persuasive it is. Materials should be sent to FATF secretariat, they will share it with governments and evaluators. Evaluators also read UN reports and sector-written/relevant documents.

How do evaluators select the NPOs to meet?

How can assessors ensure that they meet at least a diverse range of NPO sector (e.g. human rights, humanitarian, and development)? It's an organic process, and they apply FATF definitions regarding NPOs. Advocacy NPOs are outside the scope of the FATF definition and are hence likely not to be invited by evaluators. The reality is that the assessors cannot meet with everyone.

What happens in countries where governments have a tense relationship with the NPO sector? Assessors can say to countries that they want to meet other NPOs, not just those suggested by the govt. The assessors also read UN reports, do a sort of context analysis, to help decide who they would like to meet. There is an objectivity element.

Discussion developed into whether the FATF could do more to encourage governments to engage a diverse range of NPOs. FATF responded by encouraging everyone to look at the FATF NPO definition, which excludes advocacy groups and focuses on service delivery groups.

NPO Participant responded that a broader context should be taken into account as NPOs cannot always be divided into service and advocacy groups. Evaluations should include groups who are experts on civil society space on a global scale (int. organizations), who can provide deeper level of expertise.

How can NPOs prepare for the on-site visit?

Apart from producing easy, understandable and not-too-long information documents on the sector, NPOs need to work together and get ahead of the assessors. NPOs are often not prepared and not sure what to expect, including not ready to analyse own risk perception. NPOs should think about self-regulation and mitigating measures, and be more self-reflective of the sector. NPOs could even undertake their own risk assessment/analysis as conducted, for example, by the Swiss NPO sector.

- Does the evaluation take into account NPO self-regulatory risk mitigation approaches? FATF: Yes, this is taken into account, see example of Norway.

Main Takeaways:

- **Countries should conduct outreach and awareness with the NPO sector long before the evaluation process begins. Outreach should be sustained.**
 1. **Governments need to carry out a risk assessment to identify those at risk**
 2. **Existing measures, including soft law, need to be reviewed**
 3. **Only in case of any residual risk, should proportionate and targeted measures be identified**
- **Governments should involve NPOs in and keep them informed through the evaluation process**

- Evaluators should be trained to make good use of written NPO submissions in advance of onsite visits
- During the onsite visit, countries/evaluators/FATF should try to talk to a broad-based sample of NPOs, use the help of umbrella orgs, and have a collaborative not top down approach
- NPOs should prepare easily accessible written material and send that to the FATF secretariat who will share it with evaluators and governments.
- NPOs need to come well prepared for the onsite visit, and for detailed questioning. NPOs should come prepared to discuss risk, mitigation, self-regulation, etc.
- The mutual evaluation process can be a catalyst at the national level for NPO engagement and the increasing and understanding of TF risks

Sharing experiences on engagement with non-profit organisations – The Risk Assessment Process

Recent mutual evaluation reports by FATF and FSRBs (from 2015/2016) include a variety of findings and differences in evaluating countries based on their risk assessment and risk based approach. It is not entirely clear from the reports and evaluations that the risk based approach is a cornerstone for any other measures and if the non-existence of such approach towards NPO sector allows for Recommendation 8 compliance.

One FSRB stated that they used the World Bank model for Risk Assessments, which is however not suited for the analysis of which parts of the NPO sector are at risk. IMF also has a model, but an important tool remains the FATF guidance on the matter including the typology report.

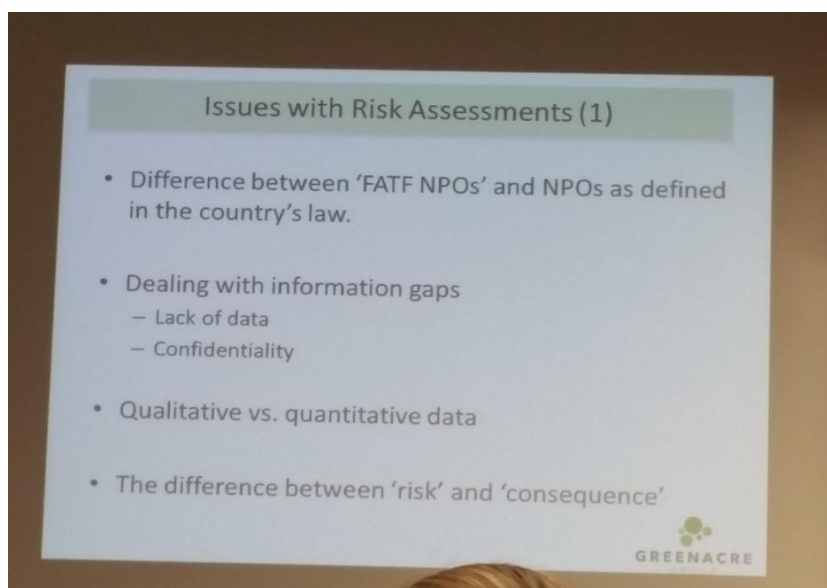
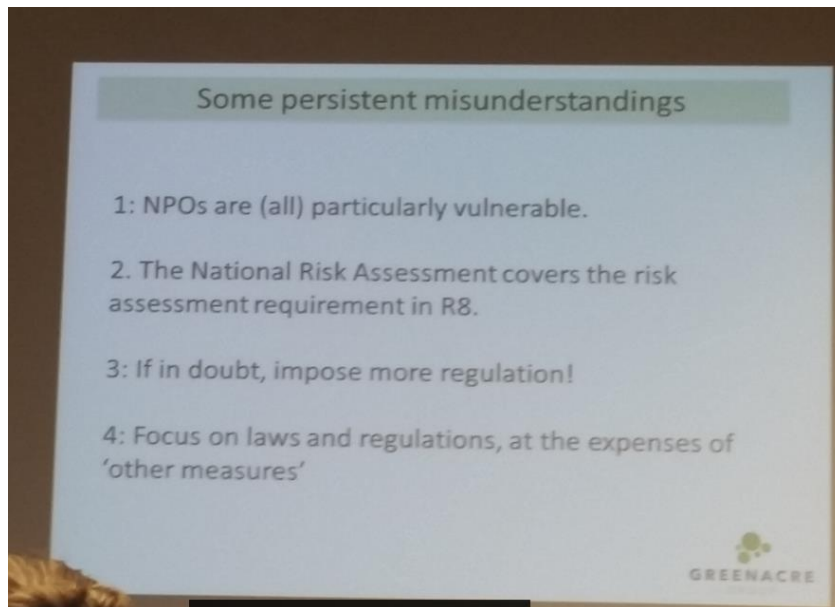
One country stated that it considered its risk assessment process an ongoing learning process: “we are on a journey”. They are engaged in ongoing dialogue with the sector. They also saw the need to involve other players such as banks / financial service providers in the conversation with NPOs. Some countries publish their national risk assessments. Moreover, they said that the NPO sector is affected by a quite a number of recommendations besides R8, such as the recommendations on cash couriers, corresponding banking, beneficial ownership etc. However, publishing the RA is not a requirement – rather, countries need to inform various sectors on RA findings.

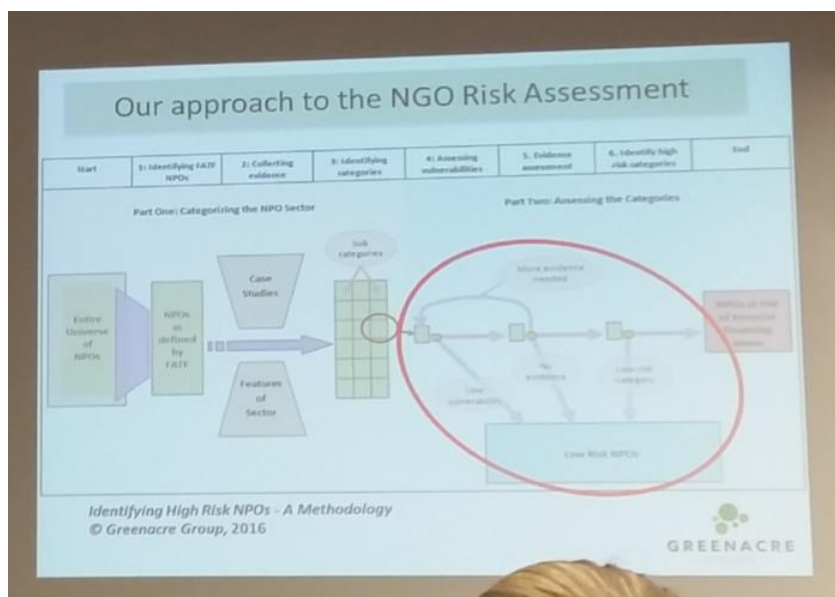
European Commission presented supra-national risk assessment process. There are four levels. Supranational, national, high risk entities. Looking at cross-border issues. NPOs are not addressed as a separate category in the supra-national risk assessment, but are important. NPOs have been involved in workshops and consultation on the risk assessment.

Lessons Learned also taking into account presentations of the day:

- It is not always clear if having a risk based approach is a mandatory part of the compliance. FATF and FATF style regional body evaluation reports should be fully consistent when assessing Recommendation 8 compliance and risk based approach.
- FATF does not advise which particular risk assessment model countries use, as long as it can demonstrate to the assessors and FATF that the country understands its risks.
- Risk scenarios change constantly
- Risk differs from country to country and even within a country based on activities and stakeholder group etc.
- Many misconceptions around RA exist

- Outreach to NPO sector is very important.
- Different nature of NPOs – important to reach out to small and medium NPOs / but also include capacity and awareness building to get meaningful feedback.
- Different government agencies reach out to same NPOs on similar issues – need for coordination.
- Dialogue with donors and banks, too, needed.





- The most important word is 'inclusiveness' - - As broad a range of NPOs should be included in the risk assessment (organizational and functional division, also those considered at risk).
- The IMF engages with NPOs through government authorities. IMF has done 2 evaluations in 4th round, NPOs for site visit were chosen by authorities only.
- There is insufficient knowledge and a lack of data with respect to the NPO sector. This can lead to an increase in the risk profile of the NPO sector.
- Are countries required to publish the risk assessment report? FATF: Countries don't have to send out a report, but they must ensure that the results of the report are sent out to the private sector including NPOs. Sometimes this is due to sensitive information being contained in the report.

Main Takeaways:

- **Different forms of RA are possible, point is always if the country understands the risks**
- **Update RA periodically as the risk changes**
- **Risks differ from countries but also within countries, depending on areas/regions**
- **Any RA, evaluation and follow ups are enriched by inclusiveness**
- **Many misconceptions still exist: that NPOs are "particularly vulnerable" in general, that more regulation is better, over-focus on laws as opposed to other measures (soft, self-regulation)**
- **Governments need to do lot more capacity building on smaller NPOs not just engage with usual counterparts**
- **Coordinated outreach to NPOs on national level very important, not to overburden NPOs**