WHAT DOES THE CIVIL SOCIETYHAVE TO KNOW ABOUT FATF?

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FACTSHEET 02

As has been clarified in Factsheet 01, Financial Action Task Force's (FATF's) Recommendation 8 (R8) applies to non-profits,and this includes the civil society sector. Non-profits and philanthropic organizations around the globe lauded the June 2016 revision of R8, but the effects of the original R8 have lingered on. Before the revision, countries had already taken action, such as, introducing or updating legal framework(s) addressing money-laundering and terrorist threats, enhancing due diligence measures and tracking of financial operations. Despite the revision of R8, these measures remain unchanged and some of them have implication for non-profit operations.

What does the Revised Recommendation 8 (R8) Require?

The revised R8 provides as follows:

> *"Countries should review the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach to such non-profit organisations to protect them from terrorist financing abuse, including:*
> *(a) by terrorist organisations posing as legitimate entities;*
> *(b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and*
> *(c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations."*

What Must Countries Do in order to Comply with the Revised R8?

- To comply with the revised R8, countries are obligated to:
  - Identify the organisations which fall within the FATF definition of NPO.
  - Determine which of those NPOs identified are vulnerable to terrorist financing abuse.
  - Identify the nature of risks to which the NPOs identified as vulnerable are exposed.
  - Review the adequacy of laws and regulations and any other existing measures (including the self-regulatory measures from the NPO sector) that relate to the NPOs identified as vulnerable in respect of the inherent risks.
  - If additional measures need to be taken, they shall be focused on the NPOs identified as vulnerable and shall be proportionate to the risks to which they are exposed.

Any measures adopted should be implemented in a manner which respects Nigeria's constitution and Nigeria's obligations under the Charter of the United Nations and international human rights law and must not restrict legitimate NPO activities.

How Do Countries Determine the Sectors and Organizations at Risk?

Under FATF Recommendation 1 (revised in 2012), it is now mandatory for all countries to conduct money laundering and terrorist financing assessment. There are two different risk assessment exercises that participating countries are required to carry out. They are:

(a) National risk assessment (NRA) and
(b) Risk assessment of the NPO sector

National Risk Assessment (NRA) is a direct responsibility of member States. It is a process carried out by the government to identify AML and CFT risks in all the sectors of the domestic economy. Countries undertake this assessment internally to evaluate their national policies and institutional arrangements for preventing criminal abuse of the financial system. Risk assessment of the NPO sector is a specific process required under the revised FATF Recommendation 8 (in conjunction with FATF Recommendation 1), to assess the degree of vulnerability of NPOs to money laundering and terrorist abuse. The assessment is necessary to assist countries mitigate the risks that they face, and prepare for the second round of evaluations. The risk assessment of the NPO sector can be a separate procedure from the NRA process, or can be undertaken as a part of the NRA.

What is the Criteria for Determining the Vulnerability of NPOs?

The criteria used to determine the vulnerability of NPOs are as follows:

- Client base/profile of the NPOs (Who are the beneficiaries? Any due diligence conducted on them?)
- Level of cash activity
- Existence of informal operators – availability of entry controls
- Use of agents
- Exposure to cross border activities
- Difficulties in tracing transaction records – funds utilization
- Existence of ML/TF typologies on the abuse of the sector
- Existence of comprehensive internal control measures
- Knowledge of ML/TF risks inherent in their operations
- Others factors including comprehensiveness of legal and regulatory framework, effectiveness of regulation and supervision, availability & enforcement of sanctions etc .

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