

SPACES FOR CHANGE | S4C

Research, Policy and Citizen Action



UNDERSTANDING AML & CFT RISKS IN THE NPO SECTOR IN NIGERIA

PART II

FINANCIAL ACTION TASK FORCE (FATF) MUTUAL EVALUATION/REPORT: WHAT IS IT ABOUT?

Mutual Evaluations are indepth reviews conducted by members of the FATF, FATF Style Regional Bodies (FRSB) including other recognised assessors like the International Monetary Fund and World Bank to, assess the overall effectiveness of legal, regulatory and operational measures implemented by a country to tackle money laundering (ML), terrorism financing (TF) and the proliferation of weapons of mass destruction in its

A Mutual Evaluation report (Mer) is a publication that therefore analyses and thoroughly describes a country's compliance or non-compliance to FATF's 40 recommendations for combatting ML and 9 special recommendations for fighting TF as at the time of an onsite visit by assessors to the country. FATF's 40 + 9 Recommendations offer specific and comprehensive measures countries should have within their criminal justice, financial, and regulatory systems in order to mitigate the risks, threats, vulnerabilities and potentials for ML and TF.

Non-compliance could trigger negative consequences such as global bodies blacklisting faulting countries or the FATF describing a country as "High-risk jurisdiction" which means the country lacks effective regimes to counter ML, TF and financing of proliferation.

WHAT METHODOLOGIES DO FATF ASSESSORS ADOPT IN A MUTUAL EVALUATION PROCESS?

The FATF methodology provides a definitive guidance for assessors to evaluate a country's AML/CFT regime. There are two critical components that make up a mutual evaluation methodology and they are:

- **Technical Compliance** – this process reviews all laws, regulatory frameworks and other legal instruments established by a country to combat ML/TF in compliance with the requirements of all FATF Recommendations.

- **Effectiveness** – interrogates the extent to which a country's AML/CFT regime and initiatives are working and enforced in reality. Also, the FATF assesses effectiveness on the basis of **eleven Immediate Outcomes**.

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WHAT METHODOLOGIES DO FATF ASSESSORS ADOPT IN A MUTUAL EVALUATION PROCESS?

Immediate outcomes



1 | Risk, Policy and Coordination

Money laundering and terrorist financing risks are understood and, where appropriate, actions coordinated domestically to combat money laundering and the financing of terrorism and proliferation.

2 | International cooperation

International cooperation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets.

3 | Supervision

Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks



4 | Preventive measures

Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.

5 | Legal persons and arrangements

Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments

6 | Financial intelligence

Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.

7 | Money laundering investigation & prosecution

Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.

8 | Confiscation

Proceeds and instrumentalities of crime are confiscated.

9 | Terrorist financing investigation & prosecution

Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.



10 | Terrorist financing preventive measures & financial sanctions

Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

11 | Proliferation financial sanctions

Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.

Picture Source: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/effectiveness.html>

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HOW DOES MUTUAL EVALUATION CONCERN NONPROFIT ORGANISATIONS (NPOs)?

As per FATF definition of nonprofit organisations: An NPO is a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for carrying out of other types of "good works".

In terms of risks and vulnerabilities faced by NPOs, the FATF identifies some NPOs as particularly at risk and vulnerable to abuse by terrorists and terrorist organisations because of the nature of their operations. More specifically, Recommendation 8 (R8) in line with Recommendation 1 (R1) of the FATF pertains to non-profit organisations.

R8 encourages countries to develop focused measures to ensure that vulnerable NPOs within the wider NPO space are not exploited by terrorists as conduit entities for terrorism financing or purposes. R1 advises on a risk-based approach which acknowledges the diversity of NPOs and thus not only implements a focused assessment of the sector to identify sub-sectors vulnerable to TF but also, applies non-disruptive/proportional CFT measures to protect at-risk NPOs.

During a ME, Assessors will in addition to evaluating a country AML/CFT regimes, also review the country's implementation of targeted measures and application of risk-based approaches to protect the NPO sector from terrorism financing abuse.

HAS NIGERIA UNDERGONE A MUTUAL EVALUATION?

Yes, Nigeria has undergone two Mutual Evaluations – one in 2008 and the other, between September 23 – October 14, 2019. The last Mutual Evaluation report, which, reviewed the implementation of AML/CFT standards in Nigeria as at the onsite visit of Assessors in 2019, was published and undertaken by the **Inter-Governmental Action Group against Money Laundering (GIABA)** in August 2021. **GIABA** is an FATF Style Regional Body that promotes policies to protect member states financial system against ML and TF. They also conduct Mutual Evaluations of member states in accordance with FATF recommendations, guidelines and other global standards.

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WHY IS NIGERIA CONDUCTING A STANDALONE RISK ASSESSMENT?

This standalone TF risk assessment of the NPO sector follows Nigeria's National Risk Assessment (NRA) in 2016. The NRA rated NPOs, which it also classified as a subset of Designated Non-Financial Businesses and Institutions (DNBFIs), as being amongst the sectors most vulnerable to ML and TF risks. However, Assessors who conducted a Mutual Evaluation in 2019 flagged areas of concerns in the 2016 NRA report as regards the risk ratings of NPOs. Some of the concerns include:

1. Nigeria did not conduct a 'sectoral risk assessment' of NPOs vulnerable to TF in line with the FATF' recommendation of a risk-based-approach given the diversity of organisations that make up Nigeria' nonprofit sector.
2. Rather than a targeted assessment, the 2016 NRA of the NPO sector was based on a general NPO vulnerability outlook, FATF and GIABA typology reports (which cited historical case studies of NPOs exploited to advance terrorist activities) and, assumptions that humanitarian operations of NPOs in war-torn zones in the country are likely to benefit terrorist operations.
3. The categorisation of Nigeria NPOs as a subset of DNFBPs is problematic and inconsistent with the sector's TF profile. This is also seen in Nigeria's assessment of the NPO sector for ML threats and abuses which is beyond FATF's standards.
4. Nigeria' regulatory and supervisory architecture for the NPO sector is overly broad, inconsistent with the sector's TF risk profile and likely to disrupt the activities and operations of legitimate organisations.

Consequently, the Assessors rated Nigeria as noncompliant to Recommendation 8.

FRESH TF RISK ASSESSEMENT OF THE NPO SECTOR IN NIGERIA

The objectives of a fresh TF risk assessment of the NPO sector are therefore:

1. To conduct a sectoral assessment that extensively examines the TF risk of NPOs in line with FATF recommendations and applicable international best practices.
2. Enhance the TF risk awareness among relevant authorities and stakeholders in the nonprofit sector
3. Strengthen existing CFT measures designed to protect NPOs from terrorism abuse
4. Review statutory frameworks to proportionately address the TF risks and vulnerabilities faced by at-risk NPOs

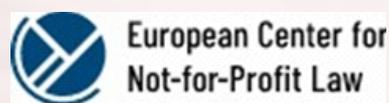
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HOW WILL THIS TF RISK ASSESSMENT IMPACT THE REGULATORY LANDSCAPE FOR NPOs?

1. Influence a proper classification of NPOs
2. Inspire a review of burdensome reporting obligations imposed on nonprofit organisations as a result of lumping them with entities and business establishments highly susceptible to money laundering and terrorism financing
3. It will help regulatory authorities update their books on new TF threats to the NPO sector, identify the subset of NPOs at-risk, strengthen existing CFT measures applicable to the NPO sector and, adopt targeted approaches to protect vulnerable NPOs.



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