

Sent to FATF.Publicconsultation@fatf-gafi.org

Vienna, 18 August 2023

Subject: Comments of Global Responsibility on the draft FATF R.8/INR.8 amendments

Dear Madam or Sir,

we welcome the opportunity to comment on the draft amendment text to Recommendation 8 of the FATF Standards and its Interpretive Note (R.8/INR.8).

Global Responsibility, the Austrian Platform for Development and Humanitarian Aid, represents more than 30 Austrian civil society organisations (CSOs) active in the fields of development cooperation and humanitarian aid. Our members implement more than 1,000 projects in 120 countries worldwide, including high risk areas and conflict zones. They report being negatively affected by the unintended consequences of FATF Recommendation 8, in particular by overly restrictive de-risking measures of financial institutions. This is why we welcome the proposed revision of Recommendation 8 and its Interpretive Note, addressing the problem of over-application of preventive measures to the NPO sector and recognising the unintended impact this can have on legitimate NPO activities.

We fully support the submission of the Global NPO Coalition on FATF and would like to emphasize a few points that we consider particularly important.

Wording of the Standard:

- The wording of the Standard itself is much clearer now. There is, however, room for further improvement as suggested by the Coalition:
Countries should identify the organisations which fall within the FATF definition of non-profit organisations (NPOs) and assess their terrorist financing risks. Countries should have in place focused, proportionate and risk-based measures, based on documented evidence of risk, and taking into account existing regulation and sectoral self-regulation measures without unduly disrupting or discouraging legitimate NPO activities, in line with the risk-based approach. The purpose of these measures is to protect such NPOs from terrorist financing abuse, including:
 - *by terrorist organisations posing as legitimate entities;*



- *by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and*
 - *by supporting NPOs to ensure their funds intended for legitimate purposes reach the receiver of such funds safely.*
- We consider it of utmost importance that risk management and due-diligence measures that NPOs are already implementing are considered when assessing the NPO sector's residual risk. Failing to do so could result in countries over-applying burdensome measures to the NPO sector as it is already happening in some countries.

Interpretative Note:

- In line with the reasoning above we suggest replacing the word 'may' in C6(c) with 'should': 'Countries should also consider, where they exist, self-regulatory and internal risk mitigation measures'
- Like the Global NPO Coalition on FATF we see a need to incentivize financial institutions to encourage the conduct of NPO transactions via regulated financial channels. Often it is not NPOs that need encouragement but financial regulators and financial institutions since they are responsible for hindering such conduct. We therefore suggest adding 'and incentivise financial regulators and governments to facilitate' in D7(a)(iv): 'Countries should encourage NPOs to conduct and incentivize financial regulators and governments to facilitate transactions via regulated financial and payment channels (...)'
- Regarding the list of examples presented in D7(iii)(b) we support the suggested option (i): Remove all examples of INR in D7(b)(iii) and insert them in the Best Practices papers.
- We recommend replacing the word 'monitor' with 'oversee' in D7(b)(ii)

We appreciate that the current revision of Rec. 8 addresses the problem of the prevalent view in many jurisdictions that all NPOs are risky and conduct illegitimate activities. However, we agree with the Global NPO Coalition on FATF's view that further changes in the FATF's methodology are needed such that cases of NPO sector suppression, overregulation, and de-risking can be identified and addressed within FATF processes. We also recommend trainings for assessors on R8 to enhance their understanding of the NPO sector and its operations; on the unintended consequences of a mis- or overapplication of FATF Standards for the sector and its beneficiaries; and of States' obligations under various international treaties (including international humanitarian law, international human rights law, etc.).

Global Responsibility welcomes the changes suggested in the draft, recommends the consideration of the additional suggestions of the Global NPO Coalitions on FATF and encourages the FATF to take further changes in its methodology as suggested above.



Many thanks for considering our submission.

Yours sincerely,

Lukas Wank

Director

Global Responsibility