



Uttaran

Anti Terrorism Combating Financing Policy

Community Mobilization

Poverty Eradication

Environmental Justice

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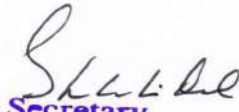
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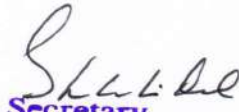
01	Date: November 2020	
	Approved by on behalf of executive board	Shahidul Islam Director
	Recommended by	Haridas Malakar, Coordinator (Accounts and Finance)
		Sarder Md. Rezaul Karim Chairman


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	Recommended by	Haridas Malakar, Coordinator (Accounts and Finance)


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Introduction

Definition of Terrorist Financing

Terrorist financing can be simply defined as financial support in any form of terrorism or of those who encourage, plan, or engage in terrorism. The International Convention for the

Suppression of the Financing of Terrorism (1999), United Nations defines TF in the following manner:

If any person commits an offense by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- a. An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex to the convention; or
- b. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.

2. For an act to constitute an offense set forth in the preceding paragraph 1, it shall not be necessary that the funds were actually used to carry out an offense referred to in said paragraph 1, subparagraph (a) or (b) Some countries face difficulties in defining terrorism as not all countries have adopted the conventions agreed on specifically what actions constitute terrorism. In addition, the meaning of terrorism is not universally accepted due to significant political, religious and national implications that differ from country to country. FATF, which is recognized as the international standard setter for combating financing of terrorism (CFT) efforts, does not specifically define the term financing of terrorism in its nine Special Recommendations on Terrorist Financing (Special Recommendations). Nonetheless, FATF urges countries to ratify and implement the 1999 United Nations International Convention for Suppression of the Financing of Terrorism. Thus, the above definition is the one most countries have adopted for purposes of defining terrorist financing.

According to the section 7 of the Anti Terrorism Act, 2009 (including amendment of 2012), financing of terrorism means:

International Convention for the Suppression of the Financing of Terrorism (1999), Article, The treaties referred to annex in sub paragraph 1(a) shall be available in this web link.

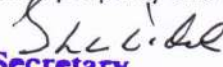
(1) If any person or entity knowingly supplies or expresses the intention to supply money, service, material support or any other property to another person or entity and where there are reasonable grounds to believe that the full or partial amount of the same have been used or may be used for any purpose by an individual terrorist, terrorist entity or terrorist group or terrorist organization then he or she or the said entity shall be treated committing the offence of financing for terrorist activities. (2) If any person or entity knowingly receives money, services, material support or any other property from another person or entity and where there are reasonable grounds to believe that full or partial amount of the same have been used or may be used for any purpose by an individual terrorist, terrorist entity or terrorist group or terrorist organization, then he or she or the said entity shall be treated committing the offence of financing for terrorist activities.

(3) If any person or entity knowingly makes arrangements for collecting money, services, material support or any other property for another person or entity and where there are reasonable grounds to believe that the full or the partial amount of the same have been used or may be used for any purpose by an individual terrorist, terrorist entity or terrorist group or terrorist organization then he or she or the said entity will be treated committing the offence of financing for terrorist activities.

(4) If any person or entity knowingly instigate in such a manner, another person or entity to supply, receive, or arrange money, services, material support or any other property and where

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there are reasonable grounds to believe that the full or the partial amount of the same have been used or may be used for any purpose by an individual terrorist, terrorist entity or terrorist group or terrorist organization then he or she or the said entity will be treated committing the offence of financing for terrorist activities

Chapter - 2

The reason of committing Terrorism Financing

Terrorism financing is done mainly to facilitate an extremist group by providing financial support aiming to establish or circulate their ideology. Such financial assistance may be provided directly or indirectly or may be attempted and amount of money may be significantly low with several in numbers.

How Financial Institutions Can Combat /Terrorist Financing

1.11.1 The prevention of laundering the proceeds of crime has become a major priority for all jurisdictions from which financial activities are carried out. One of the best methods of preventing and deterring money laundering is a sound knowledge of a Client's business and pattern of financial transactions and commitments. The adoption of procedures by which Banks and other Financial Institutions "know their Client" is not only a principle of good business but is also an essential tool to avoid involvement in money laundering.

1.11.2 Thus efforts to combat money laundering largely focus on those points in the process where the launderer's activities are more susceptible to recognition and have therefore to a large extent concentrated on the deposit taking procedures of banks i.e. the placement stage.

1.11.3 Institutions and intermediaries must keep transaction records that are Comprehensive enough to establish an audit trail. Such records can also provide useful information on the people and organizations involved in laundering schemes.

1.11.4 In complying with the requirements of the Act and in following this Guideline, financial institutions including capital market intermediaries should at all times pay particular attention to the fundamental principle of good business practice - 'know your Client'. Having a sound knowledge of a Client's business and pattern of financial transactions and commitments is one of the best methods by which financial institutions and their staff will be able to recognize attempts of money laundering.

Chapter – 3

Monitoring and Report Checking Process

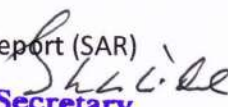
Transaction Monitoring and Reporting Process

One of the major responsibilities of CMI under MLPA, 2012 and ATA, 2009 (including amendment of 2012) is to make the Suspicious Transaction Report (STR). The reporting of suspicious transaction is the excellent tool for mitigating AML/CFT risks. All staff's of CMI should be vigilant to detect suspicious transaction or activity done by their clients. A CMI must in place appropriate tools to detect client unusual or complex pattern of transaction. The CMI should not only consider suspicious transaction but also consider the suspicious activity or unusual behavior of the client. If they identified any unusual behavior or activity, it should also be reported.

6.1 What is Suspicious Transaction Report (STR)/Suspicious Activity Report (SAR)

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6.1.1 Generally, STR/SAR means a formatted report of suspicious transactions/ activities where there is a reasonable ground to believe that funds are the proceeds of crime or may be linked to money laundering or terrorist financing, insider trading & market manipulation related activity or the transactions do not seem to be usual. Such unusual activities or transactions must be reported to competent authorities. Herein the competent authority refers to Bangladesh Financial Intelligence Unit (BFIU) as per MLPA, 2012 and ATA, 2009 (including amendment of 2012).

6.1.2 Section 2(z) of Money laundering Prevention Act, 2012 defines Suspicious Transaction as follows:

“Suspicious Transaction” means such transactions –That deviates from usual transactions; With regards to any transaction there is ground to suspect that (1) the property is the proceeds of an offence, (2) the financing of terrorist activities, a terrorist group or an individual terrorist' Any transaction or attempted transaction on that are delineated in the instructions issued by Bangladesh bank from time to time for the purpose of this Act.

6.1.3 Section 2(16) of ATA, 2009 (including amendment of 2012) defines Suspicious Transaction as follows:

“Suspicious Transaction” means such transaction –

(i) which is different from usual transactions;

(ii) which invokes presumption that -

(a) it is the proceeds of an offence,

(b) it finances to terrorist activities, a terrorist group or an individual terrorist;

(iii) which is any other transactions or an attempt for transactions delineated in the instructions issued by the Bangladesh Bank from time to time for the purposes of this Act;

6.2 Obligations of STR/SAR

According to the provision laid down in the section 25(1)(d) of MLPA 2012, reporting agencies (including CMI) are obligated to submit STR/SAR to the BFIU spontaneously. This Guideline also creates an obligation for CMI to submit STR/SAR with the purview of the legislation mentioned above.

6.3 Importance of STR/SAR

As discussed above, STR/SAR is very crucial for the safety and soundness of the CMI. The CMI should submit STR/SAR considering the followings:

It is a legal requirement in Bangladesh;

It helps protect the reputation of CMI;

It helps to protect CMI from unfounded allegations of assisting criminals, including terrorists; It helps the authorities to investigate financial crimes related to money laundering, terrorist financing.

6.4. How to identify a suspicious transaction

6.4.1 Transactions, whether completed or attempted, may give rise to reasonable grounds to suspect that they are related to money laundering or terrorist financing, insider trading & market manipulation related activity regardless of the sum of money involved. There is no monetary threshold for making a report on a suspicious transaction. A suspicious transaction may involve several factors that may on their own seem insignificant, but together may raise suspicion that the transaction is related to the commission or attempted commission of a money laundering offence, a terrorist financing offence insider trading & market manipulation related offence. As a general guide, a transaction may be connected to money

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laundering or terrorist financing when it (or a group of transactions) raises questions or gives rise to discomfort, apprehension or mistrust.

6.4.2 The context in which the transaction occurs or is attempted is a significant factor in assessing suspicion. This will vary from business to business and from one client to another. Evaluation of transactions should be done in terms of what seems appropriate and is within normal practices of CMI business, and based on CMI's knowledge of their client. The fact that transactions do not appear to be in keeping with normal industry practices may be a relevant factor for determining whether there are reasonable grounds to suspect that the transactions are related to money laundering or terrorist financing, insider trading & market manipulation related activity. An assessment of suspicion should be based on a reasonable evaluation of relevant factors, including the knowledge of the client's business, financial history, background and behavior. It should be remembered that behavior is suspicious, not people. Also, it could be the consideration of many factors—not just one factor—that will lead to a conclusion that there are reasonable grounds to suspect that a transaction is related to the commission or attempted commission of a money laundering or terrorist financing, insider trading & market manipulation related offences.

6.4.3 Any transaction seems to be suspicious in terms of the nature, activity, volume, complexity etc., or significantly mismatch with client's declared information. It also depends on the prudence of concern official of CMI. If s/he does not get satisfactory answer for any unusual or suspicion, it should be reported and/or recorded. Important note is that suspicion may not arise only at the time of transaction but also may be arises at the time of completing KYC and attempted transaction.

6.4.4 A CMI also need to follow the UN and the Local Sanction list

If a CMI identify any persons or entities, while opening account, transaction or attempted transaction taken place, listed under United Nations Security Council Resolution and 1267 and its successors, 1373, 1540, 1718, 1737, it should immediately freeze the account and report to the BFIU as early as possible.

6.5. Transaction Monitoring Tools

6.5.1 The CMI should have systems and controls in place to monitor on an ongoing basis the relevant activities of its client in the course of the business relationship. The nature of this monitoring will depend on the nature of the business. The purpose of this monitoring of a CMI is to be vigilant for any significant changes or inconsistencies in the pattern of transactions or any fraudulent activities, insider trading & market manipulation activities Inconsistency is measured against the stated original purpose of the accounts. The following areas could be monitored: transaction type frequency

Pattern of transaction unusually large amounts geographical origin/destination Activity related to account Possible trade related to market manipulation Possible trade related to insider trading Any type of fraudulent activates


6.5.2 It is recognized that the most effective method of monitoring of accounts is achieved through a combination of computerized and manual solutions. All CMI have to develop a corporate compliance culture, and properly trained, vigilant staff who will form an effective monitoring method through their day-to-day dealing with clients/ transactions.

6.5.3 A CMI may also consider the list of indicators as given section 6.9 of this Guideline, while detecting and reporting of STR/SAR.

6.6 Suspicious Transaction/Activity Reporting Process

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6.6.1. CMI must establish written internal procedures so that, in the event of a suspicious transaction/activity being discovered, all staff is aware of the reporting chain and the procedures to follow. Such procedures should be periodically updated by AML/CFT Compliance Unit to reflect any regulatory changes.

6.6.2 All reports of suspicious transactions/ activities must reach to the Head of AML/CFT Compliance Unit and he should have the authority to determine whether a disclosure in accordance with the regulation is appropriate. This type of reporting may be called as "Internal reporting". Branch or the officials of CMI will use the annexed format for internal reporting (Annexure-2)

However the Branch Manager/Unit

Head can be permitted to add his comments to the suspicion report indicating any evidence as to why he/she believes the suspicion is not justified. 6.6.3 All reports of suspicious transaction should be filed as per the format given in the Annexure-1 or as per the circulars issued by BFIU from time to time. All reports to be sent to the address below

Chapter - 4

Suspicion event find out

Suspicion Indicators

The following are examples of common indicators that may point to a suspicious transaction, whether completed or attempted as explained below:

Client provides false information or information that seems unreliable. Client offers money, gratuities or unusual favors for the provision of services that may appear unusual or suspicious. It is observed that a client is the subject of a money laundering, terrorist financing, insider trading or market manipulation related investigation. It is known from a reliable source (that can include media or other open sources), that a client is suspected of being involved in illegal activity

A client name listed under UN or Local sanctions list.

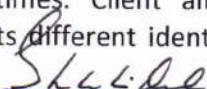
A new or prospective client is known to you as having a questionable legal reputation or criminal background. Transaction involves a suspected shell entity (that is, a corporation that has no assets, operations or other reason to exist). Client attempts to convince employee not to complete necessary documentation required for the transaction/CDD process. Client makes inquiries that would indicate a desire to avoid reporting.

Client has unusual knowledge of the law in relation to suspicious transaction reporting. Client is quick to volunteer that funds are "clean" or "not being laundered." Client appears to be collaborating with others to avoid record keeping, Client identification or reporting thresholds. Client provides doubtful or vague information. Client produces seemingly false identification or identification that appears to be counterfeited, altered or inaccurate. Client refuses to produce personal identification documents. Client only submits copies of personal identification documents. Client wants to establish identity using something other than his or her personal identification documents. Client's supporting documentation lacks important details such as a phone number. Client inordinately delays presenting corporate documents. All identification presented is foreign or cannot be checked for some reason. All identification documents presented appear new or have recent issue dates.

Client presents different identification documents at different times. Client alters the transaction after being asked for identity documents. Client presents different identification

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documents each time a transaction is conducted. Accounts that have been inactive suddenly experience large investments that are inconsistent with the normal investment practice of the Client or his/her financial ability. Any dealing with a third party when the identity of the beneficiary or counterparty is undisclosed. Client attempts to purchase investments with cash. Client admits or makes statements about involvement in criminal activities. Client does not want correspondence sent to home address. Client appears to have accounts with several financial institutions in one area for no apparent reason. Client repeatedly uses an address but frequently changes the names involved. Client shows uncommon curiosity about internal systems, controls and policies.

Client presents confusing details about the transaction or knows few details about its purpose. Client appears to informally record large volume transactions, using unconventional bookkeeping methods or "off-the-record" books. Client over justifies or explains the transaction. Client is secretive and reluctant to meet in person. Client is nervous, not in keeping with the transaction. Client is involved in transactions that are suspicious but seems blind to being involved in money laundering activities. Client's home or business telephone number has been disconnected or there is no such number when an attempt is made to contact Client shortly after opening account. Normal attempts to verify the background of a new or prospective Client are difficult. Client appears to be acting on behalf of a third party, but does not tell you. Client insists that a transaction be done quickly. Inconsistencies appear in the Client's presentation of the transaction.

The transaction does not appear to make sense or is out of keeping with usual or expected activity for the Client. Client appears to have recently established a series of new relationships with different financial entities. Client attempts to develop close rapport with staff. Client uses aliases and a variety of similar but different addresses. Client spells his or her name differently from one transaction to another. Client uses a post office box or General Delivery address, or other type of mail drop address, instead of a street address when this is not the norm for that area. Client uses securities or futures brokerage firm as a place to hold funds that are not being used in trading of securities or futures for an extended period of time and such activity is inconsistent with the normal investment practice of the Client or their financial ability. Client wishes monies received through the sale of shares to be deposited into a bank account rather than a trading or brokerage account which is inconsistent with the normal practice of the Client. Client frequently makes large investments in stocks, bonds, investment trusts or other securities in cash or by cheque within a short time period, inconsistent with the normal practice of the Client. Client makes large or unusual settlements of securities in cash.

The entry of matching buying and selling of particular securities or futures contracts (called match trading), creating the illusion of trading. Transfers of funds or securities between accounts not known to be related to the Client. Several Clients open accounts within a short period of time to trade the same stock. Client is an institutional trader that trades large blocks of low priced securities on behalf of an unidentified party. Unrelated Clients redirect funds toward the same account. Trades conducted by entities that you know have been named or sanctioned by regulators in the past for irregular or inappropriate trading activity. Transaction of very large size which may manipulate stock price.

All principals of Client are located outside of Bangladesh. Client attempts to purchase investments with instruments in the name of a third party. Payments made by way of third party cheques are payable to, or endorsed over to, the Client. Transactions made by

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employees, or that you know are made by a relative of your employee, to benefit unknown parties. Third-party purchases of shares in other names (i.e., nominee accounts). Transactions in which Clients make settlements with cheques drawn by or remittances from, third parties. Unusually large amounts of securities or stock certificates in the names of individuals other than the Client. Client maintains bank accounts and custodian or brokerage accounts at offshore banking centers with no explanation by Client as to the purpose for such relationships. Proposed transactions are to be funded by international wire payments, particularly if from countries where there is no effective anti-money laundering system.

Chapter – 5

Relation between Account holder/money producers

2. Relation with the account holder mention in sl. no. D1

3. Address:
4. Profession:
5. Nationality:
6. Other account(s) number(if any):
7. Other business:
8. Father's name:
9. Mother's Name:
10. Date of birth:
11. Contact: Mobile No/Email:
11. Bank account details:
12. TIN:

E. Introducer Details :

1. Name of introducer:
2. BO and Client Code number:
3. Relation with account holder:
4. Address:
5. Date of opening:
6. Whether introducer is active/inactive client

F. Reasons for considering the transaction(s) as unusual/suspicious?

(Mention summary of suspicion and consequence of events) (Use separate sheet if needed)

- a. Identity of Clients
- b. Activity in account
- c. Background of Client
- d. Multiple accounts
- e. Nature of transaction
- f. Value of transaction
- g. Other reason (Pls. Specify)

F. Name of the associates and volume of transaction

(Mention summary of suspicion and consequence of events)

(Use separate sheet if needed)

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H. Documents to be enclosed

1. Account opening form along with submitted documents
2. KYC Profile;
3. Transaction Statement
4. Other supporting documents (if any)

Signature :

(Authorized officer of AML Risk Management Unit)

Name :

Designation :

Phone :

Date :

Chapter - 6

SUSPICIOUS TRANSACTION REPORT (STR)

A. Reporting Institution:

1. Name of the Institutions:

2. Name of the Branch:

B. Details of Report:

1. Date of sending report:

2. Is this the addition of an earlier report?

Yes No

3. If yes, mention the date of previous report

C. Suspect Account Details :

1. BO Account Number:

2. Folio Number/Client Code:

3. Name of the Legal Person:

4. Nature of the account:

(Margin/Non Margin/Portfolio/other, pls. specify)

5. Nature of ownership:

(proprietorship/partnership/company/other, pls. specify)

6.Registration No.:

7. Registration No. & Authority:

8. Address in details :

9. Contact Details:

10. List of related Directors/Partners (at least 2, with contact details) :

11. Operators/Mandate Holders information

12. Bank account details:

13. TIN:

14. BIN:

D. Reasons for considering the transaction(s) as unusual/suspicious?

(Mention summary of suspicion and consequence of events)

a. Identity of Clients

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- b. Activity in account
- c. Background of Client
- d. Multiple accounts
- e. Nature of transaction
- f. Value of transaction
- g. Other reason (Pls. Specify)

E. Name of the associates and volume of transaction (Mention summary of suspicion and consequence of events) (Use separate sheet if needed)

F. Documents to be enclosed

1. Account opening form along with submitted documents
2. KYC Profile;
3. Transaction Statement
4. Other supporting documents (if any)

Signature :

(Authorized officer of AML Risk
Management Unit)


Name :

Designation :

Phone :

Date :


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Chapter - 7

Different Forms & formats

Annexure-2

Internal Suspicious Transaction/Activity Report Form

Strictly Private & confidential

Date:

To

Anti Money Laundering Compliance Officer

From

Head of the branch/unit

Branch/Department

Job Title

STR/SAR Ref No.

Client/ Business Name

Account Number(s)

Transaction Date(s)

Copies of Transactions and Account Details Attached Description of Transaction(s).

(Nature of transaction, Origin & destination of Transaction etc) Source of Funds and Purpose of Transaction Reasons for suspicion (Give as much details as possible)

Signatures branch /unit head

ACTION TAKEN TO VALIDATE

Acknowledgement sent to the originator on _____.

Reviewed account documentation

Discuss with the relationship manager/ branch manager.

Other.

AGREED SUSPICIOUS

. Yes/No

COMMENTS

Signature

Date.

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Internal Assessment/Control Checklist

- Has your CMI Established separate "AML/CFT Compliance Unit (AML/CFT Compliance Unit)" and appoint sufficiently senior head of AML/CFT Compliance Unit?
- Has the senior management of CMI sufficiently committed to place AML/CFT measures over the institutions?
- Has the board of Directors approved AML/CFT policies & procedures and follow up the implementation status of AML/CFT policies and procedures?
- Have branch/unit carried out a review of processes in its day to day business to identify where money laundering is most likely to occur?
- Is this review regularly updated?
- Has branch/unit established procedures and controls to prevent or detect money laundering?
- Is the effectiveness of such controls tested?
- Is all staff aware of AML/CFT policies and procedures?
- Is all staff aware of their responsibilities with regard to money laundering?
- Do they receive regular money laundering training?
- Are all members of staff sufficiently capable of identifying suspicious transactions?
- Are your systems capable of highlighting suspicious transactions (i.e. those not conforming to usual parameters)?
- Do all members of staff know the identity of their Head of AML/CFT COMPLIANCE UNIT?
- Do you thoroughly check and verify the identity of all your Clients?
- Do you have Client accounts in the name of fictitious persons/entities?
- Do you know the identity of the beneficial owner of all your corporate clients?
- Is this identity verified?
- Are all suspicious transactions reported to BFIU?

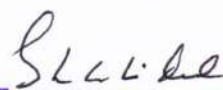
Donor counter-terrorism measures and principled humanitarian action: Where are we at?**VOICE event report (Brussels, 30 November 2016)****Summary:**

VOICE hosted this event to raise awareness of NGOs and other stakeholders about the impact of counter-terrorism laws and policies on humanitarian action. In the first half of the evening, two expert speakers presented an overview of international and European measures to combat terrorism financing, and how the NGO sector is affected in the process of risk assessments. Five panellists and the audience discussed the impact of donor counter-terrorism measures on NGOs, and advocacy tools to minimise their effect. The event was hosted under Chatham House Rule.

Several **key challenges** presented to NGOs by such measures emerged:

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1. An increased risk of being blacklisted
2. A permanently suspicious climate without any foundation or legal background that an NGO could contest.
3. A change of rules at national level for international NGOs which may make it harder for international NGOs to engage with local partners or receive funding at national level, inhibits NGOs' abilities to work in consortia, and generally restricts the activities of civil society.
4. An increased administrative and financial burden for NGOs. This was counter to the commitments to simplification in the Grand Bargain.

NGOs recommend:

- ☑ NGOs must join forces and build coalitions to mitigate the negative effects of donor counter-terrorism measures. Collaboration is needed to address key issues around the role of civil society and legitimacy.
- ☑ Humanitarian actors must operate transparently and embrace technical standards and good financial practice as well as the humanitarian principles to build trust with donors (and the public), secure continued funding, and operate sustainably. One such good practice would be to limit the dependence on traditional donors by exploring the use of private funds.
- ☑ Dialogue between all actors – NGOs, governments and financial institutions – is needed and must be facilitated by governments or international institutions.
- ☑ NGOs must stay informed and engage with their (national) governments who undertake counter-terrorism processes to ensure NGO voices are heard.
- ☑ The Financial Action Task Force (FATF) agrees that “zero tolerance” doesn’t work. Acceptable limits for diverted funds are needed to increase acceptance of NGOs and ensure humanitarian work can go on. NGOs must raise this issue at member states (MS) level too.
- ☑ Governments and the European Commission (EC) need to take responsibility and ensure their risk assessments are transparent (e.g. blacklisting criteria) and include NGOs. Their counter-terrorism measures must respect IHL and enable and protect the work of humanitarian NGOs. Consultations with NGOs are crucial.
- ☑ Sanctions for states that do not respect the FATF process or abuse it are needed, as well as tools to measure and counter abuse (counter-abuse measures).

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Part 1: Expert panel

The first expert speaker provided an overview of the activities of the Financial Action Task Force (FATF), the impact of its counter-terrorism measures on NGOs, and how these measures have developed over the past decade.

Counter-terrorism measures over time

The FATF was established in 1989 by the then-G7 to prevent drug cartels' money-laundering, and was expanded to include terrorism financing after 9/11. In 2012, special anti-terrorism regulations made up of 40 recommendations were added. Of those, recommendation 8 is dedicated to the non-profit sector and caused problems for the operational and political space of non-profit organizations (NPOs) and the wider sector. Due to ambiguous wording that left it open to interpretation, it gave governments an internationally legitimate tool to push back on civil society space and reduce funding.

To change this status quo, NPOs came together to jointly engage with the FATF and highlight the importance of humanitarian and other civil society actors as well as how their work had

been inhibited by recommendation 8. After 3-4 years, a good working relationship was established, and recommendation 8 was amended to ensure governments would not do wholesale regulation or blacklisting of whole sectors. Instead, governments need to differentiate between individual organizations within a given sector based on risk assessments, and undertake targeted action based on this assessment. Now, this needs to be applied at country level.

The risk assessment at country level should go through four steps:

1. Risk assessment
2. Assess existing laws and how they address identified risks
3. Find the gaps and develop risk mitigation measures proportional to the risk and that do not restrict operations of legitimate NPOs
4. Create a result consistent with obligations under International Human Rights and Humanitarian Law (IHRL and IHL)

As governments use classified information and the assessment process can lack transparency, it is important that they approach NGOs to validate information and give them the opportunity to present their own view.

Examples Tools

To ensure CSOs and NPOs actively and jointly engage in the FATF process, and have the tools to do so, the **Civil Society Platform on the FATF** was set up.

The FATF secretariat is also very helpful, including in helping build regional relations and in conducting the evaluation in regions.

Two examples show the importance of this assessment for NPOs. In Kyrgyzstan, NPOs, financial intelligence and the national government worked together to test the methodology. In Ireland, NPOs were not involved in the national risk assessment but had a multi-stakeholder meeting with the government just before the FATF assessor came. Human rights NPOs, foundations, associations and tax authorities seized that opportunity to discuss the upcoming FATF recommendation and how Ireland could prepare. Such multi-stakeholder rounds and their input is appreciated by governments and NPOs alike. **Donor counter-terrorism measures and principled humanitarian action: Where are we at? VOICE event report (Brussels, 30 November 2016)**

NPOs were prepared for the FATF questions and were able to raise NPO issues such as problems with banks and the registration of partners overseas.

The second expert speaker presented preliminary results of the EU's supra-national risk assessment (SNRA), which the Commission is required to do. It will provide a picture of risks at EU level and mitigating measures to take to avoid money laundering and terrorism financing.

Counter-terrorism at EU level

In the follow-up of the Paris and Brussels attacks, the EU published several different projects, for instance the agenda on security and various political commitments at member state (MS) level and at the Justice and Home Affairs Council. In February 2016, the European Commission (EC) published an action plan on terrorism financing which outlined some short-term actions to

disrupt terrorists' resources in the long term. One mid-term action has been to speed up the delivery of the SNRA, which the EC is set to deliver by June 2017.

The Commission developed a **5-step methodology**:

- 1) Identify risk
- 2) Assessment of threat
- 3) Assessment of vulnerability
- 4) Combination to identify level of risks (EC is about to start step 4)
- 5) Identification of mitigating measures – to limit identified risks

(Mixed items, such as crowd funding and NPOs, do not have specific risk assessment for them so far, but they're probably relevant to the analysis.)

Based on contact with member states (MS) and private sector, for the **vulnerability assessment**, which the EC just completed, 3 criteria were taken into account:

- 1) Inherent risk exposure – Some sectors are more at risk due to their nature, e.g. due to high risk customers, risky geographical location, or a risky product
- 2) Awareness of risk and/or vulnerability – This doesn't mean the sector is complicit, but that it can be abused. Thus awareness within the sector is important (e.g. having contact points in sector) as well as having competent authorities.
- 3) Legal framework and controls in place – The existing framework (e.g. governance and legislature, anti-money-laundering controls in place) and its effectiveness vary greatly from one sector to another

Expressive NPO –definition by FATF

"Non-profit organizations predominantly involved in expressive activities, which include programmes focused on sports and recreation, arts and culture, interest representation, and advocacy."

Preliminary results on NPOs

For NPOs, two main risk situations were identified where they can be abused or have weaknesses:

- 1) Collection of funds – e.g. they can be used to finance terrorism without knowledge of NPO
- 2) Transfer of funds – e.g. they can be misused to finance terrorism

Challenges are present particularly in terms of scope. The EC took inspiration from the way the FATF works by referring to expressive NPOs **Donor counter-terrorism measures and principled humanitarian action: Where are we at?**

VOICE event report (Brussels, 30 November 2016) vs. service NPOs (such as humanitarian NPOs). While they present some commonalities, they cannot all be put into the same category.

Preliminary assessment

Threat: Authorities did not notice recurring or specific use of NPOs by terrorist groups, or for terrorism financing. However, it is easy to create NPOs and some terrorist groups could have capabilities to do that. NPOs can also be used by foreign terrorist fighters to finance their travel, some police authorities have found. There is thus a significant level of threat, with signs of potential use.

Vulnerability: NPOs face high risk exposure due to area of operation, high risk "customers" and the use of cash. Awareness of risk is lacking as there's no centralised framework to deliver

relevant specific messages or guidance to central contact point. Awareness is thus not sufficient.

Legal framework: There is no harmonised regime for NPOs, so there are various levels of controls at EU level. Thus, there are lacking controls for transactions within the EU between MS or from MS to the outside.

Next steps: follow-up with civil society

The deadline for delivery for the European Commission (EC) on the SNRA is in June 2017. Ahead of it, the Commission has met with private sector representatives as well as some NPOs. In March, they plan on having a **third consultation on mitigation measures**. The EC's intention is not to impose an additional burden on NPOs. Mitigating measures can only suggest that MS give more training to NPOs to know how to deal with risk.

In response to questions from participants

What is the amount of money thought to be diverted from NPOs?

The NPO sector is identified as "significantly vulnerable" but the rationale behind the assessment is more important than that. The current objective of the SNRA is purely to assess potentiality of (ab)use. So far, it is impossible to concretely quantify the amount of money being diverted from NPOs or governments, as the risks remain more hypothetical with MS not finding any specific cases so far.

When NPOs have a presence in multiple countries, where are they evaluated?

On the method of evaluation, the answer was that NGOs operating in foreign countries are evaluated in their country of origin, unless they have a legal base in their country of operation. If they do, that might be evaluated as well. **Donor counter-terrorism measures and principled humanitarian action: Where are we at?**

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Part 2: Panel and audience discuss In the second half of the evening, a number of panelists led the discussion with participants from civil society and EU institutions. At first, they reflected on the challenges and risks humanitarian NGOs faced on counter-terrorism measures. They also discussed field impact and localization and finished with NGO responses and advocacy.

Challenges

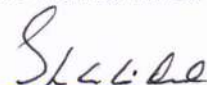
Several participants mentioned that the changing political climate (affected by such things as Brexit, nationalistic policies and contested elections) may come to have a worldwide influence on humanitarian work. There are many new trends and crises affecting humanitarians that are larger than just counter-terrorism alone. Humanitarian aid is increasingly being linked to national interests and security (including counter-terrorism and defense), and is being scrutinized from that perspective.

However, many NGOs had encountered negative effects from risk assessments, for instance problems with banks and transfers of funds, especially to "at risk" countries, being blocked. Islamic faith-based organizations in particular feel the effect of anti-terrorism measures. Specific risks to NGOs were identified:

5. An **increased risk of being blacklisted**, particularly the UN double-system, which calls for MS to propose organizations for listing and then obliges all MS to transpose those listings into their national systems. The system gives particular space to MS to define their own additional (perhaps arbitrary and more stringent) rules and blacklists, increasing the risk for NPOs to be the subject of these measures.

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6. A **permanently suspicious climate without any foundation or legal background** that an NGO could contest. NGOs and humanitarian funding come under increased scrutiny, exemplified and aggravated by the way some mainstream media outlets use unsubstantiated allegations to attack the sector. Counter-terrorism discourse in the media tends to take the humanity away as it often doesn't differentiate between combatants and civilians.

7. A change of rules at national level for international NGOs which may make it **harder for international NGOs to engage with local partners** or receive funding at national level and inhibits **NGOs' abilities to work in consortia**. Both working with local partners and consortia are important methods for humanitarian effectiveness.

8. An **ever-increasing administrative burden** as NGOs are forced to become more centralized and put the financial burden on headquarters (HQ). This is contrary to the Grand Bargain commitment to simplification.

The situation is further aggravated as each donor uses their own system and set of rules, operating on a "one size fits all" approach doesn't work and can put NPOs in danger. The operational impact is staggering both financially, with a reduced cash flow, and from the strategic choices that NGOs are forced to make in terms of where and how to intervene.

Field impact and localization

Historically, many organizations operated for years in countries and regions where people were labeled terrorists. Depending on the donor and their criteria, such work could be seriously impeded. For instance, an organization funded by USAID working with the FARC rebels in Colombia (in the 1990s and 2000s) would have been blacklisted under current conditions for "providing material support to a terrorist group", and thus been unable to operate. **Donor counter-terrorism measures and principled humanitarian action: Where are we at?**

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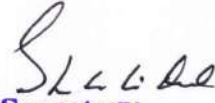
Humanitarian actors aim to follow the humanitarian principles of impartiality and neutrality, but the rules imposed by donors can interfere with these principles and inhibit work relating to dialogue and acceptance, which is crucial for access to crisis-affected populations. NGOs draw their mandate, from these humanitarian principles. However, most NGOs (including all operating in conflict zones) fall under the "at risk" umbrella, with the impact of anti-terrorism policies potentially affecting up to a third of the global turnover of some NGOs. Increasingly, their ability to fulfill their mandate is jeopardised, and organizations feel like they find themselves having to choose to follow the humanitarian principles, or to follow the rules of donors on counter-terrorism.

Localization, which featured strongly in the agenda of the World Humanitarian Summit (WHS), is also a potential victim of donor counter-terrorism measures. The focus at the WHS was on NPOs to engage on capacity building of local communities and first responders. Yet NGOs working with local partners are most affected by donor counter-terrorism measures and struggle to continue their work as funds get blocked.

NGOs' responses and advocacy

A key point that arose during the discussion was that while NPOs/NGOs may feel uninformed, risk awareness is actually rather high in the sector. The humanitarian principles – particularly impartiality – force NGOs to consider each engagement with different actors in each case, and they continue to function as a key tool for legitimacy in the field. Thus humanitarian NGOs are well equipped to engage in informed discussion with donors concerned about money-laundering and/or terrorism financing, due diligence and to advocate for measures that do not inhibit their work.


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Now is the time for NGOs to act, and to act in partnership. A prime example comes from the UK, see text box on the right. NGOs are also starting to build dialogue with financial institutions to reduce the risk of bounced checks and returned payments. The Bank of Scotland is a prime example, as it tries to work with charities to ensure their money transfers run smoothly.

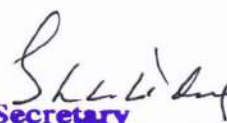
Good practice from the UK

In the UK, humanitarian, peace building and development NGOs and groups came together to examine common problems and build an information-sharing forum. One of the key engagements was in 2014 with an independent annual review of counter-terrorism legislation. The NGO coalition raised the issues affecting their work as a direct or indirect result of the legislation. The review recommended a dialogue between Government and NGOs. This is slowly developing with the Home Office coordinating inputs from all other government ministries. Other NGOs can draw lessons from the process and apply it in their national context.

At the same time, NGOs are also starting to engage with the media. For instance, in the UK an umbrella organization compiles case studies of impact (which can be Several networks are working on joint advocacy, for instance IASC's working group has a **draft counter-terrorism advocacy paper** that NGOs can sign on to. **Donor counter-terrorism measures and principled humanitarian action: Where are we at?**



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Recommendations

Several key recommendations emerged from the discussion.

1. NGOs must join forces and build coalitions to mitigate the negative effects of donor counter-terrorism measures. Collaboration is needed to address key issues around the role of civil society and legitimacy.
2. Humanitarian actors must operate transparently and embrace technical standards and good financial practice as well as the humanitarian principles to build trust with donors (and the public), secure continued funding, and operate sustainably. One such good practice would be to limit the dependence on traditional donors by exploring the use of private funds.
3. Dialogue between all actors –NGOs, governments and financial institutions –is needed and must be facilitated by governments or international institutions.
4. NGOs must stay informed and engage with their (national) governments who undertake counter-terrorism processes to ensure NGO voices are heard.
5. The Financial Action Task Force (FATF) agrees that “zero tolerance” doesn’t work. Acceptable limits for diverted funds are needed to increase acceptance of NGOs and ensure humanitarian work can go on. NGOs must raise this issue at member states (MS) level too.
6. Governments and the European Commission need to take responsibility and ensure their risk assessments are transparent (e.g. blacklisting criteria) and include NGOs. Their counter-terrorism measures must respect IHL and enable and protect the work of humanitarian NGOs. Consultations with NGOs are crucial.
7. Sanctions for states that do not respect the FATF process or abuse it are needed, as well as tools to measure and counter abuse (counter-abuse measures).

Advocacy opportunities

- ☑ At EU level, European Commission consultation with NPOs to discuss the SNRA, March 2017
- ☑ At national or global level, risk assessments by MS and FATF
- ☑ Raising awareness in own organizations and outside silos
- ☑ Feed into and use the IASC counter-terrorism advocacy paper
- ☑ Briefing papers and advocacy by networks like VOICE
- ☑ Other ideas raised during the discussion, e.g. developing rules of engagement and due diligence; and then signing up to these

VOICE (*Voluntary Organizations in Cooperation in Emergencies*) is a network representing 85 European NGOs active in humanitarian aid worldwide. VOICE is the main NGO interlocutor with the EU on emergency aid and disaster risk reduction.

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