

INTERPRETIVE NOTE TO RECOMMENDATION 8 (NON-PROFIT ORGANISATIONS)

A. INTRODUCTION

1. Given the variety of legal forms that non-profit organisations (NPOs) can have, depending on the country, the FATF has adopted a functional definition of an NPO. This definition is based on those activities and characteristics of an organisation which may put it at risk of TF abuse, rather than on the simple fact that it is operating on a non-profit basis. For the purposes of this Recommendation, NPO refers to 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 the carrying out of other types of “good works”. Without prejudice to Recommendation 1, this Recommendation only applies to those organisations which fall within the FATF definition of an NPO. It does not apply to the entire universe of organisations working in the not-for-profit realm in a country.
2. NPOs play a vital role in the world economy and in many national economies and social systems. Their efforts complement the activity of the governmental and business sectors in providing essential services, comfort and hope to those in need around the world. The FATF recognises the vital importance of NPOs in providing these important services, as well as the difficulty of providing assistance to those in need, including in high-risk areas and conflict zones, and applauds the efforts of NPOs to meet such needs. The FATF also recognises the intent and efforts to date of NPOs to promote transparency within their operations and to prevent terrorist financing abuse, including through the development of programmes aimed at discouraging radicalisation and violent extremism.
3. Some NPOs may be at risk of terrorist financing abuse by terrorists for a variety of reasons. NPOs enjoy public trust, which gives some access to considerable sources of funds, and in some contexts are cash-intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, that may be within or near those areas that are most exposed to terrorist activity. In rare cases, terrorist organisations have taken advantage of these and other characteristics to infiltrate NPOs and misuse funds and operations to cover for, or support, terrorist activity. Also, there have been cases where terrorists create sham NPOs or engage in fraudulent fundraising for these purposes. The ongoing international campaign against terrorist financing has identified cases in which terrorists and terrorist organisations exploit some NPOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and operations. This misuse not only facilitates terrorist activity, but also undermines the confidence of donors and financial institutions and jeopardises the very integrity of NPOs.
4. Therefore, protecting NPOs from terrorist financing abuse is both a critical component of the global effort to prevent and combat terrorism and a necessary step to preserve the integrity of NPOs, the donor community and the financial institutions they use. Measures to protect NPOs from potential terrorist financing abuse should be focused and in line with the risk-based approach. It is also important for such measures to be implemented in a manner which respects

countries' obligations under the Charter of the United Nations and international law, in particular international human rights, international refugee law and international humanitarian law.³⁰

B. OBJECTIVES AND GENERAL PRINCIPLES

5. The objective of Recommendation 8 is to ensure that NPOs are not abused by terrorists and terrorist organisations: (i) to pose as legitimate entities; (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes. In this Interpretive Note, the approach taken to achieve this objective is based on the following general principles:
- (a) Past and ongoing terrorist financing abuse of NPOs requires countries to have in place focused, proportionate and risk-based measures in dealing with identified risks. A risk-based approach is essential given the diversity within individual national sectors, the differing degrees to which parts of each sector may be at risk of terrorist financing abuse, the need to ensure that legitimate NPO activity continues to flourish, and the limited resources and authorities available to combat terrorist financing in each country.
 - (b) Flexibility in developing a national response to terrorist financing abuse of NPOs is essential, in order to allow it to evolve over time as it faces and responds to the changing nature of the terrorist financing threat.
 - (c) Focused, proportionate and risk-based measures adopted by countries to protect NPOs from terrorist financing abuse should not unduly disrupt or discourage legitimate NPO activities, in line with the risk-based approach. Rather, such measures should promote accountability and engender greater confidence among NPOs, across the donor community, the financial institutions and with the general public, that NPO funds and services reach intended legitimate beneficiaries. Systems that promote achieving a high degree of accountability, integrity and public confidence in the management and functioning of NPOs are integral to ensuring they cannot be abused for terrorist financing.
 - (d) Countries should identify and take effective and proportionate action against NPOs that either are exploited by, or are knowingly supporting, terrorists or terrorist organisations, taking into account the specifics of the case. Countries should aim to prevent and prosecute, as appropriate, terrorist financing and other forms of terrorist support. Where NPOs suspected of, or implicated in, terrorist financing or other forms of terrorist support are identified, the first priority of countries must be to investigate and halt such terrorist financing or support. Actions taken for this purpose must respect the rule of law and should, to the extent reasonably possible, minimise negative impact on innocent and legitimate beneficiaries of NPO activity. However, this interest cannot excuse the need to undertake immediate and effective actions to advance the immediate

³⁰ See also UNSC resolution 2462(2019) paras 6 and 23 and UNSC resolution 2664(2022) para.1.

interest of halting terrorist financing or other forms of terrorist support provided by NPOs.

- (e) Countries should develop an understanding of the different degrees of TF risk posed to NPOs and of the corresponding proportionate measures to mitigate these risks in line with the risk-based approach. Many NPOs may face low TF risk exposure, may have adequate self-regulatory measures and related internal control measures to mitigate such risks, and/or may already be subject to adequate levels of legal and regulatory requirements, such that there may be no need for additional measures.³¹ Countries should be mindful of the potential impact of measures on legitimate NPO activities and apply them where they are necessary to mitigate the assessed TF risks, without unduly disrupting or discouraging legitimate NPO activities. It is not in line with Recommendation 8 to apply measures to organisations working in the not-for-profit realm to protect them from TF abuse when they do not fall within the FATF's functional definition of NPOs. It is not in line with Recommendation 8 to implement any measures that are not proportionate to the assessed TF risks, and are therefore overly burdensome or restrictive. NPOs are not reporting entities and should not be required to conduct customer due diligence.
- (f) Developing cooperative relationships among the public and private sectors and with NPOs is critical to understanding NPOs' risks and risk mitigation strategies, raising awareness, increasing effectiveness and fostering capabilities to combat terrorist financing abuse within NPOs. Countries should encourage the development of academic research on, and information-sharing in, NPOs to address terrorist financing related issues.

C. RISK ASSESSMENT AND MITIGATING MEASURES

- 6. NPOs are at varying degrees of risk of TF abuse by virtue of their types, activities or characteristics and the majority may represent low risk. Without prejudice to the requirements of Recommendation 1:
 - (a) Countries should identify organisations which fall within the FATF definition of NPOs.
 - (b) Countries should conduct a risk assessment of these NPOs to identify the nature of TF risks posed to them.
 - (c) Countries should have in place focused, proportionate and risk-based measures to address the TF risks identified, in line with the risk-based approach. Countries may also consider, where they exist, self-regulatory measures and related internal control measures in place within NPOs.

³¹ In this context, self-regulatory measures may include rules and standards applied by self-regulatory organisations and accrediting institutions.

- (d) These exercises under letters (a) to (c):
 - (i) should use all relevant and reliable sources of information³², including through engagement with NPOs,
 - (ii) could take a variety of forms and may or may not be a written product,
 - (iii) should be reviewed periodically

D. EFFECTIVE APPROACH IN IDENTIFYING, PREVENTING AND COMBATING TF ABUSE OF NPOS

7. There is a diverse range of approaches in identifying, preventing and combating terrorist financing abuse of NPOs. For NPOs identified to be at low-risk of TF abuse, countries may focus only on undertaking outreach concerning terrorist financing issues, and may decide to refrain from taking additional mitigating measures. In other situations, an effective approach should involve all four of the following elements to protect NPOs from potential terrorist financing abuse., without unduly disrupting or discouraging legitimate NPO activities:

- (a) Sustained outreach concerning terrorist financing issues:
 - (i) Countries should have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs.
 - (ii) Countries should undertake outreach and educational programmes as appropriate to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse.
 - (iii) Countries should work with NPOs to develop and refine best practices to address terrorist financing risks and thus protect them from terrorist financing abuse.
 - (iv) Countries should encourage NPOs to conduct transactions via regulated financial and payment channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and areas and the risks of using cash.

- (b) Focused, proportionate and risk-based measures, including oversight or monitoring of NPOs:

Countries should take steps to promote focused, proportionate and risk-based oversight or monitoring of NPOs. A “one-size-fits-all” approach would be inconsistent with the proper implementation of a risk-based approach as stipulated under Recommendation 1 of the FATF Standards. In practice:

- (i) Countries should be able to demonstrate that they have in place focused, proportionate and risk-based measures applying to NPOs. It is also possible that existing regulatory and self-regulatory measures and related internal control

³² For example, such information could be provided by regulators, tax authorities, FIUs, donor organisations or law enforcement and intelligence authorities.

- measures in place within NPOs, or other measures may already sufficiently address the current terrorist financing risk to the NPOs in a country, although terrorist financing risks to the sector should be periodically reviewed.
- (ii) Appropriate authorities should monitor the compliance of NPOs with the focused, proportionate and risk-based measures being applied to them.
 - (iii) Appropriate authorities should be able to apply effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs.³³
- (c) Effective information gathering and investigation:
- (i) Countries should ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs.
 - (ii) Countries should have investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations.
 - (iii) Countries should ensure that access to relevant information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.
 - (iv) Countries should establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that this information is promptly shared with relevant competent authorities, in order to take preventive or investigative action.
- (d) Effective capacity to respond to international requests for information about an NPO of concern: consistent with Recommendations on international cooperation, countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

³³ The range of such sanctions might include freezing of accounts, removal of trustees, fines, de-certification, de-licensing and de-registration. This should not preclude parallel civil, administrative or criminal proceedings with respect to NPOs or persons acting on their behalf where appropriate.

E. RESOURCES FOR OVERSIGHT, MONITORING, AND INVESTIGATION

8. Countries should provide their appropriate authorities, which are responsible for oversight, monitoring and investigation of their NPOs, with adequate financial, human and technical resources.

Glossary of specific terms used in the context of this Recommendation

Appropriate authorities	refers to competent authorities, including regulators, tax authorities, FIUs, law enforcement, intelligence authorities, accrediting institutions, and potentially self-regulatory organisations in some jurisdictions.
Associate NPOs	includes foreign branches of international NPOs, and NPOs with which partnerships have been arranged.
Beneficiaries	refers to those natural persons, or groups of natural persons who receive charitable, humanitarian or other types of assistance through the services of the NPO.
Non-profit organisation or NPO	refers to 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 the carrying out of other types of “good works”.
Self-regulatory measures	include rules and standards applied by self-regulatory organisations and accrediting institutions.
Terrorist financing abuse	refers to the exploitation by terrorists and terrorist organisations of NPOs to raise or move funds, provide logistical support, encourage or facilitate terrorist recruitment, or otherwise support terrorists or terrorist organisations and operations.