



GUIDANCE ON THE RISK OF ABUSE OF NON-PROFIT ORGANIZATIONS FOR TERRORIST PURPOSES

1. Introduction

Non-Profit Organizations (“NPOs”) are critical stakeholders in the national and international community, performing much needed charitable, social and cultural work that enriches the lives of individuals, communities and countries as a whole. As with other organizations, NPOs are diverse in their structure, purpose and reach with some operating internationally and others securing support from foreign donors. While some NPOs operate within highly vulnerable local communities, others may directly or indirectly provide relief to high risk communities abroad including in conflict zones.

The noble efforts and willingness of NPOs to engage in these selfless works also makes them targets for abuse for terrorist purposes in several ways including:

- By terrorist organizations posing as legitimate entities;
- To exploit legitimate NPOs as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- To conceal or obscure the clandestine diversion of funds, which were intended for legitimate purposes, to terrorists or terrorist organizations.

Steps can however be taken by NPOs to mitigate these risks and thus give the local and international donor community greater confidence in the NPO. This also helps to address some of the concerns of financial institutions (“FIs”) and listed businesses (“LBs”) that have the potential to result in the termination of or refusal to enter into business relationships with an NPO. FIs and LBs are themselves subject to anti-money laundering, combatting the financing of terrorism and proliferation of weapons of mass destruction (“AML/CFT/PF”) laws. Transparency of NPOs when dealing with FIs and LBs can help them to meet these AML/CFT/PF requirements. It also enhances their understanding of the risks related to the NPOs and what is considered “normal” for the sector, thus helping to ensure that only reasonable safeguards are taken. This can ultimately increase the ease of individual NPOs and NPOs in general accessing the services of FIs and LBs.

Terrorism can be motivated by political, religious or ideological objectives and uses violence or other inimical acts to advance such a cause. It can be domestic or international and on occasion both can be linked, with terrorists or their supporters or agents exploiting advances in global travel,

communication and other technology to advance their aims. Terrorism can take place both on a large scale and in the form of smaller operations requiring less funds to execute. \

2. Vulnerability of NPOs to Terrorist Abuse

International experience has identified that NPOs can be vulnerable to abuse by terrorists and other criminals for several reasons including following:

- They are relatively easy to set up;
- They may depend on one or two individuals who play a key, and often unsupervised, role, particularly with smaller NPOs;
- They enjoy high levels of public trust and confidence making them an attractive vehicle for terrorists and other criminal actors to attempt to mask their activities;
- They often rely on goodwill and voluntary support in one form or another;
- Different NPOs reach different parts of society, including more vulnerable communities. Because of this reach, large numbers of people come into close contact with NPOs, including those who may abuse them, through their services, the use of their property and through their trustees and volunteers;
- Some NPOs have direct or indirect global presence, including in vulnerable international locations such as conflict zones and surrounding areas. NPOs often have an unparalleled ability to move funds, supplies and people into or through these areas;
- Some NPOs can have complex financial operations including multiple donors, investments and currencies, often receiving and using cash, and having to account for high volumes of small-scale transactions. They may also have to move funds through intermediaries to deliver their services. Money is a key facilitator of terrorist activities as it can fund training, recruitment, weapons and materials and support for terrorists or terrorist organizations;
- NPOs may have irregular income and expenditure streams, so suspicious transactions may be harder to identify;
- Some NPOs operate in multiple countries some of which may have weaker regulation to prevent against abuse;
- NPOs are powerful vehicles for bringing people together for a common purpose and collective action and may inadvertently provide a ready-made social network and platform of legitimacy for terrorists or terrorist sentiments.

Not all of these factors will apply to each NPO. Conversely, one or more factors may increase the vulnerability of a particular NPO to abuse, for example the local or international community where the NPO works or the type of activity in which it is engaged. The case of each NPO is unique.

Trinidad and Tobago, like countries around the world, continues to strengthening its measures to reduce the risk of terrorism and terrorist abuse. This includes increased safeguards for FIs and LBs. As those doors are closed to terrorists, they will look to other avenues including through abuse of the NPO sector. In other cases, the characteristics of some NPOs have always made them an attractive target for such abuse.

This document is therefore intended to raise awareness within the NPO sector, provide a guide to key legislation and operational measures and point to steps which NPOs can take to mitigate risk.

3. NPO Abuse

NPOs can be abused by various actors (both within and outside the NPO) in different ways.

4. Funding Abuse

Funds related to an NPO can be abused in several ways:

- Funds may be solicited from donors in the name of an NPO for a charitable purpose but may instead be used for terrorist purposes with or without the knowledge of the NPO;
- Funds which were legitimately raised for charitable purposes and being transferred may be diverted before reaching their intended beneficiary; and
- An NPO might be used by a donor to launder money (including terrorist funds) or be used as a legitimate front for transporting cash or other financial support from one place to another.

Stronger monitoring, financial controls and due diligence measures help to reduce these risks of abuse by officers of the NPO, donors or recipients of support.

5. NPO property

Various categories of property, including vehicles and real-estate, can be abused for terrorist purposes. Vehicles may be used to transport terrorist personnel, funds, weapons and supplies. NPO premises may be used for storage, housing, training or recruitment. The communications network of an NPO could also be exploited to allow terrorists to communicate with each other.

6. Abuse of the NPO's name

Terrorists may use the guise of working for an NPO in order to gain access to a region or community. In some cases, such cover is used for travel to conflict zones or other difficult to reach areas to attend terrorist training or provide other support for terrorism.

A recipient of support from an NPO may also use such funds to directly or indirectly further terrorism. Examples include but are not limited to:

- funding a hospital controlled by a terrorist organization which gives priority to the treatment of its fighters or their families; and
- funding a school that teaches terrorist ideology, even if alongside other mainstream classes.

7. Abuse by Officers of an NPO

Officers of an NPO may abuse it in different ways. For example, NPO funds may be diverted for terrorist purposes. NPO property may be used for transport, housing, training, promoting or recruitment. In other cases, the NPO may have been established solely for the purpose of tricking donors into providing funding which will in reality be used for terrorist purposes.

8. Assessing Risks Related to Donors/Know Your Donor

As with all other aspects of NPO administration, not every donor poses the same level of risk to the NPO. The same approach to assessing such risk would therefore not be appropriate for each donor. Depending on the circumstances, some of the following factors may be important in assessing such risk.

- Who are the donors?
- What is known about them?
- Does the NPO have a well-established relationship with them?
- Do any additional identity checks need to be made for individual donors or donor organizations? (Publicly available information such as via the internet or the Companies Registry, Ministry of the Attorney General and Legal Affairs may be useful sources of information. Such information may be similarly available in the home country of a foreign donor.)
- How is the money being received? (Cash, cheque, bank transfer or some other means?)
- Have any public concerns been raised about the donors or their activities? If so, what was the nature of the concerns and how long ago were they raised? Did any law enforcement or regulatory body investigate the concerns? What was the outcome?
- How large is the donation?
- Is the donation in the form of a loan? If so, can the source of the funds be identified or checked by the NPO? Is there a condition that funds are only to be retained by the NPO for a period and then returned to the donor, with the NPO retaining the interest?
- Are there unusual or substantial one-off donations?
- Does the donation come with any conditions attached? What are they? Are they reasonable?
- Is the donation conditional on particular organizations or individuals being used to apply the funds?
- Is the donation conditional on being applied to benefit particular individuals either directly or indirectly?
- Is there a suspicion that the NPO is being used as a conduit for funds to a third party?
- Is the donation in Trinidad and Tobago dollars or another currency, perhaps with a requirement that the donation be returned in a different currency?
- Is the donation received from a known donor but through an unknown party or an unusual payment mechanism where this would not be a typical method of payment?
- Are any of the donors based, or does the money originate, outside the Trinidad and Tobago? If so, from which country? Does this country/area pose any specific risks?
- Are donations received from unknown bodies or international sources in countries where financial regulation or the legal framework is not rigorous? (Risks related to geography is discussed below.)
- Is anything else unusual or strange about the donation?

While not all of these questions need to be answered in respect of each donor in assessing risk, it should be noted that in some cases, having this information would also help the NPOs satisfy the AML/CFT/PF requirements of FIs or LBs whose services the NPO wishes to access. Developing a good working relationship with the FI or LB will help the NPO understand how improvements to the NPOs governance and due diligence can maintain and improve access to these services.

9. Assessing Risks Related to Geography

Some geographical regions, which may range from a part of a country to multiple countries, may pose higher risk of abuse to NPOs. While there are no universally recognised criteria for assessing and determining risk in particular countries or geographic regions, areas with higher risk may include but are not limited to:

- regions where terrorists or terrorist organizations are known to operate;
- countries subject to sanctions by the United Nations or other international organizations;
- countries or regions vulnerable due to internal conflict or criminal activity; and
- countries identified by the Financial Intelligence Unit, the Financial Action Task Force (FATF) or FATF-styled regional bodies (e.g. the Caribbean Financial Action Task Force) as having weak anti-money laundering, terrorism financing and proliferation financing laws and enforcement of these laws. These organizations publish lists of such countries which can be easily accessed via the internet.

Other factors which could be taken into account in assessing risk related to geography include:

- the types of services provided by the NPO;
- strength of local laws and law enforcement;
- the political environment and the ability of the State to govern the region;
- the extent and types of criminal activity in the region;
- the size and reliability of FIs; and
- the main channels available for financial transactions.

10. Sending and Receiving Money

Law enforcement agencies have identified sending and receiving of money, particularly to and from abroad, as posing an increased risk of abuse of NPOs in Trinidad and Tobago. The informal money transfer sector and underground activities provide an extremely high risk of abuse for terrorist financing. FIs in Trinidad and Tobago and in other countries are heavily regulated to guard against such abuse regarding funds being sent out of or received into the country. **NPOs are therefore strongly advised to use these formal mechanisms wherever possible.**

11. Legislation

The Non-Profit Organisation Act, 2019 sets out a registration and regulatory framework designed to protect the NPO sector in Trinidad and Tobago. While some key provisions are set out below, NPOs should become familiar with the entire Act.

Key provisions of the Act include:

- **Section 5** - All NPOs must register at the RG (this registration process does not change their status/capacity on whether they are legal entities or not) and upon registration all NPOs must complete an AML/CFT Questionnaire;
- **Section 13** - NPOs must keep proper financial accounts and records which can be disclosed at any time;
- **Section 14** - NPOs with gross annual income exceeding \$10,000,000.00 shall have its financial accounts and records audited and reported on annually by a qualified auditor. The audit must be submitted to the RG whenever requested;
- **Section 18** - NPOs must keep records of its purposes and activities, controllers, senior officers, directors, trustees and source of its gross annual income; and
- **Section 19** – sets out the criteria disqualifying a person from serving as a controller of an NPO.

Many of the areas discussed in the paragraphs above are subject to criminal offences under the Anti-Terrorism Act, Chap 12:07 such as:

- Section 5 – Collection of provision of property for the commission of a terrorist act;
- Section 6 – Use of property for the commission of a terrorist act;
- Section 7 – Arrangement for the retention of control of terrorist property;
- Section 8 – Dealing with terrorist property;
- Section 9 – Soliciting or giving support for the commission of a terrorist act;
- Section 15 – providing facilities in support of a terrorist act; and
- Section 22A – financing of terrorism.

It should be noted that Section 2A provides that these and other offences under the Act apply whether or not the offence took place within or outside of Trinidad and Tobago. NPOs should thus equally exercise due diligence in respect of their international activities including sending and receiving funds, supplies and personnel.

The Anti-Terrorism Unit of the Ministry of the Attorney General and Legal Affairs has prepared public guidance on the Anti-Terrorism Act which would be useful for NPOs to review. This guidance can be accessed at the following link: [GUIDANCE TO THE PUBLIC ON OBLIGATIONS AND RIGHTS IN RESPECT OF ANTI-TERRORISM](#). Trustees and officers of NPOs should however familiarize themselves with the NPO Act and the Anti-Terrorism Act. Other important pieces of legislation on anti-money laundering and proliferation of weapons of mass destruction contain provisions that apply to the public generally, including NPOs and their officers. These include:

- The Proceeds of Crime Act, Chap. 11:27, which deals with money laundering and predicate offences; and

- The Economic Sanctions Act, Chap. 81:05; The Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2018; and The Economic Sanctions. (Implementation of United Nations Resolutions on the Democratic People’s Republic of Korea) Order, 2018. These deal collectively with proliferation financing.

There can sometimes be a link between terrorism and money laundering or proliferation of weapons of mass destruction. Money laundering is a process aimed at concealing the illegal origin of profits of crime. Terrorist financing is the collection or provision of funds for terrorist purposes. Unlike money laundering where the funds are always the proceeds of a crime, terrorism can be financed through both legal and illegal sources.

Both the Anti-Terrorism regime and the proliferation financing regime established under the legislation above incorporate lists of persons and entities, either designated by Trinidad and Tobago or by the United Nations Security Council or its committees, against whom sanctions apply. Such persons or entities are referred to as “listed entities”. There are criminal sanctions in the proliferation financing legislation similar to the provisions of the Anti-Terrorism Act discussed above. Persons and organizations within Trinidad and Tobago, including NPOs, are thus prohibited from providing property, financial or other support to such listed entities.

12. Reporting of Suspected Terrorist Financing Abuse

Section 32 of the Anti-Terrorism Act, Chap. 12:07 provides:

- 32.** (1) Every person or regulatory authority who has any information which will assist in—
- (a) preventing the commission by another person, of a terrorist act; or
 - (b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,
- shall forthwith disclose the information to a police officer or the Central Authority as defined under the Mutual Assistance in Criminal Matters Act.
- (3) Civil or criminal proceedings shall not lie against any person for disclosing any information in good faith pursuant to subsection (1).

Officers of an NPO who in good faith believe that they have information which will assist in preventing a terrorist act, including terrorist financing or any other offence under Parts II, III or IIIA of the Anti-Terrorism Act, must disclose this information to the police. When acting in good faith the officer of the NPO is protected from civil or criminal proceedings resulting from making such report.

Such reports can be made to:

- i. The Special Branch of the Trinidad and Tobago Police Service by contacting them at 1-868-628-8925 ext 12052 or sb.anti-terrorism@tpps.gov.tt.

- ii. The Financial Investigations Branch at Riverside Plaza, Besson St, Port of Spain, via telephone at 1-868-627-4281 or email at fibchiefclerk@tpps.gov.tt

- iii. In addition, reports can be made to any police station in Trinidad and Tobago which would then be directed to the relevant authorities;

13. Further Information

For further information, please contact:

The Anti-Terrorism Unit,
Ministry of the Attorney General and Legal Affairs,
Level 21 AGLA Tower,
Cor. London & Richmond Streets,
Port of Spain
Tel: (868) 223-AGLA (2452) ext. 3772 or 3800
Fax: (868) 226-5145
E-mail: antiterrorismunit@ag.gov.tt

NOTICE

This document has been prepared for information purposes only and does not relieve you of any obligation under the laws of Trinidad and Tobago. Members of the public should familiarize themselves with the Anti-Terrorism Act, Chap. 12:07, the Non-Profit Organization Act, 2019 and all other relevant laws. This document is not intended as and does not constitute legal advice. Each case is unique and members of the public, including officers of NPOs should seek the advice of a qualified attorney-at-law with respect to their particular case.