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CONDUCTING NPO RISK ASSESSMENTS: BANKING SECTOR

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1. INTRODUCTION

The Financial Intelligence Centre (FIC) is tasked with the coordination of Namibia's Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) activities.¹ In furtherance of this mandate, the FIC's responsibility includes supervision of various sectors that deal in specified services as per the various Schedules of the FIA. This Directive is issued in terms of section 9(2)(c) read with 54(2) of the FIA to help banks mitigate risks Non-Profit Organisations (NPOs) present to the banking sector. NPOs, as a sect of clients present a unique challenge in view of Terrorism Financing (TF) risks. Additionally, amongst other activities to help NPOs mitigate risks, the FIC has workshopped and issued guidance notes that helps NPOs implement relevant risk management controls. In particular, Guidance Note 12 of 2023 highlights considerations to help NPOs understand risks they are exposed to while Guidance Note 13 of 2023 details how NPOs can implement risk based controls². Banks must consider guidance in such documents with a view to informing their internal NPO risk management frameworks as per the FIA.

NPOs play an important role in the local and global community. NPOs provide essential and valuable services to people (including the environment, nature etc.) in need, locally and globally. Despite such immense importance, financial controls within NPOs are open to abuse in the advancement of financial crimes such as Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF). A crucial guiding concept in this regard is the requirement to ensure that oversight and regulatory actions do not undermine legitimate NPO operations. To further this, only NPOs that are determined to be highly vulnerable to risks are subject to supervision as per the Financial Intelligence Act of 2012 (FIA).

According to the 2020 National Risk Assessment (NRA), religious and Faith Based Organisations (FBOs) are particularly vulnerable to TF risks. The 2023 NRA update further identified NPOs involved in charitable services as inherently vulnerable for TF abuse. In summary, only FBOs and NPOs involved in charitable activities are thus high risk and are

¹ The Financial Intelligence Act, 2012 (Act No. 13 of 2012) (FIA), as amended, section 9(1) (f) and (g).

² FIC Guidance Notes 12 and 13 of 2023, <https://www.fic.na/index.php?page=2023-guidance-notes>.

consequently subjected to relevant supervision as per the FIA. In future, depending on risk factors as assessed nationally, the FIC may amend or designate other types of NPOs to comply with the FIA and manage TF risks. When, and if such happens, relevant publications and notifications in such regard will be issued to reflect such changes.

2. ROLE OF FINANCIAL SERVICE PROVIDERS

Financial services, in particular banking services, have been abused by NPOs to advance financial crimes, in particular theft, fraud, embezzlement and money laundering, as reflected in the NRA outcomes of 2017/18 and 2020³. The control shortcomings or vulnerabilities undermined in the advancement of such crimes can be equally exploited to advance TF activities.

In terms of the FATF Recommendations, to which the FIA is aligned, NPOs' supervision differs from that of conventional Accountable and Reporting Institutions in that NPOs should only be subjected to monitoring, oversight and outreach activities. Certain oversight activities are to be undertaken by relevant licensing and registration authorities as well as the FIC. The FIC leads all outreach activities which includes sectoral meetings, trainings, publications etc., to enhance understanding of FIA obligations in mitigating risks.

As part of the monitoring activities, sectors availing crucial services such as banking play a key role in effective risk management at national level. The role of banks in this regard should be premised on effective risk assessments, outcomes of which, should guide the nature, extent and level of due diligence that NPOs should be subjected to. Section 3 below directs activities which can enhance overall effectiveness in this regard.

3. SPECIFIC DIRECTIVES

Data from the Annual Returns submitted by banks in June 2023 suggests NPO risk assessment levels across the banking sector needs improvements. This directive therefore serves to ensure

³ ML, TF, PF Risk Assessment Reports published on the FIC website, available at: <https://www.fic.na/index.php?page=mltftp-risk-assessment-reports>

streamlined considerations in such risk assessments and set a framework across the sector to enhance overall effectiveness. Only FBOs and charitable NPOs should be subjected to due diligence in terms of section 35 of the FIA.

In furtherance of the above, the FIC avails a NPO risk assessment solution/tool which banks are required to use in assessing individual NPO risk exposure levels (*see Annexure A: Banks' NPO Risk Assessment Tool*). Banks are hereby directed to ensure the following:

- a. **Finalizing high risk NPOs by September 2023:** FBOs and charitable NPOs on its client database are duly subjected to a risk assessment. As agreed in the FIC/Bankers Association of Namibia meeting of 17 August 2023, outcomes thereof, for the first high risk⁴ 100 NPOs (per bank) should be shared with the FIC by no later than **22 September 2023**;
- b. **Finalizing remaining NPOs:** The risk assessment outcomes for the remaining FBOs and charitable NPOs should be availed to the FIC as and when completed, **but not later than 31 January 2024**; and
- c. **Ongoing NPO due diligence:** going forward, post 31 January 2024, all FBOs and charitable NPOs must be subjected to risk assessments, with variables aligned to the attached risk assessment tool, upon establishing business relations with banks. Relevant risk reviews would need to be considered by banks, as and when material changes arise in the NPO's risk profile as a client of the bank. The FIC will, as the need arises, request⁵ for outcomes of such risk assessments or review the execution of same to gain reasonable assurance around effectiveness thereof.

Where banks make use of other NPO risk assessment solutions, such banks would be required to demonstrate, to the FIC's satisfaction, that all relevant NPO risk assessment variables and

⁴ as per bank's understanding in view of NRA and SRA results shared with banks in the FIB/BAN August 2023 meeting. Banks would need to engage NPOs to ascertain information where need be.

⁵ This is anticipated to be at a minimum annually or every other year as the need arises. Prevailing trends and risk variables would guide frequency and extent of these monitoring and supervision activities.

elements are duly considered in the analysis. The relevant risk mitigation considerations which inform assessment variables and elements are in the FATF Publications on Recommendation 8⁶ and FIC Guidance Notes 12 and 13 of 2023⁷. Some considerations impacting threats are in the various NRAs, Sectoral Risk Assessments and FATF Publications⁸. Banks are further required to specifically consider sections 5.2.7 and 6 of Guidance note 13 of 2023 in understanding NPO risk profiles, amongst other considerations. At the time of issuing this Directive, the FIA Regulations around NPOs are being finalised for issuing. The risk management principles in such Regulations are captured in the issued Guidance notes.

4. NON-COMPLIANCE WITH THE PROVISIONS OF THIS DIRECTIVE

This document may contain statements of policy which reflect the FIC's administration of the legislation in carrying out its statutory functions. This directive is issued without prejudice to the FIA and its complementing Regulations. The information contained herein is intended to only provide a summary on these matters and is not intended to be comprehensively exhaustive.

The Directive can be accessed at www.fic.na

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⁶ FATF Best Practices Combating the Abuse of NPOs (Recommendation 8) [file:///C:/Users/ham638/Downloads/BPP-combating-abuse-non-profit-organisations%20\(2\).pdf](file:///C:/Users/ham638/Downloads/BPP-combating-abuse-non-profit-organisations%20(2).pdf)

⁷ FIC Guidance Notes 12 and 13 of 2023, <https://www.fic.na/index.php?page=2023-guidance-notes>

⁸ FATF Report, Risk of Terrorist Abuse in NPOs, June 2014: [file:///C:/Users/ham638/Downloads/Risk-of-terrorist-abuse-in-non-profit-organisations%20\(1\).pdf](file:///C:/Users/ham638/Downloads/Risk-of-terrorist-abuse-in-non-profit-organisations%20(1).pdf)