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## **GUIDANCE NOTE NO. 13 OF 2023**

**GUIDANCE ON IMPLEMENTING RISK BASED MEASURES TO  
PREVENT AND COMBAT TERRORISM FINANCING**

**NON-PROFIT ORGANISATIONS: ALL CHARITIES AND RELIGIOUS  
OR FAITH BASED ORGANISATIONS**

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## A. DEFINITIONS AND ABBREVIATIONS

**“Accountable Institution (AI)”** means a person or entity listed in Schedule 1 of the Act. These are institutions such as banks, law firms, real estate agents etc., required to comply with the FIA;

**“Beneficiary”** a person, group, association (or other entity) who is designated to receive the benefits of services, assets, funds or any other type of benefit from a NPO;

**“Beneficial Owner”** refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. Care needs to be taken to identify those who control or direct operations, affairs or the management of an entity without their names being written in any formal documents of the entity as would be expected;

**“Customer Due Diligence” (CDD)** means a process which involves establishing the identity of a client, the identity of the client’s beneficial owners in respect of legal persons and monitoring all transactions of the client against the client’s profile;

**“Enhanced Due Diligence” (EDD)** means doing more than the conventional simplified due diligence or the basic CDD measures mentioned above and includes, amongst others, taking measures as per the FIA to identify, as far as reasonably possible, the source of wealth, funds and any other assets of the client or beneficial owners whose activities may pose a risk of ML, TF or PF;

**“Establish Identity”** means a two-tier process consisting of *ascertainment or collecting* of certain identification information, and *verification* of some of the information against reliable documentation or information;

**“Directing official”** An individual who holds a leadership position in an NPO and has the ability to direct aspects of the NPO’s activities. This includes directors, officers, trustees, and religious leaders;

**“Dual-use equipment”** Equipment that has both peaceful and military applications, depending on intent;

**"FATF"** means the Financial Action Task Force. The FATF is an organization that develops policies to prevent and combat money laundering, terrorist and proliferation financing activities. Like most countries, Namibia's AML/CFT/CPF regime is aligned to the FATF standards;

**"FIA"** refers to the Financial Intelligence Act, 2012 (Act No. 13 of 2012);

**"FIC"** means the Financial Intelligence Centre;

**"Humanitarian"** in this guidance, humanitarian refers to the promotion of human welfare and is not limited to activities undertaken following emergency or disaster situations;

**"LEAs"** means Law Enforcement Authorities such as the Namibian Police, Anti-Corruption Commission or NAMRA;

**"Legal persons"** within this context refers to Companies, Close Corporations etc;

**"Legal arrangements"** within this context refers to trusts, partnerships, associations, NGOs etc.;

**"ML"** means Money Laundering;

**"Monitoring"** as defined in the FIA, for purposes of Sections 23, 24 and 25 of the Act includes:

- i. the monitoring of transactions and activities carried out by the client to ensure that such transactions and activities are consistent with the knowledge that the accountable institution has of the client, the commercial or personal activities and risk profile of the client;
- ii. the enhanced monitoring of transactions and activities of identified high risk clients in order to timeously identify suspicious transactions and activities; and
- iii. the screening of the name of a client or potential client, and the names involved in transactions, against the sanctions lists issued by the United Nations Security Council under Chapter VII of the United Nations Charter; for purposes of combating money laundering, the financing of terrorism and the funding of proliferation activities.

**"NPO"** refers to any type of Non-Profit Organisation. Note however that in terms of the FIA, only some NPOs are highly exposed to TF risks and thus, only such are required to comply with the FIA. This

Guidance Note is only addressed to such NPOs, which are religious or faith based organisations and those involved in charitable activities/services;

“**PEPs**” means Political Exposed Persons (See FIC Guidance Note 01 of 2019);

“**PF**” means proliferation financing;

“**Records**” means any material on which information is recorded or marked and which is capable of being read or understood by a person, or by an electronic system or other device;

“**Religious leader**” means a person who is a member of the governing body of any religious body or a person who is vested with the decision-making authority within the religious body;”

“**Regulations**” refer to the FIA Regulations unless otherwise specified;

“**RBA**” refers to the Risk Based Approach. An approach for managing risks based on prioritization of such risks as per the occurrence/frequency/probability and potential impacts/consequences of each identified risk;

“**SAR**” refers to a suspicious activity report submitted to the FIC in terms of sections 33 (1) & (2) of the Act;

“**Single Transaction**” means a transaction other than a transaction concluded in the course of a business relationship;

“**SNMA**” refers to a Sanction Name Match Activity Report. When a potential sanctions match is detected, institutions should file a SNMA with the FIC. With effect from 17 April 2023, all sanctions name matches should be reported through SNMA reports and no longer through STRs or SARs;

“**STR**” refers to a suspicious transaction report submitted to the FIC in terms of sections 33 (1) & (2) of the FIA;

“**TF**” means Terrorist Financing;

**“Terrorist entity”** In the context of this guidance, a terrorist entity refers to a terrorist and/or terrorist organisation identified as a supporter of terrorism by national or international sanctions lists, or assessed by a jurisdiction as active in terrorist activity;

**“Terrorism financing (TF)”** The financing of terrorist acts, and of terrorists and terrorist organisations. Includes when a person wilfully provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s); or (b) by a terrorist organisation or by an individual terrorist (even in the absence of a link to a specific terrorist act or acts). TF includes financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. TF as a concept is broad and extends to any funds or other assets whether from a legitimate or illegitimate source;

**“TPFA”** means Terrorist & Proliferation Financing Activity report. Reporting any other Activity (or attempted transaction which was not completed) which may point to, or be linked to potential terrorism, TF or PF;

**“TPFT”** means Terrorist & Proliferation Financing Transaction report. Reporting any other Transaction (actual transaction that has taken place) which may point to, or be linked to potential terrorism, TF or PF;

**“Transaction”** means a transaction concluded between a client and an accountable or reporting institution in accordance with the type of business carried on by that institution, and includes attempted transactions;

**“Threat”** A person or group of people, object or activity, with the potential to cause harm. Threat is contingent on actors that possess both the capability and the intent to do harm;

**“Without delay”** means taking required actions within a few hours, as advised in Namibia’s September 2022 Mutual Evaluation Report.

## 1. BACKGROUND

The vital and often lifesaving roles played by the NPO sector in its service to humanity, often under difficult circumstances remains paramount in the care that regulatory bodies such as the FIC takes in its supervision of this sector. The need to ensure supervision and regulatory activities do not undermine legitimate NPO operations is a key guiding principle in this regard. In advancement of same, it is thus only those NPOs found to be highly exposed to risks that are subjected to supervisory activities as per the Financial Intelligence Act, 2012 (FIA).

The 2020 National Risk Assessment (NRA) found religious and faith based organisations as highly exposed to risks of TF while the 2023 NRA update has additionally identified the broader category of 'service charities' as equally vulnerable to TF abuse. Therefore, the specific NPOs to which the FIA applies are religious or faith based organisations and those involved in charitable activities.

Services offered by NPOs have been abused for ML domestically, as per the 2015 – 2020 NRA updates. Internationally, there are trends and typologies which show how NPOs are abused to advance TF and related terrorism activities.

This Guidance is the second part of a sectoral guidance pack issued to enhance the implementation of risk management systems within the NPO sector. The other guidance documents, Guidance Note 12 of 2023, helps NPOs understand how to conducting risk assessments and identify indicators of potential TF activities. With an understanding of such risks, this Guidance Note speaks to how NPOs can implement risk based controls to enhance Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) measures, at institutional level.

This Guidance Note is issued in terms of Section 9(1)(h) of the FIA and is applicable to all NPOs involved in religious and faith based organisations as well as charitable services.

## 2. COMMENCEMENT

This Guidance Note comes into effect on **03 July 2023**.

## 3. HIGH RISK NPOs

The type of NPOs supervised as per the FIA are **religious or faith based organisations** and those involved in **charities** (or provision of such ‘good works’). Such NPOs are required to align their risk management measures with the FIA and as simplified in this Guidance Note and Guidance Note 12 of 2023.

In Namibia, as it is around the world, not all NPOs are highly exposed to risks of TF. Only those highly exposed to such risk should be subjected to regulatory and supervisory activities in terms of the FIA and FATF Recommendations. The point of departure is therefore to first identify those within the category of highly exposed NPOs. This ensures due regulation and supervision of NPO activities is risk based and does not undermine legitimate NPO operations.

The FATF Study<sup>1</sup> on TF risks in NPOs found, through case studies, that there is a correlation between the types of activities an NPO is engaged in, and the risk of TF abuse. The majority of the case studies dealt with NPOs engaged in ‘**service activities**’ such as housing, social services, education, or health care. None of the case studies dealt with NPOs engaged in ‘**expressive activities**’ such as programmes focused on sports and recreation, arts and culture, interest representation or advocacy such as political parties, think tanks and advocacy groups. Additionally, the case studies and available research indicate there is a stronger risk of abuse for NPOs carrying out activities in populations that are also targeted by terrorist movements for support.

One of the inherent challenges in assessing the risk of terrorist abuse in the NPO sector is defining what a NPO is, and more importantly, which of these organisations are most at risk. The FATF has defined a NPO in its Interpretive Note to Recommendation 8 as “a legal person or

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<sup>1</sup> <file:///D:/09%20November%202022/NPOs/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf>

arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or the carrying out of other types of ‘good works.’ The FATF has also stated in its Best Practices guidance that measures to combat TF activity in the NPO sector should “apply to NPOs which account for:

- a. significant portion of the financial resources under control of the sector; and
- b. substantial share of the sector’s international activities.

This 2023 National Risk Assessment (NRA) update could not find anything within local NPOs that would deviate from the said trend. If anything, faith based activities, particularly those with potential extremist ideologies exhibited the highest level of exposure to TF risks, as found in the 2023 NRA update. The few domestic cases of potential TF shows how locals were ideologically radicalised allegedly<sup>2</sup> through mentors associated with FBOs, before embarking on their journeys to potentially support or associate with terrorist activities in one way or the other. Charitable activities are similarly found to be highly exposed to TF risks.

## 4. BUILDING A GOVERNANCE FRAMEWORK

### 4.1 Registration with the FIC

**Directive 04 of 2023**, available on the FIC website (<https://www.fic.na/index.php?page=2023-directives>) avails requirements for NPO registration with the FIC. The starting point of building a governance framework aligned to compliance with the FIA is registration with the FIC. As mentioned above, NPOs which are required to comply with the FIA are religious or faith based organisations and those involved in charities (or provision of such ‘good works’). In future, depending on risk factors as evaluated by the FIC, the FIC may designate other types of NPOs to comply with the FIA compliance. While it is a legal requirement for NPOs to register with the FIA, such registration, amongst others, enables registered NPOs to benefit from the following:

- a. Ease with which to access FIC guidance on effective risk management;

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<sup>2</sup> This is not yet proven but the few suspects converted from Christianity to other religions and that is when it is suspected they may have been radicalized. Though they had close ties to FBOs there is no proof that the FBOs directly played any part in extremist radicalization.

- b. Timely reminders on potential changes to UNSC Lists, which should enable NPOs to screen their beneficiaries, donors, board/management members etc., against such lists;
- c. Supervision, monitoring and oversight frameworks aimed at helping NPOs enhance their risk management; and
- d. Access to FIC training and awareness opportunities around how to enhance risk management measures.

Section 4.1 above and 4.2 below, amongst others, indicates the primary controls that must be presented to the FIC upon registration.

## **4.2 Oversight Functions (Boards, Management Committees etc)**

The foundation of any governance framework is premised on some primary pillars. This section highlights such pillars for NPOs in terms of the FIA, which must be presented to the FIC upon registration.

**4.2.1 Appointment of a Compliance Officer.** This has to be someone with relevant seniority and competence around compliance matters within the NPO who will lead the implementation of all compliance matters as per the FIA. There may not always be a need to create a vacant position as the duties of such officer, as outlined in section 10 herein, can simply be assigned to an existing position/staff member. His or her contact details would need to be availed upon presentation;

4.2.1 Proof of **NPO registration** such as a registration certificate for a Welfare Organization from the Ministry of Health and Social Services, proof of registration as a Section 21 entity etc.;

**4.2.3 Governing documents** such as a charter, constitution, memorandum of association or articles or other governing documents deemed relevant by the FIC governing its organization. Such governing documents must specify, amongst others, the following information about the NPO:

- a. the **name of the organisation**;
- b. the **purpose and object** of the organisation;
- c. the **particulars of the founder(s)** of the organisation, including the name of the founder, registered address of the founder and address for service of documents (where documents can be send to the founder);
- d. particulars of **the control structure** such as its governance, management, administration and operation frameworks. Organograms are usually helpful;
- e. particulars of **board members or an oversight committee** and the **procedure for the appointment** of the members of board or committee members. Particulars of board members should include their identification, address and contact details, their CVs or demonstration of areas of expertise and proof that their levels of integrity are sound (could be clearance certificates from Police etc);
- f. the **functions and powers** of the board or oversight committee;
- g. **particulars of the employees of the organisation** and **procedure for the appointment** of the employees. Particulars obviously include demonstration of their competence such as CVs, and fitness to hold office can include any reliable sources that demonstrates their acceptable levels of integrity. NPOs must implement policies and procedures outlining their recruitment processes to ensure the attainment of the objects stated herein;
- h. **particulars of any property** endowed to the organisation;
- i. **particulars of the beneficiaries** of the organisation and the manner in which the beneficiary is appointed or removed; and
- j. the **period** for which the organisation **has been in existence**.

**4.2.4 FIC registration is free and can be finalised within a week**, provided all requirements are met. A letter confirming registration is issued to an entity when registration is completed.

**4.2.5 Update the FIC** as soon as there are any changes to the above-mentioned registration information.

**4.2.6** As per the FIA, it is an important requirement that the **NPO is physically present in Namibia** and must have a registered local office to which all communications and notices are sent and serves as the address for service of legal proceedings on the organisation.

### **4.3 Boards of NPOs**

#### **4.3.1 Responsibilities and functions of the Board as per the FIA**

As mentioned above, a NPO must have a board of the organisation which administers the funds, assets and property of the organisation and carries out the objects of the organisation. The NPO must implement a board policy (or internal framework) which will ensure members of the board execute their responsibilities as per the following:

- a. conduct the affairs of the organisation **in accordance with its charter, constitution, memorandum of association or articles** or other governing documents. The board's oversight functions should be of such a nature that the board gains assurance operations are in line with the legitimate objectives of the NPO;
- b. act **honestly and in good faith** with a view to promote the best interests of the organization at all times;
- c. exercise the **due care, diligence and skill** that a reasonably prudent person would exercise in similar circumstances;
- d. A board must put in place **measures to appoint employees/persons competent and fit** to effectively discharge of duties and obligations imposed on the organisation as per the FIA and all other relevant laws. It is essential that the NPO's charter, constitution, memorandum of association or articles or other governing documents are aligned to or do not contravene laws; and
- e. A person appointed as per above must be under the **supervision of the board** of the organisation and must act in accordance with the lawful instructions of the board.

### 4.3.2 Establishing a Board

Despite the FIA requiring NPOs to establish boards, depending on the size, complexity, resources and scale of operations of a NPO, **the FIC may allow the NPOs to establish an oversight or management committee** instead of a board which committee performs the functions and powers of the board of organisation. This is necessary to accommodate smaller and less resourced NPO with legitimate objectives. Such oversight or management committee will be for fulfilling the requirements of the FIA and is not intended to fulfil the requirements of other laws the NPO should comply with, where such other laws require establishing a board.

The **fitness and probity** of board members (or such management/oversight committee) is essential in the execution of the board or committee's mandate as highlighted in section 4.3.1 above and in this entire document. Fitness and probity speaks to ability to deliver (or competence) and suitability in terms of levels of integrity or ethical standing. The NPO is required to have a policy that outlines measures for ascertaining if a board or management member is fit and proper. As a minimum standard, a person is disqualified from being a board member or a member of an oversight/management committee of a NPO if the person:

- a. is an **unrehabilitated insolvent**;
- b. has been **prohibited to be a director** of a company in terms of any law or by an order of a court;
- c. has been **removed from an office of trust** on the grounds of misconduct involving dishonesty;
- d. has been **criminally convicted in Namibia or elsewhere** of theft, fraud, forgery or perjury under any law (criminal conviction);
- e. has been **convicted of an offence** (administrative or non-criminal conviction) under the National Welfare Act 1965 (Act 79 of 1965), Companies Act, 2004 (Act No. 28 of 2004), Insolvency Act, 1936 (Act No. 24 of 1936), Close Corporations Act, 1988 (Act No. 26 of 1988), Competition Act, 2003 (Act No. 2 of 2003), Namibia Financial Institutions

Supervisory Act, 2021 (Act No. 3 of 2021), Anti-Corruption Act, 2003 (Act No. 8 of 2003), Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014), Prevention and Combating of Organised Crime Act, 2004 (Act 29 of 2004), Income Tax Act, 1981 (Act No. 24 of 1981) or this Act, or any other relevant law; or

- f. is an **unemancipated minor** or under similar **legal disability**.

## 5. OBLIGATIONS OF NPOS

### 5.1 Record Keeping

Maintaining proper records enable the reconstruction of transactions, operations and activities of the NPO. This is essential in monitoring the activities of the NPO not only for supervision purposes to enable prudent oversight functions of the board or such management structures. In line with the FIA, NPOs must keep proper records of the following:

- a. **all money received and expended** by the NPO and the reason for the receipt and expend of the money. This speaks to all sales and purchases/expenditure made by the NPO regardless of the nature of such. Any independent person (board members, FIC, Auditors etc) should be able to reconstruct the transactions – meaning the receipts and invoices should clearly state the purpose and amounts involved;
- b. **all assets and liabilities of the organisation**. Assets includes all cash in the bank, investments and land and building owned by the NPO. Excludes leased properties or assets not owned by the NPO. Liabilities includes all short terms and long term debts of the NPO;
- c. full names and identification particulars of **donors, partners and beneficiaries who are legal persons and arrangements the NPO is dealing with**. The definitions section explain that legal persons refers to Companies, Close Corporations etc., while legal arrangements are trusts, partnerships, associations, NGOs etc. **Annexure B**,

attached hereto lists key identification information for such types of legal persons and arrangements;

- d. full names and identification particulars of **natural persons behind legal persons in the form of donors, partners and beneficiaries the NPO is dealing with**. Where donors and beneficiaries are legal persons and arrangements, also identify and keep records of those natural persons: (1) directing their affairs (directors, executives and owners<sup>3</sup>); (2) executives/senior managers; and (3) those representing such entity in engagements with the NPO, if such persons are different from board members, directors or executives<sup>4</sup>. Below is the minimum information to be obtained and verified for such natural persons:
- i. Verification: full names;
  - ii. Verification: nationality;
  - iii. Verification: If citizen – national ID no./ passport no./date of birth;
  - iv. Verification: Non-citizen – passport no./ national ID no./date of birth;
  - v. Obtain: Namibia residential address for citizens OR if non-citizen, residential address in his/her country or physical address; and
  - vi. Contact particulars (email and cellphone numbers);

Verification of names herein means obtaining the original ID/Passport documents to ascertain that the person is indeed who he or she claims to be. Given that some stakeholders are beyond our borders, NPOs should try and obtain the best possible source or document of identification. It is essential that NPOs obtain copies of such identification documents.

- e. Record showing that the person identified above (C) have been subjected to **sanctions screening** as stated in section 5.2.1 herein;

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<sup>3</sup> The definitions sections herein above defines a beneficial owner.

<sup>4</sup> The goal is to place the NPO in a position to identify, screen such influential persons and make an assessment around risks such persons may pose. This identification is also essential for competent authorities such as the Police and FIC.

- f. the **name of the beneficial owner where the beneficiary is a nominee**. The definitions sections herein above defines a beneficiary. A nominee arises when a person, be it a beneficial owner appoints another person to represent him/her, him etc.;
- g. The NPO must equally **maintain accounting records with sufficient details** that -
  - i. show and explain the transactions of the organisation;
  - ii. disclose with reasonable accuracy the financial position of the organisation at any time; and
  - iii. allow financial statements to be prepared.
- h. A NPO must keep at its registered office –
  - i. a **file containing accurate records and copies of all documents filed with the FIC**, including accurate copies of its charter, constitution, memorandum of association or articles or other governing documents;
  - ii. the **minutes of proceedings of any meeting of the board** (or management committees where no board is in place) of the organisation; and
  - iii. a **register indicating the names and addresses of the members of the board or oversight committee**, the founder of the organisation and any person who may have endowed any asset to the organisation.

The records and copies of said documents must be open for inspection by the FIC, any founder of the organisation, authorised officer, competent authority or supervisory body during business hours of the organisation.

### 5.1.1 Manner of Record Keeping

The records must be kept:

- a. in a manner that protects the integrity of the transaction;
- b. in a manner which permits reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity or civil asset forfeiture procedures. The Golden Rule with record keeping is enabling an effective

rebuilding/reconstruction of identification or transacting activities by competent authorities.

Further, records can be kept in hard copy or electronic format as long as a paper copy can be readily produced, especially for law enforcement purposes. NPOs should maintain effective record-keeping systems to enable the FIC and other relevant authorities to access such records in a timely fashion.

### **5.1.2 Period for Which Records Must Be Kept**

Records that relate to the establishment of a stakeholder relationship (e.g with donors and beneficiaries) must be kept as long as the business relationship exists and for at least five years from the date on which the business relationship is terminated. Records that relate to single transactions must be kept for five years from the date on which such single transaction was concluded. Records that relate to copies of reports submitted to the FIC must be kept for a period of not less than five years from date of filing such report. However, records must be kept for longer than the 5-year period if the NPO is requested to do so by the FIC, the Office of the Prosecutor-General or by any other competent authority.

## **5.2 Minimising Risks of Abuse**

Over and above the controls mentioned above, a NPO must do the following to minimise risks of abuse:

**5.2.1 Sanctions screening:** having verified the identification of legal and natural persons [as per section (5.1 c-d), ensure **screening all such names** against the **United Nations Security Council Sanctions Lists**. The FIC avails access to a free screening online based solution upon registration. Again, the NPO should keep records of such sanctions screening to prove that it was duly undertaken;

**5.2.2 prevent the misuse of resources and funds** of the organisation by establishing **strong financial controls** and procedures subject to the oversight by the board or oversight/management committee. Such must be documented and availed for inspections by competent authorities if need be;

**5.2.3 Managing and tracking NPO's programmes.** This speaks to accountability for all the NPO's activities and includes:

- a. clearly **state programme goals** when collecting funds and ensure that **funds are used as intended**. Ideally and in practice, it must be easy for the board, oversight committee or competent authorities to understand the programme goals in order to determine if the NPO's resources or programmes are not diverted from such goals;
- b. ensure that **information about the activities** carried out by the organisation is **publicly available**. Can be published online or in manuals of the NPO which are publicly distributed. The goal is for anyone with any reasonable knowledge to be in a position to see if the operations of the NPO are aligned to its goals;
- c. establish internal controls and monitoring systems to **ensure that funds and services are being used as intended by**, amongst others, clearly defining the purpose and scope of activities. Periodically, there should be mechanisms to reconcile funds spend with planned operational activities;
- d. **identify beneficiary groups and consider the risks** of financing of terrorism or proliferation and risk mitigation measures before undertaking projects. Consider the jurisdictional risk level associated with natural and legal persons the NPO is about to associate with. Section 5.4 of Guidance Note 12 of 2013 lists considerations around factors which makes a jurisdiction high risk;
- e. maintain **detailed budget for each project and generate regular reports** on purchase and expense by establishing procedures to trace funds, services and equipment, and carry

out transactions through the banking system to maintain transparency of funds and mitigate the risk of financing of terrorism or proliferation; and

- f. **monitor project performance on a regular basis** by verifying the existence of beneficiaries and receipt of funds.

**5.2.4 record the sources of its income and establish criteria for determining whether a donation must be accepted or refused.** There must be a list or set of criteria/requirements which must be met for donations to be accepted by the NPO. Such can be premised around the legitimate mandate or objective of the NPO. Within the context of the FIA, at a basic level, it should not be a condition of the donor availing resources to require the NPO to divert from its mandate, especially if same is diverting to a high risk or criminal operation. It is also essential that NPOs require donors are not accorded an influential say in the NPO operations just because they have availed funding or resources, unless the NPO lacks effective programmes and controls. This should be limited and care should be taken to ensure donors do not direct NPOs to use their funding in any illicit manner;

**5.2.5** ensure that the **source of financing, including details regarding the main contributor, both public and private**, as well as the amount contributed are made available to the public. This limits the opportunity of criminals presenting themselves as donors to abuse unsuspecting NPOs. In respect of a donor, the NPO must:

- a. confirm the **identity of the donor and keep record of the donor**. A regular donor may only be identified once, i.e at the beginning or as early as possible and there should be no need for regular identification if it is the same person;
- b. keep records of the **mode of payment by the donor** whether by cash, direct credit or virtual asset or currency. Note that virtual currencies largely present higher risks. The FIC has issued Guidance Notes 10 and 11, available on the FIC website, which speaks to virtual assets or virtual currencies;

- c. keep **records of the amount received from the donor**, whether in Namibia or outside Namibia, whether significant or small;
- d. keep **records for categories of donations received** whether domestic or foreign. The NPO would need to report on such to the FIC periodically as per Annexure A attached hereto. See Annexure A attached hereto which explains the types of information to be obtained;
- e. **periodically disclose to the FIC whether funds are received from, or disbursed to, high-risk jurisdiction, including the name of the country, the amount and reason for the receipt or disbursement.** Attached hereto in Annexure A is an Annual Return for NPOs through which such disclosures would be made to the FIC periodically. All religious/faith based and NPOs involved in charities must submit such returns unless directed otherwise by the FIC;
- f. disclose to the FIC funds received from any **anonymous donors**. See Annexure A attached hereto which explains the types of information to be obtained;
- g. **identify beneficiaries of the donation**, whether domestic or foreign, and keep a list of such beneficiaries. See Annexure A attached hereto which explains the types of information to be obtained;
- h. **Politically Exposed Persons (PEPs)**, or those famous for holding strong political views, when associated with NPOs especially at board level or in any capacity where they can influence operations of the NPO present a higher risk of potentially abusing NPO operations to advance ulterior causes and financial crimes. The following measures must be taken when a PEP, or such political figures a family member or known close associate of a such person appears to be in an influential or directing capacity of a PEP (See Guidance Note 01 of 2019 on PEPs):
  - i. obtain **board or senior management approval** before establishing a business relationship with that NPO; and

- ii. take adequate steps to **establish the exact role of such PEP** with regard to how they may influence the NPO operations (through financing, directing programs, or perhaps, that they are just a member without influence - which would lower the risk exposure). Laos consider if the PEP may hold strong and perhaps radical or extremist political views which could be advanced through association with such NPO.

### 5.2.6 Due Diligence of NPO's Partners, other NPOs, NGOs and Associations

Donors and beneficiaries often come in the form of associations, NGOs, NPOs and other type of groupings. Many NPOs engage with or go about their business with or avail benefits and services through such bodies. They can be either partners, donors or beneficiaries. Each such entity needs to be assessed to determine its potential exposure to abuse for financial crimes.

One of the most important control mechanism for NPOs to mitigate against abuse is conducting **due diligence on those exercising effective control of their partners, beneficiaries and donors**, where such partners, beneficiaries or donors are legal persons, associations, other NPOs etc. **Persons exercising effective control are the ones in a position to direct the operation of/or use of funds and assets. They can be the difference in whether a NPO is abused to advance financial crimes such as money laundering and in particular terrorism financing. Annexure B attached hereto lists information to be obtained when identifying donors, beneficiaries or such related associates of the NPO.**

### 5.2.7 NPOs With Ties To Higher Risk Activities/countries etc

Some NPOs are inherently exposed to higher risks because they may be providing humanitarian or such other support directly or indirectly (via other NPOs) to beneficiaries in high risk zones (such as areas of active terrorism, violent conflict or war). This also includes when dealing with donors or beneficiaries whose TF risk profile is higher. While Namibia may be peaceful, local NPOs may find themselves availing humanitarian assistance to vulnerable people in other countries directly or indirectly. The risk for proceeds of local NPOs being diverted to advance or

support terrorism needs to be mitigated. NPOs must duly assess risks they are exposed to and make use of a variety of internal controls to prevent, deter and detect fraudulent activities, including the diversion of resources to prohibited parties. Internal controls which can be implemented to ensure dealings with the right beneficiaries, and promote financial accountability and transparency include:

- a. **Identifying the right beneficiaries:** Identification of beneficiary groups through a consultative process involving local partners and often community representatives. Verification and screening of potential beneficiaries and local partners connections to designated or “prohibited parties”<sup>5</sup>;
- b. **Segregation of duties:** Responsibilities in key financial, procurement and asset custody processes are separated among several employees rather than entrusted to one employee. When procuring a good, for example, the following are done by separate employees: originating the procurement request, collecting quotations, selecting the vendor, receipt of goods and payment;
- c. **Different levels of approvals:** Signatures are required by the originator, approver and financial reviewer at several stages in any financial transaction process in order to avoid unauthorised transactions. Moreover, the organisation maintains a document which outlines the key transactions and functions for which approval must be sought and who has the authority to approve the transaction and up to what level;
- d. **Delivery verification processes:** includes beneficiary verification (including beneficiary signature or thumbprint to confirm receipt of goods, as well as the date, and commodities received), distribution monitoring (employing monitors who are based in the targeted communities to directly monitor distribution or via photos or videos of the distribution by

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<sup>5</sup> Accordingly, prohibited parties are collectively described as any party believed to be supporting terrorism and/or one of the parties listed on a prohibited party list, or any party that is otherwise actively engaged in fighting or actively supporting armed groups in a high-risk country. It is relevant to prohibit paying bribes to any party, or paying fees to any political authorities (politically Exposed Persons) in a high risk-country, whether or not these persons or entities are included on any prohibited parties list. In this regard, political authorities in a high risk-country are also considered prohibited parties.

local partners when direct monitoring is not possible) and post distribution monitoring (visiting and surveying with a sample of beneficiaries);

- e. **Regular checks:** It is essential that regular checks are done to verify the existence of assets. These checks include regular and surprise cash counts and annual physical equipment inventories;
- f. **Dual inputs:** A system of double-checks or reviews with all financial transactions is used. Every financial transaction is approved by an employee other than the originator, and has a financial review by a separate employee. In addition, EFT transfers may be structured to require two or dual signatures;
- g. **Budget and expenditure reconciliations:** Budget versus actual expenditure reports are prepared and reviewed with senior management on a monthly basis. This is most effective when the NPO sets out the types of expenses it is willing to fund for each project. Any other expenses would not be reimbursable. This mitigates the chances of potential misunderstandings with partners but also lowers the risk of funds being abused;
- h. **Limiting assets/funds transfers to targets:** Only making transfers against performance milestones. This is best implemented by ensuring that financial reporting expectations are clear. The following accompanying controls could be helpful:
  - i. Asking for copies of original source documents to substantiate expenditures;
  - ii. Asking for partners to use a separate bank account and/or ledger for your funds;
  - iii. Requiring that partners seek permission for variances from project budgets; and
  - iv. Placing a positive obligation on partner agency/NPO or beneficiary to self report on non-compliance in the contract terms;
  - v. Ensuring overseas employees are trained on financial management practices;
  - vi. Insisting that interest on project funds be reinvested into the project activities;
  - vii. being clear on financial record keeping expectations; and
  - viii. Maintaining and exercising audit rights.

- i. **Documented controls:** which can be manuals and guidelines which provide procedures for support functions in the areas of finance, procurement, administration and asset management are required to be followed by all of the organisation's field programs.

## 6. FINANCIAL INSTITUTIONS AND NPOs

NPOs need financial services such as banking to enable the execution of their services. Banks have a requirement, in terms of the FIA and PACOTPAA, amongst others, to mitigate ML and TF risks. Banks will thus naturally expect that NPOs, like other clients/sectors who make use of their services have effective risk mitigation measures in place. This section highlights some considerations NPOs need to onboard when implementing or enhancing their risk management frameworks to reduce risk exposure to banks. The consequential eventuality of such also creates suitable governance or control frameworks which enhance meeting donor expectations.

### 6.1 Using Financial Services

- a. **Using formal financial/banking systems:** NPOs that handle funds should maintain registered bank accounts, keep their funds in them, and utilise regulated channels for transferring funds, especially overseas transactions. Where feasible, NPOs should use regulated systems to conduct their financial transactions. This brings the accounts of non-profit organisations, by and large, within the regulated banking system and under the relevant controls or regulations of that system;
- b. **Limiting the use of cash:** The use of cash is inherently high risk and should be limited to exceptional circumstances. There may be circumstances in which cash may be the only means possible for the NPO to operate, for example, to provide assistance to a particularly remote region where financial services are not available. While cash is inherently risky to ML and terrorist abuse, when cash is used, it should be used with utmost compliance with the FIA to mitigate risks of ML and TF. This may include cash declaration and/or cash disclosure requirements by the NPO to promote greater transparency and accountability of the funds;

- c. **NPO risk profile:** Financial institutions doing business with NPOs are alive to the fact that NPOs may expose them to TF risks. Financial institutions, in line with the FIA, will not treat all NPOs as high risk and subject them all to the same set of risk management measures. They are therefore required to assess the individual NPO risk profile of each NPO. Outcomes of such will determine the nature and extent of risk management measures an NPO will be subjected to. In practice, when assessing the potential risk of a particular NPO, financial institutions should take into account:
- i. any measures that the NPO itself may have in place to mitigate risks;
  - ii. any regulatory requirements that may apply to the NPO, such as the FIA amendments of 2023. This should also include those which are not specifically aimed at AML/CFT such as licensing and registration with the relevant government ministry or regulatory body, registration with BIPA etc., but which nevertheless help to mitigate ML and TF risks This include general good governance, due diligence measures and reporting requirements on its activities for tax or other purposes.

## 6.2 Availing Assurance to Financial Service Providers

Financial Service Providers, in particular banks, need reasonable assurance that the operations of an NPO will not expose their services to risks of ML and in particular TF. As much as supervisory authorities discourage undue de-risking and account closures of NPOs, when banks cannot gain reasonable assurance that their client(s), who may be NPOs, do not have adequate risk management systems in place, the potential for de-risking, limiting or discontinuing the availing of services to such NPOs is enhanced.

Not only is it prudent governance frameworks helpful to financial service providers but they are an essential requirement which donors consider in their financing decisions. For donors it is good practice to undertake reasonable steps to research publicly available materials in order to ascertain how an NPO operates, how it is managed, the nature of its programmes and where they operate. This is especially true for NPOs that operate in areas where there is known risk of

terrorist activity. The following are considerations which may positively impact NPOs' ability to access financial services from financial institutions and encourage consideration by donors:

- a. **developing constructive working relationships** with the NPO's chosen financial institution;
- b. engaging in **proactive dialogue with the financial institution**, including proactive provision of the relevant documentation to the financial institution. The idea is for NPOs to proactively engage financial institutions and avail them assurance as opposed to waiting to such to be requested. Financial institutions are also regulated, perhaps more than NPOs and thus have compliance obligations. It is therefore helpful that NPOs are open to sharing information with financial institutions when so requested;
- c. showing **awareness of any ML and TF risks** to which the NPO might be reasonably perceived to be vulnerable;
- d. **demonstrating effective controls**: it is not enough to simply assume that financial institutions will know that the NPO has controls in place. The NPO must demonstrate that it has implemented measures to mitigate those TF risks, either to fulfil regulatory obligations, to fulfil the requirements imposed by their donors, or at their own initiative;
- e. understanding **source of problems**: if potential problems arise, ascertaining whether financial institution's concerns stem from a particular individual involved with the NPO, or from transactions in a particular country or region, and considering and discussing with the financial institution whether the NPO could take additional actions or already has sufficient risk mitigation measures in place; and
- f. **involving** their umbrella organisations, **self-regulatory organisations** and/or donors in this dialogue, as needed, to help clarify the risk situation and the risk mitigation measures that are in place.

## 7. SUSPICIOUS TRANSACTION OR ACTIVITY REPORTS (“STRs/SARs”)

The primary reason for due diligence and monitoring transactions carried out by partners, donors, associates and beneficiaries of the NPO is to ensure that such transactions are consistent with the NPO’s knowledge of such persons/entities and risk profile. Suspicions are often detected from client behaviour or activities outside the expected/known client profile. Thus, understanding client profile is essential as it places the NPO in position to effectively detect and report suspicions when they arise. Guidance Note 11 of 2023 helps detail high risk situations, donors, beneficiaries, partners and activities that may be suspicious.

**Only financial crimes such as fraud and Money Laundering related suspicions shall be reported through conventional STRs and SARs to the FIC. TF and PF suspicions shall be reported through TPFA and TPFT reports, as explained in section 8 herein below. Similarly, sanctions screening name matches shall only be reported through Sanctions Name Match Activity reports (SNMAs), with effect from 17 April 2023.**

STRs are reports that explain **suspicious transactions** for ML. The term suspicion is meant to be applied in its everyday, normal sense. The suspicion, as an example, could be the funds involved in the transaction are the proceeds of any crime or linked to terrorist activity. The NPO does not need to know what sort of crime may have been committed, but one or more red flags or warning signs of potential financial crimes such as ML, which cannot be reasonably explained, should be adequate to reach the standard of what constitutes a suspicion worth reporting to the FIC.

SARs are reports which, under normal circumstances explain potential **suspicious activity** related to clients but may not necessarily be transactions whereas STRs refer to actual suspicious transactions. For example, if a beneficiary or donor attempts to transact with, avail funds or solicit funds from/to a NPO and after some due diligence as explained herein appears to be unwilling to provide what would be legitimate information and explanation, the NPO may report a SAR if it suspects potential financial crime such as fraud or money laundering.

## 8. UNSC SANCTIONS SCREENING AND TARGETED FINANCIAL SANCTIONS

The object of sanctions screening is to implement Targeted Financial Sanctions (TFS) towards anyone listed by the UNSC.

NPOs are expected in terms of section 24 and Regulation 15(5)<sup>6</sup> of the FIA to screen their donors, beneficiaries, partners and their representatives against the relevant sanctions lists issued by the United Nations Security Council (UNSC). Such screening should take place before business relationships are established, availing of services/benefits or receiving of donations takes place. If the NPO in any way makes use of third parties, middlemen or brokers/agents to facilitate, receive or avail services, the NPO needs to ensure that such third parties duly attend to their AML/CFT/CPF responsibilities if any reliance is placed on them. This is essential to combat TF and PF activities by ensuring designated persons or organizations etc., are identified and not unduly availed services, while efforts are made to duly freeze their assets and funds. The term Targeted Financial Sanctions primarily speaks to **asset freezing without delay** and **prohibition** from making funds or other assets or services, directly or indirectly, available for the benefit of sanctioned individuals, entities, or groups.

Locally, the National Security Commission (NSC) is the body with statutory responsibilities in terms of the PACOTPAA<sup>7</sup> to propose persons or entities to the 1267/1989 Committee for designation and for proposing persons or entities to the 1988 Committee for designation. To date, the NSC has not seen the need to designate any person. NPOs are required to continue screening against relevant sanctions lists as explained above.

Screening against other designations lists such as OFAC, though not mandatorily required by domestic laws is very helpful in the overall risk management effectiveness. For any transactions,

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<sup>6</sup> Accountable institution to conduct on-going and enhanced customer due diligence: (5) An accountable institution must also, in the process of monitoring, screen - (a) names of prospective clients, before acceptance of such a client; (b) names of existing clients, during the course of the business relationship; and (c) all the names involved in any transaction, against the sanctions lists issued by the United Nations Security Council under Chapter VII of the United Nations Charter for purposes of combating the financing of terrorism and the funding of proliferation activities.

<sup>7</sup> Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014).

donations, benefits transacted in the USD for example, there is an inherent requirement to screen involved parties against the OFAC list. Similarly, when dealing in British Pounds or the Euros, screening against lists issued by such British or European authorities is an inherent requirement.

This section avails basic guidance on TFS. NPOs are required to further consider the detailed guidance around reporting, sanctions screening and TFS contained in Guidance Note 07 of 2023. Much of it is outlined herein below.

## 8.1 Effective Client Screening

In order to effectively implement Targeted Financial Sanctions (TFS), NPOs must ensure:

- a. **sanction screening is performed on all** donors, beneficiaries, partners etc., before availing them services to agreeing to do any sort of NPO related business with them; and
- b. no services are availed to donors, beneficiaries, partners etc., before the sanction screening is completed and evidence of same has been documented. Screening should **not be undertaken after** availing services or agreeing to do business with stakeholders. Prior screening **enables proactive detection of sanctioned persons**. If such sanctioned persons are detected, they should not be granted access to any services of the NPO, nor and if any, their attempted transactions should be reported to the FIC promptly and without delay, while the assets (or funds) involved are frozen or further transactions prohibited, as per the FIA and PACOTPAA. **In practice, policies and operating procedures therefore need to ensure donors, partners etc., are allowed to at least attempt the transaction to ensure due identification, which will enable effective screening and, if client is listed, eventual freezing of the funds which they attempted to donate/avail, followed by complete prohibition to transact any further and reporting.**

The following databases of the NPO must be included in the screening process:

- a. Existing donor databases. All systems (if any) containing donor data and transactions need to be mapped to the screening system to ensure effective risk mitigation;
- b. Potential beneficiaries before agreeing to avail them any benefits/service/funds etc.;
- c. Where donors and beneficiaries are legal persons, all natural persons involved as directors, members of management committees or such relevant oversight functions and any persons who appear to administer or manage the operations of the NPO;
- d. Names of known individuals, entities, or groups with direct or indirect relationships with them; and
- e. Directors and/or agents acting on behalf of donors, beneficiaries and other partners/stakeholders (including individuals with power of attorney).

## 8.2 Where to Find the Updated Sanctions Lists?

As mentioned above, NPOs, like all other Accountable and Reporting Institutions are required to access lists of sanctioned persons and screen their donors, beneficiaries and other partners/stakeholders against such lists before establishing a business relationship and whenever the sanctions lists are updated. Domestically, at the time of issuing this Guidance, the NSC has not designated nor listed any persons yet. At an international level however, the information on designated individuals, entities or groups in the Sanctions Lists is subject to change. The most recently updated sanctions list of the UNSC<sup>8</sup> can be found on the UNSC website or via the following link: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

## 8.3 Targeted Financial Sanctions (TFS)

As mentioned above, TFS includes **asset freezing without delay** and **prohibition** from making funds or other assets or services, directly or indirectly, available for the benefit of sanctioned individuals, entities, or groups.

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<sup>8</sup> The UNSC has a UN Consolidated List of all the sanctioned individuals, entities, or groups designated by the United Nations Sanctions Committees or directly by the UNSC.

### 8.3.1 Asset Freezing Without Delay

In terms of international standards, without delay means **within a matter of hours**. Freezing is the prohibition to transfer, convert, dispose, or move any funds or other assets that are owned or controlled by designated individuals, entities, or groups in the Local Terrorist List or UN Consolidated List. It includes:

- a. The freezing of funds and other financial assets and economic resources, and includes preventing their use, alteration, movement, transfer, or access; and
- b. The freezing of economic resources. Also includes preventing their use to obtain funds or other assets or services in any way, including, but not limited to, by selling or mortgaging them.

**Examples of freezing:**

- i. **Financial Institutions:** a freezing measure can be suspending listed client's access to bank accounts which have funds or blocking transactions which can deplete such;
- ii. **DNFBPs like Accountants and law firms:** a freezing measure can be holding onto any funds, assets the client may have paid/deposited with the Accountant/Law Firm (including payment for services).; and
- iii. **NPOs:** a freezing measure can be holding onto the benefit/asset/funds/value from a listed donor. Not returning such to the donor who is listed, unless so directed by competent authorities.

### 8.3.2 Prohibition

The principle is prohibition from making funds or other assets or services available. This means the prohibition to provide funds or other assets to or render financial or other services to any designated individual, entity, or group.

**Examples of prohibition:**

- i. **Financial institutions:** prohibition from offering further banking or transactional services;

- ii. **DNFBPs, like Accountants and law firms:** prohibiting the provision of any services, such as ceasing to create or register a legal person as agreed/on behalf of a listed person once it is established that they are listed;
- iii. **NPOs:** ceasing to avail any NPO services to a person, grouping, association etc., once it is established that they are listed or associated with terrorist activities, regardless of what any prior policy position or agreement may require.

### 8.3.3 Object of freezing and prohibition

Note however that even when freezing measures are taken or enacted, there should be no restrictions on donor introducing or depositing more assets/funds with the NPO (e.g paying further funds in the NPO's account), while the making of such additional payments are still possible. Just ensure such are received but not further depleted or released in any way. As long as the service which the listed donor so desires cannot be finalised for them, prohibition and asset freezing requirements will be met on condition whatever has already been frozen is not further depleted. The primary object remains to allow receipt in order to further deprive listed/designated/proscribed persons from as much funds/assets as possible so they can be denied access to resources which may be used to fund terrorist or proliferation activities. This is the essence or primary goal of TFS measures. NPOs therefore need to consider appropriate implementation thereof given the circumstances they may find themselves in, with each donors, beneficiaries and other partners/stakeholders.

### 8.4 Reporting Possible Matches

The mechanism to report any freezing or suspension measures taken upon identifying confirmed or potential matches is through the goAML platform. The use of the goAML platform for TFS reporting purposes eases the burden of reporting and avails the necessary confidentiality required for this sensitive process. goAML access is granted to the NPO's Compliance Officer upon registration with the FIC. As mentioned above, institutions should no longer report sanctions screening matches, TF or PF suspicions via STRs or SARs. New report types have been created to enhance effectiveness, especially around TFS measures. From 17 April 2023,

sanctions screening matches as well as TF and PF suspicions or transactions should be reported as per below:

Reportable Activity or Transaction	Type of Report
Detection of a possible <b>sanctions screening match</b> .	SNMA - Sanction Name Match Activity report
Reporting any other <b>Activity</b> (or attempted transaction which was not completed) which may point to, or be linked to potential terrorism, TF or PF.	TPFA - Terrorist & Proliferation Financing Activity report
Reporting any other <b>Transaction</b> (actual transacting) which may point to, or be linked to potential terrorism, TF or PF.	TPFT- Terrorist & Proliferation Financing Transaction report

The following information must be shared when submitting a SNMA report:

- a. The full name of the 'confirmed match'. Attach ID documents of the 'confirmed match', such as passport or other ID documents for individuals, and relevant legal person incorporation documents such as CC incorporation forms, articles of association, trust establishing documents etc.; and
- b. Amount of funds or other assets frozen (e.g., value of real estate, value of funds in bank accounts, value of transactions, value of securities, etc.). Attach proof documents such as bank statements, transaction receipts, securities portfolio summary, title deeds, etc., if such are at hand.

When a possible match is reported to the FIC, the FIC and/or such other relevant competent authorities will direct all activities related to the frozen assets or funds. The NPOs may not release frozen assets or do anything related to such assets without being instructed to do so.

## 9. EFFECTIVE REPORTING CONTROLS

Reporting obligations mentioned in sections 7 and 8 above can only be effective if relevant control measures are in place. For effectiveness, operating frameworks or controls in the NPO must enable the following:

- b) Staff must be able to raise internal reports where they know or suspect, or where there are reasonable grounds for having knowledge or suspicion that beneficiaries, donors or other such persons may be involved in in ML or TF;
- c) The NPO's AML Compliance Officer, or their appointed alternative, must consider all such internal reports. The Compliance Officer must submit the relevant report to the FIC via GoAML;
- d) Such relevant report should be reported **without delay** (within a few hours of detecting the suspicion) to enhance the effectiveness of combatting activities;
- e) After filing such report, the NPO should consider all risk exposure and whether it is prudent to continue dealing with or availing services to such person, donor, beneficiary, stakeholder;
- f) It is a criminal offence for anyone, following a disclosure to a Compliance Officer or to the FIC, to do or say anything that might either 'tip off' another person that a disclosure has been made or prejudice an investigation. A NPOs' policies should clearly state this;
- g) Important actions required:
  - i. enquiries made in respect of internal reports (red flags) must be recorded;
  - ii. the reasons why a report was, or was not submitted should be recorded;
  - iii. keep a record of any communications to or from the FIC about a suspicious transaction or activity report.
- h) The requirement to report to the FIC should be supported by the following (within the VASPs' AML/CFT Procedures):
  - i. Staff internal reporting line to the AML Compliance Officer;
  - ii. Confidentiality of reports, i.e. how to deal with customers, and others involved in a transaction, after an internal or external report has been made.

## 10. ROLE OF AML COMPLIANCE OFFICER

The effectiveness of the AML Compliance Officer<sup>9</sup> usually impacts a NPOs' overall risk management effectiveness. The AML/CFT controls within a NPO should therefore ensure the

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<sup>9</sup> Appointed as per Section 39 of the FIA.

Compliance Officer is placed in a position to execute his/her FIA responsibilities as required. Such responsibilities primarily include ensuring that:

- a. internal ML/TF/PF risk assessments are undertaken and results thereof duly implemented. Periodically, such risk assessments are duly revised or updated in line with SRAs, NRAs, typology reports locally and internationally;
- b. the AML/CFT Controls (policies, procedures etc) are at all times aligned to risk levels;
- c. front-line staff (staff members who directly deal with donors, beneficiaries and other partners/stakeholders) are duly trained on due diligence measures as per the FIA;
- d. he/she undertakes monitoring transactions, e.g. routine or spot checks based on risks;
- e. measures to internally detect and escalate<sup>10</sup> potential ML/TF/PF indicators or red flags are prudent and enable the required level of confidentiality;
- f. he/she files relevant reports to the FIC, without delay;
- g. he/she regularly reports to the board or senior management about AML/CFT performance; and
- h. he/she attends to any other activities necessary to enhance FIA compliance.

Any of the senior officials with relevant competence in view of the above may be assigned responsibilities of the AML Compliance Officer. He or she however ought to have adequate managerial authority and capacity within the NPO operations to lead compliance activities, as per the FIA. Depending on the size of the NPO, nature of risk exposure, volume or donors, beneficiaries etc., regard has to be had with the NPO's ability to duly attend to all responsibilities as per the FIA. Such factors should guide resourcing of a Compliance function.

## **11. STUDY PUBLICATIONS ON TF INDICATORS, TRENDS AND TYPOLOGIES**

NPOs are encouraged to read FIC and other relevant publications on guidance and TF indicators. TF detection efforts at entity level, absent of specific national/international guidance and typologies may be limited and inadequate. Such is likely to be based on monitoring that only focuses on transactions with countries or geographic areas where terrorists are known to operate or on the other limited typologies available. The ability of NPOs to detect and identify

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<sup>10</sup> To the Compliance Officer for analysis and decision on whether to report same to the FIC.

potential TF red flags or suspicions is enhanced with guidance on TF typologies, risk assessment outcomes or acting on specific intelligence provided by authorities. The sector is therefore encouraged to duly consider the TF indicators in Guidance 11 of 2023, along with other FIC publications such as risk assessments and relevant TF related reports on the FIC website<sup>11</sup> and other sources.

## **12. GENERAL**

This Guidance may contain statements of policy which reflect the FIC's administration of the legislation in carrying out its statutory functions. This guidance 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.

## **13. NON-COMPLIANCE WITH THIS GUIDANCE**

This document is a guide. Effective implementation is the sole responsibility of NPOs. Should a NPO fail to adhere to the guidance provided herein, it will be such NPO's responsibility to demonstrate alternative risk management controls implemented which are effective to the satisfaction of the FIC as the supervisory authority.

The Guidance Note can be accessed at [www.fic.na](http://www.fic.na)

**DATE ISSUED: 30 JUNE 2023**

**DIRECTOR: FINANCIAL INTELLIGENCE CENTRE**

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<sup>11</sup> <https://www.fic.na/> see under ML/TF/PF Risk Assessments, Trends and Typologies, Publications, amongst others. <https://www.fic.na/index.php?page=fic-trends-and-typology-reports> lists some typology reports, especially the ones on TF are helpful.

**FIC CONTACT DETAILS**

All correspondence and enquiries must be directed to:

The Director, Financial Intelligence Centre

P.O. Box 2882

No. 71 Robert Mugabe Avenue, Windhoek

[helpdesk@fic.na](mailto:helpdesk@fic.na)

# ANNEXURE A

## FIC ANNUAL NPO RETURN

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In terms of the FIA, this return should be submitted to the FIC by all NPOs involved in religious / faith based and charitable activities. Such should help the FIC with oversight activities such as:

- a. activities with high risk jurisdictions;
- b. funds received from anonymous donors;
- c. reasonable assurance that donors and beneficiaries of NPOs are subjected to the necessary due diligence; and
- d. reasonable assurance that members of the board of the donor and director or shareholder of the donor are subjected to the necessary due diligence.

**NAME OF NPO:** .....

**REPORTING PERIOD:** ..... (e.g January – December 2022)

### PART A: KNOW YOUR DONORS (KYD)

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

**1. RECORD OF ASSETS/FUNDS RECEIVED FROM FOREIGN DONORS:**

Name of such country	Name of Foreign Donor (Sender)	NPOs Relationship with Foreign Donor	Amount received (NAD) / Description of benefit/asset received	Reason for receiving such amount




**1.1 Unknown Foreign Donors:** If foreign donor for a certain amount is unknown, please indicate 'unknown' in the second column and explain how the NPO satisfied itself that receiving funds/services/assets etc from an unknown foreign donor (ies) did not expose it to financial crimes, in particular terrorism financing:

.....  
 .....  
 .....  
 .....

**1.2 Due Diligence Around Directing Officials:** Confirmation that such foreign donor's shareholder(s), members of the board of the donor(s) and director(s) or person(s) managing the donor(s) were subjected to the necessary due diligence as per the FIA and Guidance Note 13 of 2023 by your NPO. The NPO thus confirms that there were no indications that the said persons/donors pose a risk of financial crimes and in particular terrorism financing at the time of transacting and at anytime thereafter.

If such assurances as per (1.2) above were not gained, please explain why:

.....  
 .....  
 .....  
 .....

Signature of Chairperson: .....

Date: .....



**2. RECORD OF FUNDS RECEIVED FROM LOCAL DONORS:**

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

Name of Local Donor (Sender)	NPO's Relationship with Local Donor	Amount received (NAD) / Description of benefit/asset received	Reason for receiving such amount

**2.1 Unknown Local Donors:** If local donor for a certain amount is unknown, please indicate 'unknown' in the second column and explain how the NPO satisfied itself that receiving funds/services/assets etc from an unknown donor(s) did not expose it to financial crimes, in particular terrorism financing:

.....

.....

.....

.....

**2.2 Due Diligence of Directing Officials:** Confirmation that such local donor's shareholder(s), members of the board and director(s) as well as person(s) managing the donor(s) were subjected to the necessary due diligence as per the FIA and Guidance Note 13 of 2023 by



your NPO. The NPO thus confirms that there were no indications that the said persons/donors pose a risk of financial crimes and in particular terrorism financing.

If such assurances (as per 2.2) were not gained, please explain why:

.....

.....

.....

.....

Signature of Chairperson: .....

Date: .....

**PART B: KNOW YOUR BENEFICIARIES (KYB)**

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

**3. RECORD OF ASSETS, FUNDS, BENEFITS SEND OR REMITTED TO FOREIGN BENEFICIARIES:**

Name of such country	Name of Foreign beneficiary	NPOs Relationship with Foreign beneficiary	Amount send (NAD) / Description of benefit/asset received	Reason for sending such amount



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**3.1 Unknown Foreign Beneficiary:** If foreign beneficiary for a certain amount is unknown, please indicate 'unknown' in the second column and explain below how the NPO satisfied itself that availing funds/services/assets etc to an unknown foreign beneficiary(ies) did not expose the local NPO to financial crimes, in particular terrorism financing:

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.....

**3.2 Due Diligence on Directing Officials:** Confirmation that such foreign beneficiary (ies)'s shareholder(s), members of the board and director(s) as well as person(s) managing the beneficiary(ies) were subjected to the necessary due diligence as per the FIA and Guidance Note 13 of 2023 by your NPO. The NPO thus confirms that there were no indications that the said persons/beneficiaries pose a risk of financial crimes and in particular terrorism financing at the time of transacting and at anytime thereafter.

If such assurance (in 3.2) was not gained, please explain why:

.....

.....

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.....

Signature of Chairperson: .....

Date: .....



**4. RECORD OF ASSETS, FUNDS, BENEFITS SEND OR REMITTED TO LOCAL BENEFICIARIES:**

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

Name of Local beneficiary	NPOs Relationship with Local beneficiary	Amount send (NAD) / Description of benefit/asset received	Reason for sending such amount

**4.1 Unknown Local Beneficiary:** If local beneficiary for a certain amount is unknown, please indicate ‘unknown’ in the second column and explain below how the NPO satisfied itself that availing funds/services/assets etc to an unknown local beneficiary(ies) did not expose the local NPO to financial crimes, in particular terrorism financing:

.....

.....

.....

.....

**4.2 Due Diligence on Directing Officials:** Confirmation that such local beneficiary (ies)’s shareholder(s), members of the board and director(s) as well as person(s) managing the beneficiary(ies) were subjected to the necessary due diligence as per the FIA and Guidance Note 13 of 2023 by your NPO. The NPO thus confirms that there were no indications that the



said persons/beneficiaries pose a risk of financial crimes and in particular terrorism financing at the time of transacting and at anytime thereafter.

If such assurance (in 4.2) was not gained, please explain why:

.....  
.....  
.....  
.....

Signature of Chairperson: .....

Date: .....

**PART C: KNOW YOUR MEMBERS AND EMPLOYEES (KYME)**

*Fit and Proper in summary means: the person does not have integrity concerns which would compromise the effective risk management systems and integrity of the NPO. The following are considerations which help determine whether a person is fit and proper:*

- a. has not been prohibited to be a director of a company in terms of any law or by an order of a court;*
- b. has not been removed from an office of trust on the grounds of misconduct involving dishonesty; and*
- c. has not been convicted in Namibia or elsewhere of theft, fraud, forgery or perjury under any law. Care needs to be taken when a person is undergoing hearings or is subject in a material in court but same has not yet been decided. For example, moving such persons out of critical operations to less critical areas can be considered.*

*Apart from straightforward measurements such as criminal convictions or being found guilty in disciplinary hearings, other examples of what could impair integrity must be considered to the extent that they may impair the effectiveness of risk management of the NPO, with such staff or director’s involvement.*



Confirmation by NPO Chairperson: To the best of my knowledge:	Yes/No	If they are all NOT fit & proper, explain why.
a. I hereby confirm that all board members, members of the oversight or management committee remain fit & proper.		
b. I hereby confirm that all employees in the employment of the NPO (including those who have joined in the reporting period) are fit and proper.		
c. I hereby confirm that there are no indications that employees, members of the board or oversight and management committees were/are involved in or associated with terrorism activities, extremist ideologies or radicalization etc.		

**PART D: CONFIRMATION OF FINANCIAL SERVICES (CFS)**

The information sought herein, as per the FIA, is needed for supervisory purposes only.

**5.1 Confirm banking details**

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

With which bank does the NPO hold banking accounts?	Please provide the respective bank account numbers	Names of Persons Authorised to effect transactions on such account (Signatories)




## 5.2 Using other financial services

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

<b>With which other financial investments, or products does the NPO have in place? Please list them. Can be unit trusts, shares, bonds, insurance products etc.</b>	<b>With which financial institution is such held?</b>	<b>Please provide the respective account or investment numbers</b>	<b>Names of Persons Authorised to effect transactions on such account (Signatories)</b>

## 5.3 General Confirmations: Board

<b>Confirmation by NPO the Board Chairperson</b>	<b>Are there controls/mechanisms to give you such assurance as chairperson? (Yes/No)</b>
a. I do hereby confirm that all information as shared with the FIC upon NPO's registration has not changed.	
b. I hereby confirm that the NPO has only used formal banking services for all its transfers, payment and remittances. There has been no use of informal transfers or remittance services. (e.g underground banking systems, remittances through bureaus, nor cash smuggling/couriers into and out of the country) which may expose the NPO to TF abuse.	

## PART E: CONFIRMATION OF ASSETS & LIABILITIES (CAL)

Add more rows, spaces or pages if such is needed to avail all information in the tables below.

### 5. This section aims to confirm the assets of the NPO:

List all Assets of the NPO	Indicate Account Numbers, Investment Reference No, Erf Number for land/buildings	How were they financed? (Mortgages/Donations etc)
Cash balance in banks: NAD .....		
Value of Investments: NAD ...		
Value of Land and Buildings: NAD ....		

### 6. This section aims to confirm the liabilities of the NPO:

List all Liabilities of the NPO	Amount due (NAD)	How does the NPO pay for these? (Mortgage/Donations etc)
Overdraft with banks:		
Long term loans with banks or other institutions:		
Bonds or Mortgages with Financial Institutions / Banks		

Full Name of NPO Manager / Head of Administration: .....

Signature: .....

Date: .....

Full Names of Board Chairperson, if not board, Chair of Similar Oversight Committee:

.....

Signature: .....

Date: .....



## ANNEXURE B

### IDENTIFYING LEGAL PERSONS & ARRANGEMENTS

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NPOs deal with donors, partners and beneficiaries who often may be in the form of legal persons and arrangements. Legal persons can be companies, Close Corporations etc., while legal arrangements can be trusts, partnerships, associations, NGOs etc. From local NPO risk assessments, the FIC observed that NPOs largely deal with local and international associations, government organs/departments, embassies and foreign diplomatic entities, representatives office of governments in different capacities, local and international NGOs as well as intergovernmental organisations. While the natural persons managing such entities should be identified as per section 5.1 (c and d) herein, the legal entities and arrangements should be identified by obtaining the following minimum information:

- a. Proof of **entity's registration or incorporation**. Such should clearly show the **registered name, registration number and office or place of business**, from which it operates;
- b. its **principal objectives and activities**: this is to gain assurance that the association or relationship may not be used for unlawful objects. See to it that the NPO is known for, or avails legitimate services only;
- c. in the case of a **beneficiary which is an entity of any kind** (e.g. NPO, NGO, association etc), the NPO should satisfy itself that it understands the reason behind the use of an entity as a beneficiary. If there is an individual beneficial owner or separate grouping whose interest is represented by such entity, the NPO should satisfy itself that it has sufficient information to identify the individual beneficial owners (or groupings) and any potential risks that may be associated with such persons;
- d. **Risks associated with trusts**: A founder is generally any person (or persons) by whom the trust was made. A founder may or may not be named in the trust deed. To combat ML/TF risks as per the FIA, NPOs should have policies and procedures in place to identify and verify the identity of the real economic founder and trustees as they exercise effective control;

- e. the **full name, residential address**, and one of the following, listed in the order of preference – the national identity number; the passport number; or date of birth, of the natural person purporting to be authorised (Part of Board, Management or relevant Oversight Body) to establish a business relationship or to enter into an agreement with the NPO on behalf of such entity and each beneficial owner. Persons who **exercise such effective control** of a legal person or arrangement should be identified as per section 5.1 (c and d) herein above;
- f. obtain **board or senior management’s approval** while establishing business relationship but before availing any services;
- g. issue any payments, instructions, incorporation documents etc., **in the name of the relevant NPO, NGO, association, charity or entity**, as given in its constituent documents and not in any other names; and
- h. ensure that the NPO itself, its authorized agents or representatives are **not listed on any sanctions list nor affiliated directly or indirectly** with listed or proscribed persons or entities, whether under the same name or a different name. This requires screening the names of all parties involved, both natural and legal persons.

## ANNEXURE C

### KEY FEATURES OF ORGANISATIONAL INTEGRITY

Key features of NPO accountability systems that address the concept of organisational integrity.

Essential NGO internal governance indicators	
Clear governance structure, particularly role of the governing body (the Board).	<ul style="list-style-type: none"> <li>a. Name of body;</li> <li>b. Description of relationship to other organisational entities (board functions must be separate from management);</li> <li>c. List of current Board members with occupations and cities/towns of residence; and</li> <li>d. Where appropriate, the controller/beneficial owner of NPO should also be identified.</li> </ul>
Governing body description to include:	<ul style="list-style-type: none"> <li>a. Basic responsibilities and powers;</li> <li>b. Duties of individual board members;</li> <li>c. Minimum number of board members;</li> <li>d. Membership rules (including eligibility, suspension and expulsion) and terms of office (length of terms, limits on re-election);</li> <li>e. Clear election procedure;</li> <li>f. Minimum number of board meetings and method of convening meetings;</li> <li>g. Decision-making procedures (number needed for quorum, how to vote and record decisions) with explicit indications that decisions are to be taken collectively;</li> <li>h. Record of Board meeting minutes;</li> <li>i. Conflict-of-interest provisions (for the Board and organisation overall)</li> <li>j. Board member remuneration (Board Members should not receive compensation beyond reimbursement of expenses)</li> </ul>

Board competencies to include:	<ul style="list-style-type: none"> <li>a. Annual review of CEO performance;</li> <li>b. Review of financial (management) performance / annual financial statements, performance related to implementation of NPO programmes;</li> <li>c. Responsibility to recruit CEO; and</li> <li>d. Responsibility to engage auditors.</li> </ul>
Description of the board	<ul style="list-style-type: none"> <li>a. Basic responsibilities and powers;</li> <li>b. Obligations and responsibilities of individual board members;</li> <li>c. Requirement of self-evaluation;</li> <li>d. Right of board members to receive information on financial accounts and activities of the organisation; and</li> <li>e. Conflict of interest provisions.</li> </ul>
Description of the management team	<ul style="list-style-type: none"> <li>a. Recruitment standards and definition of functions;</li> <li>b. Encouragement of professional development, equal opportunities and accessibility;</li> <li>c. Requirement to evaluate management of employees of the organisation; and</li> <li>d. Conflict of interest provisions.</li> </ul>

## ANNEXURE D

### INDICATORS OF ESSENTIAL FINANCIAL MANAGEMENT SYSTEMS

Essential financial management indicators	
Existence of basic accounting tools:	<ul style="list-style-type: none"> <li>a. Books of accounts (general ledger, general journal etc.)</li> <li>b. Cash receipts book</li> <li>c. Cash disbursements book</li> <li>d. Bank accounts records</li> </ul>
Basic accounting practices:	<ul style="list-style-type: none"> <li>a. Written policies and procedures that follow accepted principles of accounting and control;</li> <li>b. Segregation of vital functions: the approving officer for fund releases (e.g. CEO) is different from the bookkeeper and the cash custodian. Another example is having more than one person authorise payments or release funds via an online transferring platform.</li> </ul>
Financial reporting and record-keeping	Annual audits commissioned by the Board (auditor must not have a relationship to anyone in the organisation).
Fraud prevention and anti-money laundering practices	<ul style="list-style-type: none"> <li>a. Existence of full and accurate audit trails of funds transferred outside NPO jurisdiction/country;</li> <li>b. Use of registered bank accounts for money flows in case of every transaction (small amounts of cash for daily expenditure excepted);</li> <li>c. Procedures to verify the identity, credentials and good faith of their beneficiaries, donors and associate NPOs;</li> <li>d. Secure and confidential maintenance of the list of bank account numbers under the name of the NPO and any document on identifying information of persons.</li> </ul>

Advanced systems (for more developed organisations)	a. Sound investment policies; and b. Resource generation plan
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# ANNEXURE E

## INDICATORS OF PRUDENT GOVERNANCE AND INTEGRITY SAFEGUARDING SYSTEMS

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An NPO developed a Code of Ethics, which encompasses a statement of principles of development as well as a code of conduct, and outlines the ethical principles that must be adhered to, and promoted, by the organisation and its members. Below is an excerpt from the Code which relates to organisational integrity, as defined in the report:

### GOVERNANCE

- a. Each Organization shall be governed fairly and responsibly by an independent, active, and informed governing body (e.g. Board of Directors);
- b. All voting members of the governing body shall serve without compensation, except for reasonable expenses incurred to fulfil their organizational duties;
- c. Each Organization shall establish and periodically review a governance framework suitable for fulfilling its mandate. The structure shall enable the Organization to make timely decisions and to meet its responsibilities. The framework shall include an appropriate governance structure and operations; relationship of senior staff and the governing body; and decision-making processes;
- d. The Organization's governing body shall review and approve the Organization's annual budget, significant policies, key financial transactions, compensation practices, plans and programs and hold officers, committees and staff accountable for actions taken and results achieved under delegated authority;
- e. The Organization shall adopt a policy preventing and effectively managing conflict of interest situations;
- f. The Organization shall have policies prohibiting discrimination and promoting gender equality and participation of disadvantaged groups at all levels of the Organization. This does not supersede the right of the Organization to self-define when it is done in compliance with the law; and

- g. The governing body shall periodically reassess the Organization's governing documents and objects, vision, mission, goals, priorities, alignment of resources and effectiveness through consultation and collaborative planning.

#### **ORGANIZATIONAL INTEGRITY**

- a. The affairs of the Organization shall be conducted with integrity and transparency. The Organization shall make full, open, and accurate disclosure to the public of relevant information concerning its goals, programs, finances, activities, results, effectiveness and governance. Exceptions are personnel matters, legal matters, proprietary information and ethical and legal requirements of personal privacy;
- b. The Organization shall ensure that complaints are dealt with in a timely manner and impartially, respecting the rights of involved parties for confidentiality and disclosure;
- c. The Organization shall comply with all applicable laws and regulations as well as laws and regulations of local and regional authorities in which it is based or operates. Each associated Organization conducting activities outside of Namibia shall be aware of foreign laws and regulations governing its activities; and
- d. The Organization shall oppose and shall not be a participant to any wrongdoing or financial impropriety. It shall take prompt and firm corrective action, in line with relevant laws such as the FIA whenever and wherever wrong-doing of any kind has been committed by any member of its governing body, employee, or volunteer.

# ANNEXURE F

## GUIDANCE FOR SELF-REGULATORY BODIES

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Some NPOs such as religious or faith based organisations in Namibia only have self-regulatory bodies. They are sometimes referred to as representational bodies. Although they may not have such authority as conventional licensing and regulating bodies, self-regulatory organisations, are a unique resource that can play a role in the protection of the sector against a range of abuses, including financial crimes. Usually, such umbrella organisations are directly interested in preserving the legitimacy and reputation of their NPOs and have long been engaged in the development and promulgation of good practices for these organisations in a wide array of functions. The sense of belonging and credibility are attractive features for why NPOs would want to associate with self-regulatory bodies.

Measures to strengthen effective NPO self-regulation are highly encouraged by the FIC as a significant component of decreasing the risk of misuse in addition to promoting greater transparency and good governance within the larger NPO sector. Below are examples of initiatives by representational and self-regulatory organisations that have help member-NPOs enhance accountability and transparency.

### EXAMPLARY ACTIVITIES OF SELF-REGULATION

- a. **Encouraging transparency and accountability:** An independent monitoring organisation, whose aim is to increase public confidence in the country's NPOs and help donors take responsible decisions, developed a report on Standards of Transparency and Best Practices. The report took into account domestic legislation, the specific characteristics of the non-profit sector, and responses to a survey of representatives of the nonprofit sector. The Standards, which are used to assess compliance by the NPO sector, are structured in blocks, most of which are relevant to countering terrorist abuse of NPOs, including:
  - i. The running and regulation of the governing board;
  - ii. The clarity and publicity of the organisation's mission;
  - iii. The planning and monitoring of activities;
  - iv. Communication and truthfulness of the information provided;

- v. Transparency of funding;
  - vi. Plurality of funding;
  - vii. Control over spending of the funds;
  - viii. Annual reporting and compliance with legal requirements; and
  - ix. Promotion of volunteering.
- b. **Positive encouragement/award systems:** Another self-regulatory body implemented a program which awards accreditation to NPOs that implement policies and procedures which uphold the standards relating to governing bodies, financial accountability and transparency, fundraising, staff management and volunteer involvement. The process of applying for and maintaining good standing in the program encourages NPOs to regularly review and improve the systems and policies that they have in place;
- c. **Accreditation and blacklisting:** An international self-regulatory body has taken steps to protect the NPO sector against abuses such as fraud, by setting standards and responsibilities for member NPOs related to governing bodies, public benefit goals, finances, fundraising practices and transparency to the public. These are enforced through an independent monitoring process that awards accreditation to member NPOs that meet the standards and blacklists those deemed to lack transparency; and
- d. **Conducting periodic reviews of member-NPOs:** Several leading international NPOs have developed and committed to abide by a charter that promotes transparency and accountability in the areas of political and financial independence, responsible advocacy, participatory and effective programmes, transparency in reporting, accuracy of information, good governance and professional and ethical fundraising. Member NPOs commit themselves to applying the provisions of the charter to all their programmes, conducting annual independent fiscal audits, and submitting annual compliance reports, which are reviewed by an independent panel whose assessment is made publicly available.