




Financial Intelligence Centre

Republic of Zambia

**COUNTERING THE FINANCING OF TERRORISM GUIDELINES FOR THE NON-
GOVERNMENTAL ORGANIZATIONS (NGO) SECTOR**

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1.0 INTRODUCTION

The Non-Governmental Organization (NGO) sector in Zambia is recognized for providing charitable services as well as assistance to those in need, often in remote and hard to reach places. Further, there is a broad based, multi-sectoral recognition of the intent and efforts of the NGO sector to promote transparency within their operations and to prevent misuse of the sector by those wishing to support terrorist financing and terrorist organizations. To this end, NGOs are strategic partners in the fight against Money Laundering/Terrorist Financing (ML/TF) and other serious offences.

The Financial Intelligence Centre (the FIC or Centre) is an independent and autonomous body corporate established under the Financial Intelligence Centre Act No. 46 of 2010 (as amended). The Centre's core mandate is to receive and analyse Suspicious Transaction Reports (STRs), any other information relevant to money laundering (ML), terrorism financing (TF) and proliferation financing (PF) and serious offences relating to ML, TF or PF for dissemination of financial intelligence reports to relevant competent authorities for investigations and prosecution where there are reasonable grounds to suspect that crimes have been committed.

The FIC has the mandate to issue guidelines pursuant to Section 56 of the FIC Act, in order to ensure that stakeholders comply accordingly with the provisions of the Act. Therefore, the purpose of these guidelines is to promote best practices to address terrorist financing risk and vulnerabilities and to protect the NGOs from terrorist/terrorism financing abuse. Protecting the NGO sector from terrorist abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of the NGO sector and donor community.

NGOs perform a vital role in our society, providing relief and support to groups of the population in need, and at times of urgent crisis. Unfortunately, charitable fundraising can also be used to provide cover for the financing of terrorism. Terrorists and terrorist organisations may

exploit some NGOs in the sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and operations. This misuse not only facilitates terrorist activity, but also undermines donor confidence and jeopardizes the very integrity of NGOs. Recommendation 8 of the Financial Action Task Force (FATF) 40 Recommendations of 2012 acknowledges that while it is vital to protect Non- Profit Organisations (NPOs)¹ from terrorist abuse, it is also important that the measures taken to protect them do not disrupt or discourage legitimate charitable activities, and should not unduly or inadvertently restrict NPOs' ability to access resources, including financial resources, to carry out their legitimate activities. Rather, such measures should promote transparency and engender greater confidence in the sector, across the donor community and with the general public that charitable funds and services are reaching their intended legitimate beneficiaries. For the purpose of these guidelines NPOs are referred to as Non- Governmental Organisation (NGOs) in Zambia and the term shall be used throughout these guidelines.

2.0 DEFINITION OF KEY CONCEPTS

Beneficiaries – Beneficiaries refers to those natural persons, legal persons, legal arrangements or groups of natural persons who receive charitable, humanitarian or other types of assistance through the services of the NGO.

Competent Authority – For the purpose of these guidelines, Competent Authority refers to all public authorities with designated responsibilities for combating money laundering and/or terrorist financing in the NGO sector. This includes authorities that have Anti- Money Laundering)/Countering the Financing of Terrorism and Proliferation (AML/CFTP) supervisory or monitoring responsibilities aimed at ensuring compliance by NGOs with AML/CFTP requirements.

¹ **Non-Profit Organization** - For the purposes of these guidelines, Non – Profit Organisation (NPO) refers to the NPOs falling within the FATF definition. The FATF definition states that a NPO is "a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of 'good works'".

Designated person/entity - A designated person or entity refers to:

- i. individual, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1267 (1999) (the 1267 Committee), as being individuals associated with Al-Qaida, or entities and other groups and undertakings associated with Al-Qaida;
- ii. individuals, groups, undertakings and entities designated by the Committee of the Security Council established pursuant to resolution 1988 (2011) (the 1988 Committee), as being associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan, or entities and other groups and undertakings associated with the Taliban;
- iii. any natural or legal person or entity designated by jurisdictions or a supra-national jurisdiction pursuant to Security Council resolution 1373 (2001);
- iv. any individual, natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 1718 (2006) and any future successor resolutions by the Security Council in annexes to the relevant resolutions, or by the Security Council Committee established pursuant to resolution 1718 (2006) (the 1718 Sanctions Committee) pursuant to Security Council resolution 1718 (2006); and
- v. any natural or legal person or entity designated for the application of targeted financial sanctions pursuant to Security Council resolution 2231 (2015) and any future successor resolutions by the Security Council.

Financial Action Task Force – The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

Money Laundering offence – A money laundering offence involves various acts committed with the intention to conceal or convert property or the proceeds of crime (e.g. money) knowing or believing that these were derived from the commission of a designated offence. of designated

offences include drug trafficking, corruption, bribery, fraud, forgery, murder, robbery, counterfeit money, stock manipulation and tax crimes.

Non- Governmental Organisation – The NGO Act No. 16 of 2009 defines a Non-Governmental Organisation (NGO) as a private voluntary grouping of individuals or association, whether corporate or unincorporated, not established or operated for profit, partisan politics or any commercial purposes, and who or which have organized themselves for the promotion of civic education, advocacy, human rights, social welfare, development, charity, research or other activity or program for the benefit or interest of the public, through resources mobilized from sources within or outside Zambia.

Proliferation Financing: Section 2 of the Anti-Terrorism and Non Proliferation Act defines Proliferation Financing as an act by any person who by any means, directly or indirectly, willfully or negligently provides funds or financial services to be used or knowing that they are to be used in whole or in part for proliferation, the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling, supply, sale or use of nuclear, ballistic, chemical, radiological or biological weapons or any other weapon capable of causing mass destruction and their means of delivery and related materials including both technologies and dual-use goods used for non-legitimate purposes, including technology, goods, software, services or expertise, in contravention of the Anti-Terrorism and Non-Proliferation Act or, where applicable, international obligations derived from relevant United Nations Security Council Resolutions.

Suspicious Transaction Report - Section 2 of the FIC Act defines a Suspicious Transaction Report as a report submitted on suspected or attempted money laundering, financing of terrorism or proliferation or any other serious offence whether in form of a data message or otherwise.

Terrorism Financing - Section 2 of the Anti-Terrorism and Non-Proliferation Act defines terrorism financing as an act by any person who, irrespective of whether a terrorist act occurs, by any means, directly or indirectly, willfully provides or collects funds or attempts to do so with the intention that the funds should be used or knowing that the funds are to be used in full or in part— (i) to carry out a terrorist act; (ii) by a terrorist; (iii) by a

terrorist organisation; or (iv) for the travel of a person to a State other than the person's State of residence or nationality for the purpose of perpetration, planning or preparation of, or participation in, terrorist act or the providing or receiving of terrorist training.

3.0 MEASURES RELATING TO THE NGO SECTOR

The Country is required to comply with the FATF Recommendation 8 and Immediate Outcome 10. Recommendation 8 relates to policies, the legal framework and measures that a country should put in place to protect the NGOs from terrorist financing abuse. Immediate outcome 10 relates to an effective system where terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NGO sector. Section 2 of the FIC Act designates the Department of Registrar for NGOs as a competent authority with responsibilities to monitor and enforce compliance by NGOs with AML/CFTP requirements. In addition, the Registrar of Societies is designated as a competent authority to monitor and enforce compliance by societies with AML/CFTP requirements.

4.0 SCOPE OF GUIDELINES

The Guidelines are provided as general information only and as such, do not represent all the requirements under the law and the obligations imposed by the competent authorities. To this effect, the guidelines do not constitute legal advice and are not intended to replace the various pieces of legislation or any other guidelines, directives or regulations, code of ethics issued by the competent authorities. Therefore, NGOs should also consult with relevant authorities on any regulatory requirements incidental to the foregoing.

5.0 OVERVIEW OF THE NON-GOVERNMENTAL ORGANIZATION SECTOR

The legal framework in the NGO sector comprises the following: -

Societies Act Cap 119 of the Laws of Zambia - The Registrar of Societies is mandated to register societies falling in the categories of political parties, religious organizations, women, farmers, youth, youth clubs and Associations.

NGO Act No. 16 of 2009 (as amended) - The NGO Act covers organizations that are a private voluntary grouping of individuals or association, whether corporate or unincorporated, not established or operated for profit, partisan politics or any commercial purposes, and who or which have organized themselves for the promotion of civic education, advocacy, human rights, social welfare, development, charity, research or other activity or program for the benefit or interest of the public, through resources mobilized from sources within or outside Zambia.

The Companies Act No. 10 of 2017 (as amended) - The Companies Act has the mandate to register NGOs that are limited by guarantee. Section 12 of the Companies Act precludes the Patents and Companies Registration Agency (PACRA) from registering NGOs that are religious or faith based.

The Persons with Disabilities Act No.6 of 2012 - This Act establishes the Zambia Agency for Persons with Disabilities whose functions include the regulation and registration of institutions that provide services to persons with disabilities and organizations of, and for, persons with disabilities. Section 54(6) of the Persons with Disabilities Act states that “an organization of or for persons with disabilities shall not be required to register under the NGO Act 2009 or Societies Act and shall be exempt from the provisions of those Acts.

6.0 INDICATORS OF TERRORISM FINANCING IN THE SECTOR

The list below features some of the major indicators of terrorism financing in the NGO Sector and should be treated as a non-exhaustive guide:

- i. Large, unexpected donations from unknown individuals, organizations or other sources new to the NGOs;
- ii. Donations subject to the condition that particular individuals or organizations with whom the NGO is unfamiliar are engaged to carry out work;
- iii. Donors dictating beneficiaries of the grant who are not known to the NGO;
- iv. Raising funds in the name of the organization which are then diverted and used for criminal and terrorism purposes;

- v. The NGO being requested by third parties to allow funds to pass through its bank account;
- vi. Scholarships and training offered to youth by organizations or individuals from high-risk jurisdictions;
- vii. Transactions conducted in the accounts of non-profit or charitable organizations for which there is no apparent economic or plausible reason and the transactions apparently do not match with the regular business activities of the organization;
- viii. Use of the accounts of a non-profit organization or charity to collect funds for immediate transfer to a small number of foreign/domestic beneficiaries;
- ix. Movement of funds to/from the areas of frequent military and terrorism activities by non-profit organizations;
- x. Wire transfers conducted in the account of a non-profit organization to/from the high risk jurisdictions or to countries of specific concern.
- xi. A non-profit organization is involved in charity related activities in the areas of conflict or high-risk jurisdictions;
- xii. High volume of cash-based activity noticed in the account of a non-profit organization without any economic or plausible reason.

7.0 MEASURES TO PREVENT TERRORISM FINANCING ABUSE

7.1 Measures by Competent Authorities

- i. Competent Authorities play a vital role in the protection of the sector against a range of abuses, including terrorist abuse. The competent authorities are directly interested in preserving the legitimacy and reputation of the NGOs and have long been engaged in the development and promulgation of good practices for the sector in a wide array of functions.
- ii. Competent Authorities shall identify all NGOs that are a legal person or legal arrangement or organisation that primarily engage in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of 'good works'. Competent authorities shall use all relevant sources of information to identify the NGOs which, by virtue of their activities or characteristics, are likely to be at risk of terrorist

financing abuse. An effective approach in identifying, preventing and combating terrorist financing abuse of NGOs shall involve all four of the following elements:

- a) Sustained outreach concerning terrorist financing issues;
- b) Targeted risk-based supervision or monitoring;
- c) Effective investigation and information gathering; and
- d) Effective mechanisms for international cooperation

iii. The Competent Authorities shall put in place measures to identify the nature of threats posed by terrorist entities to the NGOs which are at risk as well as how terrorist actors abuse those NGOs. In order to effectively implement these measures, Competent Authorities shall periodically reassess the NGO sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities.

iv. The Competent Authorities shall promptly inform the FIC where there is information that a NGO is involved in terrorist financing abuse, is a front for fundraising for terrorists, is being used as a conduit for terrorism financing or is concealing the clandestine diversion of funds intended for legitimate purposes but redirected for the benefit of terrorist /terrorist organizations.

7.2 Measures by Non-Governmental Organizations (NGOs)

- i. NGOs shall put in place targeted measures to safeguard themselves from potential terrorist financing abuse. An NGO shall put in place the following measures and ensure that this information is made available to Competent Authorities if required:
 - a) Maintain information on the purpose and objectives of their stated activities and the identity of the persons who own, control or direct their activities, including senior officers, board members and trustees;
 - b) Issue annual financial statements providing breakdowns of incomes and expenditures.
 - c) Have in place appropriate controls to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of its stated activities;

- d) Take necessary measures to confirm the identity, credentials and good standing of beneficiaries and associate NGO and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organisations;
 - e) Maintain records of domestic and international transactions that are sufficiently detailed to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the organization.
- ii. An NGO shall carry out an assessment that estimates the risk of terrorism financing posed by its business and customers, its donors, its beneficiaries, and any technology to its business.
 - iii. An NGO shall wherever feasible conduct transactions via regulated financial channels.
 - iv. Where an NGO suspects an individual, donor, or any other organisation of being involved in terrorist financing, the NGO may report such an individual, donor or organisation to the FIC, the Department of Registrar for NGOs or any relevant Competent Authority.

8.0 TARGETED FINANCIAL SANCTIONS

Targeted financial sanctions are a preventive tool that helps to disrupt and suppress terrorist financing activities and to protect the global financial system from abuse by terrorist organizations. Countries are required to implement targeted financial sanctions in accordance with the United Nations Security Council resolutions (UNSCRs or resolutions). These requirements are contained in the Financial Action Task Force (FATF) standards, in particular, FATF Recommendation 6 requires each country to implement the targeted financial sanctions regimes to comply with the United Nations Security Council Resolutions (UNSCRs or resolutions) relating to the prevention and suppression of terrorism and terrorist financing. The above Recommendation has been domesticated through enactment of the Anti-Terrorism and Non-Proliferation Act No. 6 of 2018.

In this regard domestic regulations prohibit obligated entities such as NGOs from entering in a business relationship or engaging in any transaction with a sanctioned entity on the United Nations Security Council sanctions list.

NGOs are prohibited from making any funds, economic resources, other assets or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities. NGOs should freeze the assets of the customer where there is a positive match, during screening of customers against the sanctions list and should without delay report to the National Anti-Terrorism Centre and supervisory authorities including the FIC. This entails that the NGO should on a regular basis screen its existing clients/beneficiaries to ensure that they are not on the sanctions list. NGOs must regularly check the UN Consolidated list for sanctioned entities (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list/>).

In addition to the UN sanctions list, NGOs should have access to the list of High Risk and Non-Cooperative Jurisdictions published by the FATF (<http://www.fatfgafi.org/publications/high-riskandnon-cooperativejurisdictions/>).

9.0 THE FINANCIAL INTELLIGENCE CENTRE CONTACT DETAILS

For any inquiries relating to these guidelines please contact the FIC using the address below:

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