

## **TECHNICAL COMMUNIQUÉ CT-01/2017**

### ***Associations, foundations and non-profit organizations***

Andorra la Vella, 1st March 2017

Dear Sirs / Madams

Nonprofit organizations (from hereinafter, NPO) play an essential role in the world economy and in many national economies and social systems. Their efforts complement the actions done by governments and businesses in terms of provision of basic needs and services to poor people around the world.

Financial Action Task Force (FATF) has recognized the vital importance of these NPO, as well as the difficulty of providing assistance to those who need it, especially, when they are in conflict zones and areas.

In this regard, within the framework of the existing global campaign against terrorist financing, according to the FATF, terrorists or terrorist organizations use or abuse NPO to move funds, obtain logistical support, capture terrorists or give any other support to terrorist organizations or terrorist operations.

This abuse of some NPO in the international context not only facilitates terrorist activity but also harms the confidence of donors and the reputation and integrity of the NPO.

Because of that, the FATF considers that the protection of NPO in terms of the preventing the financing of terrorism is a critical component of the global fight against terrorism and its financing, and also a necessary element to protect and preserve the integrity and reputation of NPO and the confidence of its donors.

Within the framework of these tasks of protection, the NPO should apply a risk-based approach to detect and mitigate those that could affect it.

Therefore, one should consider that the factors that contribute to a higher risk are, among others, the following ones:

1. In relation to the zone where the NPO operates, those who operate in the international context, and particularly in conflict zones (eg, zones or areas closed to places where there is an active terrorist threat), have a higher risk and should be more careful in the use of funds they send abroad.

2. With regard to the types of activities those NPO engaged in activities related to social services, education, health and international cooperation have more risk than those developing another type of activity.

In this context, and in co-operation with the NPO sector, the Principality of Andorra has conducted a national risk assessment (NRA) through which it has identified and assessed the risk to which the sector is exposed in Andorra with the purpose of facilitate the prevention or control and establish the necessary mechanisms to fight more effectively.

### ***1. Key findings of the National Risk Assessment associated with NPOs***

In the context of Andorra, the risk of terrorist financing associated with NPO is generally moderate, given that:

- Until now, there have been no cases of terrorist financing in which there is a NPO involved directly or indirectly in the Principality of Andorra.
- The structure and activity of the NPO sector present a moderate/low risk profile given that:
  - The majority of NPO are engaged in “expressive activities” such as sports, entertainment, art, culture, defense and representation of interests, instead of "services activities" such as social services, education, health, international cooperation, etc.
  - The scope of most NPO is usually the national rather than international.
  - NPO that operate internationally have a limited volume of activity.

However, all Andorran NPOs should bear in mind the risk to which they are exposed, and take all precautions or necessary measures to mitigate them.

### ***2. Main methods of abuse of NPO***

In accordance with the studies accomplished by FATF and other organizations, the main methods and risk of abuse of NPO are, among other, the following ones:

#### ***1. Diversion of funds***

Part or all of the funds raised for charity could be diverted to individuals, organizations or activities possibly linked to terrorism. This deviation could be done both by the NPO's members or outsiders (eg fundraisers or other entities acting as partner).

In this context, it is essential that the use of funds raised is monitored in order to determine clearly their traceability and that, indeed, they have been used for the intended purposes. This is particularly relevant when funds raised are sent to conflict areas.

2. *Affiliation with a terrorist entity*

An NPO or its members maintain an operational affiliation with a terrorist organization or activities, or support terrorism.

3. *Abuse of programming*

NPO-funded programmes meant to support legitimate humanitarian purposes are manipulated at the point of delivery to support terrorism (for instance: educational or religious entities show a clear message in favour of terrorism).

4. *Support of recruitment*

NPO's resources can be used to organize meetings or activities that support terrorism, recruit and train terrorists in order to prepare terrorist attacks, give financial support to families of terrorists, publish material that evokes terrorism, etc.

5. *False representation and sham NPOs*

Under the guise of charitable activity or using the name of another NPO, an NPO obtains funds or carry out activities that support or promote terrorism.

**3. Risk Indicators**

Listed below are a number of indicators of risk that separately or together, may be likely to imply financing of terrorism.

This list is set as in an expository manner but it is not limited:

*Risk Indicators related to donations*

1. Large donations from a foreign entity or corporation to the account of an NPO, especially absent a clear relation.
2. The number of small denomination transfers deposited to an NPO account has increased without any obvious reason.
3. Cumulatively large and not adequately justified amounts, especially if made primarily in cash.
4. Multiple cash deposits into a personal account described as "donations" or "contributions to humanitarian aid" or similar terms.
5. Multiple cash deposits into a personal account described as "donations" or "contributions to humanitarian aid" or similar terms with a condition stating that cash must be transferred to an individual or an entity in a high-risk country.

6. High percentage of the donations / assets to an NPO are coming from or going to foreign states which do not correspond to the financial location of the donor.
7. High amounts of donations from a fictitious individual to an NPO or made by persons who must remain anonymous.
8. An individual receives donations in a bank account intended for charitable donations and transfers money to organizations that have been linked to terrorist financing.
9. Donation to an NPO has been intended only for very few beneficiaries.
10. Deposits using a combination of monetary instruments atypical to a legitimate business activity.
11. Organizations not intended to provide humanitarian charity, sending money to high-risk jurisdictions.
12. NPO cannot justify properly the origin of the funds received as donations.
13. NPO cannot justify properly the use of the funds received as donations.

*Risk indicators related to transactions*

14. The expenses or transactions of the NPO are not related to the activity they usually carry out.
15. Use of charity organization to sell goods.
16. Payment for goods is made by a third party and not the importer.
17. The expenses of the NPO are not proportionate to its activities.
18. Transactions conducted on the account of an NPO which are inconsistent with the pattern and size of the organization's purpose or business.
19. Transactions characterized by large flows in a short period of time and involving several NPOs that show unjustified links, such as sharing management.
20. Transfer of the majority of the raised funds to geographical areas habitually marked by activities and initiatives related to terrorist financing.
21. An individual deposit funds into several accounts (which he/she is the account holder or has a power of attorney) and requests a transfer of funds to themselves abroad for the purpose of donations.
22. A repeated cash contribution paid by natural persons into a NPO account and subsequently the cash is transferred to accounts of natural or legal persons.
23. Financial funds of NPO are situated in the accounts of natural persons.

24. The accounts that hold the NPO are used both for private purposes of its members and the NPO humanitarian activities.
25. NPO structures transactions so as not to exceed the thresholds for identification and communication provided by law or avoid suspicions
26. Requests to transfer or move NPO funds are accompanied by vague justifications.
27. Persons or entities related to terrorism transfer funds to accounts opened to NPO or its members.

*Risk indicators related to management*

28. Frequent changes of individuals with signatory powers over an NPO.
29. The name of an NPO changes frequently.
30. NPO receives funds from other NPO that are newly set up.
31. Misappropriation of funds such as where funds are withdrawn prior to being used for the NPO to comply with its social activities.
32. Advertised NPO is fictitious or it does not exist.
33. NPO are not registered and they are in a country where they must be registered.
34. NPO has opaque leadership or decision making structures.
35. NPO or NPO representatives use falsified or conflicting documentation.
36. NPO members or representatives travel often to high risk countries or conflict zones.
37. NPO members or representatives are involved or engaged in terrorism or financing of terrorism.

**4. Measures to be applied by a NPO**

The Law 28/2008, of 11<sup>th</sup> December, modifies the Law on international cooperation in criminal matters and the fight against money laundering and the financing of terrorism of 29 December 2000 adding the first additional provision which establishes the following:

*“1. The boards of associations that are subject to the Associations Law of 29 December 2000, and their personnel with management responsibilities, will make sure that they are not used to channel funds or resources to persons or entities related or linked to terrorist groups or organizations.*

*To this end, all associations will keep records of the identity of all persons that receive funds from the association for five years, as well as the registers referred to in article 28 of the Associations Law. These books and registers must be made available for inspection by the relevant persons from the Association Registry, and also by the administrative and judicial bodies competent in matters relating to the prevention of money laundering and terrorism financing.*

*2. The duties established in paragraph 1 above will also be applicable to foundations or other non-profit-making organizations, and in this case, it corresponds to the protectorate, patron or corresponding representative managing the interests of the entity to abide by these duties."*

In order to comply with applicable regulations as described above, it is shown below some guidelines for actions that an NPO must carry out to combat money laundering and terrorist financing:

1. Identify and verify the identity of all persons who receive funds or resources of the organization, as well as keep these records for five years.
2. Implement procedures to ensure the suitability and professional ethics of the members of the governing bodies and other positions of responsibility within the organization (managers, attorneys / representatives, etc.) and their election or dismissal.
3. Keep records or minutes of the decisions made in the governing bodies,
4. Assign to staff with responsibility within the organization the function to ensure that the NPO is not used for money laundering or terrorist financing (eg channel funds or resources to individuals or entities associated with groups or organizations terrorist).

In this respect, they should establish procedures to ensure at least:

- a) verify that the NPO refrains from doing activities other than the ones established in its object or to its beneficiaries,
  - b) verify that there are clear criteria for selecting projects or activities to be performed,
  - c) verify and analyze the intrinsic risks of the different projects or activities that can be developed,
  - d) ensure the proper implementation of its funds and resources,
  - e) select and know the counterparts with they act in order to verify their honorableness and determine that they are not related to money laundering and terrorist financing,
  - f) know and control the activity of those operating on behalf of the organization.
5. Apply effective controls to ensure compliance of its functions taking into account the risks identified in its activities in terms of money laundering and terrorist financing, intensifying control over the activities or projects that present a higher risk.

These provisions must be applied in addition to the ones set out in the Law 11/2008, of 12<sup>th</sup> June, of Foundation and in the Qualified Law of Associations of the 15<sup>th</sup> December 2000.

We are at your disposal for any additional clarification and we take this opportunity to greet you cordially.

*Internal Translation - Done by UIFAND*

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