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A- AML/FT laws & regulations in place in Lebanon:

The following are the main laws and regulations in place in the Republic of Lebanon regarding AML and combatting finance terrorism abuse:

- Law No. 318 of 20 April 2001 on Fighting Money Laundering (the AML Law). This law provides for increased reporting obligations and the establishment of the Special Investigation Commission (SIC), whose mandate includes investigating suspected money laundering offences and deciding to lift banking secrecy. The SIC operates under the umbrella of the BDL and is presided over by the Governor. The SIC's main mission is to investigate and combat suspicious matters and acts involving money laundering. The SIC may impose sanctions, including imprisonment and hefty fines, on the indicted persons or entities; and;
- Law No. 44 of 24 November 2015 on 'Fighting Money Laundering and Terrorist Financing' which amended Law No. 318 and which expands the sources of illicit funds, broadens the definition and scope of money laundering activities, increases the 'know-your-customer', monitoring, reporting duties for banks and financial institutions, and imposes similar duties on legal professionals.
- In addition, article 316 of the Lebanese Penal Code and Articles 1 to 8 of the Terrorism Act dated 11/1/1958 criminalize terrorism and financing terrorism in Lebanon.

By definition, "Money Laundering" is the process of concealing or disguising the existence, source, movement, destination of illicitly derived property or funds to make them appear legitimate whilst "Terrorism Financing" is the act of providing and collecting funds with the intention and knowledge that they will be used to carry out terrorism acts. Consequently, money laundering is the process of making dirty money appear clean whereas Terrorist Financing most often involves clean money being utilized for illicit purposes.



B- “NPOs” in general and NPOs in Lebanon:

“Non-Profit Organizations”: A Non-Profit organization (“NPO”) is a legal entity organized and operated for a collective, public or social benefit, in contrast with an entity that operates as a business aiming to generate a profit for its owners. An NPO is subject to the non-distribution constraint, meaning that any revenue that is over and above expenses must be dedicated to the organization's purpose and not taken by private parties. Some NPOs may be political organizations, schools, business associations, churches, social clubs, and consumer cooperatives. Nonprofit entities may seek approval from governments to be tax-exempt and some may also qualify to receive tax-deductible contributions.

The key aspects of nonprofits are accountability, trustworthiness, honesty, and transparency to every person who has invested time, money, and faith into the organization. Nonprofit organizations are accountable to the donors, founders, volunteers, program recipients, and the public community.

In Lebanon, NPOs operate under the stipulations of the 1909 law that governs the work of all associations. However, it should be noted that some specific laws and decrees issued in parallel to the law of 1909 have defined specific settings concerning the work of some associations and their objectives, mainly in terms of legal matters such as political parties, syndicates and cooperatives, and mutual benefit associations, public utility organization, foreign associations, associations with a mentorship authority, trade unions, religious associations.

The 1909 law represented a stronger commitment by the Lebanese State to inter-national treaties and conventions, namely the Universal Declaration of Human Rights which was adopted in 1948. Article 20 of the said declaration stipulates that everyone has the right to freedom of peaceful assembly and association and that no one can be compelled to belong to an association or a collective activity.

C- General Introduction to the FATF and to recommendation 8 and its stipulations:

The Financial Action Task Force (“FATF”) is an intergovernmental body, established in 1989 by the G7, tasked with developing policies to combat money laundering and terrorist financing worldwide.

The FATF has 37 members, including two regional organizations (the Gulf Cooperation Council and the European Commission). More than 20 bodies have observer status (among them, the IMF, the World Bank, OECD and various UN law enforcement bodies).

The FATF sets global standards for preventing money laundering and terrorist financing, and assesses how effectively countries are meeting these standards. Among these standards are a series of 40 recommendations. Recommendation 8 sets standards for non-profit organizations (NPOs).

As per FATF Recommendation 8, “Countries should review the adequacy of laws and regulations that relate to non-profit organizations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organizations to protect them from terrorist financing abuse, including:

- (a) by terrorist organizations posing as legitimate entities;
- (b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
- (c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.

D- FATF’s recommendation 8 scope, objectives, principles:

I- Scope:

Not all NPOs fall within the scope of Recommendation 8. FATF adopted a functional definition of NPOS based on the related NPO’s activities and characteristic that may put such NPO at risk of terrorist financing abuse. As such, for the purposes of Recommendation 8, NPO refers to a legal person or arrangement or organization 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”.

NPOs play a primordial role in the world economy and in the social system providing important charitable services that are complimentary to the activities of the governments. Despite the efforts of NPOs to promote transparency within their operations to prevent terrorist financing abuse some cases of exploitation of NPOs by terrorists and terrorist organizations aiming at raising and moving funds, providing logistical support, encouraging terrorist recruitment, or otherwise supporting terrorist organizations and operations have been identified. This misuse not only facilitates



terrorist activity, but also undermines donor confidence and jeopardizes the central integrity of NPOs, hence the importance of protecting NPOs against terrorist financing abuse. Measures to protect NPOs from potential terrorist financing abuse should be targeted following implementing a risk-based approach, all whilst respecting the country's obligations under the Charter of the United Nations and international human rights law (IHL) such as freedom of expression, religion or belief, and freedom of peaceful assembly and of association.

The analysis of the case studies showed the abuse of NPOs, or the risk of abuse, manifesting in five different ways:

Diversion of Funds	An NPO, or an individual acting on behalf of an NPO, diverts funds to a known or suspected terrorist entity
Affiliation with a Terrorist Entity	An NPO, or an individual acting on behalf of NPO, maintains an operational affiliation with a terrorist organization or supporter of terrorism
Abuse of Programming	NPO-funded programs meant to support legitimate humanitarian purposes are manipulated at the point of delivery to support terrorism
Support for Recruitment	NPO-funded programs or facilities are used to create an environment which supports and/or promotes terrorism recruitment-related activities
False Representation and Sham NPOs	Under the guise of charitable activity, an organization or individual raises funds and/or carries out other activities in support of terrorism

There are many reasons for NPOs being potentially vulnerable to terrorist financing abuse. These are mainly related to (i) NPOs having access to considerable sources of funds including being cash-intensive and; (ii) NPOs having a geographical global presence that includes a framework for national and international operations and financial transactions, often within or close to areas that are most exposed to terrorist activity.

II- Objectives:

The main objective of Recommendation 8 is to ensure that NPOs are not misused by terrorist organizations to carry out any of the following:

- (i) to pose as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes.

III- Principles:

According to FATF's interpretative note to Recommendation 8, the approach taken to achieve the above mentioned objective is based on the following general principles:

- (i) Applying a risk-based approach founded on focused, effective and proportionate measures in dealing with identified threats of terrorist financing abuse to NPOs. Such an approach is essential taking into account the diversity within separate national sectors, the importance to preserve the continuity of the legitimate charitable work and the limited resources available to combat terrorist financing in each country. Rather, such measures should promote accountability and engender greater confidence among NPOs, across the donor community and with the general public, that charitable funds and services reach intended legitimate beneficiaries.

Risk can be defined as the ability of a threat to exploit a vulnerability. For there to be a risk, both a threat and a vulnerability must be present.

Figure 1

Threat + Vulnerability = Risk



- (ii) Flexibility in developing a national response to terrorist financing abuse of NPOs is essential, in order to allow it to develop continuously to adapt to the changing nature of the terrorist financing threat.
- (iii) Countries are required to identify and take effective and proportionate action against NPOs that either are exploited by, or knowingly supporting, terrorists or terrorist organizations taking into account the specifics of the case.
- (iv) Developing cooperative relationships among the public and private sectors and with NPOs is critical to understanding NPOs' risks and risk mitigation strategies, raising awareness, increasing effectiveness and fostering capabilities to combat terrorist financing abuse within NPOs.

E- Measures to be undertaken by Countries:

Countries should identify which subgroup of organizations fall within the FATF definition of NPO and what types of NPOs, which, in consideration of their activities or characteristics, are likely to be at risk of terrorist financing abuse. Countries should review and assess the adequacy of measures, including laws and regulations, that relate to the subgroup of the NPO sector that may be abused for terrorist financing support in order to be able to take proportionate and effective actions to address the risks identified. These exercises should be carried out periodically in order to reassess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures. Recommendation 8 requires countries to undertake a domestic review of their entire NPO sector, or have the capacity to obtain timely information on its activities, size and other relevant features, and review the adequacy of laws and regulations that relate to the portion of the NPO sector that can be abused for the financing of terrorism. In undertaking this review, countries should use all available sources of information.

There is a diverse range of approaches in identifying, preventing and combating terrorist financing abuse of NPOs. An effective approach should involve all four of the following elements to be undertaken by the countries:

- (v) Sustained outreach: Countries should have clear policies to promote accountability, integrity and public confidence in the administration and management of NPOs. Consequently, it is essential for countries to develop and encourage programs aiming at extending awareness among NPOs as well as donors about the potential vulnerability of NPOs to terrorist financing abuse and the measures/best practices that can be undertaken by NPOs to prevent and combat such abuse. In addition, countries should encourage NPOs to conduct their transactions via regulated financial channels. Ideally, outreach should involve a two-way, ongoing dialogue between governments and NPOs. It can include guidance to NPOs and consultation with NPOs to seek their input or feedback.
- (vi) Targeted risk-based supervision or monitoring of NPOs: Countries should take steps to promote effective supervision or monitoring. A "one-size-fits-all" approach would be inconsistent with the proper implementation of a risk-based approach. Indeed, appropriate authorities should monitor the compliance of NPOs with the requirements of this Recommendation. For example, a major finding of the typologies report was that NPOs most at high



risk were those engaged in 'service' activities and operating in a close proximity to an active terrorist threat, whether domestically or internationally. The following are some examples of measures that could be applied to NPOs, in whole or in part, depending on the risks identified: (a) NPOs could be required to license or register. (b) NPOs could be required to maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of the person(s) who own, control or direct their activities, including senior officers, board members and trustees. This information could be publicly available either directly from the NPO or through appropriate authorities, (c) NPOs could be required to issue annual financial statements that provide detailed breakdowns of incomes and expenditures, (d) NPOs could be required to have appropriate controls in place to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities. In this context, rules and regulations may include rules and standards applied by self-regulatory organizations and accrediting institutions, (d) NPOs could be required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries and associate NPOs and that they are not involved with and/or using the charitable funds to support terrorists or terrorist organizations. However, NPOs should not be required to conduct customer due diligence. NPOs could be required to take reasonable measures to document the identity of their significant donors and to respect donor confidentiality. The ultimate objective of this requirement is to prevent charitable funds from being used to finance and support terrorists and terrorist organizations, (e) NPOs could be required to maintain, for a period of at least five years, 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, and could be required to make these available to competent authorities upon appropriate authority. There are some important advantages to properly implementing these aspects of the supervision and monitoring requirements: Applying measures that are proportionate to the risks avoids over-regulation of the sector which may place a disproportionate burden on NPOs that have not been identified as being at risk and/or may inadvertently disrupt or discourage legitimate charitable activities. There is not a single correct approach to ensuring effective oversight of the sector and appropriate transparency within NPOs, as



long as the relevant sections of the NPO sector most at risk for TF abuse are appropriately monitored and have appropriate controls in place to mitigate such risks.

- (vii) **Effective investigation and information gathering:** Countries should ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs. Countries should ensure that full access to information on the administration and management of a particular NPO may be obtained during the course of an investigation. Countries should establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organization; (2) is being exploited as a conduit for terrorist financing or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, that this information is promptly shared with relevant competent authorities, in order to take preventive or investigative action. Some practices which have been found to enhance countries' ability to identify and take action against terrorist abuse of NPOs include: a) effective interagency collaboration or a "whole-of-government" approach; b) considering multiple types of information from different sources which facilitates the detection of abuse (including taking into account NPO regulatory information, open source information, financial intelligence unit and other financial information, national security information, law enforcement information and information from foreign authorities); and c) fostering an environment of trust in which information on particular NPOs of concern for TF or related issues is made available to government authorities from the public and from the NPO sector itself. A collaborative, inter-agency approach to the detection of abuse and risk ensures that investigative actions being carried out by one body don't conflict with or jeopardize actions being carried out by another.
- (viii) **Effective mechanisms for international cooperation:** countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support. International cooperation is important in protecting NPOs from terrorist abuse



given that their work is often global in nature and may span several jurisdictions. This global presence provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. Information from foreign counterparts can also be helpful in identifying and taking action against TF threats because of the transnational nature of many NPO operations. Such information may be obtained from NPOs' foreign partners as well as information from foreign partner (government) agencies. It is primordial for Countries to provide their appropriate authorities, which are responsible for supervision, monitoring and investigation of their NPO sector, with adequate financial, human and technical resources.

F-Actions/best practices that NPOs can implement to protect against Terrorist Financing (“TF”) Abuse:

The following are examples of actions that have been implemented by some NPOs and which may, depending on the circumstances, help to mitigate TF risk. In practice, the unique circumstances and context of each case will determine whether a particular measure is a good practice that is partially or fully mitigating the specific risk involved. The types of circumstances and context which are relevant to such a determination include: the level and type of TF risk, the type of charitable funds or assets being distributed, the geographical context, and other controls and due diligence measures in place. These examples should not be used as a checklist of measures to be applied to all NPOs. As previously mentioned, a “one size fits all” approach would not be consistent with proper implementation of a risk-based approach, as called for by Recommendation 8. The following examples, which were provided by NPOs, are presented under the following four categories:

1) Organizational integrity: NPOs shall be established and operate in accordance with a governing document, for example, articles of incorporation, a constitution, or bylaws that outline purposes, structure, reporting practices, and guidelines for complying with local laws. Members of the governing board understand and act in the interest of the organization. The governing board maintains oversight over the organization by establishing strong financial and human resource polices, meeting on a regular basis, and actively monitoring activities.

- Essential NGO internal governance indicators:

- ✓ Clear governance structure, particularly role of the governing body (the Board) (name of the body, Description of relationship to other organizational entities, List of current Board members with occupations and cities/towns of residence (board functions must be separate from management), (where appropriate, the controller/beneficial owner of NGO should also be identified)
 - ✓ Governing body description to include: basic responsibilities and powers, duties of individual board members, minimum number of board members, membership rules and terms of office, clear election procedure, decision making procedures, record of board meeting, conflict of interest provision, etc...
 - ✓ Board competencies to include: annual review of CEO performance, review of financial performance/annual financial statements, responsibility to recruit CEO, responsibility to engage auditor, etc.
- Essential Financial management indicators:
- ✓ Existence of basic accounting tools: books of accounts, cash receipt book, cash disbursement book, bank accounts records, etc.
 - ✓ Basic accounting practices: Written policies and procedures based on principles of accounting and control, division of functions: the approving officer for fund releases (e.g. CEO) is different from the bookkeeper and the cash custodian.
 - ✓ Financial reporting and record-keeping: annual audits commissioned by the Board
 - ✓ Fraud prevention and anti-money laundering practices: existence of full and accurate audit trails of funds transferred outside NPO jurisdiction/country, use of registered bank accounts for money flows in case of every transaction (small cash amounts for day to day expenditure excepted), procedures to verify the identity, credentials and good faith of the beneficiaries, donors and associate NPOs, 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, etc..

Example:

An NPO developed a Code of Ethics (1), 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 organization and its members.

Below is an excerpt from the Code which relates to organizational integrity, as defined in the report:



Governance:

- ✓ Each Organization shall be governed fairly and responsibly by an independent, active, and informed governing body (e.g. Board of Directors).
- ✓ All voting members of the governing body shall serve without compensation, except for reasonable expenses incurred to fulfil their organizational duties.
- ✓ 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.
- ✓ 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.
- ✓ The Organization shall adopt a policy preventing and effectively managing conflict of interest situations.
- ✓ 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.
- ✓ 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.
- ✓ 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.
- ✓ 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.
- ✓ The Organization shall comply with all applicable federal laws and regulations as well as laws and regulations of provinces or municipalities in which it is based or operates.
- ✓ Each Organization conducting activities outside of Canada shall be aware of foreign laws and regulations governing its activities.
- ✓ The Organization shall oppose and shall not be a participant to any wrongdoing or financial impropriety. It shall take prompt and firm corrective action whenever and wherever wrong-doing of any kind has been committed by any member of its governing body, employee, or volunteer.



(1). Canadian Council for International Co-operation “Code of Ethics”, www.ccic.ca/about/ethics_e.php,

2) Partner relationships: To prevent the abuse of funds by partners, NPOs shall carry out appropriate due diligence on those individuals and organizations that the NPO receives donations from, gives money to or works with closely before entering into relationships or agreements. NPOs should check partner reputations through the use of selection criteria and searches of publicly available information, including domestic and UN sanctions lists. Written agreements can also be used to outline the expectations and responsibilities of both parties, which include detailed information as to the application of funds and requirements for regular reporting, audits and on-site visits.

An independent monitoring organization, whose aim is to increase public confidence in the country’s NPOs and help donors make responsible decisions, developed a report on *Standards of Transparency and Best Practices*. The Standards, which are used to assess compliance by the NPO sector, are structured in blocks, most of which are relevant to countering the financing of terrorism, including some that address partner relationships:

- ✓ NPOs should have a documented procedure and criteria for the selection of counterpart organizations. This procedure should be approved by the governing body. Criteria could include the requirement that the counterpart organization be linked to the organization’s mission, have demonstrated previous similar experience, have received funds from its government or from international public organizations, comply with legal and tax obligations, and have sound financial structure.
- ✓ NPOs should have written agreements with their partner organizations. A written agreement or understanding should be drafted and signed by the participants. This should include the funding organization and the end user, whether it is an individual, organization or network. Such an agreement should outline what the funds are to be used for and how the user will report back for accountability purposes. The agreement should also include requirements regarding the management of local employees according to defined ethical standards.

Example:

An organization working in areas of conflict has developed guidelines for screening donors and partners to prevent the abuse of funds. The organization verifies that partners are not connected with terrorist organizations and that they do not receive donations, contract, partner or share services with any organization found in violation of or accused of violating



human rights. The organization's accountants conduct background research on partner organizations and trends using open source information from Interpol, FATF and the equivalent of the Ministry of Finance in other jurisdictions, such as the US Department of Treasury OFAC Specially Designated Nationals (SDN) sanctions list. The organization also coordinates with other international NPOs to learn about possible infractions by a potential donor from the perspective of another organization.

3) Financial transparency and accountability: NPOs shall prevent financial abuse and misuse of resources and funds by establishing strong financial controls and procedures. For example, the governing board approves an annual budget and have a process in place to monitor the use of funds. NPOs shall practice keeping adequate and complete financial records of income, expenses, and financial transactions throughout their operations, including the end use of the funds. NPOs shall clearly state program goals when collecting funds, and ensure that funds are applied as intended. Information about the activities carried out is made publicly available. NPOs are informed as to the sources of their income and establish criteria to determine whether donations should be accepted or refused.

An independent monitoring organization, whose aim is to increase public confidence in the country's NPOs and help donors make responsible decisions, developed a report on *Standards of Transparency and Best Practices*. The Standards, which are used to assess compliance by the NPO sector, are structured in blocks, most of which are relevant to countering the financing of terrorism, including some that address financial accountability and transparency:

- ✓ NPOs should have a documented policy for the procurement of goods or selection of suppliers and for the approval of expenses. It is recommended to request three quotes from different suppliers and, for high cost goods/services order, to create a call for proposals with specific criteria to ensure the best goods/services are obtained. It is also recommended to create a standard operating procedure to avoid possible conflict of interest between suppliers and the board/employee/partners of the organization. Finally, it is recommended to conduct periodical monitoring of the suppliers to ensure that their on-going standards of efficiency, effectiveness, sustainability and quality meet organization guidelines. All these criteria/procedures are required to be approved by the governing body. This policy should establish who has the power to authorize expenses in the organization, depending for example on the amount.
- ✓ Sources of financing, including details regarding the main contributors, both public and private, as well as the amounts contributed, should be available to the public.
- ✓ NPOs should prepare an annual budget for the next year with its corresponding Director's report and analytical review, including variances corresponding to the previous year's budget.



The budget and the liquidation should be approved by the governing board and be available to the public.

✓ NPOs should prepare follow-up and final reports on the projects and make them available to donors.

✓ NPOs should have a documented anti-corruption policy. Organizations should analyze and define the risks of corruption in the specific context they are working in (e.g. fraud, excessive pricing and kickbacks, double payments, cumulated salaries or exchange rate manipulation.) NPOs should have adequate systems in place like accurate project planning, transparent financial reporting, regular project reporting and standards for procurements for goods and suppliers as well as double-checks and independent information sources. There should be a standardized process to be followed when cases of misuse of funds are discovered, including information flow, actions to be taken and sanctions to be imposed.

Examples:

1- An NPO that operates internationally and occasionally contracts UN Agencies and other humanitarian organizations to provide humanitarian relief implements several measures to maintain accountability and transparency over the use of funds. These measures include the:

✓ Evaluation and review of program design, budget, feasibility, and assessment of the risks associated with prospective projects.

✓ Implementation of contractual requirements for procurement processes, regular reporting on the program impact, and budgetary allocations with supporting documentation.

✓ Transfer of financial transactions through major financial institutions whenever possible to ensure that all funds can be traced to the delivery of services or humanitarian items to the beneficiary.

✓ Examination of partners' bookkeeping practices and confirmation that expenses reported are substantiated and match the allowed expenditures.

✓ Adherence to generally accepted accounting principles and undertaking of independent annual audits.

2- An NPO operating in high risk areas uses the following measures to enhance financial accountability and transparency:

✓ Only makes transfers against performance milestones

✓ Ensures financial reporting expectations are clear

✓ Asks for copies of original source documents to substantiate expenditures

✓ Asks for partners to use a separate bank account and/or ledger for your funds

✓ Requires that partners seek permission for variances from project budgets

✓ Puts a positive obligation to self report on non-compliance in the contract terms



- ✓ Has clear financial manuals and record keeping guides and manual of operations for overseas employees
- ✓ Ensures overseas employees are trained on financial management practices
- ✓ Insists that interest on project funds be reinvested into the project activities
- ✓ Is clear on financial record keeping expectations
- ✓ Maintains and exercises audit rights

4) Program planning and monitoring: NPOs shall establish internal controls and monitoring systems to ensure that funds and services are being used as intended. For example, NPOs clearly define the purpose and scope of their activities, identify beneficiary groups, and consider the risks of terrorist financing and risk mitigation measures before undertaking projects. They should maintain detailed budgets for each project and generate regular reports on related purchases and expenses. NPOs shall establish procedures to trace funds, services, and equipment, and carry out transactions through the banking system when possible to maintain transparency of funds and mitigate the risk of terrorist financing. Project performance is monitored on a regular basis by verifying the existence of beneficiaries and ensuring the receipt of funds. NPOs shall take appropriate measures, based on the risks, to account for funds and services delivered. Although many of the measures noted above may primarily be aimed at combatting fraud, tax evasion, embezzlement, money laundering, and other financial crimes in the NPO sector, they can also help mitigate terrorist abuse by enhancing the transparency and integrity of the NPO sector in its operations and flow of funds. The same can be said of government initiatives to enhance transparency and integrity of the NPO sector, even if they are not primarily aimed at combatting terrorist abuse of the NPOs.

An independent monitoring organization, whose aim is to increase public confidence in the country's NPOs and help donors make responsible decisions, developed a report on *Standards of Transparency and Best Practices*. The Standards, which are used to assess compliance by the NPO sector, are structured in blocks, most of which are relevant to countering the financing of terrorism, including some that address program planning and monitoring:

- ✓ NPOs should have a documented policy for planning, monitoring and evaluating their projects. This should include requirements regarding narrative and financial reporting by the implementing partner organization(s), audits, on-site inspections, and frequency and scope of external or internal evaluations. It should also include periodic payments to partner organizations based on satisfactory reporting and the possibility to withhold money if reporting requirements are not met. The policy should specify how partner organizations and



beneficiaries participate in the process of planning, implementing and evaluating of projects, and should be approved by the governing body.

✓ NPOs should establish a multi-year strategy and/or annual plan, which is approved by governing body. The annual plan should clearly indicate the objectives, indicators, calendar and area responsible of the implementation of the project. Also, the plan should include all areas of the organization, including activities such as fundraising. It is a good practice to include different stakeholders in the development of the plan, like beneficiaries, volunteers and employees. The governing body should also be involved in the development, discussion and approval of the plan.

✓ NPOs should establish a policy, which is approved by governing body, that calls for an assessment of the organization's achievements, effectiveness and impact and that it take place at least every two years.

Example:

An NPO that provides humanitarian assistance to high risk areas employs a series of internal monitoring measures to ensure that funds and services are being used as intended. These include:

✓ 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 "prohibited parties".

✓ Regular and timely reporting of budget versus actual expenditure reports are prepared and reviewed by senior management on a monthly basis.

✓ Delivery verification processes, such as 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 local partners when direct monitoring isn't possible) and post distribution monitoring (visiting and surveying with a sample of beneficiaries).

✓ Regular physical checks to verify the existence of assets. These checks include regular and surprise cash counts and annual physical equipment inventories.

✓ Multi-signature requirements by the originator, approver and financial reviewer at several stages in any financial transaction process.

F- Conclusion:



While NPOs, and among them NGOs, must act within a transparent framework that highlights their methods of formation, financing & operations, this should not be at the expense of freedom of expression and association, the right to privacy as well as the right to access funding. Indeed, the UN Declaration on Human Rights Defenders provides that everyone has the right, individually and in association with others, “at the national and international levels [...] to form, join and participate in non-governmental organizations, associations or groups” (Article 5) and “to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means” (Article 13). This includes the ability for civil society organizations “to access funding and other resources from domestic, foreign and international sources”, which is a basic element of the right to freedom of peaceful assembly and association. Halting the flow of resources to terrorist organizations and ensuring humanitarian aid can reach those in need, are equally necessary objectives. In the NPO sector, however, there is an inevitable clash between these two objectives. On one hand, NPOs have a responsibility to help those in need in a neutral and efficient/timely manner. This imperative is incorporated within the humanitarian principles as cited in the OCHA/NRC report. At the same time, NPOs also have an obligation to donors to ensure that money which was provided by donors trusting it would be used towards charitable causes, is not used for other purposes, particularly if that involves support to terrorist movements. Navigating this complex issue is an important consideration for the NPO sector, national governments, and international organizations. Based on the essential connections between these two equally necessary imperatives, there are challenges in separating the impact that one has on the other.



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