



# To Protect and Prevent

Outcomes of a Global Dialogue to Counter Terrorist Abuse  
of the Nonprofit Sector



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# To Protect and Prevent

## Outcomes of a Global Dialogue to Counter Terrorist Abuse of the Nonprofit Sector

JUNE 2013



## About This Report

This report summarizes the outcomes of a multiyear project led by the United Nations and aimed at developing a common understanding of sound practices to counter the risk of terrorism financing through the nonprofit sector, protecting the sector and preventing terrorist abuse of nonprofit organizations (NPOs). The project included two global-level meetings and five regional-level expert meetings. More than 50 states and 80 NPOs participated in the meetings, in addition to representatives of relevant UN and multilateral agencies, officials from the Financial Action Task Force (FATF) and FATF-style regional bodies (FSRBs), and the financial sector. Peter Romaniuk wrote this report on behalf of the Center on Global Counterterrorism Cooperation (CGCC) in close consultation with an organizing team comprising colleagues from the UN Counter-Terrorism Committee Executive Directorate, the UN Counter-Terrorism Implementation Task Force (CTITF) Office, the Charities Directorate of the Canada Revenue Agency, and the Charity Commission of England and Wales.

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## Acronyms

<b>CGCC</b>	Center on Global Counterterrorism Cooperation
<b>CTED</b>	Counter-Terrorism Committee Executive Directorate (UN Security Council)
<b>CTITF</b>	UN Counter-Terrorism Implementation Task Force
<b>FATF</b>	Financial Action Task Force
<b>FIU</b>	Financial intelligence unit
<b>FSRB</b>	FATF-style regional body
<b>NPO</b>	Nonprofit organization
<b>STR</b>	Suspicious transaction report



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# Key Findings and Recommendations

**T**his report summarizes the outcomes of a multiyear project led by the United Nations and aimed at developing a common understanding of sound practices to counter the risk of terrorism financing through the nonprofit sector, protecting the sector and preventing terrorist abuse of nonprofit organizations (NPOs). The following key findings and recommendations, which are discussed and further elaborated in the text, are based on the input collected over the course of that project and reflect the broad consensus of the process participants, if not their explicit endorsement. Some require action by states and intergovernmental bodies, and some could be implemented immediately, although some will require further deliberation.

- **Demand is strong for ongoing dialogue among stakeholders, including international and regional organizations; a range of agencies from or in the government sector, i.e., charities regulators, policymakers, law enforcement and financial intelligence unit officials, and prosecutors; and, importantly, the nonprofit sector,** to share perspectives and build consensus and contacts toward the protection of the sector and the prevention of terrorist abuse. The active participation of the nonprofit sector is essential to help build relationships of trust and confidence in emerging regulatory frameworks.

- **Future opportunities for dialogue should be extended to include banks and financial institutions** alongside government and other officials and the nonprofit sector, given their relationships with governments and clients in the sector.
- **Gather and disseminate best practices as a way of advancing communication and outreach among stakeholders.** Understanding and awareness about the risk of terrorism financing in the nonprofit sector is uneven globally, and levels of compliance with Financial Action Task Force (FATF) Recommendation 8 are low. Yet, there is consensus on the key elements of an effective response, including the need for a risk-based approach that identifies and mitigates the risk of terrorism financing, proportionality, outreach to the sector, and engagement on a whole-of-government basis across relevant government agencies. There are examples of good practice among states in each region. Similarly, there are good practices within the nonprofit sector in responding to the risk of terrorism financing, and these should be acknowledged and supported. Although these are noted in this report, they should be gathered and disseminated as a way of advancing communication and outreach among stakeholders.

- **The risk of terrorism financing through the nonprofit sector requires that stakeholders (states, NPOs, and banks and financial institutions) are aware of it and take steps to identify and mitigate it. The need for capacity building among states is significant.** Priorities include assistance in undertaking a review of the nonprofit sector and applicable laws and regulations; implementing a risk-based approach and the principle of proportionality; facilitating outreach to the sector; enhancing information management, such as registry databases; and improving interagency communication within governments.
- **Also significant is the need for capacity building within the nonprofit sector.** Priorities include measures to raise awareness and disseminate information regarding the risk of terrorism financing and to build on good governance practices in the sector, including through support for umbrella organizations and self-regulatory initiatives.
- **Develop a global network of regulators and oversight bodies to share information and expertise in preventing terrorist abuse of the nonprofit sector.** International contacts among national agencies that exercise oversight over NPOs are underdeveloped. A mapping exercise of regulators and other government officials dealing with this issue should be undertaken, and the creation of a global network of regulators should be considered to share operational information and expertise in preventing terrorist abuse of the nonprofit sector, maintain a list of points of contact for NPOs to consult on issues pertaining to relevant international standards, share information and expertise to assist FATF and other evaluators in assessing the implementation and effectiveness of Recommendation 8, and, establish a secure website to share information among participating states.
- **Advancing the objectives of strengthening and securing NPOs against terrorist abuse requires further substantive work and a process to support it.** Regarding the former, this report notes in particular the demand for capacity building and guidance as states and NPOs formulate responses to the risk of terrorism financing. Regarding the latter, the emergence of formal consultation between NPO representatives and FATF is an important development. Nevertheless, a stable, informal platform to bring together this unique group of stakeholders in an integrative fashion has demonstrated value. In this regard, the convening power of the United Nations has been vital throughout this project.



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# I. Introduction

**T**he topic of terrorism financing through the nonprofit sector has attracted a great deal of attention in the last decade or more. It has made headlines and filled column inches. It has engaged policymakers, commentators, and advocates at the local, national, and global levels. It has prompted rulemaking and legislating, and cases have been investigated and prosecuted. Governments have invested time and resources in evaluating each other's responses. It is argued by some that governments have sometimes overreacted, yielding serious unintended consequences, for example, by inhibiting humanitarian action, creating unnecessary suspicion of certain segments of the charitable sector, and compromising rights to freedom of association. Others allege that governments have done too little. In many parts of the world where state–civil society relations are characterized by tension, the issue has more often increased mutual suspicions than it has reduced them. Where that has occurred, measures to address the threat of terrorist abuse of the nonprofit sector are less likely to be effective.

Given the intensity of these debates, it is sometimes overlooked that sustained, global-level concern regarding terrorism financing through the nonprofit sector is of relatively recent origin. Counterterrorism officials in several countries have long been concerned about

the risk of terrorism financing through nonprofit organizations (NPOs), but their focus usually reflected a concern for specific threats to national security. The UN General Assembly drew attention to terrorism financing through organizations that “claim to have charitable, social or cultural goals” as early as 1996.<sup>1</sup> The most important multilateral statement on terrorism financing prior to 2001—the 1999 International Convention for the Suppression of the Financing of Terrorism—also mentions the issue in its preamble, which makes reference to the General Assembly resolution, but notably it is not mentioned in its operative paragraphs. It was not until October 2001, when the Financial Action Task Force (FATF) adopted Special Recommendation VIII (now Recommendation 8) that a global standard emerged in the area. That recommendation has been front and center in the sometimes contentious discourse that has evolved.<sup>2</sup>

In spite of concern for the vulnerability of NPOs to terrorist abuse, there has been an important gap in the debate for most of the last 10 or so years. There have been few opportunities for the diverse range of stakeholders to come together to discuss the challenge of preventing terrorism financing through NPOs while preserving the ability of actors within the sector to make their many positive contributions. These stakeholders

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<sup>1</sup> UN General Assembly, “Measures to Eliminate International Terrorism,” A/RES/51/210, 17 December 1996, para. 3(f), <http://www.un.org/documents/ga/res/51/a51r210.htm>.

<sup>2</sup> For the most recently revised version of Recommendation 8, see FATF, “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations,” February 2012, p. 13, para. C(8), [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf).

are not traditional interlocutors among whom contacts and networks already existed, and there are few precedents for direct engagement and consultation between governments and the nonprofit sector on counterterrorism matters. Viewed in this way, it is likely that the tenor of the debate about terrorism financing through NPOs has manifested and reproduced misapprehension and misperception among the many parties affected by the issue in international organizations, from within and across governments, and in civil society.

## About This Initiative

In order to provide a space for dialogue and fill this gap, the UN Counter-Terrorism Committee Executive Directorate (CTED) and the Center on Global Counterterrorism Cooperation (CGCC) on behalf of the UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on Tackling the Financing of Terrorism developed a multiyear project aimed at developing a common understanding of sound practices to counter the risk of terrorism financing through the nonprofit sector. The project was conceived as a dialogue among key stakeholders that are invested in and affected by this issue, with the twin objectives of protecting the sector and preventing terrorist abuse of NPOs. Leveraging the convening power of the United Nations, those key stakeholders included officials from international and regional organizations, including members of the CTITF working group (box 1). Reflecting the centrality of FATF in setting global standards in this area, officials from the FATF Secretariat as well as several FATF-style regional bodies (FSRBs) participated (the Asia/Pacific Group on Money Laundering, the Eastern and Southern Africa Anti-Money Laundering Group, the Grupo de Acción Financiera de Sudamérica, and the Middle East and North Africa Financial Action Task Force). The project brought together relevant officials from within governments, i.e., charities regulators, policy-

makers, law enforcement and financial intelligence unit (FIU) officials, and prosecutors, and from across states, yielding a strong emphasis on interagency communication and international cooperation, which is reflected in this report's discussion and recommendations. Critically, each meeting in the dialogue process also included representatives from the nonprofit sector, and NPO participation increased over the life of the project. Local and international NPOs participated, as well as umbrella bodies in various regions, which are particularly well placed to reflect on issues affecting the nonprofit sector as a whole.

Under the aegis of the CTITF, this initiative was truly global in its scope. It was launched with a ministerial meeting in London in January 2011, followed by regional-level expert meetings in Bangkok, Auckland, Nairobi, Buenos Aires, and Doha held between March 2011 and January 2013. The final meeting of the project took place in New York in March 2013 and included a briefing for all member states at UN headquarters, chaired by Permanent Representative of Canada to the United Nations Ambassador Guillermo Rishchyski.<sup>3</sup> In total, more than 50 states and 80 NPOs participated, as well as representatives of the financial sector and relevant UN and multilateral agencies.

This mix of stakeholders brought to the table for the first time their different perspectives on the issues. The process aimed to foster appreciation of those views, an approach warmly appreciated by participants. A key finding of the project is the strong demand for ongoing dialogue among stakeholders, to share perspectives and build consensus and contacts toward the protection of the sector and the prevention of terrorist abuse. It was acknowledged that the active participation of the nonprofit sector is essential to help build relationships of trust and confidence in emerging regulatory frameworks. The process itself has been an important product, and with near uniformity, participants urged continuing or reconvening the project meetings.

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<sup>3</sup> For other documents from this process, see CGCC, "Final Expert Working Group Meeting on Preventing Terrorist Financing Abuse of the Nonprofit Sector," n.d., <http://www.globalct.org/events/final-expert-working-group-meeting-on-preventing-terrorist-abuse-of-the-nonprofit-sector/>; UN Security Council Counter-Terrorism Committee, "Briefing on Preventing Abuse of the Non-Profit Sector for the Purposes of Terrorist Financing," n.d., <http://www.un.org/en/sc/ctc/briefings/2013/npo/docs.html>.

## BOX 1. ABOUT UN INVOLVEMENT

The UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on Tackling the Financing of Terrorism<sup>a</sup> derives its mandate from the United Nations Global Counter-Terrorism Strategy.<sup>b</sup> The Strategy endorses the recommendations of the Financial Action Task Force against money laundering and terrorism financing and encourages a coordinated, multilateral response, including through the provision of technical assistance, to suppress terrorism financing. The working group provides a forum for interagency discussion and consultation on matters relating to the global effort to counter the financing of terrorism and for the engagement of outside experts, including those in the private and nonprofit sectors. Members of the working group participated in all global and regional meetings on preventing terrorist abuse of the nonprofit sector. The members are the UN Counter-Terrorism Committee Executive Directorate (CTED), the International Criminal Police Organization (INTERPOL), the International Monetary Fund, the UN Office on Drugs and Crime, the World Bank, and the Al-Qaida Sanctions Committee Monitoring Team. The working group is coordinated by the CTITF Office.

The CTITF working group published a report on tackling the financing of terrorism in October 2009, which drew attention to the risk of terrorism financing through nonprofit organizations (NPOs), acknowledging the powerful role that NPOs play in fighting conditions conducive to terrorism but recognizing

that the nonprofit sector carries a potential risk and that the level of risk in the sector as a whole remains unclear.

CTED assessments of member states' implementation of the counterterrorism measures in Security Council Resolution 1373 identified global shortfalls in efforts to tackle terrorism financing through NPOs, with uneven implementation of the international standards. It was found that most states had not yet undertaken a review of their sector specifically for terrorism financing risk or an assessment of their own legal and institutional tools for their adequacy in mitigating it. CTED's global survey of the implementation of Resolution 1373 in 2011 called on member states to adopt practical and proportionate measures to protect the nonprofit sector from terrorism financing abuse.<sup>c</sup>

On 15 January 2013, a statement by the President of the Security Council recognized the need for member states to prevent the abuse of nongovernmental, nonprofit, and charitable organizations by and for terrorists.<sup>d</sup> More broadly, a seminar organized on 17 May 2013 by the Pakistan Mission to the United Nations on development and dialogue as part of a comprehensive approach to counterterrorism emphasized the need for dialogue between state and nongovernmental actors as an important counterterrorism measure, an issue that informs several of the recommendations of this report.

<sup>a</sup> For additional information about the CTITF working group, see [http://www.un.org/en/terrorism/ctitf/wg\\_financing.shtml](http://www.un.org/en/terrorism/ctitf/wg_financing.shtml).

<sup>b</sup> UN General Assembly, A/RES/60/288, 8 September 2006.

<sup>c</sup> CTED, *Global Survey of the Implementation of Security Council Resolution 1373 (2001) by Member States*, S/2011/463, 1 September 2011, <http://www.un.org/en/sc/ctc/docs/2011-globalsurvey1373.pdf>.

<sup>d</sup> UN Security Council, S/PRST/2013/1, 15 January 2013.

The project was primarily supported by the government of Canada. Additional support was provided by the governments of Australia, New Zealand, Sweden, Switzerland, and the United Kingdom. The governments of Canada, New Zealand, the United Kingdom, and the United States provided in-kind support by making practitioners available throughout the process. In particular, alongside CTED, CGCC, and the CTITF Office, colleagues from the Charities Directorate of the Canada Revenue Agency and the Charity Commission of England and Wales formed part of the organizing team, providing input on administrative and substantive matters at each stage of the project, including in the development of this report. Their operational expertise as regulators and the guidance they offered to the process, based on the conviction that compliance and enforcement must be balanced against the need to promote the legitimate activities of NPOs, were crucial to ensuring that the initiative remained firmly focused on the real world risks associated with terrorism financing through NPOs and on the practical measures that can be usefully employed to mitigate them.

## Outcomes of Dialogue

The objective of this report is to inform policy debates, which are ongoing at the multilateral level, within many states, and within the sector, by reflecting the contributions of diverse participants brought together with the explicit objective of dialogue in mind. At each meeting, participants contributed wide-ranging observations about the issues and brought to light a series of good practices among governments and within the sector and pertaining to state-NPO interactions. The existence of these good practices is a further key finding of the process; this report notes several and

recommends further work to gather and disseminate them as a way of advancing communication and outreach among stakeholders. This report does not contain a comprehensive description and analysis of the issues surrounding measures to counter terrorism financing through the nonprofit sector or elaborate an original framework for understanding nonprofit regulation in the context of counterterrorism. Such discussions are available elsewhere.<sup>4</sup> Rather, having noted the gap in the work in this field to date, this report begins to fill it by acknowledging different perspectives and demonstrating the potential for integrative approaches toward shared objectives in protecting the nonprofit sector from terrorist abuse. This report demonstrates that stakeholders can and should work together in order to realize their common interest in strengthening and securing the sector from terrorist abuse.

The next section addresses the key definitional issues encountered throughout the process. Following that, observations from the project are grouped into sections that cover risk and proportionality, communication and outreach, and oversight and investigation. The conclusion urges future work to advance the objectives of the project. The importance of future work is itself a key finding of the process and should involve several substantive outputs, such as capacity-building assistance and guidance, as well as an ongoing process to support them.

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<sup>4</sup> Regarding frameworks for NPO regulation, see Asia/Pacific Group on Money Laundering, *Typologies Report: NPO Sector Vulnerabilities*, 22 July 2011, p. 29, fig. 1, <http://www.apgml.org/documents/docs/6/NPO%20Sector%20Vulnerabilities.pdf> ("A Strategic Framework for NPO Regulation"); Charity Commission for England and Wales International Programme, "The Building Blocks of Effective Regulation," n.d., [http://www.ngoregnet.org/About\\_effective\\_regulation/The\\_regulatory\\_bridge/Building\\_blocks\\_of\\_effective\\_reg.asp](http://www.ngoregnet.org/About_effective_regulation/The_regulatory_bridge/Building_blocks_of_effective_reg.asp). Regarding best practices, see FATF, *International Best Practices: Combating the Abuse of Non-Profit Organisations*, 11 October 2002, <http://www.fatf-gafi.org/media/fatf/documents/recommendations/11%20FATF%20SRIX%20BPP%20SRVIII%20October%202003%20-%20COVER%202012.pdf>. For a general discussion of the issues, see Emile van der Does de Willebois, "Nonprofit Organizations and the Combatting of Terrorism Financing: A Proportional Response," *World Bank Working Paper*, no. 208 (2010), <https://openknowledge.worldbank.org/handle/10986/5926>.

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## II. Defining the Problem

Over the course of the project meetings, the first and most important questions encountered by participants in the process were how and to what extent terrorists have abused the nonprofit sector in order to finance or otherwise support their activities. Addressing these questions requires a definition of the nonprofit sector and NPO and an understanding of the threat that terrorists pose to them. In the next section, it is useful to distinguish the general threat of terrorism financing through the nonprofit sector from the specific risk that terrorist abuse will occur, such that an assessment of risk entails an analysis of the threat and the range of protective and preventive measures taken in response to it.

Participants in the meetings noted that the term “nonprofit organization” is not often used, let alone defined, in their jurisdictions. Rather, depending on their legal history and tradition (civil or common law) and the social and cultural context in which laws and regulations are made, states tend to utilize a range of different terms to categorize organizations in the nongovernment sector. Across the world, the rights and responsibilities assigned to charities, foundations, trusts, societies, civil society organizations, public benefit organizations, and other types of nongovernment organizations vary significantly. For this reason, participants underscored that there can be no one-size-fits-all approach to NPO regulation and that the

discussion of countering the financing of terrorism through NPOs should reflect this.

Although noting national-level variation, participants discussed the FATF definition of NPO as contained in the Interpretive Note to Recommendation 8, which was originally released in 2006. The term “nonprofit organization” “refers to 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.’”<sup>5</sup>

The nonprofit sector is large and diverse, and NPOs are engaged in activities that cover the full extent of civic and social life. As some participants commented, however, the FATF definition of NPO includes only a subset of what many people would consider to be civil society organizations. Across the breadth of the nongovernmental sector, many bodies engage in activities or pursue objectives that fall outside of the FATF definition; and the scope of Recommendation 8, which is elaborated below, is limited in this regard.

How are NPOs, so defined, implicated in terrorism financing? Participants understood the term “terrorism financing” to cover the provision of assets of any kind for the purpose of supporting terrorist operations, including logistical support and recruitment,

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<sup>5</sup> FATF, “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation,” p. 58.

organizations, or individuals.<sup>6</sup> Notably, the legal definition of terrorism and prohibitions on terrorism financing or support varies by jurisdiction, and many NPOs have initiated due diligence practices to comply with multijurisdictional and donor contract obligations. Although terrorists have diverse methods for raising, moving, and deploying funds and material resources, participants acknowledged several reasons as to why NPOs may be seen as an attractive target for terrorism financiers. By the nature of their business, NPOs sometimes have access to and an ability to move large amounts of cash. They may have a global presence that provides a framework for transnational operations, including in insecure and conflict-affected areas, where terrorist groups may be present or seek to operate. NPOs may also have exposure to a large number of beneficiaries, some of whom may be vulnerable to radicalization. For this reason, the NPO form may be appealing to terrorists who see the distribution of goods and services as a means toward the end of spreading extremist ideas and winning adherents to radical causes. NPOs were equally keen to explain that legitimate NPO activity was generally founded on principles of inclusivity and therefore their work was an effective measure against extremist views based on division and exclusivity.

Terrorist abuse of NPOs tends to be discussed in two ways: as complicit (terrorist organizations posing as legitimate entities) or exploited (otherwise legitimate organizations abused by insiders or outsiders). Examples of abuse were cited in each region. Some governments have reported that a significant portion of their terrorism financing investigations have involved NPOs.<sup>7</sup> Beyond investigating terrorism financing through NPOs, some governments have launched prosecutions and secured convictions for relevant offenses. Several NPOs appear or have appeared on lists promulgated by the United Nations,

regional bodies, and states for the purposes of freezing terrorist funds.

Although the existence of the threat was broadly acknowledged, several challenges were noted throughout the process regarding the ability of authorities to give a complete account of the extent and nature of the threat on the public record. Some NPO participants claimed this contributes to a perception that NPOs are “high risk” organizations, which can cause fundraising and banking problems. NPO participants also maintained that if certain organizations are vulnerable to abuse, those organizations should be informed so that they can take steps to mitigate those risks.

Government participants pointed to several reasons for this approach, which pertain to counterterrorism action in other domains too. For example, a precise elaboration of the threat, they noted, would draw on intelligence data or analysis that cannot be shared with the public, is unlikely to be shared across governments, and may even be difficult to share within governments. In addition, these participants suggested that cases that involve terrorism financing through the nonprofit sector may not be prosecuted as such because officials may elect to bring charges under related provisions where they are more likely to be successful in securing convictions. A related challenge is that although it may be possible to prove that funds were misapplied or diverted, it is more difficult for officials to demonstrate that the ultimate purpose was terrorist activity. Further, apparently low incidence rates regarding terrorism financing through NPOs may be in part a consequence of poor detection. Therefore, a baseline of evidence for action against terrorism financing through NPOs has been established; but there is no firm aggregate-level data on which types of abuse are most often observed, i.e., whether NPOs are more often complicit or exploited, or on whether abuse

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<sup>6</sup> This understanding of the scope of terrorism financing is consistent with FATF Recommendation 4, its accompanying interpretive note, and related definitions.

<sup>7</sup> For example, see Financial Transactions and Reports Analysis Centre of Canada, “FINTRAC Annual Report 2006,” 25 August 2006, p. 19, <http://publications.gc.ca/collections/Collection/FD1-2006E.pdf>; HM Treasury, “The Financial Challenge to Crime and Terrorism,” February 2007, [http://www.hm-treasury.gov.uk/media/C/B/financialchallenge\\_crime\\_280207.pdf](http://www.hm-treasury.gov.uk/media/C/B/financialchallenge_crime_280207.pdf).



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of NPOs is more or less prevalent than terrorism financing through other means. For this reason, some participants suggested that, in interactions among stakeholders and in public statements on the issue, the threat should be articulated in a way that advances the objective of strengthening and securing the nonprofit sector with minimum disruption to its many positive contributions to society and without unduly undermining public confidence in the sector.



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# III. Toward a Principled Response: Risk and Proportionality

**A** central focus of the process was the prevailing international standard in the area, Recommendation 8, which was first elaborated in October 2001.

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (a) by terrorist organisations posing as legitimate entities;
- (b) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
- (c) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.<sup>8</sup>

In addition to reviewing relevant laws and regulations, in the accompanying Interpretive Note to Recommendation 8, FATF calls on states to review the sector. Levels of compliance with Recommendation 8, however, are modest in most regions. In support of Recommendation

8 implementation, FATF also published a best practices paper in 2002, which will be revised in June 2014. In discussing these documents, participants noted the strong emphasis on the twin principles of risk and proportionality as indicated, for example, in the inclusion of a new recommendation on the risk-based approach in the revised standards, released in February 2012. As FATF guidance makes clear, the determination of risk goes beyond a general articulation of threats to consider the specific “capacity and experience” of the sector.<sup>9</sup>

## Risk-Based Approach

Participants endorsed the risk-based approach as a way of identifying and responding to the vulnerability of NPOs to terrorist abuse. They contributed examples of good practice among states in implementing the risk-based approach, identifying several risk-assessment tools. These include matrices and frameworks for assessing risk, as have been published by several governments. Such tools can help to generate a systematic understanding of risk by identifying factors that increase or reduce vulnerability, including the geographic location of NPO activity, methods for disbursing funds, the terms of any agreement between

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<sup>8</sup> FATF, “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation,” p. 13, para. C(8).

<sup>9</sup> *Ibid.*, p. 31, para. 1 (“Interpretive Note to Recommendation 1”).

a grantee and beneficiary, and the use of on-site or field audits. Many states also make use of available typologies reports as part of their risk assessments. Participants noted that such tools should be utilized on an ongoing basis; as risks evolve, risk assessments should be updated over time.

Participants contributed examples of good practice among NPOs in implementing the risk-based approach. For example, some large charities utilize internal controls, including “partnership appraisal forms”; searches of publicly available information, including lists of sanctions targets; and face-to-face interactions, to ensure the integrity of partners and beneficiaries in the field. Formal contracts may be used to hold partners accountable, and sophisticated evaluation processes designed to assess impact could be adapted to include risks and vulnerability studies.

Alongside these examples of good practice, participants described significant challenges in implementing the risk-based approach. Low levels of compliance with Recommendation 8 are relevant here, as states that have not undertaken a review of their nonprofit sector are poorly placed to assess risk. This point, which emerged as perhaps the primary impediment in implementing Recommendation 8, was emphasized by several participants who suggested that some states lack the technical capacity and resources to undertake such a review. A key finding of the project—the prevalence of capacity-building needs among states—emerges here, as assistance in undertaking a review was identified by many participants as a critical need. In some states too, the ability to undertake a review is hampered by the absence of a single regulatory agency or the lack of involvement of the regulator in counter-terrorism financing issues. In other states, there may be a lack of willingness or experience in reaching out to the sector in this way. Whatever the reason, without establishing a baseline of knowledge about

the sector by undertaking a review, a risk-based approach cannot be effectively pursued.

Similarly, some NPO participants cautioned that risk assessment tools should not become too mechanized. Overreliance on certain techniques or information sources would effectively reduce risk assessment to a box- or list-checking exercise. One size does not fit all here too, they suggested, recalling that many international NPOs have significant experience on the ground in different locations and that they often utilize a broad definition of risk to include staff and operational safety in the field. NPO participants suggested that this experience should be considered by other stakeholders in assessing risk, as should measures undertaken pursuant to self-regulatory initiatives, discussed below.

The challenges of implementing risk assessment, however, should not detract from the importance of pursuing a risk-based approach. Consistent with FATF guidance, which states that “[m]easures adopted by countries to protect the NPO sector from terrorist abuse should not disrupt or discourage legitimate charitable activities,” participants endorsed the principle of proportionality, which is derivative of the risk-based approach.<sup>10</sup> Regulatory measures adopted to prevent terrorist abuse of NPOs should be commensurate to the diagnosed risk, and in cases of demonstrated abuse, enforcement actions should correspond to the nature and impact of the offenses committed.

## **Proportionality**

NPO participants gave particular emphasis to the principle of proportionality. The vulnerability of NPOs to abuse by terrorists, they noted, should be

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<sup>10</sup> *Ibid.*, p. 54, para. 3(b).

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viewed against the background of the economic and social impact of NPOs across the world. The sector is remarkably dynamic and diverse and has grown significantly in recent years.<sup>11</sup> NPOs are active in every sphere of civic and social life, including in the fields of culture, the arts and recreation, education and research, health care and social service provision, development assistance and disaster relief, and the environment. NPO operations represent at least \$2.2 trillion in expenditures annually, and NPOs employ some 56 million full-time-equivalent workers.

Further, several participants recalled that the ability to participate in charitable activity derives from fundamental human rights, including the rights to freedom of speech, association, and religion. These rights are enshrined in many national constitutions and regional and international human rights documents. Importantly, whereas a vibrant civil society ought to have the effect of reducing opportunities for extremists, the suppression of these rights through disproportionate or arbitrary intervention may be used by terrorists as part of the narrative of radicalization.

Participants acknowledged that implementing the principle of proportionality can be particularly challenging in conflict- or disaster-affected regions, where NPOs are more likely to come into contact with armed groups and terrorists. Although these situations may entail elevated risks of terrorist abuse or diversion, it is precisely in these settings that the consequences of a disproportionate response are most grave. In several workshops, participants engaged in a frank discussion about the impact of counterterrorism measures on principled humanitarian action in these settings. NPO participants in particular argued that counterterrorism financing laws should not criminalize the provision of humanitarian assistance. Applicable laws and policies should not be vague or overly broad and should aim to

facilitate, not inhibit, humanitarian action in crisis situations while safeguarding the sector against abuse. Participants underscored that governments and the sector share a common interest here: no one intends charitable action to benefit terrorists; all acknowledge the importance of aiding the victims of violence, terrorism, or humanitarian crises.<sup>12</sup>

In this regard, some participants offered several ways forward, permitting aid to needy civilians in conflict or disaster settings while minimizing the risk of diversion to terrorists. In some jurisdictions, government development agencies have established guidelines for locally registered NPOs working in these environments, requiring that they seek accreditation and demonstrate due diligence. In other jurisdictions, such procedures may include a licensing regime, allowing NPOs to act in certain regions after a review of their proposed operations and procedures. Still others have recommended providing in-kind aid and, to the extent possible, controlling the flow of financial aid to final beneficiaries. In countries where natural disasters have occurred, authorities have introduced special procedures for registering and monitoring foreign NPOs to facilitate the rapid delivery of aid while protecting against its diversion to terrorists.

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<sup>11</sup> See Lester M. Salamon, S. Wojciech Sokolowski, and Regina List, "Global Civil Society: An Overview," in *Global Civil Society: Dimensions of the Nonprofit Sector*, Vol. 2, ed. Lester M. Salamon et al. (Bloomfield, Conn.: Kumarian Press, 2004), pp. 3–60; Lester M. Salamon, "Putting the Civil Society Sector on the Economic Map of the World," *Annals of Public and Cooperative Economics* 81, no. 2 (June 2010): 187. Note that the definition of nonprofit sector utilized in this research is broader than the FATF definition of NPO presented above.

<sup>12</sup> For further discussion, see the forthcoming independent study commissioned by the UN Office for the Coordination of Humanitarian Affairs and the Norwegian Refugee Council, *Impact of Donors Conditions on Principled Humanitarian Action*.





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## IV. Building Relationships: Communication and Outreach

**P**articipants underscored the importance of communication for the purpose of raising awareness, consulting with partners and stakeholders, building consensus and understanding, and sharing knowledge and expertise. Communication is vital at four levels: within governments, across governments, between government and the nonprofit sector through consultation and outreach, and within the sector itself through professional networks and umbrella bodies.

### Interagency Communication

Just as variation among states' legal traditions gives rise to different legal approaches to regulating NPOs, participants described a wide range of administrative arrangements that are in place to regulate NPOs. Some states have a single, identifiable charities regulator, but other states delegate the tasks of regulating different types of NPOs to different agencies. In these states, it seems, standardizing regulatory practices (e.g., to implement the risk-based approach) can prove challenging. Without effective communication and cooperation among relevant regulatory bodies, interactions with other government agencies, international partners, and the nonprofit sector may be impeded.

As noted, government participants in the project meetings came from a range of different domestic agencies, beyond regulatory bodies alone. In some cases, participants reflected that these agencies had limited experience in interacting with each other directly, and they undertook to build more effective networks and channels for communication. Given the division of labor across relevant agencies—those with expertise pertaining to the sector may have little experience with terrorism financing and vice versa—internal communication is critical to the implementation of proportional, risk-based measures. This is particularly important when the task of suppressing terrorism financing has been primarily a matter for law enforcement agencies, i.e., where regulators have not been part of the counterterrorism financing response. In this regard, inclusion of regulators in domestic discussions about countering terrorism financing is an example of good practice.

More generally, participants described formal and informal methods to facilitate interagency communication. Often, governments have formed general counterterrorism committees or more-specific counterterrorism financing committees to facilitate coordination at the whole-of-government level. In some but not all cases, relevant agencies, including charities regulators, are represented on these committees, which often establish

points of contact and specific procedures through which communication can occur. Informal contacts among officials can also facilitate communication, especially where professional networks already exist. One specific good practice here is the facilitation by governments for training opportunities and even temporary reassignments among relevant agencies as a way of building and sharing expertise and developing contacts.

### **Information Exchange Among States**

Reflecting that the project brought together officials from different government agencies, participants detected some variation in practices of information exchange among states. For example, FIU officials noted that communication is often facilitated through the Egmont Group. Similarly, law enforcement officials have relatively well-established networks and procedures for sharing information, including mutual legal assistance arrangements, the use of which can be a long process, and less-formal channels for assistance.

One key finding of the process was that mechanisms for cooperation among regulators are underdeveloped. For example, points of contact have not been developed among regulators in many regions, and they often do not know their counterparts in neighboring jurisdictions or even which agency is the regulator. For this reason, some participants suggested that it would be useful to undertake a “mapping exercise” at the global level to identify relevant agencies. Indeed, participants in several meetings described a strong desire to enhance networks among regulators. Some countries, particularly with shared borders, have developed agreements for sharing information among regulators. In most regions, however, the forum in which the vulnerability of NPOs to terrorist abuse has been most discussed is FATF or the relevant FSRB, and regulators are not always engaged within these fora. A dedicated global network among regulators may permit a broader discussion of NPO issues in time, but specific functions in the near term should include undertaking a mapping exercise, identifying

and maintaining a list of points of contact for NPOs to consult on issues pertaining to relevant international standards, sharing information and expertise to assist FATF and other evaluators in assessing the implementation and effectiveness of Recommendation 8, and establishing a secure website to share information among participating states.

Participants noted several general challenges in sharing information at the international level. Among these is the sensitivity of some information and intelligence, which may be protected for security reasons, and the privacy issues related to sharing information with or from tax authorities. Participants noted the importance of reciprocity among governments, although they described a lot of variation in practice. Mechanisms including traditional forms of international cooperation, such as memoranda of understanding and mutual legal assistance treaties, are in place among some states and aid communication.

### **Consultation and Outreach Between Governments and the Nonprofit Sector**

Participants suggested that the volume and scope of consultation and outreach between governments and the nonprofit sector should continue to increase. Some countries have established good practices in this regard, including regular meetings that are open to the public, interactions with umbrella bodies, on-site visits, and the dissemination of information through websites and electronic media. A further good practice in this regard has been the direct engagement of the nonprofit sector by some states in undertaking the review suggested in Recommendation 8 and its Interpretive Note. Where reviews have been undertaken in collaboration with the sector, it has been an important step in building trust between the government and NPOs.

Across the regional workshops, NPO participants uniformly stressed the importance of clear, consistent, and actionable guidance from states to further mitigate the risk of terrorism financing. This should

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be a particular focus of outreach activities, including through the publication of typologies, case studies, and advice. NPO participants recognized the difficulties in sharing classified information regarding the threat of terrorism financing through NPOs, but they urged greater transparency nonetheless, noting that a more precise understanding of the risk to the sector will elicit more-effective responses.

Although the risk of terrorist abuse requires the development of opportunities for outreach in the near term, some participants observed that, over time, the dialogue between states and NPOs may encompass other issues of mutual concern. NPO participants noted the importance for symbolic and substantive reasons of seeking input from the sector in setting the agenda for all such interactions. Indeed, NPO participants urged that the sector should be directly consulted about regulatory changes that affect them. In other words, beyond simply “reaching out” to the sector, positive working relationships can be developed by allowing the sector to occasionally “reach in” to government policy deliberations. This approach would help build relationships of trust and confidence in emerging regulatory frameworks.

These points about communication between governments and the nonprofit sector were often contributed with the pragmatic acknowledgment that, in some regions, relations between the government and NPOs are tense or politicized. Participants cautioned that concern about the vulnerability of the sector to terrorist abuse should not exacerbate any such tension. Rather, participants often noted points of overlapping interest among states and NPOs and suggested that governments and the sector should “work together” as “partners” and through “dialogue” to address a common problem. This sentiment provides a useful basis for undertaking the kinds of consultation and outreach activities described here and for developing relationships of trust and mutual confidence between regulator and regulated.

A related point concerning communication between governments and the nonprofit sector pertains to

FATF and the mutual evaluation process. Several NPO participants perceived a variation in evaluation practices applied by different evaluation teams. Although accepting that some variation in this regard is perhaps inevitable, participants emphasized clarity and consistency in the administration of global standards to aid implementation and enable the dissemination of good practices. To address this concern, the specific good practice that evaluators endeavor to meet with regard to representatives of the nonprofit sector as part of their country visit was noted.

### **Building Knowledge Within the Nonprofit Sector**

A key finding of the project is the significant need for capacity-building assistance within the nonprofit sector itself, to raise awareness and disseminate information regarding the risk of terrorism financing and to build on existing good governance and accountability practices in the sector. NPO participants indicated that levels of knowledge in the sector are quite low regarding the FATF Recommendations and counterterrorism financing measures generally. Participants suggested that levels of understanding are perhaps better where there is some infrastructure for interaction among NPOs in a country or region, such as umbrella bodies. These bodies may also possess the capacity and expertise to disseminate information to the wider nonprofit sector and to undertake a dialogue with government on these issues. The project revealed that their efforts add value and should be supported in the future.

Similarly, at the global level, participants noted that professional networks among NPOs are often highly advanced but that they tend to cluster around operational issues, reflecting the multiple fields across which NPOs are engaged. The kinds of governance or business process-related issues at the core of the discussion about the vulnerability of NPOs to terrorist abuse have not attracted sustained attention within the sector until relatively recently. Several participants

noted that donors, who have a strong interest in NPO accountability, have been reticent to invest in building governance capacity within the sector, preferring to focus almost exclusively on programmatic activities. Investing in good governance among NPOs would yield the additional benefit of strengthening the sector against terrorist abuse, as discussed below.

dialogue ought to be trilateral to ensure that the financial sector can share its experiences and learn from those of other stakeholders.

## **Banks and Financial Institutions**

Beyond governments and NPOs, several participants commented on the importance of banks and financial institutions in this domain, whose decisions impact the nonprofit sector significantly. In handling international financial flows for NPOs, the degree and quality of risk mitigation measures utilized by banks and financial institutions necessarily affects the speed and ease of these movements. Representatives of financial institutions stated that their perception of risk was influenced by the approach taken by global institutions toward NPOs. Regarding the use of suspicious transaction reports (STRs) by banks and financial institutions, several participants noted that these bodies may lack expertise in making decisions about whether and how to file reports pertaining to NPOs. For this reason, participants suggested that more-specific guidance from governments or relevant regional and international bodies may facilitate more-effective and consistent practices regarding STRs.

Bank and financial institution representatives that participated in the meetings acknowledged that their role and responsibilities have changed over time, from more-passive monitoring and reporting to a more active posture in interdicting transactions. They urged a pragmatic understanding of banks' attempts to manage relationships with regulators and investigators and with their NPO clients. For example, they noted that, as profit-driven organizations, banks have traditionally defined risk more conservatively than mission-driven NPOs. A key finding of the project pertains to the importance of further dialogue in this area, but this

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# V. Exercising Oversight and Investigating Abuse

**E**ffective regulation is critical in preventing and disrupting terrorist abuse of NPOs. Participants concurred that there is no one-size-fits-all approach to regulating the nonprofit sector, and different jurisdictions have different legal systems and implementing agencies. Nonetheless, the regional workshops brought to light certain similarities in regulatory approaches, which can be categorized as registration and licensing, monitoring and supervision, and investigation, enforcement, and prosecution.

## Registration and Licensing

The Interpretive Note to FATF Recommendation 8 sets out that NPOs should be registered or licensed. Although definitions of those terms can vary across jurisdictions, participants agreed that criteria for registration and licensing should be transparent, consistent, and accessible. There are possible unintended consequences of overly stringent registration requirements, including loss of trust between government and the nonprofit sector and a hindrance of the NPOs' ability to operate. Such disproportionate regulation may lead NPOs to incorporate in other forms, such as for-profit companies, contrary to their objectives. It may also drive NPO activity underground, which undermines the ability of NPOs to operate and militates against the broader objectives of preventing terrorist abuse of the sector.

Registration provides the key opportunity to gather basic information about NPOs, as appropriate, and enables governments to improve their knowledge of the sector as a whole. Recall that implementing the risk-based approach is not possible without this baseline of knowledge. Relevant information to gather can include the purpose and objectives of the organization and the names of officers and trustees. Many countries utilize databases to collect and store this information. In some cases, these databases are made public to improve transparency about NPOs and their operations, a policy often welcomed by NPOs that seek to establish their legitimacy and good standing. Yet, other states lack the ability to develop and maintain databases. A key finding of the project is that improving the management of this information, including the construction of registry databases, is a capacity-building priority for many states.

Consistent with the risk-based approach and the principle of proportionality, there should be incentives for NPOs to comply with registration requirements and to maintain transparency in their operations. A principal benefit of registration for NPOs in many countries is tax-exempt status. Participants commented that NPOs often benefit from having registration and operational information made public, as it demonstrates good standing and bona fides to potential donors and beneficiaries alike.

## Monitoring and Supervision

States utilize a range of regulatory tools to monitor NPO operations. These can include the submission of annual financial statements, related reporting and record-keeping requirements, and accounting controls to ensure that funds are spent in pursuit of the stated objectives of the organization. Again, some NPOs make this information public to demonstrate transparency in their operations and improve public trust of the sector. Some states utilize on-site visits as part of their monitoring activities, providing opportunities for consultation and outreach alongside supervision. It was noted that monitoring and supervision needs to be calibrated on the basis of risk and will be different depending on the size and composition of the nonprofit sector in a particular jurisdiction.

Several participants commented on the use of auditors as part of monitoring and supervision activities. In general, participants noted that not all NPOs need to be audited but that this practice should be applied on the basis of risk. Similarly, although it seems that some jurisdictions define NPOs as “reporting entities” for the purposes of STR requirements, some participants noted that this may well be problematic and unnecessary. In many jurisdictions, NPOs are required to operate through the formal financial sector, and their transactions are therefore already subject to monitoring by financial institutions. It was also pointed out that NPOs are already regulated by other government agencies in most instances and that they may not be well equipped to respond to reporting requirements designed for financial institutions.

The competent authority responsible for monitoring and supervision can play an important role in the prevention of terrorism financing through NPOs by detecting and disrupting terrorist resourcing activities. This underlines the importance of good interagency cooperation and the involvement of all relevant actors.

## Investigation, Enforcement, and Prosecution

In the event that an alleged or possible case of terrorist abuse of NPOs emerges, participants generally noted the importance of conducting investigations and pursuing enforcement actions. The ability to investigate should be established by law. The financing of terrorism should be criminalized, and the legal authority to obtain evidence should be clearly elaborated. Good practice suggests that a division of labor be established among the various competent authorities, underscoring the importance of interagency communication. Within a government, rules about sharing classified information among multiple agencies should be considered. Thus, although legislation is necessary, it is not sufficient to ensure effective investigations.

In pursuing enforcement actions, many states distinguish between criminal and civil or administrative penalties. In some cases of noncompliance, the latter may be preferred. These include deregistration, removal or suspension of tax-exempt status, account freezes, trustee removal, and fines. In some countries, support for terrorism is an explicit ground to refuse or revoke charitable status.

Participants described further applications of the principle of proportionality in the context of enforcement actions. In some cases, the charitable activities of an NPO may be preserved while abuse claims are investigated and prosecuted. For example, some jurisdictions take targeted steps on a case-by-case basis to remove or replace rogue staff, rewrite governing documents, and freeze assets or allocate them to other charitable activities consistent with the objective for which the funds were raised.

Participants noted the difficulties faced by prosecutors in advancing cases of terrorist abuse of NPOs. In many jurisdictions, prosecutors elect to pursue cases under laws other than counterterrorism financing legislation, where experience may be more limited. Given the paucity of criminal cases that have been advanced to date, participants noted that building knowledge and expertise regarding NPOs through information sharing and interaction is a good practice. Participants



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added that prosecutions are not necessarily appropriate in each case of alleged abuse when a tactical intervention, such as disruption, may yield the desired result. Either way, a good practice noted among some governments is publication of investigation reports and related security alerts when possible and dissemination of any lessons learned to other stakeholders, including to the nonprofit sector through outreach activities.

### **NPO Perspectives: Good Governance, Reputation, and Self-Regulation**

Throughout the process, NPO participants underscored that the sector has a strong interest, indeed, a self-interest, in establishing and maintaining practices of good governance and sound financial management. After all, NPOs rely on donations, which are contingent in no small way on public and institutional perceptions about their integrity. In their programmatic activities, NPOs are used to being held accountable by the public through state regulations and filing requirements and by donors, which often require that organizations produce transparent and detailed accounts that are open to public scrutiny. Some donors arrange for their own auditing and employ professionals to undertake this work on their behalf. Many organizations also regularly undertake evaluations and utilize other performance measurement tools. For these reasons, some participants framed measures to prevent terrorist abuse of NPOs as being consistent with these broader objectives and existing practices, noting that they may yield a positive spillover effect for the sector. These accountability burdens are often met without the resources that may be available to the commercial sector, despite being potentially more onerous at times. At the same time, participants cautioned that mea-

asures to reduce vulnerability to terrorism impose further additional requirements and costs. Especially for small NPOs, where there is pressure to invest maximum resources in programming rather than governance and administration, support may be needed to comply with emerging counterterrorism financing controls. As mentioned, donors to this point have been hesitant to allocate resources to build governance capacity within the sector. Some participants urged reconsideration of that approach in light of growing regulatory demands.

In this regard, a key finding of the process has been the emergence and potential of self-regulatory mechanisms within the nonprofit sector.<sup>13</sup> Although there are different ways of defining “self-regulation,” the term generally means the “development and administration of common norms and standards of behaviour by and for [civil society organizations] that is not fully mandated by government regulation.”<sup>14</sup> More than 350 self-regulatory initiatives are operating across the world.<sup>15</sup> Such measures are often advanced through umbrella organizations of NPOs at the national or regional level and aim to enhance governance practices within the sector. These initiatives are at different stages in their development and cover different aspects of NPO governance and operations, but participants commented that they are important for two main reasons. First, the measures articulated through self-regulatory mechanisms overlap substantively in some cases with regulatory requirements imposed by governments. Therefore, NPOs participating in self-regulatory schemes may already have in place or may find it easier to adopt relevant measures to protect themselves against the risk of terrorist abuse. In this way, NPO experience with self-regulation may be a relevant consideration for other stakeholders in assessing risk. Second, beyond striving to improve governance standards within the nonprofit sector, self-regulation

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<sup>13</sup> On this trend, see Alice Obrecht, “Effective Accountability? The Drivers, Benefits and Mechanisms of CSO Self-Regulation,” *One World Trust Briefing*, no. 130 (July 2012), [http://oneworldtrust.org/publications/doc\\_download/497-effective-accountability-the-drivers-benefits-and-mechanisms-of-cso-self-regulation](http://oneworldtrust.org/publications/doc_download/497-effective-accountability-the-drivers-benefits-and-mechanisms-of-cso-self-regulation); Mary Kay Gugerty, Mark Sidel, and Angela L. Bies, “Introduction to Minisymposium: Nonprofit Self-Regulation in Comparative Perspective – Themes and Debates,” *Nonprofit and Voluntary Sector Quarterly* 39, no. 6 (December 2010): 1027–1038.

<sup>14</sup> Obrecht, “Effective Accountability?” p. 9.

<sup>15</sup> See *ibid.*; One World Trust, “A Database of Civil Society Self-Regulatory Initiatives,” <http://www.oneworldtrust.org/csoproject/> (accessed 19 May 2013).

has an important demonstration effect, signaling that the sector itself has an interest in establishing robust and transparent business practices. Governments and NPOs can be seen to have a shared interest in affirming good governance within the sector. For these reasons, building the capacity of the sector to regulate itself should be a consideration for donors moving forward.

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## VI. Future Directions

**S**ince the process commenced in January 2011, the themes discussed by project participants have appeared in other fora in various ways. For example, a recent statement by the President of the UN Security Council reflects that the council

recognizes the need for Member States to prevent the abuse of non-governmental, non-profit and charitable organizations by and for terrorists. The Security Council also calls upon non-governmental, non-profit, and charitable organizations to prevent and oppose, as appropriate, attempts by terrorists to abuse their status. The Security Council recognizes that terrorists sometimes abuse the non-profit status of organizations, including facilitating terrorist financing. As these abuses are addressed, the Security Council recalls the importance of fully respecting the rights to freedom of religion or belief and freedom of expression and association of individuals in civil society. In this regard, the Security Council takes note of the relevant recommendation of the Financial Action Task Force.<sup>16</sup>

The recent consultation and dialogue meeting between FATF and representatives of the nonprofit sector is welcome. Following up on an earlier commitment by

FATF President Bjørn S. Aamo of Norway, the objective of the meeting was to “stress the importance of ensuring that FATF Recommendation 8 on NPOs is not being implemented in a manner that disrupts or discourages legitimate charitable activity.”<sup>17</sup>

These developments demonstrate that the issue has continued to evolve. In order to maintain this momentum, a key finding of the project is that further substantive work will be needed, alongside a process to support it. Regarding substantive priorities, as the preceding discussion makes clear, the project yielded a range of ideas for advancing the effectiveness of measures to reduce the vulnerability of the NPO sector to terrorist abuse. Perhaps most importantly, having noted low levels of compliance with Recommendation 8 across the world, participants suggested that states require further guidance and expertise in order to undertake the reviews requested in the recommendation. Implementation would improve if specific practices reflecting the risk-based approach, in particular more-precise risk-assessment tools, were elaborated. In general, participants revealed a commitment to the risk-based approach and proportionality in principle but sought concrete guidance and assistance in translating them into laws and policies that comply with Recommendation 8.

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<sup>16</sup> UN Security Council, S/PRST/2013/1, 15 January 2013.

<sup>17</sup> FATF, “Consultation and Dialogue With Non-Profit Organisations,” 24 April 2013, <http://www.fatf-gafi.org/documents/documents/consultationanddialoguewithnon-profitorganisations.html>. For Aamo’s statement, see Bjørn S. Aamo, “Development of the Global Network and Other Key Elements of FATF Work Under the Norwegian Presidency,” 3 December 2012, <http://www.fatf-gafi.org/fr/themes/gafiengeneral/documents/developmentoftheglobalnetworkandotherkeyelementsoffatfworkunderthenorwegianpresidency.html>

Regarding the tasks of oversight of the sector and detection and investigation, participants identified a wide range of technical assistance and capacity-building needs. For many governments, technical assistance is required in order to improve implementation of Recommendation 8. Similarly, participants described numerous capacity-building needs among NPOs, suggesting that advancing governance procedures through umbrella groups and self-regulatory mechanisms holds promise as a response to concern about terrorism financing and enhances the robustness and reputation of the sector more generally.

These tangible steps could be taken in the short term. To support them, participants confirmed the need for ongoing dialogue at several levels. Within states, this may require the creation of new interagency working practices, procedures, and systems for identifying, monitoring, and investigating possible abuse. Across states, several participants identified the need for enhanced cooperation, especially among regulators, for whom there is no existing international mechanism with this purpose. Between governments and the nonprofit sector, further opportunities for consultation and outreach should be embraced, premised on the idea of partnership in confronting a common problem. Within the sector, there is a need to raise awareness about counterterrorism financing measures and to build capacity. Umbrella bodies should be utilized in this regard toward the broader goal of effective governance within the sector, drawing on emerging self-regulatory initiatives where possible. Banks and financial institutions warrant a seat at the table with other stakeholders given their crucial relationships with governments and clients in the sector.

In this light, the goals of protecting the nonprofit sector and preventing terrorist abuse will be advanced by extending the project meetings to additional regions while convening stakeholders at the global level as needed. These meetings will provide the kind of stable, informal platform necessary to support emerging work on the issue in other fora. As demonstrated, stakeholders can and should work together in order to realize their common interest in strengthening

and securing the sector from terrorist abuse, and development of a common understanding of sound practices to counter the risk of terrorism financing through the sector has begun. These achievements should be consolidated and extended to help make the world a safer and better place.



Photos from regional consultations conducted as part of the initiative.



CGCC is a nonprofit research organization that works to improve international counterterrorism cooperation and capacity through collaborative research and policy analysis. CGCC develops innovative counterterrorism programming and training and assists key stakeholders to develop sustainable solutions for preventing terrorism. CGCC is working to improve intergovernmental cooperation at the global, regional, and subregional levels; support community-led efforts to counter violent extremism; ensure respect for human rights and the rule of law; and empower civil society and victims of terrorism to speak out. As transnational threats evolve, CGCC is also working to foster a new generation of holistic, rule of law-based responses to organized crime and other forms of transnational violence.

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