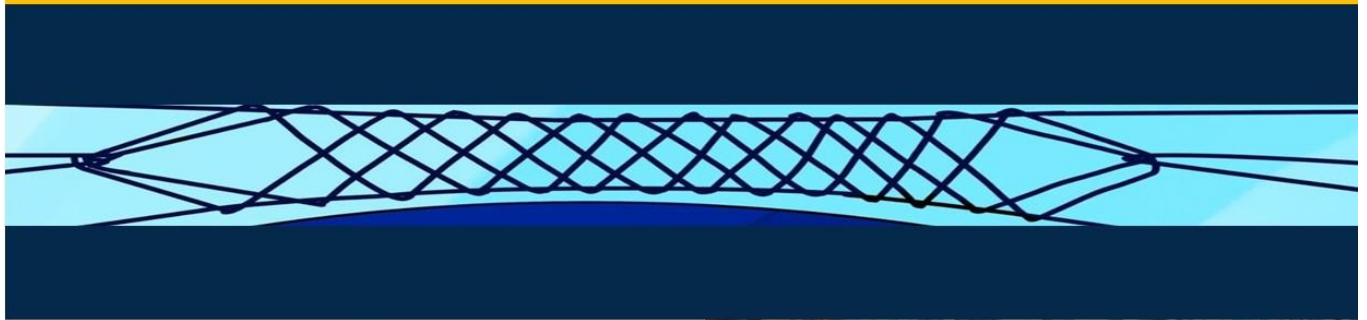




Republic of Nauru

**NON-GOVERNMENT ORGANISATIONS OR
NON-PROFIT ORGANISATIONS BEST PRACTICE GUIDE**



**Registrar of Associations
Financial Intelligence Unit**

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Introduction

The purpose of this *Non-Profit Organisation Best Practice Guide* (BPG) is issued to assist and guide all such organisations to conduct their activities in a lawful manner. The Government acknowledges and appreciates the work which Non-Profit Organisations (NPOs) provide in the national and international community, performing the much needed charitable, social, cultural, economic and moral support which helps our local, regional and global community to enrich their lives. This fundamental role of NPOs is the hallmark of their creation and establishment. This BPG endeavours to promote these activities and protect NPOs from being used by other persons for selfish or other unlawful use.

A non-profit organisation in Nauru operates as a ‘Non-Government Organisation’ (NGO) under the *Registration of Associations Act 2020*. The non-government organisations are also known as a NPO. In this BPG, NGOs are referred to as NPOs to also make it consistent with the reference made to these organisations in *Recommendation 8* of the FATF Standards.

What does this BPG provide?

This BPG serves as a guide for NPOs and provides:

- (a) the information relating to the lawful establishment and operation of NPOs;
- (b) the information to enable NPOs to consider how its operation are legitimate within the parameters of the laws and the instrument creating their existence;
- (c) the information on the registration and other requirements and the process by which the *Registration of Associations Act 2020* is implemented;
- (d) assistance with the implementation of *Recommendation 8* of the FATF Standards, while ensuring that NPOs continue to perform their vital role in Nauru;
- (e) information to enable NPOs to be able to prevent and mitigate terrorist financing or being abused by terrorists or terrorist organisations;
- (f) aid financial institutions in proper implementation of a risk-based approach when providing financial services to NPOs; and
- (g) assist donors to provide information, standing and credibility of NPOs in Nauru so that there is sufficient comfort for donors to provide grants, funding, donations or other forms of assistance.

Important legal requirements

(a) Registration of Associations Act 2020

Nauru's *Registration of Associations Act 2020* provides for registration of associations. *Section 12* provides:

'12 Requirement to register

- (1) *An eligible association shall apply for registration under this Act, prior to commencement of any of its activities.*
- (2) *A person shall not operate in the Republic as an association unless registered under this Act.'*

(b) Recommendation 8 of FATF

Nauru is also obliged under the Financial Action Task Force to implement the requirements of *Recommendation 8*. *Recommendation 8* provides as follows:

'Countries should review the adequacy of laws and regulations that relate to Non-profit Organisations which the country has identified as vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse, including:

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

(c) Interpretive Note for Recommendation 8

In the implementation of *Recommendation 8*, FATF has also provided a guide through an ***interpretive note*** which is useful for NPOs to ensure that they are not misused by terrorist organisations. The *Interpretive Note* provides a formula to achieve the objectives of *Recommendation 8* based on the following general principles:

- (a) the past experience and the prevailing abuses of NPOs by terrorists requires countries to:
 - protect NPOs against such abuse;
 - identify and take effective action against those NPOs that have been participating or capable of being used or are vulnerable to be exploited by terrorists or terrorist organisations;
- (b) the measures put in place by Nauru for administering the objectives for *Recommendation 8* is to promote and continue to enhance the role of NPOs in the society. However, the

legal administrative requirements put in place are to protect the NPOs from being abused by terrorist or terrorist organisations;

- (c) measures adopted by Nauru are to identify and take effective action against NPOs that are exploited or actively supporting terrorist or terrorist organisations with the aim to prevent and prosecute terrorism financing, terrorist activities and other forms of terrorist support by using NPOs as their agents. Nauru will take action reasonably to avoid negative impact on the innocent or legitimate activities or beneficiaries of charitable activities;
- (d) establishing and maintaining cooperative relationships between public and private sector and NPOs to raise awareness and foster capabilities to combat terrorist abuse within the NPOs. Nauru Financial Intelligence Unit (FIU) and the Registrar of Associations must continue with undertaking studies or research on the existence and operations of different types of NPOs to ensure that the innocent and legitimate operators are not harmed by terrorists or terrorist organisations. This includes providing information to NPOs of the activities of terrorists from time to time which affects the noble effort and willingness of NPOs to engage in selfless charitable work. FIU in this regard will form a credible and formidable partner to protect NPOs from being abused by terrorists;
- (e) in order to ensure that legitimate and beneficial charitable activities continue to be part of the support and assistance they provide in the community, Nauru has adapted a ‘*targeted approach*’ to deal with threats within the NPO operations; and
- (f) Nauru recently made it mandatory for all NPOs to register under the *Registration of Associations Act 2020*. This registration process is primarily designed to ensure that Nauru is able to organise all un-associated bodies which cannot be incorporated in any one or more forms of the existing legal entities.

Legitimate operations of NPOs is not a worry

The registration requirements of all associations is to give the entities a legal status. The granting of legal status itself legitimises their operations and capability in a legal framework. They become organisations registered to secure donor funding and other types of grants or gifts. Those objectives will not be affected by the implementation of *Recommendation 8* of the FATF Standards and the *Registration of Associations Act 2020*.

The implementation of *Recommendation 8* applies to NPOs which fall within the definition as ‘*primarily engaged in raising or disbursing funds for the purposes such as charitable, religious, cultural, educational, social or fraternal purposes or other types of ‘good works’*’.

Appreciating and understanding risks

Nauruan society has practiced charitable activities and providing beneficial support to the people since their existence. A NPO is a legal entity formed and operated for collective, public and social benefit. They do not operate to make profits or any profits made are re-invested into

its public and social benefit. NPOs have been in existence for a long period of time and have served very useful purpose for the benevolence of the community domestically or internationally. This was well before the FATF requirements came into force.

The reason for FATF requirements is that NPOs are utilised by terrorists or terrorist organisations to further their activities in terrorist or proliferation financing. NPOs have normally been given a flexibility under law for their operations.

In establishing the legal framework and implementing *Recommendation 8*, a risk exercise allows the identification and assessment of those NPOs which may be at the risk of abuse by terrorists or terrorist organisation.

The approach for understanding the risk requires the following:

- establishing the funding for all NPOs;
- identifying the executive officers of NPOs and particularly those who are living abroad; and
- the movement and utilisation of the funds of all NPOs.

The findings of the above enables the Registrar of Associations, FIU and other relevant entities including financial institutions to collate information and understand:

- (a) the size, type, scope, activities, location, donor base, cross border activities and financing;
- (b) those NPOs in Nauru which fall within the parameters of the *Registration of Association Act 2020* and FATF definition **collectively**; and
- (c) the terrorist financing risks facing the NPOs and determining the relevant laws, regulations, policies or administrative actions in place or may require further strengthening of such framework.

What are the risks of abuse?

The common risks of abuse of NPOs by terrorism are as follows:

- (a) NPOs in recruiting staff or volunteers have a scrutiny process to ensure that the terrorist or their agents are not recruited knowingly or unknowingly;
- (b) the diversion of funds from the objective and purpose of NPO by its head office or any other subsets is important. The diversion usually occurs when volunteers or staff are recruited with the support of terrorist;
- (c) avoiding the NPOs being abused for general logistic support for terrorist organisations. This is material when NPOs or the persons in control or management of the NPOs knowingly or unknowingly become agents for terrorists to provide logistic support for delivery or transfer of goods, services, terrorist weapons and so forth;

- (d) the programs of the NPOs are not abused at the point of delivery. NPOs are targeted for abuse of their programs, not at the time of establishing the program but the manner in which the program is delivered to the people;
- (e) the recruitment or voluntary acceptance of membership of the NPOs requires the NPO to put a surveillance program for background checking to avoid incorporating members who have support of, support the or become members of terrorist organisations; and
- (f) understanding the abuse of NPOs through wilful misrepresentation on the work of the NPOs. This enables the terrorists themselves to establish sham or shady NPOs and represent the activities of such organisation as part of '*good works*'.

How do NPOs mitigate risks?

Like any other organisation, the fundamental basic best practice is that it must have:

- (a) a vibrant organisational structure which is respected and practiced;
- (b) a transparent and good governance practice on the overall operations of the NPO;
- (c) a robust and accountable financial management, which includes surprise audits by independent auditors in addition to the annual reporting;
- (d) a procedure for reconciling of all payments made to persons particularly when payments are now made through electronic means;
- (e) establish and maintain due diligence with all the persons and organisations the NPOs are working with;
- (f) establish and maintain due diligence and where necessary to seek verification on all agencies which provide donations, grants or other forms of assistance to the NPOs;
- (g) a due diligence process requires establishing a number of practical steps by NPOs so that they:
 - are confident that the NPOs know the people and the organisations they interact and work with;
 - are assured of continuous funding for the NPO by legitimate sources;
 - have mechanisms to be able to identify and manage the risks discussed above; and
 - have mitigation mechanisms in place to immediately deal with those risks, and putting in place future preventative measures, where there are shortcomings in the legal or administrative framework of NPOs.

In mitigating the risks it is important that NPOs continue to have an internal risk analysis process in place to be able to identify and deal with risk appropriately. It must be noted that the nature and purpose of those risks are evolving. A NPO cannot apply a strait jacket approach to mitigate those risks. In saying that, in certain circumstances, the recurring and common risks must be clearly identified and evaluated on an ongoing basis.

Where the NPO is not able to analyse the risks, it should contact the FIU or the Registrar for assistance. It is the obligation of the FIU and the Registrar to provide the assistance without any charge in order to ensure that the NPO is able to operate free from any such illegitimate interference.

NPOs must know their donors – and any risk associated with them

Undoubtedly there are more credible and genuinely interested donors who have a common objective to ensure they are able to share their resources and finance to help those who need such assistance in our community. NPOs are used as a medium as they have a greater and easier access to those members of the community. With the requirements of *Recommendation 8* of the FATF Standards, one of the important things a NPO must take into account is from where and who they are receiving their money from. There are no restrictions on receiving such money. *Recommendation 8* only requires that NPOs ensure that their donors do not fall into the category of terrorists, terrorism organisation or in any way supporting terrorism. That is the narrow scope for which NPOs are required to monitor their activities for FATF Standards.

From the research undertaken for these purposes, some of the factors that may be important for a NPO to consider on assessing the risks associated with the donors are:

- (a) Who are the donors?
- (b) What is known about the donors through other sources?
- (c) Does the NPO have relationship with other organisations? It is important to check websites, Linked-In profiles for organisations or their management team and other external sources.
- (d) How the donors are transmitting funds to other recipients? Is it by Bank, cash, electronic transfers, money orders or by virtual currencies?
- (e) Has any reputable organisation done any assessment of the credibility of the donors?
- (f) Do the donors appear controversial in mass media publications including the blogs?
- (g) How large is the donation?
- (h) Is the donation in the form of a loan, grant or any other form of equitable support?
- (i) Is the donation a normal activity for the donor or is it a one off, very unusual donation?

- (j) Is the donation conditional on who it is to be given to?
- (k) Is the donation conditional upon the NPO applying through a particular organisation or individual to be successful in receiving the funds?
- (l) Is the donor using the donation process as a conduit or mechanism to fund money to third parties?
- (m) Is the donor stressing a particular currency to be used?
- (n) Is the donor unknown, anonymous or has kept its identity secret? The risk mitigation for this situation should be readily available to deal with such funding and ensuring that additional funding in future is also monitored.
- (o) Is the donation received from international, regional or other large charitable organisations? It is important to check the authentication of these entities as terrorists or terrorist groups may duplicate the identification marks such as the crest or trade names or marks for transmitting funds.
- (p) Is the donation coming from a country which is on a high-risk list?
- (q) Is there anything that the NPO may find unusual or strange about the donation?

It is recommended to the NPOs to consider some of these practices when assessing the risk of associating with the donors. It should be noted that all the information above may not apply to a donor. Nor is it for NPOs to begin rigorously scrutinising the existing and credible donor agencies. This risk assessment by NPOs will assist in the AML/CFT requirements for the FIU and other competent authorities. It will also help the financial institutions and the DNFBPs to undertake customer due diligence when dealing with such funds.

Assessing Geographical Risk of Donors

The FIU publishes a list of countries which form part of countries which the United Nations Security Council has recognised as high-risk countries. These high-risk countries are also listed by the FATF. This is a good guide to begin with.

It is also important to note that some countries have also assessed other countries to be falling in that high-risk category. Be that as it may, it is important for an NPO who are receiving donor funds for any particular foreign country to consider:

- (a) Countries subject to sanctions by United Nations or other international organisations;
- (b) Region where terrorist or terrorist organisations are commonly known to operate from;
- (c) Countries or regions which are known for having internal conflicts; and

- (d) Countries which are identified by the FATF or similar bodies as having weak anti money laundering, terrorism financing and proliferation financing laws. Also, these entities list countries where enforcement of these laws is minimal.

Where a NPO has any issues with a particular donation, it is always important to contact the FIU without disclosing the name of the donor. The country origin can be identified and the FIU will be able to assist the NPO on assessing whether the donation would be legitimate or other illegitimate purposes.

What are the best practices?

As NPO executives or dedicated members, the ultimate goal of a NPO is to provide the social, economic, moral and other support to the people. *Recommendation 8* of FATF does not deter or in any way limit the provision of those benevolent objectives. In order to continue with the objectives, a NPO must put in place the following which form part of ‘*best practice rules*’.

These are:

(a) Financial accounting

Financial accounting and maintenance of its records is a basic tenet of a transparent and accountable organisation especially when its purpose and objectives are charitable and benevolent. Fundamental to this is establishing a budget which clearly outlines the income and expenditure. The budget must provide income from various sources, expenditure on NPOs operations separately, monies expended or given for the objective purpose of the NPO, recording of the recipient details where possible and more so those who repeatedly seek assistance and record keeping of all operational and financial matters.

This will make the NPOs work transparently and more so for purposes of *Recommendation 8*, any diversion of funds should be detected at its earliest.

(b) Financial activity must be through regulated bodies

For the purposes of analysing and evaluating the operations of any entity as to its finance, it requires one to ‘*follow the money*’. Every NPO must have a bank account from which monies to be paid out or received into. Any bank or financial institution which the NPO uses must be established in accordance with the law. The reason for using a legitimate entity for financial transaction purposes is that such organisations are already subject to other laws for transparency and accountability. If any irregular activities happen, the financial institutions will be the first to discover it and advise the NPO. For example, any unauthorised withdrawal of money from the Bank or unusual deposit to the Bank will also be picked up and reported to the entity and the respective Financial Intelligence Unit or Authorities.

(c) Verification of NPO activities

In Nauru the NPOs activities are limited and narrow. However, the association of NPOs with other NPOs or related bodies from other jurisdictions exposes a domestic NPO to the risks. One of the risks is that the activities of the NPO may go beyond the objectives and purpose of the establishment.

A periodic review system and auditing of the activities of NPOs are key to ensuring that NPOs are not used by any person including its own staff or the management for any illegitimate purposes or terrorism.

(d) Disciplining of Members

Deterrence is one of the important means of ensuring that everyone complies with the rules. Whilst the management and staff of a NPO may be subject to internal staff disciplinary rules, normally it is the members who may remain unregulated. It is important that the instruments creating the NPO must make provision for circumstances in which members may be suspended or removed. In implementing this it must include a paragraph which deals with member acting unlawfully or failing to comply *Recommendation 8* of FATF.

(e) Audited financial accounts

NPOs are generally complying with the requirements for auditing. This is largely related to a pre-requisite to ensuring continuous support from the source of funding. In auditing the accounts, the NPO must bring to the attention of the auditors to also identify and check any irregular financial transactions. Auditing is a process by which a NPO will be able to identify, manage or mitigate any risks or abuse of funds.

(f) Funding

NPOs exist because of their source of funding and ability to continue to receive such funding. These come in forms of donations, gifts, grants or other means. All such donations have a common purpose of furthering the objectives of the NPO.

In soliciting funds from any organisation, NPOs must clearly state the object and purpose of such funding. Where funds are received, it is an obligation on the NPO to ensure that those funds are used for the very purpose on which they were sought. It is important that the donors are provided the details of the utilisation of funds. It can be done directly or even publishing the activities of the NPO for the general public.

The *Registration of Associations Act 2020* requires the associations to provide annual reports. All these activities are to be recorded properly in the annual reports so that it gives more transparency and even comfort for the donor agencies to continue to or provide additional funds for NPOs.

It must be noted that legitimate donor agencies are aware of the requirements of *Recommendation 8* of the FATF. Therefore, it is prudent for a NPO to ensure that they contain a special paragraph or note in the annual report or any other form of reporting on how it has been able to meet the requirements of *Recommendation 8*.

(g) Foreign operators

The *Registration of Associations Act 2020* allows for the registration of foreign NPOs. These organisations once registered certainly are cross-border issues. Currently the domestically registered NPOs do not have operations or other branch offices in countries outside Nauru. However, the domestically registered NPOs have associations with donors and possibly other organisations outside of Nauru.

The risk of foreign operations or for that matter foreign NPOs in Nauru with head offices in other countries exposes the NPOs to cross-border issues, movement of cash and other logistics. They are susceptible to be abused by terrorists or terrorist organisations.

The best practice rule for all NPOs dealing with foreign persons, organisations or entities to maintain a register of those. This is necessary so that any change of staff or volunteers may result in them disseminating information of the NPO. This in turn can result in the information falling into the wrong hands, including terrorists and terrorist organisation. The historical information can be the basis for dealing with these foreign entities. Normally, it is anticipated that when there are change of staff, intruders can intervene.

It must also be noted that in the enforcement of *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*, *Counter Terrorism and Transnational Organised Crime Act 2004* and *Proceeds of Crime Act 2004*, the Government has bilateral or multilateral mutual assistance agreements with other Governments or bodies. FIU has similar agreements with other FIUs or bodies monitoring financial intelligence. Therefore, any cross-border activities are also subject to surveillance and scrutiny by the relevant or competent authorities.

(h) International administrative and policy controls

The *Registration of Associations Act 2020* expressly requires the registration of the executives of the NPOs. The executive of the NPOs includes the board of directors and senior management team.

As part of greater accountability and transparency to ensure that NPOs are not abused by terrorists or terrorist organisations, it is important that the directors or the senior

managers are given a clear policy guideline. For that purpose, specific administrative, managerial or policy controls of all NPOs are to be expressly provided for. The instrument creating the NPOs or the constitutions must clearly outline the duties of the directors to act with due diligence and care so that the welfare of the NPO always remains financially healthy and ethical. The fiduciary obligations of the directors must be clearly explained. Also, regular board meetings of directors require the directors to prepare and contribute positively to the organisation. Where there is any suspicion of any unlawful activity or invasion by terrorist or terrorist activities the directors should act with due diligence and probity. Clearly an ignorant, absent minded or a person who lacks interest in the NPO is not suitable for such positions. The reason is that decisions are democratically made by the majority. That majority shall not constitute silent members.

(i) Directors, Executive, Board or Senior management staff responsibilities (Management Team)

The Management Team's obligations and responsibilities are as follows:

- to the NPO and its members to ensure there is finance for the organisation which is utilised for the objects and purpose of the NPO;
- to the donors, clients, recipients, suppliers, the directors must have familiarity with all of them, they interact with;
- to familiarise with the Government agencies which affect the work of NPOs or regulate NPOs such as the Registrar of Associations, FIU, Nauru Police Force and others;
- to identify each member of the board and senior management staff;
- to ensure that the board meets regularly;
- the proceedings and the deliberations in the meetings are taken down as minutes including the resolutions passed for action;
- to ensure a balance is appropriately drawn between the operations of the NPO and actual spending for delivery of their charitable and benevolent objectives and purposes;
- to ensure that the appointment of Management Team are made in accordance with the constitution of the NPO;
- to ensure that where a donor or funding entity which uses the NPO to deliver certain services to the people are undertaken with care. A proper acquittal of the finance, resources and services delivered is given to the donor funding agent and records kept and maintained;

- to ensure that the accounts of the NPO are properly audited;
- to ensure that the reports of Financial Crime Compliance Officers under the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023* are acted upon by the board or senior management officers;
- to ensure that the requirements of the *Registration of Associations Act 2020* as to Key persons are complied with. Under the *Registration of Associations Act 2020* key persons are regulated. A key person is defined as ‘a person who is in charge of or controls the operations of the association other than the executive itself’.
- to ensure that the NPO complies with the requirements of any written law and also *Recommendation 8* of FATF; and
- as a general rule to maintain transparency on all aspects of the activities of the NPO to the members, donors and the recipients.

(j) Obligation to familiarise with legal and administrative obligations of NPOs

The board and senior management must where necessary seek assistance to educate themselves as well as the staff members or volunteers to understand the legal requirements for the existence of the NPO. In particular, training should also focus on the potential abuse of NPOs by terrorist or terrorist organisations for the purposes of furthering the objectives of the terrorist of such organisations.

The NPOs can request the Registrar of Associations, FIU and also the Banks to assist them by seminars, workshops or other arrangements so that the board, senior members and its staff are adequately trained to run the operations of the NPO. When requested, the respective authorities should assist the NPOs to raise and deepen awareness of terrorist financing abuse, terrorist financing risks and the measures NPOs can take to protect themselves against such abuse; *Recommendation 8.2(b)*.

Financial crimes compliance officer

The NPOs are registered as associations under the *Registration of Associations Act 2020*. *Section 20* of the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023* requires a reporting entities to appoint an individual to be a financial crimes compliance officer. The officer’s responsibility under *Section 20(2)* are:

(a) to administer and maintain the reporting entity’s AML/CFT compliance programme;

(b) to serve as the FIU’s primary point of contact within the reporting entity;

- (c) *such other functions as may be assigned by the reporting entity to comply with the requirements of this Act or any other written law; and*
- (d) *to ensure the reporting entity complies with the requirements of AML/CFT and this Act.'*

The officer appointed must comply with the requirements under *Section 20(3)* which provides that the officer must:

- '(a) be a member of the senior management of the reporting entity;*
- (b) have a right of direct access to the directors or the managing board of the reporting entity;*
- (c) have sufficient time and resources to properly discharge his or her functions in relation to compliance of the requirements of financial crimes; and*
- (d) act independently in carrying out his or her functions.'*

The reason for the officer is to ensure that the officer is able to carry out investigations and examine the activities of NPOs independently. Also ensuring that NPOs are not exploited by or actively supporting terrorist activities or terrorist organisation; *Recommendation 8.5(b)*.

The Officer should also be able to generate *Suspicious Activity Reports*. The Officer would be overseeing the compliance of the NPO in accordance with the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*.

Availability of information and information sharing

It is the responsibility of the board and senior management staff to ensure that there is both horizontal and vertical sharing of information within the NPO. In doing so, all such persons having custody or control of the information or become privy to the information because of the sharing of the information to maintain confidentiality particularly from information being leaked outside the NPOs.

Information sharing is the hall mark of ensuring that the NPOs working within its legal parameters. The information sharing should also be used for the purposes of rectifying any possible breaches or non-compliance with the laws or FATF Recommendations.

Targeted risk based supervision

Following from the above, the respective competent authorities will be investigating or monitoring compliance of NPOs with the requirements of Recommendation 8. This monitoring will be risk-based. Risk-based measures which apply to NPOs are defined in the AML/CFT. It means the *'identification, understanding and assessment of AML/TF risks to which they*

[NPOs] are exposed and take AML/CFT measures commensurate to those risks in order to mitigate them effectively’.

In the case of NPOs risk-based assessment is to ensure that NPOs are not at risk of terrorist financing abuse.

One of the consequences is that the respective authorities are also empowered to impose proportionate and dissuasive sanctions for violation by persons or those acting on behalf of those NPOs. The range of sanctions include freezing of accounts, removal of trustees, directors or Management Team, fines, cancellation of registration or suspension of registration.

These administrative sanctions are not the only sanctions available. The sanctions can also be by way of civil proceedings or criminal proceeding in respect of the NPO.

Duty of NPOs to inform competent authorities of suspicious activities

A NPO must report to the FIU, Nauru Police Force or even the Registrar of Associations where it has suspicion or reasonable grounds to suspect that the NPO:

- is involved in terrorist financing abuse;
- is involved with fundraising by a terrorist organisation;
- is exploited by a conduit for terrorist financing;
- is used for escaping asset freezing measures or other forms of terrorist support;
- is used for concealing or obstructing the clandestine diversion of funds intended for legitimate purposes; and
- is used as a conduit for channelling legitimate funds for the benefit of terrorist and terrorist organisations.

The NPO must also implement its risk management and mitigation tools to prevent the NPO being used for that purpose. It should encourage and participate in investigative action or preventative action itself or even by involvement of competent authorities.

Checklist

NPOs are recommended to develop and implement sound internal governance, accountability procedures, financial controls, transparent reporting, risk evaluation and management systems, independent internal compliance officer, regular monitoring of the activities of the NPO, annual reports and annual auditing to ensure that it protects itself from any kind of invasion, intrusion or allegations of money laundering or financing and supporting terrorism.

For this purpose, a *Checklist* is attached to the BPG, as a quick guide for a NPO to assess its operations, risks and mitigating strategies.

Record Keeping

Nauruan law requires all NPOs to keep and maintain their records during the currency of the NPO. The reference to ‘*keep and maintain*’ means that the information kept must be recorded properly and when new information is available it must be updated on a regular basis.

It is a requirement that updated information is to be provided to the Authority and in particular circumstances case also the FIU.

Additionally, FATF *Recommendations 8 and 11* requires that all records of the NPOs are to be kept for 5 years even if the NPO be dissolved or ceases operation. Nauru requires that all records are to be kept for a period of 7 years. The limitation period under the *Limitations Act 2017* has a limitation period of 6 years.

Conclusion

This BPG is to assist NPOs to register and those which are registered continue to improve on their administrative and legal existence, operations and capability. The BPG does not override the requirements of the written laws of Nauru or *Recommendation 8* of the FATF Standards.

The implementation of *Recommendation 8* of FATF and its Interpretive Note is to promote accountability and integrity and confidence to the NPOs. The best practices discussed above are not exhaustive but are evolving at all times. With the advancement in technology, the objective of NPOs should become as transparent as possible. It also must have mechanisms to be able to immediately trace and have mitigation measures in place to ensure that terrorist do not use the NPO for terrorist financing or other terrorist activities.

CHECKLIST

| | |
|--|---|
| Activities | ✓ |
| Is the NPO aware of the <i>Anti-Money Laundering and Targeted Financial Sanctions Act 2023</i> ? | |

| | |
|--|--|
| | |
| Is the NPO aware of the background of the board members, employees, financiers, volunteers which includes their affiliates and associates? | |
| Is the NPO aware that FIU provides assistance and guidance to NPOs? | |
| Is the NPO aware that the Registrar of Associations and the staff provide regular assistance and guidance to NPOs? | |
| Is the NPO aware that there are meetings held by the Registrar of Associations, its staff and NPOs? | |
| Is the NPO receiving or spending money through non-regulated financial institutes? | |
| Is the NPO aware that it should have a bank account and all transactions be carried out through the bank account and appropriately recorded? | |
| Is the NPO aware as to who uses the facilities of the NPO and for what purpose? This includes meeting facilities, name, credit cards, telephone, letterheads and websites. | |
| Is the NPO regularly does verification for its donors? | |
| Is the NPO aware of a list of high-risk countries for anti-money laundering, which list is published by the FIU for public information? | |
| Is the NPO aware of the ultimate control or on whose behalf any projects are undertaken by the use of NPOs money and resources? | |
| Is the NPO aware who is benefiting from its money and resources? | |
| Is the NPO aware of cross border partners in delivering the work it is doing and the affiliations or association of the other organisations? | |
| Is the NPO keeping these records for a period of 7 years? | |
| Is the NPO aware that its registration needs to be updated and renewed every 12 months? | |
| Is the NPO aware that it is required to register any changes to its structure or personnel under the <i>Registration of Associations Act 2020</i> ? | |
| Has the NPO appointed a designated Financial Crime Compliance Officer? | |
| Is the NPO aware that the Financial Crime Compliance Officer is responsible for overseeing the compliance by the NPO of all the laws and FATF Recommendation? | |
| Does the NPO keep the agreements with its donors, recipients covering the activities it undertakes and how the NPO will monitor and account for the same? | |

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| Does the NPO know that it is subject to compliance with the requirements of Recommendation 8 of the FATF Standards? If not, NPOs should take immediate training or guidance from FIU. | |
| Does the NPO allow the senior officers to report on suspicious activities and transactions relating to money laundering or terrorist financing to the FIU? | |
| Does the NPO allow its senior officers to keep record of all suspicious transactions? | |
| Does the NPO inform its staff to ensure that they receive AML/CFT training as required by the Registrar? | |
| Does the NPO inform the staff of the requirements of confidentiality of certain information? | |
| Does the NPO require all its staff to disclose any previous convictions in relation to dishonesty offences or anti money laundering or targeted financial sanctions offences? | |

This Guide is issued jointly by the Authority and the Supervisor of the FIU. The contact persons are:

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