ANTI-MONEY LAUNDERING/COUNTERING THE FINANCING OF TERRORISM (AML/CFT)

GUIDELINES

FOR

NON PROFIT ORGANIZATIONS (NPOs)

2018

(REVISED VERSION)

CONTENTS

1 INTRODUCTION

1.1 Background

The changing trends and pattern of Money laundering (ML) and Terrorist Financing (TF) is a major global concern. The recommendations of Financial Action Task Force (FATF)[1] and the resolutions passed by the United National Security Council (UNSC) are aimed at handling ML/TF issues across the globe.

In money-laundering schemes, the funds come from illegal activities and are injected into the legal economy using numerous techniques and vulnerable sectors of the economy. In relation to terrorism, the funding may be derived from criminal activities and origins, but also from legitimate sources or origins. The main concern is to identify those sources so as to combat ML/TF.

Like other regulated entities in the financial and corporate sectors, Non Profit Organizations (NPOs) are not immune to ML/TF abuses. An NPO is an organization which is not driven by profit but by dedication to a given cause. NPOs have remained in focus considering their inherent risk of money laundering and terrorist financing. Many instances locally and worldwide have revealed terrorist abuse of NPOs to raise and move funds, provide logistic support, encourage terrorist recruitment or otherwise cultivate support for terrorist organizations and operations. Terrorist elements also try to exploit every system from where they can collect money and fund their terrorist activities, including corporate sector.

1.2 The Financial Action Task Force (FATF) and its Recommendation for NPOs:

FATF is an inter-governmental body, established by the G-7 Summit in 1989, with the mandate to combat Money Laundering and Terrorist Financing. FATF is also responsible for:

a) Developing and refining international standards for combating ML/TF;
b) Assessing and monitoring its Members through peer reviews;
c) Engaging with high-risk jurisdictions in their national regimes;
d) Assisting jurisdictions in implementing United Nations Security Council's (UNSC) Resolutions

[1] http://www.fatf-gafi.org/

The UNSC requires all Member States to implement FATF's AML/CFT Recommendations. Pakistan is a member of Asia Pacific Group (APG)- a FATF Styled Regional Body, and is required to adopt FATF standards as per membership obligations and also to comply with the UN Resolution.

FATF has issued a set of 40 recommendations to assess regulatory framework and 11 Immediate Outcomes to assess effectiveness, which are widely endorsed as the international standards for AML and CFT[2]. FATF defines an NPO as "*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*".

FATF Recommendation 8 is reproduced as under:

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

(a) by terrorist organisations posing as legitimate entities;

(b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and

(c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations."

In view of the diversity of the NPO sector, the recommendation does not classify all NPOs as high risk but advocates application of targeted oversight and regulation of NPOs identified as high risk. It advises against application of a "one-size-fits-all" approach for supervision and monitoring of NPOs.

FATF recommends increased transparency within the non-profit sector and the implementation of a regulatory scheme that includes NPO sector outreach, sector monitoring, effective intelligence and information gathering, and the establishment or strengthening of cooperative relationships between relevant regulatory and law enforcement agencies. In addition, FATF advises countries to encourage the non-profit sector to:

- adopt methods of best practice with respect to financial accounting, verification of program specifics, and development and documentation of administrative, and other forms of control;
- use formal financial systems to transfer funds; and
- perform due diligence and auditing functions of partners and field and overseas operations respectively.

[2] http://www.fatf-gafi.org/publications/fatfrecommendations/

FATF has also issued various reports and detailed guidance to help prevent the NPO sector from the abuse of terrorist financing[3].

1.3 Legal Framework for NPO Sector

Currently, different laws are applicable to regulate the NPOs sector at federal and provincial level. The NPOs are mainly registered and regulated in Pakistan under the following laws:

- The Companies Act 2017
- The Societies Registration Act, 1860.
- Voluntary Social Welfare Agencies (Registration and Control Ordinance), 1961
- The Trusts Act, 1882.
- The Charitable Endowments Act, 1890.
- Local Government Ordinance, 2001
- The Cooperative Societies Act, 1925
- The Religious Endowment Act, 1863
- The Punjab Charities Act 2018

From a regulatory perspective, NPOs in Pakistan can be classified into following distinct categories:

- Incorporated NPOs under Companies Act, 2017
- NPOs registered under provincial laws
- International NPOs/INGOs (International Non-Governmental Organizations)
- Unregistered Charities

Keeping in view the gravity of the ML/TF issues at the global level, Government of Pakistan has taken various legislative measures to strengthen the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) regime in Pakistan. To mitigate ML/TF risks in respect of NPOs under its regulatory purview, the Securities and Exchange Commission of Pakistan (SECP) has also issued the Associations with Charitable and not for Profit Objects Regulations 2018[4].

1.4 National Initiatives for combating Money Laundering & Terrorist Financing:

- Pakistan is a member of the **Asia/Pacific Group** (APG), a FATF-Style Regional Body. APG assess Pakistan's efforts to combat money laundering and terrorist financing.

[3] http://www.fatf-gafi.org/publications/fatfgeneral/documents/terroristfinancing.html
[4] https://www.secp.gov.pk/document/association-with-charitable-and-not-for-profit-objects-regulations-2018/?wpdmdl=31768

- The **Anti-Terrorism Act ,1997**[5] is the country's main legislation governing prosecution of terrorism. The Act covers terrorism, financing of terrorism and preventive measures for combating terrorism in the form of proscription of individual and organization under section 11EE and 11B.

- **Financial Monitoring Unit (FMU)** was established in 2007, designated as a central agency in Pakistan in the fight against money laundering and terrorist financing. FMU has a key role to receive, analyze and disseminate financial intelligence to detect ML/TF by designated law enforcement agencies. (www.fmu.gov.pk)

- Pakistan has introduced various legislations to combat ML/ TF, including enacting the **Anti Money Laundering Act, 2010.** The Act was promulgated to provide for prevention of money laundering, combating financing of terrorism and forfeiture of property derived from such activities.[6] The **AML Regulations 2015** have been issued under the Act[7].

- The **Companies Act, 2017** also casts a duty on every officer of a company to endeavor to prevent the commission of any fraud or offences of money laundering including predicate offences[8].

- SECP has established an **Anti-Money Laundering (AML) Department** to effectively address any potential of money laundering within the capital markets, Insurance, the NBFCs and the not-for-profit corporate sector.

- SECP has issued detailed Regulations titled '**Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018**' which are available at https://www.secp.gov.pk/document/anti-money-laundering-and-countering-financing-of-terrorism-regulations-2018-amended/?wpdmdl=33411.

- SECP has prohibited all officers of companies from providing any assistance or funding including charity/donation to the entities and individuals contained in the list of proscribed organizations updated by National Counter Terrorism Authority (NACTA), in terms of **SRO 31(I)/2018 dated 12th January, 2018**[9].

- A National Risk Assessment on Money Laundering and Terrorist Financing was recently updated by the Government, aimed to identify the key threats, vulnerabilities and consequently the risks associated with money laundering terrorist financing in Pakistan and to highlight the way forward for the relevant departments, agencies and institutions

[5] http://www.molaw.gov.pk/molaw/userfiles1/file/Anti-Terrorism%20Act.pdf
[6] http://www.fmu.gov.pk/docs/laws/Anti-Money%20Laundering%20Act%202010-As%20amended%20upto%20May%202016.pdf
[7] http://www.fmu.gov.pk/docs/AMLRegulations2015.pdf
[8] https://www.secp.gov.pk/document/companies-act-2017/?wpdmdl=28472
[9] https://nacta.gov.pk/proscribed-organizations/, https://nacta.gov.pk/proscribed-persons/

to plan proportionate actions to mitigate the identified risks. This was followed by a National Inherent Risk Assessment on ML/TF.

1.5 Target Audience

These Guidelines are primarily aimed to assist the following stakeholders:

- All NPOs licensed under section 42 of Companies Act, 2017
- Others NPOs registered under different Provincial laws
- Regulators of NPOs
- Supervisors of NPOs
- Civil society

1.6 Objectives of Guidelines

- To assist NPOs licensed and registered as Associations not for profit under section 42 of the Companies Act, 2017 by serving as a tool for prevention from ML/TF abuses.
- To assist NPOs registered under other laws by suggesting policies, procedures and internal controls to comply with the AML/CFT framework, to the extent these are not in conflict with their enabling laws and international best practices.
- To guide NPOs in developing a risk based approach and to re-evaluate or strengthen their internal controls to guard against the manipulation of funds or exploitation or diversion of non- profit charitable activity into terrorist activity or their support networks.
- To facilitate NPOs create awareness amongst their employees, and amongst other stakeholders to the extent possible, regarding the best practices contained in these guidelines and other AML/CFT obligations as per the prevalent law.
- To complement enhancing the level of understanding about the due diligence with respect to AML/CFT in the NPO sector
- To improve country's outlook by encouraging increased adherence to the AML and CFT standards set internationally

2. UNDERSTANDING TERRORIST FINANCING RISK INCLUDING TRANSNATIONAL TF RISK

2.1 Introduction and Key Concepts

The National Risk Assessment (NRA) is a government-wide activity undertaken to develop risk-based anti-money laundering and countering the financing of terrorism (AML/CFT) actions and facilitate allocation of available resources to control, mitigate, and eliminate risks. An ML/TF risk assessment is a product or process based on a methodology, agreed by those parties involved, that attempts to identify, analyse and understand ML/TF risks. The FATF issued guidance on ML/TF risk assessment in 2013.

Ideally, a risk assessment involves making judgments about threats, vulnerabilities and consequences. Risk can be seen as a function of three factors: threat, vulnerability and consequence.

- A **threat** is a person or group of people, object or activity with the potential to cause harm to, for example, the state, society, the economy, etc. In the ML/TF context this includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML or TF activities.
- **Vulnerabilities** comprise those things that can be exploited by the threat or that may support or facilitate its activities. In the ML/TF risk assessment context, vulnerabilities means looking at the factors that represent weaknesses in AML/CFT systems or controls or certain features of a country, or the features of a particular sector, a financial product or type of service that make them attractive for ML or TF purposes.
- **Consequence** refers to the impact or harm that ML or TF may cause and includes the effect of the underlying criminal and terrorist activity on financial systems and institutions, as well as the economy and society more generally.

2.2 Pakistan National Inherent Risk Assessment on Money Laundering and Terrorism Financing

In continuation of the risk assessments conducted earlier, National Inherent Risk Assessment (NRA) 2019 on Money Laundering and Terrorist Financing was undertaken to get an insight into threats, vulnerabilities and risks associated with money laundering and terrorist financing in Pakistan, as well as to highlight the way forward for national stakeholders to plan actions to mitigate the risks. The NRA 2019 more specifically highlights the inherent risk of terrorism and TF threats that Pakistan is facing. This updated assessment necessitates the review of existing policies and procedures for all concerned institutions in the light of the updated risk environment. It focused on inherent ML/TF risks and vulnerabilities assessment instead of residual risk. Inherent risk refers to ML/TF risk prior to the application of AML/CFT controls.

The NRA acknowledged that the NPO sector is a key mechanism for redistribution of economic resources on a voluntary basis and for provision of assistance to those most in need, besides fulfilling a range of positive cultural, religious, educational and other social purposes. While recognizing the vital importance of the NPO community in providing charitable services around the world, as well as the difficulty of providing assistance to those in need, often in remote regions, NPOs can also be misused by terrorist organziations. Accordingly, the ultimate objective of NPO regulation is to enhance the transparency of the sector- the people in charge of NPOs, their sources of funds and particularly the way those funds are spent.

In order to undertake the assessment of NPOs at risk of TF abuse, it was imperative to obtain comprehensive NPO data at the national level. For this purpose, details of NPOs registered with various authorities at the federal level and in each province were collected. In view of the large number of provincially registered NPOs, a bifurcation of functional vs. non-functional NPOs was made through district intelligence committees formed for the purpose. This exercise revealed that a large number of registered NPOs was not operationally active, which were deregistered by the provincial authorities.

Major findings of the NRA in respect of NPOs include the following:

- More than half of the functionally active NPOs in Pakistan fall under the FATF defined NPOs as they are involved in service-type activity, and are also involved in raising or disbursing charitable funds.

- Overall, a large segment of the NPO sector is seen as having a significant inherent vulnerability for TF. Given the significant TF threats in Pakistan, the overall TF risk is also very significant.

- The NPOs rely on cash collections and street donations and also solicit funds from other countries and international development agencies. They often process large amounts of cash and some of them may regularly transmit funds between different regions and countries.

- Pakistan-based proscribed and UN-designated organizations had solicited funds from charities and undertook fund-raising domestically and from abroad including through social media for social welfare activities in Pakistan or abroad. Such entities may pose outgoing transnational TF threat under the garb of social/ welfare activities abroad.

- Besides federally and provincially regulated NPOs and INGOs, there is a large number of unregistered charities operating in the country whose exact number is not known. Despite less resource availability or access to funding from formal sources, they may pose greater risk if they have links with international terrorist networks or UN listed entities, or their associated entities. Therefore, unregistered NPO were assigned high risk in NRA.

- The NRA also cites reference to a World Bank's research study[10] in terms of which NPOs can be divided into "complicit" and "exploited" for terrorist financing purposes. While the former willingly function as a front for terrorist organizations, the latter are abused. Charities, through acts of omission or commission, may become a part of this funding effort, and money may be transferred through international channels to terrorist groups.

- The abuse of NPOs for TF purposes continue to pose a significant threat, both domestically and externally. The NRA highlighted that domestically, front NPOs of designated persons and entities were identified and subsequently proscribed under ATA-1997. A front NPO acting for or on behalf of designated or proscribed entities or persons pose the same level of risk from TF perspective.

- Some NPOs also receive donations from other countries and this makes these NPOs more vulnerable to TF, particularly when originator or beneficiary entities of such funds have links with designated/ proscribed entities or persons.

Besides the aforesaid findings, the NRA also highlighted the consequences of money laundering, terrorist financing, predicate crimes and other abuses on the NPO sector in the country, as summarized below:

- Recognizing that NPOs often operate on limited budgets and rely on government funding, charitable donations or international donors, reputational loss arising from the aforesaid criminal abuses can lead to revenue loss through either budget reductions or diversion of funds, and can also seriously compromise an NPO's operations and ongoing viability.

- TF consequences are higher than those of ML because of the national and international security impacts, and the reputational risks to the sector following a suspected or actual TF.

- Regulatory or law enforcement action against the NPO and its governing body/senior management

- Breakdown in the relationship with financial institutions, including potential costs to repair or establish new banking relationships.

- Increased costs to combat and deter criminal attacks, particularly its security costs to build cyber resilience.

- Increased administrative costs if more onerous requirements are needed to mitigate threats.

[10] *Emile van\ der Does de Wallabies, "Non-profit Organizations and the Combatting of Terrorism Financing: A Proportionate Response", The World Bank, Washington D.C., 2010, http://issuu.com/world.bank.publications/docs/9780821385470*

2.3 Terrorism Financing explained

Terrorism financing is the financial support, in any form, of terrorism or of those who encourage, plan or engage in terrorism. It includes the financing of terrorist acts, the terrorists themselves as well as the terrorist organizations.

From transnational TF perspective, owing to the geographic situation, Pakistan is facing terrorism and TF threat, emanating from terrorist organizations having footprints in Afghanistan and terrorist organizations having presence in Pakistan and operating mainly in areas adjacent to Pak-Afghan border areas. Long porous border with Iran and Afghanistan is a major cause of illegal border crossing, cash smuggling, illegal trade, drug trafficking, kidnapping for ransom, extortion and hawala business. Pakistan faces a significant internal security threat. The presence of Afghan refugees/ diaspora in Pakistan poses a threat from transnational TF perspective.

An important objective of NRA was to identify the impact of the terrorism threat on TF, and to determine the funding needs of different terrorist organizations, groups and individuals. In addition, the assessment analyzed where funds were being received or sent, the sources of those funds, and the channels used for transmission, as explained below:

Direction of financial flows

The possible directions of TF flows may be internal (generated domestically and used to finance domestic terrorism), external (either generated domestically and used to finance foreign terrorism, or vice versa) or a combination of both. In some instances, the TF may simply pass through the country moving from one foreign jurisdiction to another. It is essential to establish the direction of the flows as this information is needed to determine which CFT controls need to be adopted or strengthened.

Sources

Terrorist financing may come from legitimate sources or from sources that involve criminal activity. The **sources from which terrorist funds may originate in the country include** proceeds generated from kidnapping for ransom, cash smuggling, narco trafficking, smuggling of natural resources, extortion, dacoity/robbery and donations received/ collected by unregistered NPOs. Terrorist groups may utilize different fundraising methods based on the sophistication required and their objectives. The terrorist financing threats in Pakistan emanate both from domestic and foreign sources.

Channels

The channels which have been specifically identified in the NRA for terrorist financing purposes include Illegal Money or Value Transfer Services (MVTS) popularly called Hundi/Hawala, Non-Profit Organizations, Banking sector, virtual currencies, branchless/mobile banking, and other financial institutions, etc.

In order to assess the level and magnitude of threat that certain sectors, products, or services can be exposed to, the assessment examined which channels are being used, or are suspected of being used, for TF. For example, if funds are deposited into a bank account in Pakistan and then wired to an account in a foreign jurisdiction or vice versa, the channel being used is the banking sector. Alternatively, funds may have been raised in cash and physically carried by individuals to or from another jurisdiction.

3. RISK FACTORS FOR NPO SECTOR

3.1 Introduction

NPOs are defined by their purpose, their reliance on contributions from donors and the trust placed in them by the wider community. They exist with a commitment to voluntary action, a desire to improve society and improving quality of life. They often process large amounts of cash and regularly transmit funds between different regions and countries. They often operate in areas of high risk, recipients that are hard to reach and deliver services in extreme conditions. Combination of these factors exposes NPOs to an elevated risk of criminal and terrorist abuse.

NPOs can be abused in different manners, including exploitation of charitable funds, abuse of assets, misusing of name and status and setting up an NPO for an illegal or improper purpose. Not all NPOs are inherently high risk organizations, and it is desirable to identify the high risk NPOs, i.e NPOs which by virtue of their activities or characteristics, are likely to be at risk for terrorist financing abuse, for the purpose of proper risk management. A detailed matrix elaborating the different risk typologies is appended as ***Annexure.***

3.2 Reasons for Vulnerability of NPO Sector

NPOs are vulnerable to terrorism and other criminal abuse, because they[11]:

- enjoy high levels of public trust and confidence, which is crucial to their success;
- often rely on goodwill and voluntary support from donors in one form or another;

[11] *Source: Compliance toolkit: Protecting Charities from Harm, Charity Commission, UK*

- are subject to limited board oversight because of most of the directors working in voluntary capacity;

- retain more money than for-profit entities due to their tax exemption status;

- are diverse in nature, involved in a broad range of activities and reaching out to all parts of society. Because of this outreach, large numbers of people come into close contact with NPOs, including those who may abuse them, through their services, the use of their property and through their trustees and volunteers;

- are relatively easy to set up;

- may depend on one or two individuals who play a key, and often unsupervised, role, particularly within smaller NPOs;

- have a global presence, including those operating in conflict zones and/or where there is little infrastructure, and frequently move money, goods and people to these areas;

- often have complex financial operations including multiple donors, investments and currencies, often receiving and using cash, having to account for high volumes of small scale transactions and using informal money transfers;

- may have complex programs of operation and may pass funds through partner organizations to deliver their services, as well as operating directly themselves;

- may have unpredictable and unusual income and expenditure streams, so suspicious transactions may be harder to identify;

- may have branches and/or projects that are not under the direct supervision or regular control of management;

- may be subject to different and, in some cases, weaker levels of regulation in different parts of the world; and

- are powerful vehicles for bringing people together for a common purpose and collective action, and may inadvertently provide a ready-made social network and platform of legitimacy for terrorists or terrorist sentiments.

3.3 Ways of NPO Abuse:

It is evident from research on CFT with respect to NPOs governance and FATF guidelines that NPOs systems have risks of financing terrorism in different ways. The abuse of NPOs may occur in the following ways[12]:

[12] *Source: Compliance toolkit: Protecting Charities from Harm, Charity Commission, UK*

(i) NPO fund

Funds may be raised in the name of a NPO or charitable purposes, which are then used by the fundraisers for supporting terrorist purposes. An NPO may be used to launder money or be used as a legitimate front for transporting cash or other financial support from one place to another.

(ii) Use of NPO assets

NPO vehicles may be used to transport people, cash, weapons or terrorist propaganda, or NPO premises used to store them or arrange distribution. The communications network of an NPO may be exploited to allow terrorists to contact or meet each other.

(iii) Use of an NPO's name and status

Individuals supporting terrorist activity may claim to work for an NPO and trade on its good name and legitimacy in order to gain access to a region or community. They may use the NPO and/or its name as a seemingly legitimate cover to travel to difficult to reach places to take part in apparently appropriate but actually inappropriate activities such as attending terrorist training camps. An NPO may give financial or other support to an organization or partner that provides legitimate aid and relief. However, that organization or partner may also support or carry out terrorist activities.

(iv) Abuse from within an NPO

Although it is less likely than abuse by third parties, those within an NPO may also abuse their position within the NPO and the name of NPO itself for terrorism purposes. This might include 'skimming' off money in charitable collections and sending or using the funds to support terrorist activities. People within an NPO may arrange for or allow NPO premises to be used to promote terrorist activity. Sponsors themselves may also be held accountable for engaging in inappropriate behavior or making inappropriate comments for a similar purpose.

NPOs may use volunteers they know to be likely to promote terrorism to influence the NPO's work. They may abuse the NPO by allowing those involved in terrorist activity to visit or work with them.

(v) NPOs set up for illegal or improper purposes- Fake NPOs

In extreme cases, terrorists may try to set up a fake or fictitious organization, promoted as a legitimate charitable organization but whose ultimate purpose is to raise funds, use its facilities or name to promote or coordinate inappropriate and unlawful activities. The purpose of such an NPO is ostensibly to collect and distribute funds and donations for legitimate purposes but it is in reality a front for the laundering of money, generation of funds for terrorism purposes or for rallying support for terrorist activities.

3.4 Regulatory Approach to Mitigate ML/TF Risks

The regulatory approach adopted by SECP for regulation of section 42 companies and for mitigation of ML/TF risks duly consider the varying risk characteristics of such companies and the associated risk parameters, depending upon the funding sources, revenue base size, transaction size, scope/magnitude of operational activities, fitness criteria for members/directors, etc. and mode of receiving funds.

4. LEGAL/ COMPLIANCE REQUIREMENTS:

The NPOs registered as associations not for profit under the Companies Act, 2017 must comply with the laws of the country in letter and spirit.

These laws include, but are not limited to, the following:

- Anti-Money Laundering Act, 2010
- Anti-Terrorism Act, 1997
- Companies Act, 2017
- Associations with Charitable and Not for Profit Objects Regulations, 2018
- Income Tax Ordinance, 2001
- Prevention of Electronic Crimes Act, 2016

Provincial NPOs are also required to comply with the laws issued by their respective provincial governments which may include, inter-alia, the following:

- The Societies Registration Act, 1860
- Voluntary Social Welfare Agencies (Registration and Control Ordinance), 1961
    - The Voluntary Social Welfare Agencies (Registration and Control) Rules, 1962
    - SOPs 2017 for Punjab VSWAs/Guidelines for Sindh VSWAs

NPOs operating as international NGOs (INGOs) shall comply with the policy issued by the Federal Government for such NPOs, as amended from time to time.

The National Counter Terrorism Authority (NACTA)[13] has also drafted Model Charity Law which has been adopted by various provincial governments in the form of Provincial Charities Acts and which contains various provisions to ensure transparency and accountability, sharing of registration details amongst the provinces, and assessment mechanisms. This law provides an effective legal and monitoring framework for NPOs in line with the FATF Recommendation 8. In addition, this law also complies with international requirements under UN Security Council's Resolutions 1267, 1373, 1526 and 2368 and national security concerns.

[13] https://nacta.gov.pk/counter-financing-of-terrorism/

5. FUNDAMENTAL PRINCIPLES OF GOOD PRACTICES:

5.1 Adoption of Best Practices:

i) NPOs must take appropriate steps to identify and assess the ML/ TF risks for donors, customers/ beneficiaries (including persons, group of persons and organizations, etc.), country specific or geographic areas, products, services, transactions and delivery channels. Based on risk assessment, the NPO shall take measures to mitigate the risks.

ii) Training of employees and staff on AML/CFT strategy and issues may be conducted on an annual basis. Record of such trainings may be maintained.

iii) NPOs shall not indulge in activities that amounts to breach of security or in any activity inconsistent with Pakistan's national interests, or contrary to Government policy.

iv) NPOs shall also not take part or assist in any kind of political activities, conduct research or surveys unrelated to their activities. Violation may lead to cancellation of their license and/or registration.

v) NPOs shall not engage in money laundering, terrorist financing, weapon smuggling, anti-state activities or maintain links with the proscribed individuals or organizations.

5.2 Good Governance:

i) The management must have in place adequate measures to clearly identify every board member, both executive and non-executive.

ii) The most important element of a successful AML/CFT program is the commitment of senior management, including the chief executive officer and the board of directors, to the development and enforcement of the AML/CFT objectives.

iii) The management must frame its AML/CFT Risk and Compliance Policy, which shall be approved by the Board of Directors and be publicly made available. The NPO shall review the said policy on an annual basis. Management must communicate updated version of the policy clearly to all employees on an annual basis along-with statement from the chief executive officer.

iv) The management must also consider to establish an independent and well-resourced compliance function within the NPO to achieve the objective of AML/CFT Risk and Compliance Policy.

v) Based on a risk-based approach, the NPOs may consider forming an independent oversight committee of its operations, and each NPO must select the oversight structure, which best suits its needs.

5.3 Know Your Beneficiaries and Partners:

i) NPOs must ascertain correct and complete identification particulars of their beneficiaries (person, group of persons or organization etc.) who receives cash or services or in-kind contributions.

ii) In case the beneficiary is an organization/ group of persons, donor NPOs must have knowledge of detailed profile and particulars of such organization. NPOs shall ensure that the beneficiaries are not linked with any suspected terrorism activity or any link with terrorist support networks.

iii) In case where the projects are implemented through partnership agreements with other partners, NPOs shall make it a part of their project agreements that partners shall maintain and share beneficiaries' information. They may also share and pool intelligence/insights about particular beneficiary organizations or sectors.

iv) NPOs must ensure that the partner organizations shall not be from any such organization whose license has been revoked by SECP[14] or registration cancelled by other authorities.

5.4 Know Your Donors:

i) Before receiving funds from a donor, NPOs must establish that the donor is not placed on the United Nations' list of persons who are linked to terrorist financing or against whom a ban, sanction or embargo subsists.

ii) NPOs shall undertake best efforts to document the identity of their significant donors. NPO must collect and maintain record or correct and complete identification particulars of major donors.

iii) NPOs shall conduct, on a risk-based approach, a reasonable search of public information, including information available on the Internet, to determine whether the donor or their key employees, board members or other senior managerial staff are suspected of being involved in activities relating to terrorism, including terrorist financing.

iv) NPOs may refuse a donation or offer if they are ensure about its legitimacy.

[14] https://www.secp.gov.pk/document/revocation-of-license-granted-to-not-for-profit-companies-ngos-under-section-42-of-the-companies-ordinance-1984/?wpdmdl=22560

5.5 Know your Employees:

i) NPOs must maintain records of particulars of its employees (both Pakistani or foreign nationals), including but not limited to permanent address, present address, copy of NIC, passport number, nationality, personal email ID, NTN, phone or mobile number, past experience, etc.

ii) NPOs must check work history by taking up references, calling referees and probing their previous jobs.

iii) Every potential employee must be screened, whether permanent or temporary. For senior-level and finance positions, NPOs need to be carry out enhanced checks, including criminal history and financial background.

iv) Management must be alert to changes in employees's lives which might put them under increased pressure.

5.6 Ensuring Transparency and Financial Accountability:

i. Soliciting Donations:

Any solicitation of donations must clearly state the goals and purposes for seeking funds (how and where these donations are to be expended) so that the donors as well as persons examining the NPOs disbursement of funds can check as to whether the funds are used against the determined goals.

ii. Receipt and disbursement of Donations and Funds:

a. NPO must receive all donations and funds through banking channel and which must be in conformity with the books of accounts of NPO.

b. The identity of depositors and withdrawers must be ascertained by the NPO.

c. The NPO should account for all disbursements including the name and particulars of grantee, the amount disbursed, date and form of payment. Disbursements may be made through proper banking channel except in extreme circumstances, which may require cash or currency transactions. Detailed internal records of cash transactions, if any, may be kept and oversight needs to exercised while handling such disbursements.

d. NPO must ensure that employees are sufficiently well trained to recognize a suspicious donation and shall know what to do about it.

iii. Utilization of Funds:

NPOs receiving legitimate foreign contributions or foreign economic assistance shall appropriately utilize these financial resources on the agreed areas of public welfare, simultaneously ensuring due monitoring, accountability and transparency of their governance, management and funding streams.

iv. Internal Audit

NPOs may consider to set up an internal audit function to help identify risks, provide an assurance to the board of directors on NPO's risk management effectiveness, internal control and governance processes.

6 RED FLAGS/HIGH RISK INDICATORS FOR NPOs

6.1 Donations:

- If unusual or substantial one-time donations are received from unidentifiable or suspicious sources
- if a series of small donations are received from sources that cannot be identified or checked
- if conditions attached to a donation are as such that NPO would merely be a vehicle for transferring funds from one individual or organization to another individual or organization
- if there are strange, inappropriate or illegal conditions
- where donations are made in a foreign currency or foreign sources where financial regulation or the legal framework is not as rigorous
- where there are complex banking or transfer arrangements
- where donations are conditional to be used in partnership with particular individuals or organizations where the NPO has concerns about those individuals or organizations
- where an NPO is asked to provide services or benefits on favorable terms to the donor or a person nominated by the donor
- where payments received from a known donor but through an unknown party
- where donations are received from unknown or anonymous bodies
- where payments received from an unusual payment mechanism where this would not be a typical method of payment.

6.2 Beneficiaries:

- where NPO provides financial assistance, services or support on the basis of a certain sum of money per beneficiary and the numbers are relatively high

- where an NPO provides services to large numbers of beneficiaries, where it may be easier to disguise additional beneficiaries
- where there may appear signs that people may have been placed on distribution and aid lists by providing kickbacks and bribes to officials
- lists of beneficiaries contain multiple manual corrections, multiple names may appear, may contain more family members
- evidence that third parties or intermediaries have demanded payment for recommending or nominating beneficiaries
- fake or suspicious identity documents
- beneficiaries with identical characteristics and addresses or multiple identical or similar names and signatures
- unexpected changes to beneficiaries details, for instance, sudden change of bank account or contact person or sudden stoppage in replying to correspondence
- significant increase in costs or amounts being claimed against the donation
- attempting to trigger a phased payment through submission of incomplete documents
- failure of beneficiary to account for all or most of the funds spent and failure to provide sufficient proof of expenditure
- failure of beneficiary to maintain sufficient financial controls in place

6.3 Partners:

- the project proposal is vague or lacks adequate financial or technical details
- the structure or nature of the proposed project makes it difficult to identify the partner and verify their identity and details
- the proposals include delegating work to other unknown partners or newly formed organizations
- it is difficult to contact the partner at their main address, or their telephone numbers are not working
- the project involves unusual payment mechanisms, or requests for cash, or for money to be paid into an account not held in the name of the partner, or in a country in which the partner is not based and not where the project is being carried out
- partners request unnecessary or unusual levels of privacy and secrecy
- requests by partners to use a particular auditor or accountant

6.4 Employees:

- indications that staff may be living beyond their means or appearing at unusual times

- staff carrying out tasks or jobs they should not be, or other unusual staff behavior or conduct
- sudden or increased staffing costs
- exaggerating or falsifying expenses or overtime
- an aggressive or bullying manner that makes colleagues unwilling to challenge their behaviour;
- an unwillingness to take holidays or be away from the office for more than a day or two at a time;
- asking to use someone else's log-in details because they have forgotten their password;

6.5 Monitoring of Projects:

- invoices and paperwork have been tampered with, altered in crucial aspects with handwritten amendments
- inventory shortages
- there is a lack of evidence to show fair and transparent tendering or procurement procedures
- invoices and papers recording a higher cost for goods or services than expected or agreed
- missing key documents or only copies can be produced, which raise suspicions perhaps because they are poor copies or because key details are illegible or have been altered
- signatures confirming receipt or payment are missing or the invoice is unsigned or undated
- receipts have been signed and dated a long time after the goods or services should have been delivered
- particularly late or early invoicing
- repeated excuses of system crashing, losing records or paperwork
- relief, goods or items provided by the NPO in connection with the project have been tampered with,
- documents accompanying goods and items are missing
- the local community is receiving aid or assistance by other unexplained or unexpected means
- unexpected transactions, where commission charged or no receipts are available

- figures in documents or records that look familiar or may be repeated
- discrepancies between budgeted needs and payments requested
- requests for payment in cash to be made to an unknown third party or other organization
- payment of administration costs not appearing to relate to the project or which appear unusually high taking into account the nature of the project
- cash advances and payments that are unusually frequent and/or have not been recorded or approved
- funds are not being banked or accounted for
- infrequent and/or poor reconciliation of local banking and accounting records / bank reconciliations not done in a timely manner
- payments to suppliers via cash payments to employees
- offers for monitoring to be carried out by friends or known associates of the local partner without the need for the NPO to carry out an inspection or checks on the partner themselves
- requests to use particular officials in the locality for monitoring purposes
- emails from new or unusual email addresses not in the partner's domain name or from someone who is not a previously agreed contact point
- inconsistencies between narrative reports and financial claims and reports
- actual performance/delivery not corresponding with agreed milestones/targets

ANNEXURE

Illustrative Characteristics of Vulnerable/High Risk NPOs

Sr. No.	Risk parameter	Risk characteristics
I	Zone	Operating in conflict ridden and/or border zones including, but not limited to tribal agencies/ merged areas, sensitive areas of any province, and areas/regions which have experienced terrorist attacks. However, this does not preclude the possibility of soliciting financial support by the terrorists from other areas.
II	Activity	Primarily working in service activities including: • Health • Education • Social services or social welfare • Housing
III	Legal status/level of formality	• Unincorporated NPOs (High likelihood, low consequence) • Incorporated/registered NPOs meeting criteria I and II (Low likelihood, high consequence)
IV	Revenue/Quantum of donations	Large size NPOs with annual grants/income/subsidies/donations of Rs. 10 million and above
V	Funding Source	• Foreign funding from unknown sources • Foreign funding from high-risk countries or those characterized by lower AML/CFT compliance • Major collection in the form of public/street donations, donation boxes, from anonymous donors, etc.
VI	Geo-political factors	Having nationals from unfriendly countries as sponsors of NPOs
VII	Legal Compliance	• Serious non-compliance by registered NPOs • Involvement of sponsors/directors/ officers of NPOs in unlawful activities through other companies or business entities
VIII	Financial misconduct by NPOs or sponsors/ directors	• Violation of licensing conditions by licensed NPOs • Failure to observe accounting and auditing principles in the recognition, measurement and disclosure through financial statements • Serving as conduit in respect of illicit financial transactions
IX	Other risk parameters	Adverse media reports, whistleblower complaints, reported instances of fraud and/or gross mismanagement, involvement in dubious activities, etc.