

Bailiwick of Jersey National Risk Assessment of Non-Profit Organisations

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Foreword

Globally, it is recognised that Non-Profit Organisations (“NPOs”), including registered charities, may be exploited to raise and move funds to support terrorist activity. Jersey is proud to have a thriving and diverse NPO sector and must endeavour to protect it from terrorist exploitation, both as a critical component of the global fight against terrorism as well as to preserve the integrity of the sector and the trust of our donor community.

Some NPOs may be at inherently high risk of being used to facilitate terrorist financing because of where they operate or the nature of the work they carry out. Others, in fact the vast majority, may represent very little risk. The Financial Action Task Force recommends that jurisdictions undertake a domestic review of their non-profit sector to identify which are at greater risk. That will allow us to take steps to ensure those organisations are protected from such abuse. I am therefore pleased to publish Jersey’s first National Risk Assessment Report of NPOs.

The assessment shows that the non-profit sector in Jersey presents a medium to low risk and identified that around 11% of non-profit organisations present a heightened risk of being vulnerable to terrorist financing abuse. To reduce the overall exposure to risk, further work will be completed during 2022 to ensure additional and appropriate safeguards are put in place.

As with all National Risk Assessments, this report is the result of a collaborative effort by multiple agencies. I am particularly grateful to the Jersey Financial Services Commission and the non-profit sector itself. It was encouraging to see that responses were received from over 85% of those organisations known to have received the initial questionnaire. This engagement is testament to the commitment and connection of the sector to our Island community.



Senator Ian Gorst
Minister for External Relations & Financial Services

Executive Summary

- 1 The Terrorist Financing National Risk Assessment (**TF NRA**) published in April 2021 found that the risk for financial services and NPOs being abused for TF purposes was assessed as Medium-Low.
- 2 The updated NRA shows that this remains correct when considering the NPO sector holistically, with circa 90% of the assessed sector falling within the Low or Standard risk categories.
- 3 Of the **170 Regulated NPOs** (those NPOs provided with a specified service by a regulated trust company business (**TCSP**)) 19% fell within the higher risk bracket. Regulated NPOs are more likely to disburse substantial funds (£1M+) to jurisdictions, territories, or areas at a higher risk of being vulnerable to TF. They often fund their charitable giving privately by underlying investments. They tend to have broad powers to adjust their Beneficiary base and are not usually registered as charities.
- 4 Ten Regulated NPOs disbursed between £500,000 and £999,999 outside the Island, whilst 21 Regulated NPOs disbursed in excess of £1M outside Jersey.
- 5 There are **713 Registered NPOs** (those not administered by a TCSP) of which 9% fell within the higher risk bracket. When building in the contingency figures, the number in the higher risk bracket increases to circa 13%.
- 6 For Registered NPOs the majority of funds collected and disbursed outside Jersey fell within the range of £0 to £19,999, whilst funds raised and disbursed within Jersey ranged from £0 to £499,999. Ten Registered NPOs raised and disbursed funds above this amount with each disbursing in excess of £1M outside the Island.
- 7 Jersey NPOs that become involved in disaster relief and humanitarian aid work are more likely to be Registered NPOs, working closely with foreign **Partners**¹. Currently, there is no designated TF supervisor for the non-profit sector in Jersey and oversight by third parties is limited. Registered NPOs are more likely to use alternative money remittance methods, such as **Hawala**², MoneyGram, mobile money and preloaded cards, as well as cash.

1 Those who assist a NPO in carrying out activities or programmes domestically or abroad. This can include international non-governmental organisations or charities that the NPO collaborates with in order to implement its NPO Programmes; and others such as suppliers, vendors, contractors and consultants.

2 Hawala refers to a traditional system of transferring money without money movement. It is done with the help of a brokering third party, and it is predominantly used in the Middle East, Africa and South Asia. These payment systems may also be referred to as Hundi or Havala.

Introduction

- 8 Jersey has a large and diverse non-profit sector with organisations taking a variety of different forms, ranging from groups of like-minded individuals working together to deliver a specific objective for the local population, through to trusts and limited companies who operate internationally. The sector comprises of nearly 900 organisations, with circa 20% being administered by a TCSP³.
- 9 The non-profit sector is a vital contributor to society and its members, not just in Jersey but also in the world economy, providing important services and functions which enhance the quality of life for many, often under challenging and desperate circumstances.
- 10 Jersey is committed to safeguarding and maintaining good practices of charitable giving. We support a strong sector that adheres to transparency, accountability and safe practices, to prevent exploitation by others.
- 11 The social and humanitarian aspects of NPOs may provide **NPO Representatives**⁴ and Partners with easier access to geographical areas and **Funds**⁵, both of which can be of value to **Terrorists**⁶ who may wish to infiltrate an NPO, or to take advantage of its **Resources**⁷, or act under its cover. In terms of “value to Terrorists” this does not need to include physical assets, it can, for example, be provision of training.
- 12 Jersey’s TF NRA, published April 2021, recommended that:
- an assessment of the non-profit sector be undertaken to identify those NPOs that may be at a higher risk of being abused or misused for TF purposes; and
 - a regulatory framework be implemented to include focused and proportionate measures for the regulation, registration and supervision of those NPOs identified as being vulnerable to TF abuse or misuse.
- 13 The Non-Profit Organizations (Jersey) Law 2008 (**NPO Law**) requires some NPOs to register with the Jersey Financial Services Commission (**JFSC**) and creates two types of NPOs: Registered NPOs and Regulated NPOs. Conduct and prudential requirements are also in place in relation to NPOs that are Jersey charities. They are overseen by the Jersey Charities Commissioner who ultimately supports the public confidence in charities and their work. Where NPOs are established as limited companies or foundations, these are subject to the same legal requirements, including registration, as all other legal persons registered with the Registrar. The Attorney-General oversees the establishment of any NPOs which take the form of

3 This is less than the number quoted in the April 2021 TF NRA due to the removal of TCSP administered vehicles which, whilst being NPOs, are established primarily as wealth structuring vehicles (orphan structures).

4 Refers to a Board member (or its equivalent), an employee, volunteer or another individual acting in an official capacity representing the NPO, irrespective of whether that person is paid for their services or not.

5 This term includes both money and Resources (financial and non-financial NPO assets (e.g. donations, gifts/benefits-in-kind, property of every kind, documentation and personnel)). Value does not need to include physical assets, it can for example be provision of training.

6 Refers to both individual terrorists and terrorist organisations, a party identified as a supporter of terrorism by a domestic or international sanctions list, or where a jurisdiction has assessed the party as active in terrorist activity, for example by being a foreign fighter, i.e. an unpaid individual who is not a citizen of a conflict State, and who joins insurgencies during civil conflicts.

7 Includes financial and non-financial NPO assets (e.g. donations, gifts/benefits-in-kind, property of every kind, documentation and personnel).

a fidéicommiss⁸ or an incorporated association under the Island's Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations.

TF risk in the non-profit sector

- 14 Examples of misuse and abuse of the non-profit sector include:
- Terrorists posing as legitimate natural or legal persons or arrangements (other than NPOs) to benefit from NPO programmes or supplying the NPO with goods and services (e.g. security or supplies).
 - Terrorists setting up sham NPOs or front organisations (legal entities created to be controlled by a second organisation which intends to mask illegal activities) which appear legitimate. These organisations own, control and direct the NPO's activities by direct or indirect means to escape asset-freezing measures, or to provide other forms of support (e.g. to raise or move Funds, provide logistical support, encourage or facilitate Terrorist Recruitment).
 - Terrorists or their Facilitators infiltrating an NPO, for example appearing to work as an ordinary NPO Representative, or a Partner, at the same time as abusing the NPO's Resources, concealing the Diversion of Funds to Terrorists, or providing support to their Recruitment efforts.
- 15 Such cases serve as a stark reminder of the importance to remain vigilant and stay abreast with threats and vulnerabilities as TF risks continue to evolve. Doing so allows for effective safeguarding measures to be put in place via effective supervision, outreach, collaboration and sharing of information. This includes suspicious activity reports (**SARs**) and sanctions breach notifications, effective investigations, and the private and public sectors working together.

International approach to measuring NPO TF risk

- 16 In February 2012, the Financial Action Task Force (**FATF**), the inter-governmental body that sets international standards aimed at preventing illegal activities and the harm they cause society, published revised international standards on combatting money laundering (**ML**), TF and proliferation of weapons of mass destruction (**PF**).
- 17 Recommendation 1 calls on countries to identify, assess and understand their ML and TF risks, and to take action to effectively mitigate those risks. Many countries have responded to this call by undertaking national risk assessments and publishing action plans. FATF Recommendation 8 focusses on NPOs and the risk that they may be abused or misused for TF purposes. FATF uses the concepts of risk, threat, vulnerability and consequence when describing how jurisdictions should undertake their risk assessments.
- 18 **Risk** is a combination of threats and vulnerabilities.
- **Threats** consist of a person or group of people carrying out an activity which has an inherent potential to cause harm, either to individuals, the economy, infrastructure or other target. The financing of Terrorists extends to **Sympathisers**⁹, and **Facilitators** (such as financiers, those involved in **Recruitment**¹⁰, and regulated and registered professionals), activities and Resources. The extent of the threat is dependent on *capability* as well as the *intent* to do harm. Both must align for an active threat to materialise. For example, a terrorist organisation may be capable of controlling a geographic area where

⁸ Fidéicommiss is similar to a trust, but contrary to a trust, it may own immovable property in Jersey.

⁹ An individual who is not actively engaged in terrorist acts but that supports Terrorists indirectly.

¹⁰ Active and passive processes through which Terrorists seek to enlist the help of operational personnel.

the NPO operates but may not intend to target NPO Representatives with a view to exploiting their organisation.

- **Vulnerabilities** are weaknesses that the threat can exploit. NPOs often enjoy public trust, are cash-intensive or use other money remittance methods which makes funds harder to trace, all of which are attractive to Terrorists, and which may be exploited. The most vulnerable NPOs are those which operate in close proximity to an active Terrorist threat. **Diversion**¹¹ is a dominant method of abuse, where Funds are diverted away from the NPO's legitimate purposes. Other examples are abuse of NPO programmes and support for Terrorist Recruitment.
- **Consequence** refers to the negative impact TF may have, e.g. causing damage and harm to people or property, removing donations from legitimate **Beneficiaries**¹², eroding democratic values, jeopardising the integrity of NPOs, and causing reputational harm to donor confidence, the Island and the financial system.

19 Assessing and addressing threats requires an understanding of the vulnerabilities the non-profit sector faces and the continuously evolving environment where NPOs operate. Two examples of which are the recent regime change in Afghanistan, and the Russian invasion of Ukraine.

11 Transactions by a NPO Representative or external parties such as Partners that diverge Funds away from the NPO's legitimately intended purposes to a Terrorist for them to benefit from, directly or indirectly.

12 Natural persons or groups of natural persons who receive humanitarian, charitable or other types of assistance through the services of the NPO.

NPO TF risk assessment work and methodology

- 20 There is no universal methodology for conducting NRAs. **A Working Group**¹³ was established in Q3 2021 which sought to identify, assess and understand the TF risks, then propose mitigation. Appendix A provides an overview of the NPO Risk Assessment Methodology, including risk indicators.
- 21 During Q3/Q4 2021 the Working Group reviewed several sources, engaged with the non-profit sector using questionnaires, held regular meetings and consulted Counter-TF Experts. The process included extensive outreach to a wider section of industry and members of the public, through a radio campaign and drop-in sessions.
- 22 Prior to this risk assessment work the view of the competent authorities was that NPOs presented a higher TF risk to Jersey, and one aim was to test the accuracy of that view.
- 23 Doing so would also assist with the prioritisation of future efforts and effective allocation of resources to combat TF. This includes implementing risk-based supervision of the sub-section of NPOs that display high risk factors. These factors mean they may be perceived as being vulnerable to exploitation by Terrorists (**Vulnerable NPOs**). The higher risk could be due to the structure of the NPO, their Partners, activities, objectives or purposes. Payment remittance practices, systems and controls, and the geographical regions in which they raise and disburse funds are also relevant. It is anticipated that JFSC supervision of Vulnerable NPOs for TF purposes will begin on 1 January 2023 – legislation is due for debate later in 2022.

Counter-TF Experts

- 24 The Government of Jersey engaged the services of:
- Yehuda Shaffer of Risk Based AML/CFT Consulting. He has extensive experience in the field of countering TF, with 30 years in the services of the Israeli Government, as a prosecutor, Head of the Israel Money Laundering and Terror Financing Prohibition Authority (the Israeli Financial Intelligence Unit), and Deputy State Attorney (Financial Crime). He has been a MONEYVAL assessor and formed part of the team that visited Jersey in 2015.
 - Financial Transparency Advisers. A consulting firm that provides specialised advisory services on anti-money laundering and combatting TF to national governments and public authorities.

13 The Working Group comprised representatives from the following: Government of Jersey, Ministry for External Relations, JFSC, the Law Officers' Department, States of Jersey Police, Joint Financial Crimes Unit, Jersey Customs and Immigration Service, and the Office of the Jersey Charity Commissioner. In addition, the Working Group included the States of Jersey Overseas Aid Commission.

Public and private sector involvement

- 25 The Working Group comprised representatives from the following: Government of Jersey, Ministry for External Relations, JFSC, the Law Officers' Department, States of Jersey Police, Joint Financial Crimes Unit, Jersey Customs and Immigration Service, and the Office of the Jersey Charity Commissioner. In addition, the Working Group included the States of Jersey Overseas Aid Commission.
- 26 As part of its outreach the Working Group collaborated with:
- Jersey Sports and Jersey Association of Charities to seek to connect with all Jersey NPOs.
 - A lawyer in private practice and four NPOs of different sizes and global presence, to design and test the risk assessment questionnaires and provide feedback on the supporting guidance.

NPOs outside scope of the NPO TF risk assessment

- 27 The current NPO Law contains a registration exemption for NPOs who raise or disburse funds of less than £1,000 within any 12-month period. NPOs falling below this threshold, which had not registered on a voluntary basis, were not included in this risk assessment.
- 28 Certain orphaned structures primarily used as wealth structuring vehicles, being under the additional oversight of TCSPs, also fell outside scope.

1st phase questionnaire

- 29 A phase 1 questionnaire was sent to all Registered NPOs, and to all TCSPs, asking them whether they provided relevant administrative services to NPOs (i.e. the Regulated NPOs). If so, the TCSPs were requested to complete the phase 1 questionnaire on behalf of the Regulated NPOs they administered.
- 30 The phase 1 questionnaire sought verification for 2018 to 2020¹⁴ of:
- Basic and structural information.
 - The NPO's purpose, objectives, and activities.
 - The methods of disbursement of funds, and currencies utilised.
 - How the NPO was funded.
 - Jurisdictions where funds were raised and disbursed, as well as the average amounts raised and disbursed domestically and internationally.

1st phase questionnaire - results

- 31 Regulated NPOs' and Registered NPOs' purposes were typically charitable (circa 90% and 60% respectively). For Regulated NPOs educational purposes followed (circa 28%) and for Registered NPOs' social (circa 45%) and educational purposes (circa 37%) dominated. A NPO may have several purposes.
- 32 The JFSC was unable to contact 113 Registered NPOs. While efforts are ongoing, if re-engagement cannot be achieved the JFSC will work with the Minister for External Relations and Financial Services (**the Minister**) to determine the best course of

action, including possible removal from the NPO Register. For the purposes of this risk assessment, these NPOs have been removed from the statistical information. A prudent assessment of what is known about the activities of these NPOs suggests that, should all of them remain active, a further 11 to 25 Registered NPOs would potentially fall within the higher risk category therefore there will be a focus of effort on trying to contact these NPOs.

- 33 Overall response rates were very good:
- 85% of the Registered NPOs, known to have received the questionnaire, responded.
 - 100% of the TCSPs responded.
 - 103 Registered NPOs advised that they were no longer active and should be removed from the NPO Register.
 - TCSPs of five Regulated NPOs advised that their activity had ended.
- 34 Several NPOs have also registered with the JFSC after the cut-off date for sending out Phase 1 and 2 questionnaires. Application information received from those NPOs suggests that between 3 and 7 of them may display higher risk factors.
- 35 If the answers in the 1st phase questionnaire indicated higher inherent risk factors, the NPO was requested to complete a second questionnaire. Using this approach, the Working Group sought to focus on the more vulnerable NPOs and restrict its interactions with NPOs presenting either Lower or Standard risk.

2nd phase questionnaire

- 36 The phase 2 questionnaire sought information on:
- Why the NPO had a Jersey nexus.
 - Whether it maintained a formal risk assessment.
 - Its systems and controls, for example, whether it conducted screening and vetting of connected parties, and controls to ensure donations reached legitimate Beneficiaries only.
 - Whether non-Jersey residents were associated with the NPO.
 - Information maintained on any material donors.
 - Training, sanctions screening methods.
 - Whether the NPOs understood to whom they should report suspicious activities and sanctions breaches.
 - The NPO's financial records and audit arrangements.
 - In some circumstances, a further breakdown in geographical connections.

2nd phase questionnaire - results

- 37 Overall response rates were very good with 95% of the Registered NPOs and 100% of the TCSPs responding to the 2nd phase questionnaire.
- 38 The information provided in response to the questionnaire highlighted several areas where systems and controls could be enhanced. These are set out in more detail under Factor 8 ("Lack of adequate and robust systems and controls") below.

Non-respondents and future developments

- 39 The States Assembly will be debating proposed amendments to the NPO Law in April 2022. The proposed amendments include a provision for the Minister to establish greater powers for the Supervisor (the JFSC) and obliges Registered NPOs to furnish certain information to the JFSC. This allows for effective, timely and continuous TF risk assessments and implements international standards to counter TF. Such powers are already in place in relation to TCSPs administering Regulated NPOs.
- 40 Additional enquiries will be undertaken when the supervisory powers come into effect, in order to assess and mitigate the TF risks presented by non-respondents and newly registered NPOs.
- 41 If the proposed amendments are approved by the States Assembly, the supervisory framework for Vulnerable NPOs will be developed during 2022 in collaboration with the non-profit sector. It is intended that the regulatory framework will be flexible, proportionate and effective to manage and mitigate the risk of TF abuse, whilst balancing the need for services that NPOs provide. Smaller organisations that do not raise a significant amount of funds, nor distribute them in jurisdictions subject to higher TF risk, nor present any other heightened risk factors, are not expected to fall within the supervised sub-sector of Vulnerable NPOs.

Factors considered in determining an NPOs risk level

42 The main factors considered when determining the risk of an NPO being abused or misused for TF purposes are outlined below, along with the conclusions of the Working Group.

Factor 1. Abuse of environmental and jurisdictional aspects

43 There is no globally accepted and agreed definition of what constitutes a higher risk jurisdiction, territory or area for TF. Nevertheless, some locations are more likely to attract these activities. Terrorists will target those jurisdictions that suit them best, for example where the risk of detection is low, where bribery and corruption render controls ineffective, or where there is severe political, economic and social upheaval. Areas where Terrorists are undertaking operations (e.g. training activities or acts of terror), or where Terrorists and families of foreign fighters are located, will also carry increased risk.

44 Charitable activities of NPOs include the raising, moving, storing and disbursement of funds. Due to the unique nature of charitable activities, they will often operate in conflict zones where humanitarian assistance is desperately needed and where NPOs distribute Funds.

45 Equally, established terror organisations are sophisticated. They sometimes run what appears as legitimate businesses and hold investments in stable economies across the globe, at times with the help of regulated and supervised professionals. Equally, they may collaborate with organised crime groups or undertake criminal activity themselves. Therefore, TF risk cannot be entirely discounted anywhere or in any sector.

46 The Working Group considered risk factors related to TF, including political, economic, geographical, technological, social and sanctions aspects. It utilised data available in the public domain, including media reports and the JFSC's Appendix D2 to its Handbook which signposts higher risk jurisdictions, territories, and areas. It drew upon the knowledge and expertise of the Counter-TF Experts, and the knowledge of the Working Group members, to identify jurisdictions, territories, and areas which it allocated as Tier 1 and Tier 2 higher TF risk jurisdictions.¹⁵ This work identified 32 jurisdictions.

47 There is currently no intelligence supporting known domestic terrorist activity, Terrorists, Facilitators or Sympathisers of violent extremism in Jersey. There are also

¹⁵ The Tier 1 and 2 higher risk jurisdictions will not be made public due to the political sensitives that this may lead to. The non-profit sector is encouraged to engage with open-source information, such as the JFSC's Appendix D2 of the Handbook to gain a better understanding of resources that may be used to assess jurisdictional risk.

no instances of freezing of funds of NPOs due to any affiliation with Terrorists or suspected sanctions evasion. The nature and extent of terrorist activities and groups in neighbouring countries, such as the prevalence of terrorist attacks and serious organised crime groups that may, for example, facilitate human trafficking and migrant smuggling, were also taken into account when establishing a third category: Tier 2.5 higher TF risk in proximity jurisdictions. This added another two jurisdictions to the higher risk bracket.

- 48 If a NPO had any connection with one or more of these 34 selected jurisdictions, for example raising and/or disbursing Funds, undertaking activities, having a bank account or operating in currencies of these jurisdictions, it was automatically treated as a Vulnerable NPO. This would be the same whether or not the NPO had chosen to voluntarily register with the JFSC despite falling under the legislative exemption threshold.
- 49 As a result of this factor, 53 NPOs were identified as presenting Higher risk, based solely on their connections with Tier 1, 2 and 2.5 jurisdictions.

Factor 2. Higher risk rating based on specific activities

- 50 Terrorists, as well as their Facilitators, are known to target faith communities for fund raising activities and radicalisation. As a result, each NPO with a religious purpose, or objective, was allocated a Standard risk rating. This rating was increased if other risk factors were present e.g. due to its payment remittance methods, **Transfer risk**¹⁶ or jurisdictional touchpoints.
- 51 The nature of these specific activities which may increase risk can be unexpected. For example, right-wing extremist terrorist organisations in Europe and the USA have become deeply involved in mixed martial arts¹⁷ events. This includes tournaments, festivals and gyms, and as a result each NPO associated with such activity was automatically allocated a Standard risk rating. Again, the rating was increased if other risk factors were present.
- 52 These risk assessments are aimed at raising awareness of the heightened TF risk for these groups. It does not mean that these NPOs fall automatically within the higher risk category, nor that they automatically become selected for supervision in future. It equally does not suggest that there is any evidence in Jersey of this activity by way of SARs or intelligence.
- 53 Overall, 77 Registered NPOs (11%) and 14 Regulated NPOs (8%) were allocated as Standard risk based solely on this factor.

16 This risk manifests in multiple ways, all ultimately benefitting terrorists, directly or indirectly. It is closely related to fraud, corruption and bribery risks. Examples of Transfer risk materialising into Diversion are the risk of transferring Funds to terrorists directly or indirectly, for example by the NPO:

- 1 Paying salaries to a Facilitator, making donations to a terrorist, making cash payments to settle access fees such as road checkpoint tolls or other forms of 'taxation' to Facilitators, such as making donations for particular causes as directed by them, including where tender processes have been predetermined, to certain suppliers or where this means terrorists or Facilitators are obtaining access to Resources, influencing aid locations and Beneficiaries. At times, such payments may also be misrepresented in the NPOs' financial records as fees for logistics, security etc.
- 2 The risk of transferring Funds to another Charity, NPO, Partner that, in turn, suffers the Transfer risk materialising as noted under (1)

17 In addition to advice sought from our Counter-TF Experts, this activity contributed to why we determined not to follow /the varied risk assessment treatment between the TF risks of expressive NPOs and administrative NPOs as described in the FATF's June 2014 Report: Risk of Terrorist Abuse in Non-Profit Organisations, pp. 20.

Factor 3. Payment remittance methods - Bank accounts

54 For NPOs that reported operating a bank account different approaches were taken depending on the location of the account (whether in Jersey or not), the amounts involved, and whether or not the account belonged to a Regulated NPO. If it did, the TCSP administering the NPO provided an extra safeguard in terms of oversight and monitoring. The table below sets out the risk level applied to bank accounts.

	Low risk	Standard risk	Higher risk
Registered NPO/Regulated NPO	A Jersey bank account only	-	-
Registered NPO	-	A non-Jersey bank account, up to £19,999	A non-Jersey bank account, above £20,000
Regulated NPO	A non-Jersey bank account, up to £19,999, TCSP administered	A non-Jersey bank account, above £20,000, TCSP administered	-

55 Less risk was attached to funds flowing through the regulated banking system.

56 The vast majority of NPOs that reported making payments through a bank account identified that they use a Jersey-based bank account. Less than 9% of NPOs reported a bank account outside Jersey. A bank account outside Jersey was more common for Regulated NPOs, about 24%, and as opposed to 5% of Registered NPOs.

Factor 4. Payment remittance methods – Funds managed outside a bank account

57 For NPOs who reported managing funds outside a bank account using ways that are less transparent and more challenging to trace, such as money remitters, virtual assets/currencies or cash, a similar risk matrix was developed, taking into account the heightened TF risk. The table below sets out the risk level applied where alternative payment methods were reported.

	Low risk	Standard risk	Higher risk
Registered NPO	-	-	All transactions, irrespective of amount or method
Regulated NPO	Up to £19,999, TCSP administered	-	Use of virtual assets/ currencies or Hawala Above £20,000, TCSP administered

58 Less than 1% of all Registered NPOs reported using money remitter services. These NPOs also reported operating internationally in Tier 1, 2 and 2.5 jurisdictions, hence they also carried an inherent TF risk. In addition to using alternative payment methods, three reported having Jersey bank accounts, and one stated that its Head Office was located outside Jersey.

59 No NPOs reported the use of virtual currencies or assets.

- 60 Two Registered NPOs reported using Hawala. Both are large international Registered NPOs (registered with the Charities Commission in England and Wales), already classed as higher risk since they were raising and/or disbursing Funds, or undertaking activities, in Tier 1 and 2 jurisdictions. These Registered NPOs frequently operate in conflict zones, failed states or disaster areas, providing urgent humanitarian aid and disaster relief. Along with several other Registered NPOs, they form a group that raises and/or distributes the highest level of funds overall (in excess of £500,000), by varied means such as using a bank account, PayPal, MoneyGram, Western Union, money remitters, preloaded cards, mobile money and cash, to transfer funds to a larger number of Tier 1 and 2 jurisdictions, as well as other higher risk jurisdictions.¹⁸

Factor 5. Payment remittance methods - Cash

- 61 In total 41 NPOs reported using cash (circa 5% of all Regulated NPOs and Registered NPOs), of which only one is a Regulated NPO. The 40 Registered NPOs mainly comprised sports clubs, thrift clubs and parent teacher associations; 36 also reported a Jersey-based bank accounts; three reported a bank account outside the Island; and one did not report having a bank account.
- 62 Where the use of cash was reported this appeared to be aligned with the activities of the Registered NPOs; Regulated NPOs do not ordinarily handle cash.

Factor 6. Use of foreign currency

- 63 Circa 3% of Registered NPOs reported using foreign currency (mostly USD and EUR), however other currencies are used, including currencies from higher risk jurisdictions (Tier 1 and 2). The Tier 1 and 2 currency use was associated with two large internationally known Registered NPOs that operate in disaster zones and conflict zones. Seven NPOs reported operating in a foreign currency but did not specify which currency.
- 64 Regulated NPOs have a higher reported use of foreign currency, 50%, although none of these reported using a currency associated with Tier 1 and 2 countries. This appears to suggest that the involvement of TCSPs has a beneficial impact on currency risk. However, three Regulated NPOs did not specify which currencies they utilise.
- 65 Whilst the use of foreign currencies is more prevalent by Regulated NPOs, the Registered NPOs are considered higher risk due to the presence of Tier 1 and 2 jurisdictions.

Factor 7. Transfer risk

- 66 Overall, 83% of all NPOs (both Regulated and Registered) did not have any structural connections outside Jersey. 18% of Regulated NPOs did, with 10% being a connected entity, such as a company. 15% of Registered NPOs had structural connections outside Jersey, with 8% being a Head Office outside of Jersey.
- 67 Approximately 11% of the NPOs work with Partners in another country. This was evenly split between Regulated NPOs and Registered NPOs.
- 68 Partnering with other organisations (such as local charities or associations) is a

¹⁸ See Appendix D2 of the Handbook is updated from time to time. An up-to-date version can be accessed here: [Appendix D2 – Countries and territories identified as presenting higher risks – Jersey Financial Services Commission](#)

common way for NPOs to operate, especially in jurisdictions where they do not have a presence themselves. In addition to enabling Jersey NPOs to implement charitable activities effectively, local Partners can reduce TF risk, with their local knowledge and relationships providing an additional level of information and control to their donors. However, downstream funding and sub-contracting also carries risks, especially where proper due diligence is not conducted. Partners themselves may be sympathetic to, infiltrated by or under the control of terrorist elements. More likely, they simply may not have the high standards of TF control expected of a Jersey NPO and may inadvertently finance terrorism.

- 69 A similar Transfer risk may also occur when Jersey NPOs transfer Funds to other non-governmental organisations or charities in third countries (such as the UK), because again they are ceding control over their Funds to a third party, whose controls may be less stringent. However, where a Partner non-governmental organisation is itself regulated and has good policies and procedures in place to prevent funds being misdirected the TF risk may be reduced rather than amplified.
- 70 The majority of highest risk Jersey NPOs worked in partnership with other non-governmental organisations and charities, hence were exposed to Transfer risk. This is clearly a potential weak point, and NPOs may need to be made more aware that ceding control of funds does not cede responsibility for their destination, and that Partner selection, due diligence and oversight forms a crucial part of responsible donorship.

Factor 8. Lack of adequate and robust systems and controls

- 71 In order to effectively manage and mitigate TF risks systems and controls need to be in place to screen foreign Partners and other associates, and to monitor activities so that the NPO's donations reach the intended Beneficiaries. This is particularly important where an NPO operates in, or in close proximity to, conflict zones, failed states, or areas where Terrorists are known to operate.
- 72 A NPO can assess its exposure to risk by keeping an up-to-date risk assessment which sets out threats and vulnerabilities, and how they are to be managed and mitigated. Risk assessment formed part of the 2nd phase questionnaire, sent to 228 NPOs identified as potentially presenting the highest inherent risk since they were operating in Tier 1, 2 and 2.5 jurisdictions: only 35% reported maintaining a risk assessment.
- 73 Across the board information provided as part of the 2nd phase questionnaire has highlighted several areas where systems and controls could be enhanced:
- Only 30 of the NPOs had some form of safeguards in place for Funds being distributed abroad, with only six having implemented anti-Diversion procedures.
 - 10 NPOs provided its Resources with anti-Diversion training, eight did so at the time of recruitment and four on an annual basis.
 - The larger Registered NPOs that operate in conflict and disaster zones advised that they had screening systems in place. For example, they conduct enhanced due diligence and vetting of Resources against sanctions lists and **proscribed terrorist organisation** lists¹⁹. Overall, however, this was not a common feature.
 - 17 NPOs undertook automated sanctions screening and 15 NPOs did so manually.
 - 18 NPOs knew that they ought to report to the Minister if the NPO or its

Resources are approached by a sanctioned person, or by a party acting for a sanctioned person, or if they suspect that sanctions legislation may have been breached.²⁰

- 20 NPOs advised that they do not have any controls in place to ensure that their Partners are undertaking work only in line with the NPO's expectations and agreements. Only 11 NPOs had contractual agreements in place regulating such matters and four NPOs undertook unannounced field validation spot checks.
- 41 NPOs knew that the appropriate recipient of any SARs concerning suspicions of ML and TF is the Joint Financial Crimes Unit, an arm of the States of Jersey Police.²¹
- 64 NPOs produced financial statements. 30 of those were audited, 23 by an independent auditor.

74 The information provided suggests that some organisations within the non-profit sector currently have a high-risk tolerance versus a low control environment, rendering them more vulnerable to TF abuse. Since the risk of PF also benefits from robust systems and controls and displays some similarities in terms of vulnerabilities to those of TF misuse and abuse, it is also anticipated that some of the non-profit sector equally presents a higher risk to PF misuse and abuse.

Factor 9. Other key information

75 Advances in technology which has made the internet globally accessible has significantly changed and expanded advertising capacity and fundraising opportunities. 66% of Registered NPOs confirmed they had a social media presence, whilst only about 6% of the Regulated NPOs did. This discrepancy can be explained by Regulated NPOs tending to be funded by a private donor, such as a settlor of a trust, whilst Registered NPOs raise funds from members of the public, by trade or by seeking government or other charity funding.

76 Additional research is needed to better understand how the social media presence is used in practice and what controls (if any) there may be in relation to fundraising on such platforms.

20 More information on how to submit a sanctions compliance reporting form can be accessed here: [Sanctions forms for licences and suspected breach notifications — Jersey Financial Services Commission](#)

21 More information on how to submit a SAR to the Joint Financial Crimes Unit is accessible here: [States of Jersey Police - Suspicious activity reports](#)

Recommended actions

- 77 Additional enquiries will be undertaken when the supervisory powers come into effect, in order to assess and mitigate the TF risks presented by non-respondents and newly registered NPOs.
- 78 Further research is required into the NPOs that use social media in order to establish what controls they have in place in terms of their fundraising (a high-risk area for TF).
- 79 The JFSC has collected NPO data as part of this risk assessment work and as part of its annual Supervisory Risk Data collection, elements of this data should continue to be reconciled.
- 80 There needs to be increased engagement between the JFSC and the Office of the Charity Commissioner, to set out collaborative on-boarding, delisting, examination and information sharing processes to reduce the impact on the NPO sector of being overseen by several agencies.
- 81 During 2022, it is proposed that the regulatory framework will be enhanced in preparation for the JFSC beginning its supervisory activities of Vulnerable NPOs on 1 January 2023.
- 82 There needs to be additional outreach and engagement with the NPO sector to support it with enhancing its systems and controls, aiming to ameliorate development areas identified through the NPO TF risk assessment process. This outreach work will also, as a lesson learnt from this exercise, stress the longstanding obligation on each NPO, under the NPO Law, to notify the JFSC in writing of any changes to its registered information. This obligation applies to all NPOs and it is an offence not to do so, unless the NPO has a reasonable excuse.

Conclusion

- 83 Overall the non-profit sector in Jersey presents Medium-Low risk, however, there is a subsector of circa 11% of these NPOs that present heightened risk, being more vulnerable to TF abuse and misuse. These NPOs, being both Registered NPOs and Regulated NPOs, tend to:
- Operate in higher risk jurisdictions, such as conflict zones, failed states and disaster areas where support such as humanitarian aid and disaster relief is desperately needed, and which equally are areas where Terrorists also tend to undertake activities.
 - Use Partners with the aim to seek to reduce risk, however this practice may also bring additional Transfer risk requiring careful management.
 - Use money remittance methods, such as cash, which may render the tracing of funds to legitimate Beneficiaries more challenging.
- 84 Information provided in the NRA suggests that the sub-section of Vulnerable NPOs, in the main, has a high-risk tolerance versus a low systems and control environment, rendering them more vulnerable to TF misuse and abuse.
- 85 Since the risk of PF also benefits from robust systems and controls and displays some similarities in terms of vulnerabilities to those of TF misuse and abuse, it is also anticipated that some of the non-profit sector equally presents a higher risk to PF misuse and abuse.
- 86 It is vital that the non-profit sector in Jersey remains a thriving, diverse and important part of our economy. Safeguards need to be put in place in order to ensure that we continue to comply with international standards as an Island, and to reduce the level of TF risk exposure overall. In order for us to successfully manage TF risks and remain a responsible international citizen, Vulnerable NPOs will need to enhance their controls to demonstrate that they are effectively identifying, assessing, managing and mitigating TF risks.
- 87 Further work will also be required during 2022 to ensure that the regulatory framework is developed in a way that is supportive of the non-profit sector. This will include establishing in law the criteria that define a higher risk NPO for TF abuse purposes (**Prescribed NPO**). Outreach, engagement and guidance will also be crucial components in this endeavour, working collaboratively across agencies, the non-profit and the TCSP sectors.

Appendix A:

NPO Risk Assessment Methodology – overview

It is important to seek to understand threats and vulnerabilities before they become a reality and the risk materialises:

Indicators of risk

- › NPO operating in and disbursing Funds to conflict zones, failed States and other higher risk jurisdictions, territories and areas²²
- › NPOs working with Partners that are operating in and disbursing Funds to conflict zones and higher risk jurisdictions, territories and areas
- › NPOs using payment methods that fall outside the regulated banking system and that allow for anonymity, making the routing of funds less easy to follow, e.g. by disbursing cash, using Hawala (or similar) payment methods, using pay cards or other money remittance services
- › General compliance issues identified may indicate TF risk
- › Terrorist abuse indicators.

Threats

- › A person, group of people, activity or object with an inherent potential to cause injury or harm to people, the economy, the State etc. The threat therefore captures Terrorists, Sympathisers, Facilitators (e.g. a financier, regulated and registered professional), activities and tools (e.g. Resources). The threat environment is continuously evolving, requiring vigilance and ongoing monitoring
- › Knowingly (or unknowingly) the NPO has an affiliation with Terrorists or Sympathisers
- › The NPO is a sham NPO, deceiving donors to provide it with support.

Vulnerabilities

Organisational vulnerabilities - features that allow a NPO to be exploited by external actors such as Terrorists

- › Exploitation by Terrorists via Facilitators engaged in providing logistical support (movement of Resources, Recruitment, travel, acquisition of weapons)
- › Diversion by NPO Representatives of external parties such as Partners
- › NPOs may also be targeted domestically within a community, or a part of the population, targeted by Terrorists for support.

²² Appendix D2 of the Handbook is updated from time to time. An up-to-date version can be accessed here: [Appendix D2 – Countries and territories identified as presenting higher risks – Jersey Financial Services Commission](#)

Sectoral vulnerabilities

- › *Barriers of entry*, e.g. via (i) lack of legislative and regulatory framework to effectively safeguard and control NPOs and those who are associated with NPOs and (ii) lack of robust enquiries, screening and vetting upon registration and thereafter – all features which may allow sham NPOs to access the market and take advantage of its benefits
- › *Extended logistical networks* that present challenges to maintain adequate control of Resources (e.g. when working with Partners, and in particular when working in conflict zones, in close proximity of conflict zones, and in areas with low governance)
- › *Related sectorial challenges* such as when Resources flow through sectors that are unregulated, e.g. unregulated money services businesses
- › *Transitory workforce*: (i) Workforces that change frequently, e.g. volunteers, as well as working with different Partners, in particular if combined with (ii) non-existing or ineffective vetting and screening procedures for NPO Representatives and Partners
- › *Operational capacity*, e.g. the sector enjoys a global presence, being cash-intensive and has access to considerable sources of Funds, all which may be exploited. May operate in close proximity to an active terrorist threat and where Diversion is a dominant method of abuse, alongside abuse for programmes and support for Recruitment.
- › *Global logistical network* working with Partners on a bi-lateral basis or in larger consortiums, providing unique access by NPOs to diasporas or areas of conflict
- › *Public trust* is often afforded to the NPO sector, this may lead to a lack of scrutiny (transparency, accountability and due diligence measures) in this sector
- › *Organisational culture* may lead to poor decision-making and risk management: (i) emphasis may be placed on focusing on the provision of humanitarian aid at any cost, not focusing enough on counter-TF safeguards, (ii) competition with other NPOs providing aid may lead to a race to the bottom in terms of upholding counter-TF standards; (iii) inadequate funding is spent on administration, including ensuring adequate and effective counter-TF policies and procedures are in place.

Appendix B:

Glossary of terms

Defined terms are indicated throughout this document as follows; it is not intended that the meanings given below should necessarily be, or become, formal definitions, they are provided only to assist in simplifying these instructions and in making them clear.

Term	Definition
Beneficiaries	Natural persons or groups of natural persons who receive humanitarian, charitable or other types of assistance through the services of the non-profit organisation
Diversion	Transactions by a non-profit organisation's NPO Representatives or external parties such as Partners that diverge Funds away from the non-profit organisation's legitimately intended purposes to a terrorist or terrorist organisation for them to benefit from, directly or indirectly
Facilitator	An active supporter of a terrorist or terrorist organisation, e.g. a financier, a regulated and registered professional or a recruiter
FATF	Financial Action Task Force
Fidéicommis	Fidéicommis is similar to a trust and is created under the Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations. There is only a limited number of these in Jersey, which will have registered with the States Greffe
Financing of terrorism (also referred to as TF)	The Financial Action Task Force defines this term as "[t]he financing of terrorist acts, and of terrorists and terrorist organisations" in its June 2014 Report: Risk of Terrorist Abuse in Non-Profit Organisations
Funds	This term includes both money and Resources that may be of value to terrorists or terrorist organisations. Value does not need to include physical assets, it can for example be provision of training
Hawala	Hawala refers to a traditional system of transferring money without money movement. It is done with the help of a brokering third party and it is predominantly used in the Middle East, Africa and South Asia. These payment systems may also be referred to as Hundi or Havala
JFSC	Jersey Financial Services Commission
The Minister	The Minister for External Relations and Financial Services
ML	Money laundering
NPO	Non-Profit Organisations, defined under Article 1 of the NPO Law as an organisation, i.e. a body of persons, whether incorporated or unincorporated, any legal entity and any equivalent or similar structure or arrangement, as well as persons acting as trustees of a trust, being "...established solely or mainly for charitable, religious, cultural, educational, social or fraternal purposes with the intention of benefiting the public or a section of the public..." and the organisation "...raises or disburses funds in pursuance of those purposes"
NPO Law	Non-Profit Organizations (Jersey) Law 2008 as amended from time to time

Term	Definition
NPO Representative	Referring to a Board member (or its equivalent), an employee, volunteer or another individual acting in an official capacity representing the non-profit organisation, irrespective of whether that person is paid for their services or not
NRA	National Risk Assessment
Partners	Those who assist an NPO in carrying out activities or programmes domestically or abroad. This can include international non-governmental organisations or charities that the NPO collaborates with in order to implement its NPO programmes; and others such as suppliers, vendors, contractors and consultants
PF	Proliferation of weapons of mass destruction
Proscribed terrorist organisations	Individuals or organisations that are placed on national and international lists of actors known to be engaged in terrorist activities Jersey's proscribed terrorist organisation list may be accessed here: Sanctions by person — Jersey Financial Services Commission
Recruitment	Active and passive processes through which terrorists seek to enlist operational personnel, facilitated a recruiter
Registered NPOs	A non-profit organisation that is not using the services of a trust company business and has registered with the JFSC in accordance with the NPO Law
Regulated NPOs	A NPO operating under the exemption in Article 2 of the NPO Law being a NPO: <ol style="list-style-type: none"> 1. administered by a registered trust company business in the provision of one of the following services: <ul style="list-style-type: none"> > a director of a company, > a trustee of an express trust, > a member of the council of a foundation or the person <p>Or</p> <ol style="list-style-type: none"> 2. administered by (provided with one of the services listed in 1) a person who does so by virtue of their employment with a registered trust company <p>Or</p> <p>which is a trust and has at least one of its trustees provided by a company that is a private trust company and which benefits from the concession that is set out in Paragraph 4 of the Schedule to the Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000.</p>
Resource(s)	Includes financial and non-financial non-profit organisation assets (e.g. donations, gifts/benefits-in-kind, property of every kind, documentation and personnel)
SAR	Suspicious Activity Report
Sympathiser	An individual who is not actively engaged in terrorist acts but that supports terrorists or terrorist organisations indirectly
TCSP	A person registered by the JFSC to carry on trust company business as defined under Article 2 of the Financial Services (Jersey) Law 1998
Terrorist	Refers to both individual terrorists and terrorist organisations, a party identified as a supporter of terrorism by a domestic or international sanctions list, or where a jurisdiction has assessed the party as active in terrorist activity, for example by being a foreign fighter, i.e. an unpaid individual who is not a citizen of a conflict State, and who joins insurgencies during civil conflicts.

Term	Definition
Transfer risk	<p>This risk manifests in multiple ways, all ultimately benefitting terrorists, directly or indirectly. It is closely related to fraud, corruption and bribery risks.</p> <p>Examples of transfer risk materialising into Diversion are the risk of transferring Funds to terrorists directly or indirectly, for example by the NPO:</p> <ol style="list-style-type: none"> 1. Paying salaries to a Facilitator, making donations to a terrorist, making cash payments to settle access fees such as road checkpoint tolls or other forms of 'taxation' to Facilitators, such as making donations for particular causes as directed by them, including where tender processes have been predetermined, to certain suppliers or where this means terrorists or Facilitators are obtaining access to Resources, influencing aid locations and Beneficiaries. At times, such payments may also be misrepresented in the NPOs financial records as fees for logistics, security etc. 2. The risk of transferring Funds to another charity, NPO, Partner that, in turn, suffers the transfer risk materialising as noted under (1)
Vulnerable NPO	<p>A sub-sector of the Registered NPOs and Regulated NPOs that is displaying higher risk factors which means they may be perceived as particularly vulnerable to the misuse and abuse by terrorists and terrorist organisations for financing of terrorism purposes</p>
Working Group	<p>The national group that considered the NPO financing of terrorism risk which formed the basis for this document and which comprised of representatives from the following competent authorities: Government of Jersey, Ministry for External Relations, Jersey Financial Services Commission, the Law Officers' Department, States of Jersey Police, Joint Financial Crimes Unit, Jersey Customs and Immigration Service, the Office of the Jersey Charity Commissioner. In addition, the Working Group included the States of Jersey Overseas Aid Commission.</p>

