A DIALOGUE WITH THE FINANCIAL INTELLIGENCE AUTHORITY AND EXECUTIVES OF CIVIL SOCIETY ORGANIZATIONS (CSOS) IN UGANDA

“Anti-Money Laundering: From Awareness to Compliance”

12th February, 2018 | Kampala Serena Hotel, Achwa Hall

CONFERENCE PROCEEDINGS
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1.0 BACKGROUND

Over the past few years Uganda has undergone legislative restructuring in a bid to fight financial abuse and crime. Part of this restructuring included the amendment of the Anti-money laundering Act (2013) to include Non-Profit Organisations (NPO). And, amendment of the Terrorism law in compliance with the international policy making body; Financial Action Task Force (FATF), which purposes to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats.

**FATF Recommendation 8** requires that the national laws and regulations that govern non-profit organisations be reviewed so that these organisations cannot be abused for the financing of terrorism. The FATF has established best practices, aimed at preventing misuse of NPOs for the financing of terrorism while, at the same time, respecting legitimate actions of NPOs.

As a result of legal restructuring, state regulators like the Financial Intelligence Authority have imposed an array of stringent albeit necessary compliance requirement on NPOs. Similarly, financial institutions especially banks have tightened their internal policy reins, placing incredible and sometimes, invasive stipulations on NPOs in management of their finances. Although well intended these requisites have been an incursion on the operation of Human Rights Defenders (HRDs); CSOs, NGOs/NPOs in Uganda and on their work.

Driven by the passion to mitigate the impact of threats faced by HRDs as they promote and protect human rights, the **Defenders Protection Initiative (DPI)** and their partners the **National NGO Forum, Uganda**, thought it pertinent to bring together members of the civil society, representatives of financial institutions and the Financial Intelligence Authority to confer on issues of Anti-Money laundering and Terrorist Financing which evidently affect and are affected by all parties concerned. To that effect, this dialogue was held with the following objectives:

- To understand the mandate of the Financial Intelligence Authority
- To seek clarity on the Anti-Money Laundering Act and its impact on CSOs in Uganda
- To understand compliance requirements of the Financial Intelligence Authority
2.0 CONTEXTUAL ANALYSIS

According to the Financial Action Task Force¹, Anti-Money Laundering is the processing of criminal proceeds in a way that disguises their illegal origin to enable the criminal to enjoy these profits without jeopardising their source (Ac, Force, Na, Fund, & Fatf, 2018).

Uganda is currently a member of Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) – an organization that was founded to combat money laundering through the implementation of recommendations by the Financial Task Force (FATF)². There are forty recommendations that were developed to form a basis for the effective control of illicit financial flows in the world.

The forty recommendations set out the various requirements of states, among others to;

"Implement relevant international conventions; Criminalize money laundering and enable authorities to confiscate the proceeds of money laundering ; Implement customer due diligence (e.g., identity verification), record keeping and suspicious transaction reporting requirements for financial institutions and designated non-financial businesses and professions; Establish a financial intelligence unit to receive and disseminate suspicious transaction reports, and Cooperate internationally in investigating and prosecuting money laundering”

In 2013, the parliament of Uganda enacted the Anti-Money Laundering Act, “to provide for the prohibition and prevention of money laundering, and the formation of the Financial Intelligence Authority – Uganda (FIA)³”. The FIA is responsible for the enforcement of the act. However, not much effort has been invested in popularizing the authority and sensitization of various stakeholders on the compliance requirements against anti-money laundering and other illicit financial flows.

According to a report released by FATF, Non Profit Organizations (NPOs) are at a high risk of terrorist abuse.(FATF, 2014)⁴. The echoes Recommendation 8 of the forty FATF recommendations to be implemented by states which states that;

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² An Organization that was founded in 1989 to combat money laundering and terrorism financing, http://www.fatf-gafi.org/


"Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favor anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, financial institutions should have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions”

The Caribbean Financial Action Task Force (CFATF) clearly stated that, whereas the possibility of Non Profit Organizations (NPOs) to be used for illicit financing is almost unlikely, the misuse of these organizations by terrorists might lead to acute effects to victims of crimes by terrorist organizations.⁵

**Is the implementation of Anti-Money Laundering Regulations in Uganda selective? – A case on the freezing of accounts of NGOs**

The dilemma in the implementation of the FATF guidelines is whether the implementation of the recommendations is being used selectively and sometimes misused to target civil society organizations. For instance, in September 2017, three non-government organizations were raided by the Uganda Police, after the government reportedly got intelligence that such organizations were financing terrorist activities. The government of Uganda is believed to be implementing overt ways such as; Closed offices, seized records, bureaucratic delays, and new laws targeting the work of CSOs.⁶

The organizations included Action Aid Uganda⁷, Great Lakes Institute for Strategic Studies (GLISS)⁸ and Solidarity Uganda⁹. The offices of ActionAid Uganda, GLISS, and Solidarity Uganda were raided by police in a cordon and search operation. At ActionAid, staff were prevented from leaving for several hours as police thoroughly searched the premises; removing documents and confiscating phones and laptops. The search warrant claimed that all three organizations were involved in “illicit financial transactions” and “subversive activities to destabilize Uganda.”¹⁰ The severity of these accusations and subsequent raids on other NGOs indicate that an attack on civil society is underway. The government through the

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⁷ A Non-Government Organization that has been working in Uganda since the 1980s to end poverty and injustice

⁸ A policy development organization working in the great lakes region, with headquarters in Kampala

⁹ A loose coalition of consultants that provide capacity building to communities in non-violence strategy, movement building and social change

¹⁰ Assistant Inspector General of Police, Police Spokesperson – Asan Kasingye
Financial Intelligence Authority ordered for the freezing of organizational accounts of these organizations and for the case of GLISS the accounts of the staffers.

The then Executive Director of Action Aid Uganda – Arthur Larok, wrote an article\(^{11}\) where he highlighted the reasons why the raid on the three organizations had ulterior intentions such as delegitimizing the civil society in Uganda, justifying further action like the halting of activities in the pretext of ongoing investigations, compromising systems and information assets with a potential to sow seeds for further surveillance, among others (Larok, 2018)

**Action Aid Uganda Vs. Financial Intelligence Authority and Standard Chartered Bank Uganda**

In reaction to the freezing of the accounts, Action Aid in December 2017 petitioned the commercial court\(^{12}\) seeking the financial intelligence authority and standard chartered bank in Uganda to unfreeze five organizational accounts which were in different currencies.(Kazibwe, 2018)

**Efforts by CSOs after the raid on GLISS, Action Aid and Solidarity Uganda**

The civil society fraternity in Uganda has embarked on various initiatives aimed at better understanding the mandate of the financial intelligence authority and discussing the contextual overview of the implementation of the FATF recommendations in Uganda. Foreexample Defenders Protection Initiative\(^{13}\) organized a webinar (Global NPO Coalition on FATF, 2018) with presenters from the Human Security Collective and Fund for Global Human Rights to discuss FATF implementation in Uganda\(^{14}\), The Uganda National NGO Forum\(^{15}\) in collaboration with Defenders Protection Initiative is organizing a dialogue with the financial intelligence authority with the specific objective of understanding the mandate of the financial intelligence authority and its compliance requirements in the implementation of the anti-money laundering act.\(^{16}\)

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\(^{11}\) Larok, A. (2018). Our offices were raided in Uganda - here â€™s what to do if yours are too. Retrieved February 10, 2018, from http://www.actionaid.org/2017/10/our-offices-were-raided-uganda-heres-what-to-do-if-yours-are-too


\(^{13}\) NGO in Uganda that employs contextualized tools and practices to build the capacity of human rights defenders inorder to mainstream security and safety in their work - https://defendersprotection.org/


\(^{15}\) A network of NGOs in Uganda, whose headquarters are located in Kampala - http://ngoforum.or.ug/

\(^{16}\) The Dialogue will take place on Monday 12, February 2018 at Kampala Serena Hotel, under the theme “Anti-Money Laundering : From Awareness to Compliance”, Speakers shall include the Executive Director from the Financial
3.0 PROCEEDINGS OF THE DIALOGUE

The dialogue commenced by salutations from the moderator; Sheilah Muwanga from the Foundation for Human Rights (FHRI), who also over-saw the greetings and introductions of the participants. Ms. Muwanga then introduced the panellists;

Mr Richard Ssewakiryanga—the Executive Director of the National NGO Forum,

Mr. Gibson Muloni—Head, Financial Compliance and Governance, Standard Chartered Bank,

Mr Sydney Asubo -- Executive Director, Financial Intelligence Authority and

Mr Yona Wanjala -- Executive Director, Defenders Protection Initiative.

Intelligence Authority Uganda, The Head of Financial Crime Compliance and Governance – Standard Chartered Bank Uganda, among others
3.1 Opening Remarks from Yona Wanjala – Executive Director Defenders Protection Initiative

Mr. Wanjala welcomed participants and panellists to the meeting and went on to clarify the involvement of DPI whose niche is security, safety and protection of Human Rights Defenders and for this particular convening in matters relating to illicit financial flows and the Financial Intelligence Authority (FIA).

“If you have been following current global trends, issues to do with of anti-money laundering and terrorist financing are considered security issues,” Mr. Wanjala clarified.

In addition to that, DPI is a member of the Global Non-profit Organisation Coalition on FATF which advocates for changes in FATF’s recommendation that affect NGOs with the aim of eliminating the unintended consequences of FATF policies on civil society.

The Financial Action Task Force (FATF) is an inter-governmental body whose objectives are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

In line with the objectives of the dialogue, Mr Wanjala expressed optimism that Mr. Sydney Asubo, who is held in high regard as far as issues of preventing money laundering in the country and region are concerned, would help participants understand the pertinent standards and best practises for the regulation and monitoring of NPOs in line with anti-money laundering and terrorist financing which have had great implications on their work.

Mr Wanjala also requested Mr Asubo to offer recommendations on how collaboration and coordination between the Human Rights Defenders and the FIA can be enhanced and to advise on the due processes considering that only a few and possibly none of the CSOs have participated and complied with the FIA regulations and yet their (FIA’s) impact is felt on CSOs’ work.

“Banks are asking for things like proposals, budgets and activity schedules and we worry soon they will demand to follow the organisations to the field during implementations.”

To Mr Gibson Muloni, Mr Wanjala, on behalf of fellow members of the civil society, expressed their frustration with banking institutions for placing unrealistic demands on them before funds from donors can be accessed. “Banks are asking for things like proposals, budgets and activity schedules and we worry soon they will demand follow the organisations to the field
during implementations.” This, Mr Wanjala, noted has raised a lot of questions in the civil society fraternity like; why the suspicion and mistrust? Is it the invisible hand of the FIA at play? Are these global demands? Why now? But it is not only the banks being questioned. After the freezing of accounts of two civil society organisations last year, Mr. Wanjala opined that from a security perspective, it raised suspicion that the implementation arm maybe vulnerable to politics of securitization and fear.

Mr. Wanjala ended by quoting a phrase from the good book; “come let’s reason together. Though your sins be like scarlet, they shall be as white as snow...” a figurative representation of the purpose of this dialogue which was to reason together and to seek clarification.
Pursuant to setting the dialogue in context, Mr Ssewakiryanga begun by giving a brief background of incidents and events that necessitated this meeting. In his words, “how money gets to us, is kept or sent to partners was never [our] focus.” In his recollection, the focus of CSOs would be on writing a winning proposal which would appeal to donors to funds their programs. Banks would fall over themselves to get and manage NGO accounts. Then on it would be routine management of the accounts. The intricacies involved in the movement of the monies from the accounts of the donors to the non-profit’s account were never a major concern.

“....how money gets to us, is kept or sent to partners was never [our] focus.”

According to Mr. Ssewakiryinga, things changed about a decade ago after the 9/11 attacks and other subsequent terrorist related incidences. It was at the time of the global economic collapse that it became glaringly clear that money was in fact a political tool and could be used to fund all kinds of activity including terrorism. Suddenly there was strict monitoring on movement of money. A transition, according to Mr. Ssewakiryinga, [they] weren’t fully prepared for.

The banks now require all kinds of documentation, some organisations had their money bounced back to the donors and the pinnacle of all this was the freezing of the accounts of two CSOs last year. The worst thing about all this, Mr. Ssewakiryinga pointed out, was that the CSOs were not privy to the motive behind these decisions and it was unclear from whom they could get an explanation.

**CSOs were not privy to the motive behind these decisions and it was unclear from whom they could get an explanation.**

On account of these occurrences, NPOs have taken a hit and the blow has caused damage far deeper than the surface as Mr. Ssewakiryaga exemplified:

All donors are rethinking disbursement terms. Those that would give a full grant want to disburse bi-annually, those that would disburse bi-annually want to do it quarterly. CSOs worry that it might even get to daily disbursements.
The beneficiaries have also been affected. For instance over 65 orphan children were unable to study during the final school term last year because funds from their sponsors had been repatriated to the donor and bounced back due to the delay in release of funds.

But also, one of the organisations whose accounts were frozen, decided to boycott this dialogue and other subsequent events where representatives of the FIA (state representatives) would be present. “An inapt state for both parties involved and not a matter to be taken lightly, Mr. Ssewakiryanga voiced. See Annex 6.2 for letter explaining reasons for boycott

On a lighter note, Ssewakiryanga lauded the initiative of this dialogue, hopeful that addresses from FIA and Standard Chartered bank would not only help participants gather enough knowledge to start them thinking about the direction to take but also help civil society prepare to adequately prepare to avoid a similar fate of what befell their colleagues and address the current predicament of freezing accounts that some NGOs are in.

The National NGO Forum head, ended his address with a reminder of the immensurable significance of CSOs first in the in the economy to which they contribute over 5% of the GDP and employ over 3000 people. Not to mention the value chain that goes to other industries like hotels and petrol stations. But also the civil society’s social work has impacted and transformed the lives of Ugandans in immeasurable ways notably in the area of HIV/AIDS prevention and treatment and, primary health care. A blatant depiction of what disruption to the civil society means to the entire country.
3.3 Anti-Money Laundering: From Awareness to Compliance - Sydney Asubo, Executive Director Financial Intelligence Authority

In keeping with the scene that had been set by the previous speakers and the expectations voiced, Mr Asubo began by giving insight into the socio-politico environment in the country/region and its influence on the topics of discussion; money laundering and terrorist financing.

“Where there is corruption, money laundering is inevitable.”

He named the high levels of corruption as one of the major propagators of illicit financial flows in the country. "Where there is corruption, money laundering is inevitable.” And the persistence of terrorist financing, he attributed to the unstable political economies in Uganda and her neighbours. Congo, Sudan and Somalia are all known to have terrorist activities going on which are undoubtedly funded one way or another. Similarly, operating within our borders are ADF, LRA, Al Shabab, Al Qaeda and the Taliban, all declared terrorist organisations by the terrorism law in Uganda.

The role of the FIA in this context, Mr. Asubo pronounced, “is to provide intelligence, identify threats and take appropriate remedial steps or mitigate consequences of both money laundering and terrorist financing.” This is a mandate prescribed by the UN Convention Against Terrorist Financing to which Uganda is a signatory. In line with this convention, Uganda, under the Financial Action Task Force (FATF) is required to comply with certain requirements one of which is to criminalise terrorist financing and money laundering.

"The role of the FIA in this context is to provide intelligence, identify threats and take appropriate remedial steps or mitigate consequences of both money laundering and terrorist financing.”

The FATF has forty (40) standards, Mr. Asubo went on to elucidate. The standards are in terms of recommendations, interpretation notes and guidance notes. The 40 recommendations were 1st drawn in 1990 and have since been revised 3 times (1996, 2003 & 2012).The latest revision (2012) introduced the Risk Based Approach to Anti-Money Laundering measures and supervision. As opposed to the previous rules-based approach, the amendment considers new developments and technologies in response to shifts in regulatory priorities and widens the scope to deal with new threats. For example, tax crimes have now been exclusively included as predicate offences for money laundering.
The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.

And so as to comply with international standards Uganda had to amend and enact the Anti-terrorism law which previously had been passed prior to 9/11 and other subsequent terrorist incidents. However, Mr. Asubo revealed, the process of enacting the Terrorism Law met with a lot of resistance from organisations and individuals (some from the civil society) who mistakenly believed it was intended to curtail their activities. But in fact it was enacted because Uganda was assessed and identified as having weak legal and legislative mechanism to combat terrorist financing and money laundering.

*Figure 4 - Counsel Sydney Asubo makes a case for the Financial Intelligence Authority*
Every country is expected to make a national assessment of threats and vulnerabilities to determine the risks of NPOs being used to finance terrorism and put in place appropriate measures. One of the measures Uganda put in place was to include NPOs on the list of FATF accountable persons. The risk profile of a country determines the measures. Some countries like Seychelles have a low risk of terrorism and therefore their measures cannot be similar to those of Uganda which has a high risk of terrorism and consequently a high risk of terrorism financing.

Uganda’s risk profile was confirmed by two external assessments done in 2005 and 2016 and a recent national risk assessment which uncovered financing of violence extremism in Madarasa schools in Kawempe under the guise of aiding orphans.

Mr. Asubo however, revealed that a specific terrorism financing assessment had not yet been conducted and that this could be an opportunity for the NPOs to make a case for them to be struck off the list of accountable persons. If the risk were to reduce, a case could be made to remove NPOs from the list.

All FATF member countries are also required to meet certain obligations one of them being; peer review by colleagues. This is basically to assess how a country is complying. Uganda was first assessed 2005 and found to be non-complaint. At the time the Terrorism Law had not been enacted. It was enacted in 2013 and a year later the FIA was established under that law.

Mr. Asubo acknowledged that the law is still new, they are yet to come up with full implementation methods and so full enforcement has not commenced.

FATF also provides a list of Reporting Entities/ Accountable Persons such as financial bodies (forex bureaus, banks) and designated non-financial institutions, but also gives leeway for countries to expand on the list of reporting bodies. NPOs are not listed as accountable persons by the FATF but Uganda’s country context (presence of operational terrorist groups) made it necessary. Framers of the law in Uganda found it pertinent to extend this list to include NPOs after an internal assessment confirmed the risk.

The FATF focus on NPOs is in mainly in relation to terrorist financing and not so much money laundering. When it comes to money laundering they focus on the banks because, first, they have mechanisms in place to detect possible cases of laundering and secondly, NPOs and other organisations hold accounts with the banks. The bank is expected to understand the operations of its customer. And if some of the transactions are out of line with the client’s
profile, the bank has a right to ask questions and to report or return the money in case of suspected fraud/laundering.

It has come to the attention of the FIA that NPOs and other accountable persons do not re-profile. The information held by the bank is premised on what was provided 5 or 10 years ago at account opening. Yet it is possible for the volume of transactions to have grown or the size of the operation expanded and yet transactions might be flagged because they are not in line with the client information held by the bank.

**Key obligations of Accountable Persons**

These cut across all Accountable Persons (including CSOs) although financial institutions like banks have extra obligations and transactions may differ among the different accountable persons. Mr. Asubo also commended the banks for being 100% compliant in meeting these obligations although many have fallen short. Most countries have similar standards legislation because FATF in hand with World Bank and IMF have produced a model legislation to meet FATF standards with a few variations.

- Customer due diligence
- Record keeping
- Reporting suspicious transactions
- Report large cash transactions (20m shillings and above)
- Reporting cross border movement of currencies. Any movement of cash of 30m shillings and above should be declared at customs Uganda Revenue Authority. FIA gets a copy of the declaration. (The Law doesn’t limit how much money you carry as long as you can prove legitimacy)
- Accountable persons are obligated to take a money laundering and terrorist financing risk assessment to establish the risks of being used as a vehicle to promulgate these.
- Accountable persons are also obligated to develop internal policies against money laundering and terrorism financing.
- They are also expected to train their employees.
- Accountable persons are also required to registering with FIA. Mr. Asubo noted that only a few had registered. Adding that although the law prescribes sanctions for those that do not comply, they would not be carried out before extensive sensitisation and engagements such as this dialogue had been done. He encouraged participants who had not yet registered to do so online.
- Audit systems annually to detect laundering or terrorist financing and submit reports.
Response to GLISS

In response to the letter from the Great Lakes Institute for Strategic Studies (GLISS) -- one of the NGOs whose accounts had been frozen, Mr. Asubo expressed disappointment at their decision not to attend the meeting but was glad for the letter they had sent saying, "It opens lines for dialogue."

He went on to clarify that in fact the accounts had been halted and not frozen demonstrating that the FIA uses its power exceedingly sparingly. Mr. Asubo also called for clemency on the banks saying it is difficult for the banks because they are in a difficult position. While it is illegal for the banks to tip off the clients that their account has been flagged, they also have a fiduciary obligation to the government.
3.4 The Banking Sector and Anti-Money Laundering in Uganda

Gibson Muloni—Head, Financial Crime Compliance and Governance -- Standard Chartered Bank

In any conversation about money laundering, the role of financial institutions cannot be disregarded. Representing the banking sector at this dialogue, Mr. Gibson Muloni purposed to illustrate why?

First, he began by illuminating on money laundering as defined and observed by the banking sector. That it is classified in in 3 stages. The first stage being

The placement stage -- when it is suspected that someone is making money illegally. Some of the markers of this stage are people whose source of income is elusive and yet they display a lavish lifestyle of private jets and expensive cars.

Money made from illicit business like drugs trade may, often times, make its way into the banking institution if the person presents legitimate documentation at account opening

The second stage; layering--At this point the money is “cleaned.” Once the money is in the banking sector and hence considered legitimate, there are a number of transactions that can be made with it both within and outside the country like purchasing goods from abroad or loaning to equity firms as an investment.

The third stage of money laundering is integration-- when the money is invested in commercial or luxury assets.

In light of this, Mr. Muloni affirmed that if there is any chance of curbing money laundering, banks have to comply with the Anti-Money laundering act. The regulator (FIA), under the law, requires banks to establish adequate internal control measures and programmes to address potential money laundering and terrorist financing risks. The banks have complied and some of the measures include;

- Screening the client from the time they open the account with the bank. This includes; screening the individual, the company and shareholders.
- Screening of transactions to know their source and purpose, monitor large cash transactions.
- Most banks have drafted their own policies and procedure on Know Your Customer (KYC) and Know Your Staff (KYS).
- Maintaining client information for ten years after closing the account.
• Train staff through regular compliance training programs to make sure staff understands obligations under the law.
• Co-operating with national law enforcement agencies where there is reasonable ground for suspicion of money laundering. Although banks enter into a confidentiality agreement with clients, Mr. Muloni confesses under the law they can be ordered to share client information say, by court order.

"In the banking sector, compliance comes first", Mr. Muloni shared. This he lauded for saving them from a lot of trouble. Mr. Muloni sited that it is rare to hear of legal criminal proceedings against banks and this is attributed to their diligence in compliance. Mr Muloni also pointed out the repercussions of non-compliance such as being subjected to several criminal penalties including fines, possibly, having their licence revoked or prison sentences.
He concluded by sharing examples of financial institutions that have been penalised for lack of compliance and involvement in money laundering and other financial crime such as the Bank of Credit and Commerce International of Luxemburg.

The examples Mr. Muloni hoped would clarify to the participants why banks have been very vigorous with internal policies on screening and know your customer, why they have been very meticulous and strict in following up on activities of clients, the funds coming into the accounts and what the funds are being used for. Because of this banks have been demonised but from the examples it is clear that it doesn’t end well for banks if found to have been used as a conduit of money laundering.
4.0 PLENARY

Mrs. Margaret SSekagya – Human Rights Centre Uganda

QN: Mr. Asubo, you spoke of the environment which is political, economic, social and cultural. How do you manage to objectively perform your duties for in instance if you have to bring a political opponent to book? Where do you draw the line between politics and your work?

Mr. Asubo: Everyone comes under political pressure; it depends on what mechanisms you have in place to mitigate that pressure. There are safe guards in the law that provide for operational independence on paper. But actualities on the ground are determined by a number of factors. One of them is the level at which the political pressure is coming from; if it is ministerial, below ministerial or above ministerial. The lower the level, the easier it is to resist. The reality is no one can completely divorce themselves from the political processes in the country. If anyone told you otherwise, they would be lying.

QN: Is there any penalty for non-registration to the FIA and for not filling annual reports? There is no mention of it in our NGO law and many institutions did not know of this compliance.
Mr. Asubo: Yes, there are penalties prescribed by the law. It is easily available on the FIA website. The 2017 amendment to the Anti-Terrorism law has given FIA powers to issue administrative penalties ranging from fines to warnings, warnings to reprimands, and reprimands to fines, the most severe being freezing of accounts.

Sanctions for non-registration are the least severe penalties. But we do not want to impose sanctions before education. We want to first educate accountable persons on the law.

James Muhindo -- Civil Society Coalition on Oil and Gas

QN: In line with bank-client privilege, shouldn’t banks disclose to the clients some of these legal recommendations that they comply with such as keeping accounts information 10 years after account closure? Isn’t prudent to inform clients if accounts are being investigated or about to be frozen?

Gabriel Mukulu, Daily Monitor

QN: Where is the independence of the banking sector and why should we trust you as our bankers? In trying to save yourselves, you have to comply and therefore sacrifice your customer. How do you comply but at the same time protect your customer?

Gibson: As banks we are regulated by Bank Of Uganda, the FIA are our second regulators and others that we do not directly deal with but are obligated to comply with. So as a fellow accountable person we are obligated to comply as the law prescribes.

QN: FATF does not require NGOs to be accountable persons but the country context made it necessary. But even before legislation NGOs were complying with international law. Isn’t this contradictory?

Mr. Asubo: There isn’t a contradiction because the FATF gives a country the liberty to add on the prescribed list of accountable persons. There are some jurisdictions where there would be no rationale to make NPOs accountable persons because they haven’t had incidences of terrorism financing. In Kenya, dealers in motor vehicles are accountable persons.

But, no one can truthfully claim that Uganda’s context excludes NPOs from risks to do with terrorist financing. Apart from being victims, we have long running terrorist activities by terrorist groups like LRA and ADF.

17 http://fia.go.ug/
Bob Kirenga- National Coalition for Human Rights Defenders

QN: As far as I know, the NGO sector is regulated by the NGO Bureau? Does FIA have a working relationship with them? You gave an example of Madarasa schools being funded to support terrorism but these are Islamic schools. Can you give other examples?

Mr. Asubo: We do collaborate with the NGO Bureau and have an MOU with them.

As for an example other than the Madarasa, there are many fraudsters in churches and other faith based organisations putting on cloaks and masquerading as priests and padres.

Edson Ngirabakwizi – National Union of Disabled Persons of Uganda

QN: How do you cooperate with security agencies to avoid attacks on CSOs? Do you share the intelligence gathered because with your intelligence, we are able to operate freely knowing that we are doing the right thing by the law.

Mr. Asubo: Especially as regards terrorism financing, the FIA has policy level discussions and operational level collaborations with other security agencies. All information sourced is forwarded to the Counter terrorism department of Police because they are better placed to deal with it. If it is an external case then the FIA deals with external security agencies.

By its very nature intelligence operates in the wind and not the public domain. Lots of information flows around; the truth and the falsehood and the trick is to distinguish the two through investigation.

Jane Taaka – The Association of Women Lawyers (FIDA) Uganda

QN: Why should NPOs register with FIA and submit annual reports. Are there benefits of registering with the FIA like information sharing?

QN: Prior to events that happened last year (freezing accounts), had there been any engagements to educate NGOs on what they are supposed to do to comply?

Mr. Asubo: NPOs should register because the law requires it. Whether you are registered or not the law equally applies to you.

In the specific case of the institutions whose accounts were frozen, I don’t think whether them being educated or not on the law would have made any difference. But I do agree there is a
significant knowledge gap. One of the FIA’s mandates is to do public awareness and we readily accept invitations to such engagements like this dialogue which hopefully will close the knowledge gap.

Derrick Kugumisiriza – Kick Corruption out of Uganda

**QN:** CSOs draft proposals and send them to different donors in hopes of getting funding. How do we then detect the fake donors from the genuine one?

**Mr. Asubo:** This is why there is a requirement for accountable persons to develop internal policies to detect possible money laundering and terrorism financing. One of the reasons why NPOs are targeted is because unlike licenced business they are less regulated. This provides more room to manoeuvre and for things to go on underground unnoticed. There is a FIA document available that highlights tell-tale signs that you are possibly being used as a vehicle for laundering money. One of the common laundering schemes is “donors” release funds for an activity. A month later they come and claim there are too many audit queries such as lack of accountability and ask for their money back and give you an account in which to deposit the money. That way they have managed to move the money under the guise of donor funding.

Jeff Gidaguyi Wdulo—Civil Society Budget Advocacy Group

**QN:** Africa loses over 50 billion USD in illegal transactions but banks seem more focused on money coming in and not the money being lost. There are also suspected local cases of laundering like people claiming that they sold goats and bought land worth billions. And, what happens to the money from the accounts that have been frozen?

**Mr. Asubo:** It is true that Africa loses money through laundering. It is also true that citizens here steal and launder money outside the country e.g Dubai. In such an instance we would work with authorities in Dubai to repatriate the money. While they might not work as enthusiastically, authorities here do. Every country is called upon to have robust anti-money laundering and anti-terrorist financing laws.

If there is information about locations where our money is taken, we welcome it. We have the means to use that information.

**Mr. Asubo:** We have a suspense account at the central bank for assets and frozen funds. The money can either be moved to that account at the central bank or remain on the frozen
account. And at end of a litigation process then money is transferred to whoever the owner is proven to be by court.

Sophie Kyagulanyi– Oxfam Uganda

**QN:** Are there other countries that have also listed NPOs as accountable persons and relevant examples that CSOs can relate to?

**Mr. Asubo:** Lesotho and other Southern African countries have NPOs as accountable persons. In Europe, the NPOs don’t pose terrorist financing risks because of the nature of their activities. Every country does an assessment to determine terrorist financing risks.

Benson Ocen—Public Affairs Centre of Uganda

**Comment:** I have often noticed what I call the state agencies’ mob action when something goes wrong and state agencies having a knee-jerk reaction whenever there is a hot debate in parliament.

**QN:** Are there procedures to halting of accounts. Under the NGO law, the process is supposed to be transparent. Organisations are supposed to be given a notice. But GLISS didn’t get a notification nor has there been any official communication thus far. Again, what I call a knee-jerk reaction.

**Mr. Asubo:** The halting of these organisations’ accounts would have happened whether they were accountable persons or not. Banks have an obligation to report suspected criminal activity and police must pursue criminal acts.

If the time of halting the accounts was coincidental with the debate on the amendment of article 102(b) of the constitution, is not for me to say. In reference to the “state mob reaction”, this goes beyond the mandate of the FIA but in studies of governments and politics in a country, you see that enforcement of the law goes hand in hand with the politics of the land. Not that I am condoning it but, in some circumstances/states, you cannot expect enforcement of the law to be strict in line with the spirit of the law.

**QN:** We have seen a lot of cracking of the whip on the CSO side when does the same apply to the political side?

**Mr. Asubo:** If two out of a thousand are “whipped”, is that considered a crackdown? That is engaging in hyperbole. I cannot provide specifics but we have in fact taken more action on
politically exposed persons than the NPO sector. But by the nature of our work, this information is not shared in the public domain.

4.1 Final Remarks

The discourse was concluded with remarks from the host—Mr. Yona Wanjala who was pleased to note that FATF had demonstrated a good understanding of the work of NPOs. He also lauded the panellists; Sydney Asubo for calmly and aptly responding to the questions, Gibson Muloni and by extension Standard Chartered bank for honouring the invite noting that several banks had been extended an invite but only Standard Chartered showed up and Richard Ssewakiryanga for co-hosting and organising the dialogue.
5.0 CONCLUSION

The raid on civil society organizations and freezing of organizational assets basing on the assumption that activities being implemented are aimed at disrupting the peace of the country or sponsoring terrorist activities. Whereas the government of Uganda is contributing to the implementation of FATF recommendations, there is need for a mass sensitization of civil society organizations on the role of the enforcement agency and clarity on regulations. Furthermore, the Financial Intelligence Authority and Bank of Uganda should create a mutual platform that promotes dialogue, which shall ultimately lead to increased levels of compliance.
## 6.1 Conference Agenda

### Civil Society Dialogue with Financial Intelligence Authority - Uganda

**Anti-Money Laundering**

*From Awareness to Compliance*

12th February 2018

<table>
<thead>
<tr>
<th>TIME</th>
<th>AGENDA ITEM</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>12:00 PM - 01:00 PM</td>
<td>Arrival and Registration</td>
<td>Defenders Protection Initiative</td>
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<td><strong>Lunch</strong></td>
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<tr>
<td>01:30 PM - 01:40 PM</td>
<td>Opening remarks and Setting the Scene</td>
<td>YONA WANUALA, Executive Director, Defenders Protection Initiative</td>
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<tr>
<td>01:40 PM - 01:50 PM</td>
<td>Contextual Overview</td>
<td>RICHARD SSEWANYANGA, Executive Director, Uganda National NGO Forum</td>
</tr>
<tr>
<td>01:50 PM - 02:10 PM</td>
<td>Anti-Money Laundering - From Awareness to Compliance</td>
<td>SYDNEY ASABO, Executive Director, Financial Intelligence Authority - Uganda</td>
</tr>
<tr>
<td>02:10 PM - 03:40 PM</td>
<td>The Banking Sector and Anti-Money Laundering in Uganda</td>
<td>GIUBBS MULANI, Head, Financial Crime Compliance and Governance Standards, Chartered Bank - Uganda</td>
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<tr>
<td>03:40 PM - 04:30 PM</td>
<td>Plenary</td>
<td>Panelists</td>
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**Defenders Protection Initiative**

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[www.defendersprotection.org](http://www.defendersprotection.org) | @defendersprotection
6.2 Letter from Great Lakes Institute for Strategic Studies

February 9, 2018

Defenders Protection Initiative

Dear Sir/Madam

RE: Dialogue Involving the Financial Intelligence Authority (FIA)

We received your invitation to the afore-mentioned dialogue scheduled for February 12, 2018.

However, we are unable to attend any events involving the Financial Intelligence Authority given the harassment it has subjected to us as an institution and individual staff of GLISS.

As you recall, in October 2017, our banks proceeded to restrict operations on our respective bank accounts. Information from our banks suggested that the restrictive orders were effected upon instructions by FIA. Neither our banks nor the FIA communicated to us about the freezing of those accounts or the reasons why the Authority took such adversarial actions.

All our communications requesting to be advised about the reasons for freezing our accounts remain unanswered to date. We are reliably informed that none of our banks issued any Suspicious Transaction Report (STR) that would ordinarily trigger action by FIA.

Consequently, until we get official communication from FIA indicating the basis upon which they froze our accounts, we will continue to regard the Authority as one agency funded by Ugandan tax payers whose one of its main purpose is to harass and undermine the legitimate work of Ugandans. And on that account, we intend to keep our engagement with the Authority only through official written communication and formal or informal bilateral engagements. We don’t intend to participate in any public events where the Authority is involved.

As a law abiding organization, we take seriously exception to any agency that operates extra judiciary without due regard to the implications of its actions on the regulated community.

Please feel free to share our message with the participants at the dialogue.

Sincerely,


Godber Tumushabe
Associate Director
REFERENCES


Larok, A. (2018). Our offices were raided in Uganda - here is what to do if yours are too. Retrieved February 10, 2018, from http://www.actionaid.org/2017/10/our-offices-were-raided-uganda-heres-what-do-if-yours-are-too