



SPACES FOR CHANGE | S4C

RESEARCH | POLICY | CITIZEN ACTION

BANKS AND CIVIL SOCIETY IN NIGERIA

Examining the Impact
of Anti-money Laundering
and Countering the Financing
of Terrorism Policies and
Measures on Non-profit
Organizations in Nigeria

APRIL 2024






“For most NPOs in most parts of the country, there is little evidence of a terrorism financing risk”

~ Terrorism Financing Risk Assessment of Non-profit Organizations in Nigeria conducted by the Special Control Unit against Money Laundering (SCUML)

“Indeed, the discussions today reveal that there are gaps within AML/CFT policies and practices that impact NPOs. A forum is needed to address these gaps from a multisectoral perspective. There are existing platforms for cooperation, such as the Association of Chief Compliance Officers of Banks in Nigeria (ACCOBIN), where banks converge to discuss and explore solutions to common problems affecting the banking sector. Most of the concerns NPOs have raised and policy gaps identified today can be addressed if we have that kind of structure”

~ Representative, Nigeria Financial Intelligence Unit





"This engagement has helped to open our eyes to the gaps that exist in the enforcement of AML/CFT measures and the negative effects on charities. The restrictions NPOs are facing are as a result of the classification of NPOs as high risk. SCUML's terrorism risk assessment of the nonprofit sector will now inform the future of how regulations are applied to NPOs in Nigeria. Going forward, some subsets of NPOs will be downgraded while some enhanced"

~ Representative, Central Bank of Nigeria

"Voluntary compliance is the key to effective regulation. Over-regulation is toxic to voluntary compliance."

~ Ben Evans, GreenAcre Associates, UK



• INTRODUCTION •

Spaces for Change | S4C organized the maiden edition of the Banks & Civil Society conference in Nigeria on February 8th, 2024, to facilitate discussions on the role of the banks and other financial institutions (BOFIs) in preserving the operating environment for civil society in Nigeria. The conference assembled diverse stakeholders from the banking and civil society sectors, including the academia, media, government departments, independent experts on anti-money laundering and countering the financing of terrorism (AML/CFT), and industry regulators such as Central Bank of Nigeria (CBN), Nigeria Financial Intelligence Unit (NFIU), SCUML, and Corporate Affairs Commission (CAC).

At this event, co-organized with the Special Control Unit Against Money Laundering (SCUML), with support from the Global Center on Cooperative Security (GCCS) and the Fund for Global Human Rights (FGHR), stakeholders examined ways of addressing financial access restrictions faced by non-profit organizations (NPOs) arising from the implementation of banking policies and regulatory measures to counter the financing of terrorism in Nigeria. Based on the evidence presented by civil society representatives to stakeholders, there was consensus among policy makers, regulators, banks and others financial institutions that counter-terrorism measures were, indeed, impacting non-profits negatively. Leveraging the diversity of expertise in the room, the discussions offered a glimmer of hope for collaborative problem-solving toward removing limitations to NPOs' financial inclusion while safeguarding the integrity of the country's financial system. This report chronicles the proceedings at the one-day conference held in Lagos.



Chapter 1¹

Why Financial Inclusion For NPOs?

The Financial Action Task Force [FATF] and the various FATF regional-styled bodies (FSRBs) have rolled out global initiatives to address security threats posed by money laundering and terrorism financing (ML/TF). Out of FATF's 40 Recommendations for mitigating ML/TF risks in countries around the world, Recommendation 8 (R8) specifically focuses on addressing TF abuse in the NPO sector. R8 defines NPOs as **“a legal person, arrangement, or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social, or fraternal purposes, or for the carrying out of other types of “good works.”**

The NPO sector offers a vehicle for both addressing societal challenges and providing essential services and supplies to populations in great need. While doing this, NPOs have created some level of trust within the locales where they operate. Criminal elements—like terrorists and terrorist groups—try to take advantage of this trust using several means such as:

- the collection, consolidation/aggregation, transfer, dissemination, and use of funds raised;
- providing logistical support and encouraging terrorist recruitment;
- supporting terrorist organizations and operations;
- creating sham charities; or engaging in fraudulent fundraising purposes.

The likelihood of terrorist groups taking advantage of NPOs to perpetrate their terrorist acts is referred to as terrorist financing abuse. Certain characteristics predispose NPOs to terrorism financing abuse such as the

1. Keynote Address by Dr. Buno Nduka, Former Director, Monitoring and Evaluation, Intergovernmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA)

ease of setting up an NGO, dependence on one or two management teams, high level of public trust, complex financial operations, irregular income and expenditure, access to hard-to-reach communities in all regions of the country, operation in multiple countries, etc. In some cases, NPOs are sponsored by politically exposed persons (PEPs). Cognizant of these inherent vulnerabilities, countries have developed policy and regulatory measures to mitigate the likelihood of terrorist financing abuse in the NPO sector. Sometimes, these policy and regulatory measures negatively impact or limit NPO operations.

NPOs and the Risk-based Approach

The revised FATF R8 requires countries to adopt a risk-based approach in countering terrorist financing risks in the NPO sector. R8's interpretive note and the Best Practices Paper (BPP) outline a litany of challenges nonprofits face as a result of the global fight against terrorist financing and provide guidance to countries on how to mitigate TF risks without unduly disrupting legitimate NPO operations. **Specifically, R8 recommends identifying at-risk NPOs, assessing their risks, and applying focused, proportionate measures in line with the risk-based approach.** The incorrect application or misunderstanding of Recommendation 8 has led some countries to misapply this provision, leading to over-regulation of NPOs, among other restrictions.

Financial exclusion of NPOs contravenes FATF recommendations. For example, some banks deny financial services to NPOs without attempting risk-mitigating measures which the FATF allows only when mitigation is impossible. To prevent such outcomes, the revised R8 advocates flexibility in NPO monitoring to protect NPOs from terrorist financing abuse—including infiltration, exploitation, and diversion of funds—while maintaining the integrity of the financial sector.

Also, countries are obligated to carry out a risk-based approach to assess the TF vulnerabilities of NPOs, carry out periodic reviews of the risk assessment, and review the adequacy of laws and regulations, including sustained outreach to NPOs and effective information-sharing among stakeholders.



Furthermore, FATF R8's BPP noted that when assessing the potential risk of a particular NPO, **“financial institutions should take into account any regulatory requirements, self-regulatory or other risk mitigation measures and due diligence procedures that the NPO has in place to manage risk across their organizations and operations. This should include those measures which are not specifically aimed at countering terrorism financing, but which nevertheless help to mitigate TF risks, such as good governance, due diligence measures, and reporting requirements on its activities for tax or other purposes.”²**

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Countries are Misapplying Recommendation 8

Compliance with FATF R8 is a global issue. It is not peculiar to Nigeria alone. Most countries in the world, including developed nations, are still struggling with compliance with FATF's 40 Recommendations including R8. The 16 countries in West Africa, except Nigeria, has yet to attain a full compliance rating on R8. The high rate of noncompliance stems from lack of understanding of R8 requirements; the application of a blanket approach to regulating the entire universe of NPOs in the country without adopting focused, targeted, and proportionate mitigating measures; operational issues; lack of synergy between NPOs and regulators; and the inadequacy of measures to mitigate TF abuse in the NPO sector, among others.

The Nigerian government, through the Special Control Unit Against Money Laundering (SCUML), conducted the Terrorism Financing Risk Assessment (TFRA) of the NPO sector in 2021 in compliance with FATF's Recommendation 8 which requires countries to identify the subset of non-profit organizations (NPOs) vulnerable to terrorist financing (TF) risks. Consequently, Nigeria has been re-rated from **non-compliant to fully compliant** with R8 by the Inter-Governmental Action Against Money Laundering in West Africa (GIABA)—the FATF regional style body (FSRB) for West Africa.

To effectively counter TF abuse in the NPO sector without restricting their activities, stakeholders need to come together to review policy frameworks governing TF concerns and how they are applied. Taking the results of



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SCUML's TFRA into account, financial institutions are expected to undertake TF risk assessment on their customers, including the deployment of Customer Due Diligence (CDD). NPOs, on the other hand, are expected to know their vendors; make all reasonable efforts to ensure that funds are not redirected to terrorist and terrorist groups; comply with all existing laws; properly understand the nature of risks they are exposed to; conduct sanction screenings before engaging partners and vendors, and make their management and staff aware of the level of TF risks the organization is exposed to.

Overall, some countries have fared well in complying with FATF Recommendation 8. Nigeria must now take steps to learn from those countries to address the hindrances to NPOs' access to financial services resulting from the crucial fight against terrorist financing. This calls for a multistakeholder approach involving all relevant stakeholders especially the financial sector, NPOs, and regulators.



Source: Daily Times Nigeria

Chapter 2

Findings of the Terrorism Financing Risk Assessment (TFRA) of the NPO Sector in Nigeria

As a first step in combating TF abuse of NPOs, FATF's R8 encourages countries to carry out a risk assessment of the NPO sector to identify the subset of NPOs that are vulnerable to TF abuse. In line with R8, the Nigerian government, through SCUML, conducted and published the report of the terrorism financing risk assessment



(TFRA) of the NPO sector in 2021 and 2022, respectively. Before then, the first national risk assessment of the NPO sector conducted in 2016 came under a lot of criticism for falling short of R8 requirements, resulting in Nigeria being rated non-compliant (NC) on FATF R8. One of the gaps noted in the previous NRA was the non-involvement of relevant stakeholders, including NPOs, in the assessment process. To close the identified gaps, the just-concluded TFRA involved relevant agencies and NPO stakeholders. During the TFRA process, Spaces for Change | S4C was appointed as a technical expert and member of the Core Working Group (CWG). The TFRA findings outlined below form part of a broader information-sharing strategy targeted at the banks and other financial institutions.

1. Methodology

The TFRA methodology developed by GreenAcre Associates comprises

quantitative and qualitative data collection and analysis in line with FATF guidance notes. The methodology combined field visits and regional consultations to the six geopolitical zones in the country with the distribution of questionnaires to relevant stakeholders, including federal and state government agencies and officials, banks, and NPOs. Information-gathering exercises were preceded by sensitization outreaches with NPOs to explain the objectives of the TFRA and undertake joint exercises for determining categories of NPOs that fall within FATF definition.

2. FATF Definition of NPO

The TFRA identified ten categories of NPOs that fall within the FATF definition of NPOs:

- a. Expressive NPOs:** NPOs, including advocacy groups, research centers, and arts organizations, work on social issues like democracy and public interest. These organizations often operate as NGOs and pressure groups to influence policy.
- b. Service-provision NPOs:** Local and international humanitarian groups or organizations involved in the procurement, disbursement, and delivery of social goods and services to a wide range of target groups in need.
- c. Humanitarian organizations:** Local and international organizations working to ensure that there is swift, emergency relief assistance available to populations impacted by natural disasters, insurgency, conflicts, or wars.
- d. Faith-based/ religious organizations:** NPOs that are fully- or partly-owned and managed by religious groups and their subsidiaries, and primarily depend on their religious institutions/congregants/members for funding.
- e. Private charities:** NPOs typically established and funded by a specific benefactor to advance his/her philanthropic objectives.
- f. Politically Exposed Persons (PEP) entities:** NPOs established by individuals connected to persons in power (e.g. the wives of presidents, state governors, or local government chairpersons). These entities are mainly used

to do good while generating goodwill for political ends. They also fall under private charities.

g. Corporate foundations/Corporate Social Responsibility (CSR) initiatives: NPOs owned and operated by indigenous and international corporations to give back to society and be socially accountable to itself, its stakeholders, and the public.

h. Donor bodies: Private international institutions that provide funding for a wide range of charitable activities, especially in developing economies. These donors support such a wide range of good works like democracy strengthening, civil society empowerment, research, education, healthcare, promotion of sustainable livelihoods, safe water supply and sanitation services, state-building initiatives, etc. This definition excludes foreign government-owned development aid and inter-governmental donor agencies.

i. Host Community Trusts: Community associations are required by law to be incorporated as incorporated trustees in compliance with the requirements of the Petroleum Industry Act. The Host Community Development Trusts as specified in Chapter 3 of the PIB 2021 will be registered as incorporated trustees, thereby subjecting them to the same regulatory obligations as Non-governmental organizations (NGOs).

j. Community Development Associations: Community-based groups empower residents to feel the impact of governance and safeguard local infrastructure while promoting peace. In some regions, laws like Lagos' Community Development Associations Law support these resident-led committees.

Some categories of NPOs were excluded from the FATF definition of NPOs for the Nigerian context. They include trade unions, professional associations, business membership organizations and cooperative societies (established under the Cooperative Act). They were excluded because they were not primarily created to carry out good works, but the promotion of the interests of their members. Also, foreign government donors like United States Agency for International Development (USAID), European Union commission

and similar bodies; intergovernmental agencies such as UN agencies—UNICEF, UNDP, UNODC, UNCHR—the World Bank, WHO, etc., were excluded on the basis that they are already subject to robust statutory and parliamentary monitoring by the respective governments that established them.

3. Nature of Terrorism Financing Threats to NPOs

The primary TF threat to NPOs in Nigeria is Boko Haram and ISWAP while secondary threats include Yan Bindiga / Yan Taadda; international Islamic terrorist groups (al-Qaida, ISIS, and Al Shabab), domestic secessionist groups (including IPOB), and the Islamic Movement of Nigeria (IMN) North West Nigeria). The nature of known TF threats to NPOs in Nigeria include exploiting NPOs as a means of facilitating foreign funding for terrorist groups in Nigeria; using NPOs as part of complex schemes (often involving vendors) to disguise funding of terrorist groups; and crimes against NPOs by terrorist groups such as kidnapping for ransom/hijacking of goods, etc.

4. Identification of NPOs Vulnerable to TF Abuse

One of the major outcomes of the TFRA is the identification of categories of NPOs that are vulnerable to TF abuse in Nigeria. Notably, geography was marked as an essential feature of the vulnerability of NPOs. This is based on the current operations of terrorist and terrorist groups and other armed groups—like bandits and kidnappers—in certain geographical locations. The North-East and North-West regions were flagged as high-risk regions, especially states along the Sahel region, thereby attracting heavy presence of humanitarian organizations.

NPOs operating in these localities have higher likelihood of being abused for terrorism financing. The TFRA, therefore, identified NPOs which by the geography of their operations, activities, or characteristics, are likely to be at risk of terrorist financing abuse. They are:

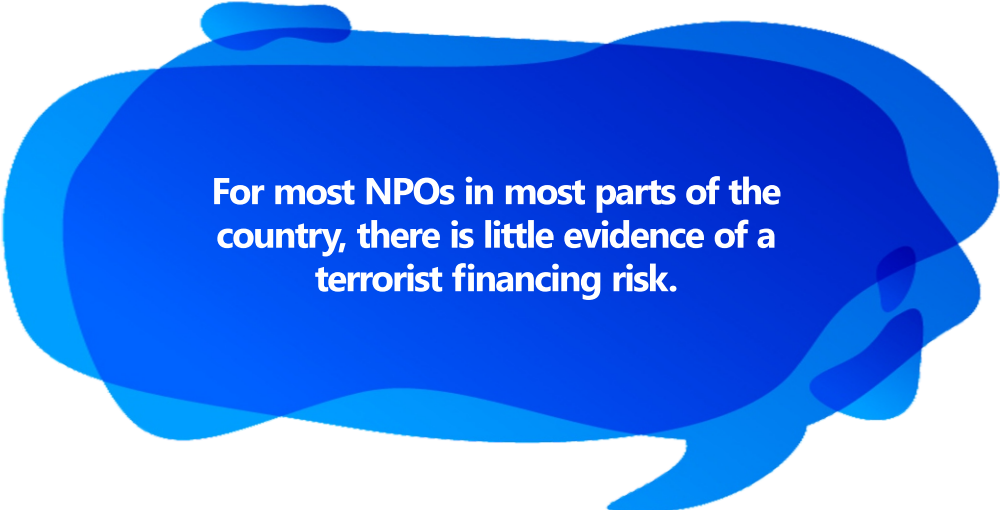
- a. Foreign NPOs active in the North-East
- b. NPOs with links to high-risk foreign individuals or entities
- c. NPOs active in very high-risk areas, including movement of goods (North-East and North-West)
- d. NPOs active in medium-risk areas, including movement of goods (South-East)

- e. Humanitarian NPOs operating in the North-East
- f. Faith-based NPOs raising and disbursing funds through cash
- g. 'Service provision' NPOs (delivering food, health care, water, shelter, medical supplies, education, social services, religious services) operating in high-risk areas mentioned above
- h. NPOs that engage vendors or third parties in the high-risk areas
- i. NPOs associated with unapproved financial or operational activities
- j. NPOs associated with complex financial arrangements
- k. NPOs use higher-risk methods for moving funds, with two elements:
 - a. NPOs moving large sums
 - b. NPOs using cash transactions

5. Final Assessment of Inherent Risks in Nigerian NPOs

As noted earlier, geography plays a key role in determining the vulnerability of an NPO to TF abuse. NPOs operating in the North-West and North-East regions were rated as “very high.” The situation in the North-East and North-West attracts a heavy presence of humanitarian NPOs and NPOs with foreign links. **For most NPOs in most parts of the country, there is little evidence of a terrorist financing risk.**

Overall, this assessment recognizes that there is a gradient of risk from Medium-High in parts of the North through to Low-Medium for NPOs in parts of the South. The overall rating of the NPO sector's TF risk profile was rated as **MEDIUM HIGH** based on the above evidence. Banks and other financial institutions (BOFIs) are expected to take the TFRA results into consideration to enhance their banking services and interactions with NPOs.



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The results will also improve BOFIs' understanding of the risk profile of NPOs and apply the risk-based approach on a case-by-case basis as opposed to the current blanket approach applied on all spectrums of their NPO customers.

OVERALL THREAT	L	M	M	MH	MH	H	H
	L	M	M	M	MH	MH	H
	L	M	M	M	M	MH	H
	L	L	M	M	M	M	H
	L	L	L	M	M	M	M
	L	L	L	L	M	M	M
	L	L	L	L	L	L	L
	L	L	L	L	L	L	L
OVERALL VULNERABILITY							



Chapter 3

How Banks' Enforcement of AML/CFT Policies & Measures Disrupt Legitimate NPO Operations

Security threats—such as banditry, kidnapping for ransom, ethnic conflicts, farmers-herders clashes, terrorism, instability, and violent tensions surrounding the Sahel region—have negatively affected social and economic activities in certain regions of the country, culminating in low presence of banks and financial services in the affected areas. Individuals and entities, including non-profits, operating in those localities are, consequently, excluded from financial services. In response to the devastating impacts of insecurity on local populations, concerned private citizens, non-governmental organizations (NGOs), international non-governmental organizations (INGOs), and multilateral organizations have increased their humanitarian support in areas ravaged by tension and conflict.



The laws, policies, and measures put in place by state actors to counter the surging security crisis in the country often cause harm or disruptions to the activities of legitimate NPOs, including those operating in areas with no conflict or insurgency. As we shall see below, numerous NPOs have reported difficulties in opening or operating bank accounts, sudden freezing of bank accounts as well as difficulties with procuring SCUML certificates, etc. At the panel discussion featuring NPO executives from all six regions of the country, they shared examples of banking restrictions NPOs face as a result of TF measures implemented by BOFIs:

1. Restriction on Private Donations/Donors

Private donors—whether individuals or entities—in the terrorist-ravaged regions experience significant amount of banking restrictions. NPOs have received reports of individuals donors restricted from delivering humanitarian assistance to victims of terrorism within their locality without registration with the relevant government agencies such as the Corporate Affairs Commission (CAC). Non-registration is further compounded by the absence of the registering bodies in those localities due to insurgencies, manpower shortages and financial resource constraints. No Nigerian law, policy, or regulation mandates individual donors to register with the CAC before carrying out charitable acts. While these restrictions are not unconnected to TF concerns, they are unsupported by any clear rule of engagement or procedure, and continue to discourage genuine private donors from rendering humanitarian services to those in need. Therefore, there is a need for the government to clearly outline the procedure for public and private giving to victims of terrorism in order to prevent needless disruptions to charitable activities.

2. Bureaucratic Onboarding Processes

NPOs operating outside the conflict regions experience similar difficulties faced by their counterparts operating in terrorist-ravaged regions, especially during the onboarding processes into the financial system. For instance, NPOs are governed by their Board of Trustees and Directors who serve on a periodic basis. The expiration of the tenure of a trustee and his/her replacement necessitates updating their corporate governance records with the CAC as well as their banking information. Before an NPO can successfully update its banking information such as a change of signatory, or authorization, or the addition of a trustee, banks impose conditions which makes these processes needlessly onerous and bureaucratic. Some banks insist on the physical presence of all the trustees or officers of the NPOs regardless of whether they reside in Nigeria or abroad. This is not just inconvenient, but also discourages the use of the formal banking system. It also defeats the fine purposes behind internet banking.

3. Registration and Banking Difficulties

Numerous NPOs have reported difficulties in opening bank accounts, sudden freezing of bank accounts and loss of charitable funds arising from

difficulties with obtaining SCUML certificates. SCUML registration difficulties have paved way for extortion by middlemen, agents and third parties. Additional restrictions flow from banks' rigorous customer due diligence (CDD) requirements when opening or maintaining accounts, such as requiring extensive documentation and detailed explanations regarding their activities, funding sources, inflows, and local transfers. These measures are applied to the entire universe of NPOs operating in the country irrespective of their risk spectrum. The resulting delays and disruptions can hinder rapid response to humanitarian crises, directly impacting the welfare of vulnerable populations that they serve.

4. Confirmation Bias for Cash Movements

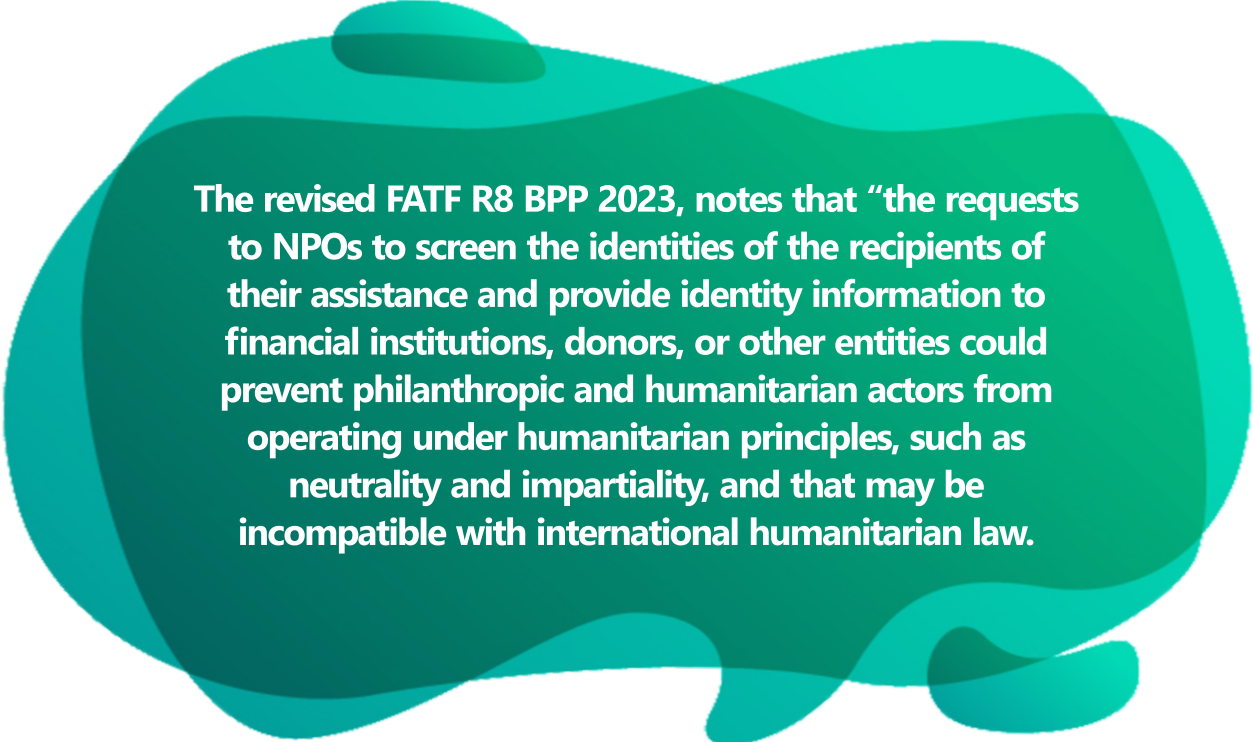
An example of confirmation bias is when an NPO (especially those operating in terrorism-prone regions) or its official is arrested for possession of large sums of cash. Such situations usually trigger widespread speculations (in the media and other sources) of money laundering and terrorism financing (ML/TF) without proper investigation into the reason or purpose for the cash possessions. In most cases, heavy cash movements are linked to the dearth of banking facilities, and totally unconnected to ML/TF risks.

5. Onboarding Process for Beneficiaries

Before now, humanitarian organizations routinely distribute relief materials such as food, clothes, toiletries, etc. to their beneficiaries. Nowadays, the overall cost of delivering cash assistance is often lower than in-kind assistance, meaning more people can be reached,³ and can determine what to do with the support that they get. This also enables beneficiaries to be brought into the financial system. Account opening requirements often subject certain beneficiaries to financial exclusion. To open a bank account, the account holder is required to submit valid means of identification (ID), electricity bills, physical address information, and referees etc., for KYC purposes and to ease the tracking of suspicious transactions, including terrorist financing. Many beneficiaries especially those staying in the internally displaced persons (IDP) camps cannot satisfy these banking requirements due to forced displacement by terrorists from their ancestral homes or communities.

3. [UNICEF: Humanitarian cash transfers explained](#)

and the Central Bank of Nigeria (CBN) is imperative. Arrangements must be made for safely onboarding these beneficiaries without means of identification to bring them into the purview of the financial system. Transfer limits and imposing account balance thresholds are examples of TF mitigating measures that could accompany these arrangements. The introduction of the e-naira by the CBN could have been a perfect solution, but it failed due to the technicalities involved and limited sensitization of the public. **The revised FATF R8 BPP 2023,⁴ notes that “the requests to NPOs to screen the identities of the recipients of their assistance and provide identity information to financial institutions, donors, or other entities could prevent philanthropic and humanitarian actors from operating under humanitarian principles, such as neutrality and impartiality, and that may be incompatible with international humanitarian law.** It may not only negatively impact the neutrality of humanitarian NPOs and the safety of their staff, infrastructure, and beneficiaries, but also exclude people in need from receiving humanitarian assistance.”



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4. FATF R8 BPP 2023 (pg. 40)

6. Non-FATF NPOs

As noted before, certain NPOs—like cooperative societies, trade unions, professional associations, and business membership organizations—fall outside the FATF definition outlined in the TFRA. These entities are often governed by state laws. For example, the Cooperative Society Law of Lagos State govern their registration and operations. There is evidence that these NPOs face challenges in accessing financial services. The major barrier is the lack of CAC registration certificates. Banks typically require all entities, including non-FATF NPOs to be registered with the CAC and to possess a Tax Identification Number (TIN) issued by the Federal Inland Revenue Services (FIRS). Since FIRS also mandates CAC registration before issuing a TIN, a cycle is created that leads to:

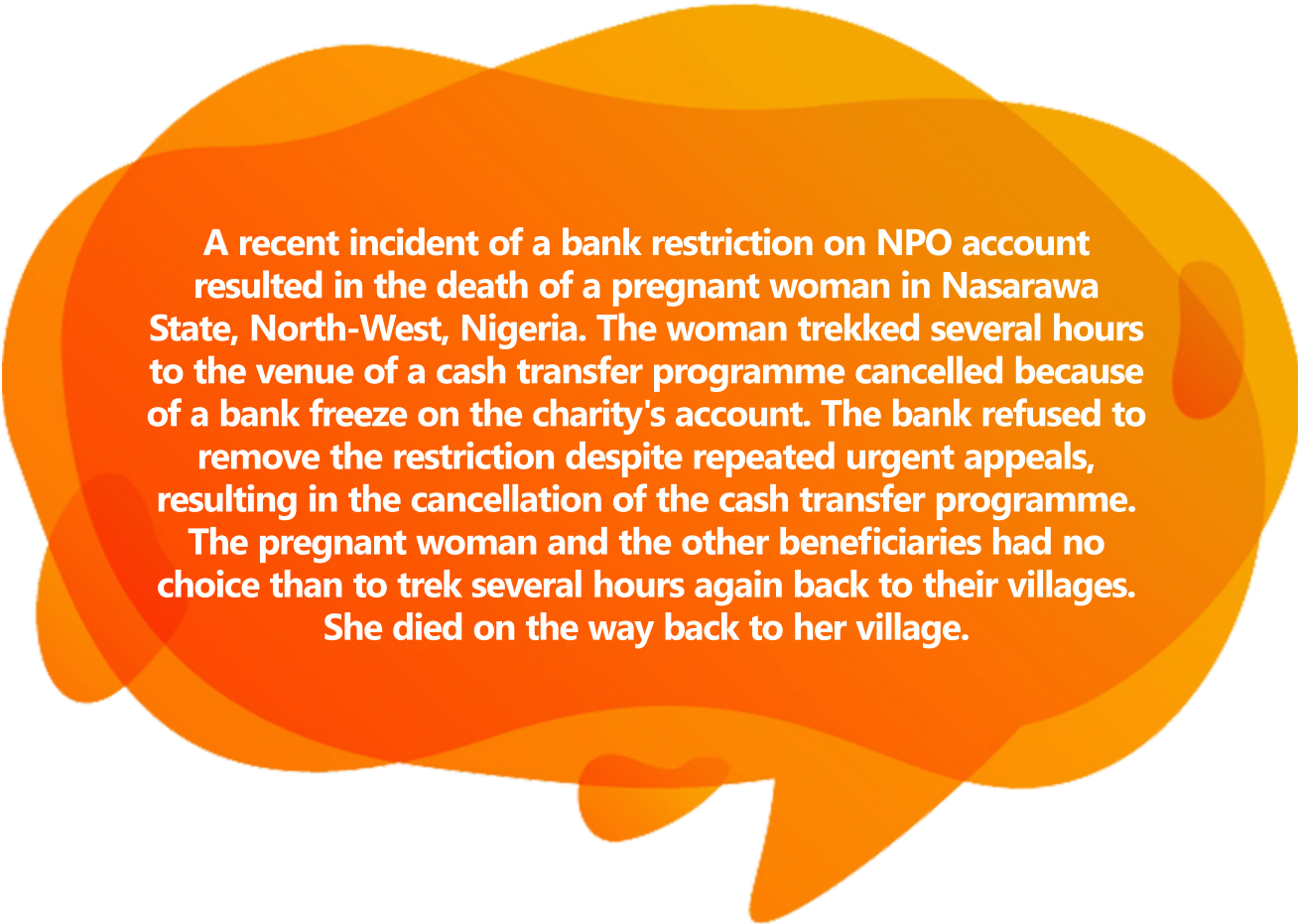
- a. Financial exclusion: These NPOs are effectively shut out of formal banking channels.
- b. Retention of funds in personal accounts: Without access to organizational accounts, NPOs may resort to using individual accounts, increasing risks to TF, corruption and mismanagement concerns.
- c. Difficulty accessing funding: The inability to demonstrate financial legitimacy through formal banking relationships can hinder their ability to secure funding for their activities.

7. Harsh Application of AML/CFT Policies

Harsh application of AML/CFT policies on NPOs, without discretion, can be fatal. NPOs operating in terrorist-ravaged regions face difficulties linked to banks' harsh application of AML/CFT policies. In most cases, banks do not notify NPOs of any restrictions placed on their account until the NPO attempts to withdraw funds, including in times of emergency. A recent incident of a bank restriction on NPO account resulted in the death of a pregnant woman in Nasarawa State, North-West, Nigeria. The woman trekked several hours to the venue of a cash transfer programme cancelled because of a bank freeze on the charity's account. The bank refused to remove the restriction despite repeated urgent appeals, resulting in the cancellation of the cash transfer programme. The pregnant woman and the other beneficiaries had no choice than to trek several hours again back to their villages. She died on the way back to her village. This avoidable incident resulted from the bank's

classification of NPOs as high risk, necessitating the need for enhanced customer due diligence (CDD).

The FATF R8 BPP notes that “financial institutions and DNFBPs miscategorize all NPOs as high-risk clients and/or apply enhanced CDD to all NPOs. There are NPOs assessed as high-risk customers to whom enhanced CDD needs not to be applied, either because there is no government-led risk assessment or because financial institutions or DNFBPs themselves do not differentiate risks sufficiently. This is not in line with the risk-based approach and leads to an unnecessary compliance burden for financial institutions and DNFBPs and negatively impacts the access to financial services by NPOs. Similarly, a refusal to start a customer relationship or a decision to terminate a customer relationship should be done on a case-by-case basis, rather than for entire categories of customers, and be based on justified reasons, e.g., inability to perform CDD.”⁵



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5. Box 11 (Measures taken by financial institutions and DNFBPs, that are not in-line with a risk-based approach), Page 40, FATF Recommendation 8, Best Practice Paper, 2023

8. Misuse and/or Overstretching Terrorism Financing Legislation

Another example of the misuse of indiscriminate application of AML/CFT measures arises from the criminal prosecution of civic actors for terrorism financing without substantial evidence. Freezing of protesters' bank accounts and prosecuting them for terrorism financing⁶ for taking part in protests, raise further concerns regarding privacy breaches and threats to freedom of expression. Also, restrictions on cryptocurrency transactions, motivated by concerns related to financial security, adversely affect NPOs' fundraising efforts, particularly when working in regions with restricted access to conventional financial services.

9. Political Influence

Banks should not be used as tools of civic space repression. There have been incidents where altercations between NPO executives and politicians or state actors have led to restricted access to banking services. NPO executives that are too critical of the government (or politicians) may have their bank accounts frozen or denied banking services on the instructions of state executives to the bank. Targeting civic actors' bank accounts in this manner increases their vulnerability to surveillance and physical harm. It also fuels distrust between banks and NPOs, and a corresponding reluctance to share personal information upon request based on fear of being targeted e.g., a request for BVN of trustees or directors of the NPO.

10. Multiple Reporting Obligations

NPOs are overburdened with complying with financial regulations, particularly those about customer due diligence and reporting requirements. Increased reporting to multiple agencies means a higher workload and compliance costs for non-profits, requiring additional resources to ensure daily operations match regulations correctly.⁷ For instance, NPOs currently file annual returns to the Corporate Affairs Commission where they submit financial statements detailing inflows and spending within a fiscal year, among other information. Under the new CAMA 2020, they are now required to also file bi-annual statement of affairs of the association, in addition to preserving their accounting records for six years. NPOs interface with commercial banks regularly where they are required to furnish regular information regarding inflows and outflows transacted on their accounts.

6. [The Guardian: Nigeria cracks down on 'end Sars' protesters, alleging terrorism](#)

7. [SPACES FOR CHANGE: Legal Analysis of the Companies and Allied Matters Act, 2020](#)

Reporting obligations to multiple entities, including banks, mount disproportionate burdens on smaller NPOs, underscoring the importance of adopting pragmatic solutions that safeguard financial integrity without unduly overburdening the nonprofit sector.

11. High Bank Charges

NPOs rely mainly on donations and grants. A huge chunk of their income or inflows is spent on high bank charges, commissions, and debits. Account maintenance debits are too high, too. Banks are fixated on making profits and rarely give any special incentives to account holders delivering social impact and humanitarian services.



Source: TV360 Nigeria

Chapter 4

Regulators' Perspectives & Justification for Applying AML/CFT Policies & Measures to NPOs




The primary objective of financial regulations in the context of countering the terrorism financing is to maintain neutrality while effectively separating legitimate financial activities from the illicit ones. This requires striking a delicate balance between preventing terrorist financing and preserving the integrity of the financial system. In the second panel discussion featuring banking industry regulators, banks and law enforcement agencies, they shared perspectives and justification for the stringent application of AML/CFT measures to NPOs.

■ Banks Want to Minimize Their Risk Exposure to TF

The major challenge regulators and banks face is the difficulty associated with separating legitimate NPOs from illegitimate ones. This is the rationale behind the blanket application of AML/CFT laws and policies to the entire

universe of NPOs. Financial institutions take extra care to ensure that they are not used as a conduit for terrorism financing. To mitigate such risks, regulators—such the Central Bank of Nigeria [CBN], Nigeria Financial Intelligence Unit [NFIU], SCUML, FATF, including banks—have introduced controls and measures to ensure that financial institutions are not exploited for illicit purposes. One such control is the requirement to conduct customer due diligence (CDD), enhanced due diligence (EDD), and an assessment of the kind of risks the customer is exposed to, before onboarding any customer. It is commonplace for Nigerian banks to classify NPOs as high-risk customers to minimize their risk exposure to TF. This explains why AML/CFT controls are applied to NPOs as a form of protection mechanism.



It is commonplace for Nigerian banks to classify NPOs as high-risk customers to minimize their risk exposure to TF. This explains why AML/CFT controls are applied to NPOs as a form of protection mechanism.

■ **Banks are Obligated to Conduct Risk Assessments and Due Diligence**

Financial institutions are required to conduct comprehensive risk assessments to identify areas of vulnerability to terrorist financing. This involves analyzing various factors, such as the nature of the NPO, the characteristics of the NPO, and the geographical locations where it operates. By identifying and understanding potential risks, financial institutions can implement targeted measures to mitigate them effectively. In addition to routine due diligence procedures, financial institutions are expected to implement enhanced due diligence measures when dealing with high-risk entities such as NPOs and politically exposed persons (PEPs).

Enhanced due diligence involves conducting more extensive background checks, verifying the source of funds, and scrutinizing transactions to ensure compliance with regulatory requirements to prevent the misuse of the financial system for terrorist purposes.

Banks and regulators emphasized the importance of rigorously scrutinizing customers and transactions to detect and prevent suspicious activities related to terrorism financing. This involves verifying the identity of customers, monitoring their transactions for unusual patterns or red flags, and reporting any suspicious activity to the relevant authorities. By maintaining a proactive approach to due diligence and monitoring, financial institutions can effectively mitigate the risk of involvement in illicit activities and contribute to the overall integrity of the financial system.

■ Banks are Expected to Collaborate and Share Information

Financial institutions often have access to valuable data and insights that can help law enforcement agencies identify suspicious activities and investigate potential cases of terrorism financing. While data-sharing may raise privacy concerns, sharing information and intelligence enables BOFIs to easily identify emerging threats, track illicit financial flows, and disrupt terrorist networks more effectively. By establishing channels for communication and cooperation, public-private partnerships between financial institutions, regulatory bodies, law enforcement agencies, and international organizations can enable timely and coordinated responses to emerging threats.

■ NPOs Should Invest in Capacity Building on AML/CFT

NPOs, especially those that are at risk, are obligated to cultivate a culture of educating their staff about TF and how to prevent its abuse. By putting suitable risk-reduction measures in place, like sanction screening, spotting and reporting suspicious transactions, focused compliance trainings, and awareness-raising campaigns, organizations can improve the ability of their personnel to recognize and take proactive steps to address potential risks. NPOs show evidence to the financial institution that it is actively pursuing CFT by taking this action.

■ Capacity Building and Training for LEAs is Also Imperative

Personnel deployed to the field to combat terrorism or enforce AML/CFT are occasionally unfamiliar with international standards and best practices on the implementation of AML/CFT laws and regulations. Financial institutions are required to train their employees on the results of the TFRA, and this has not yet happened. Equipping financial institutions, regulatory bodies, and law enforcement agencies with the knowledge, skills, and resources they need to detect, prevent, and respond to terrorist financing activities effectively, is equally imperative. International cooperation and collaboration are essential for effective capacity building in the fight against terrorism financing.

■ Banks Pay Heavy Fines for AML/CFT Violations

Regulators slam financial institutions with exorbitant penalties for money laundering and terrorism financing violations. An example is the staggering fine imposed on BNP Paribas in 2016. In that case, U.S. District Judge formally ordered the French bank to forfeit \$8.83 billion and pay a \$140 million fine as part of a sentence that also called for BNP Paribas to enhance its compliance procedures and policies.⁸ Fines of this nature put immense pressure on financial institutions to comply with AML/CFT regulations.

■ Reliance on In-person Transactions Despite Online Banking Services

The increasing adoption of online channels for financial transactions, including banking, payments, has significantly improved convenience for customers. However, this shift toward digital platforms also presents challenges in terms of regulatory compliance and maintaining a positive customer experience. Despite the availability of online banking services, some financial institutions still require NPO customers to physically visit branches for certain transactions related to account opening, document verification, or large cash deposits/withdrawals. The reliance on in-person visits can lead to inefficiencies and inconvenience for customers, particularly in situations where branch locations are limited, or individuals face mobility or accessibility issues.

Moreover, the need for in-person interactions can disrupt the seamless digital banking experience that customers increasingly expect. Investments

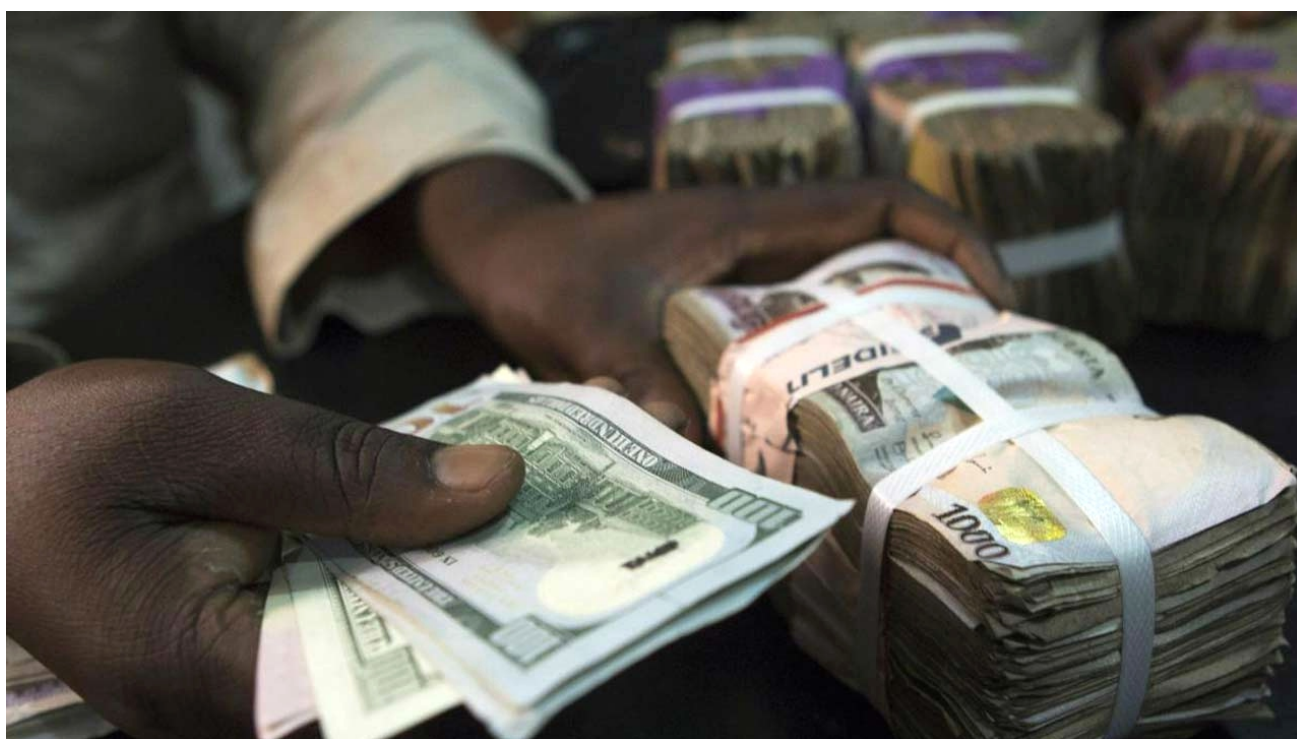
8. [Reuters: BNP Paribas sentenced in \\$8.9 billion accord over sanctions violations](#)

in technological infrastructure can help BOFIs to streamline online banking processes and enhance the overall customer experience. This includes implementing digital onboarding solutions, electronic document verification procedures, and remote identification methods to reduce the need for in-person visits and paperwork. By leveraging digital capabilities, financial institutions can offer faster, more convenient services while still meeting regulatory requirements and ensuring compliance with AML/CTF regulations.

■ NPOs Can Be Abused Unknowingly

Terrorists raise money and disburse to their beneficiaries just the same way NPOs raise funds to deliver social goods and services to their beneficiaries. Terrorists use deception to abuse entities.

Without adequate checks and balances, NPOs can be abused unknowingly. That's why banks put controls in place and apply stringent rules and regulations to prevent such abuse from happening in the first place. Banks are therefore required to carry out enhanced diligence. When NPOs demonstrate capacity to report suspicious transactions, that can make banks declassify them as low-risk.



Chapter 5

Overview of Revised FATF Recommendation 8



The litany of restrictions experienced by non-profits in Nigeria corroborate the concerns outlined the FATF's Best Practices Paper. The Best Practices Paper⁹ chronicled the barriers to financial access that NPOs face linked to AML/CFT measures. They include:

- financial institutions terminating or restricting the access of legitimate NPOs to financial services;
- financial institutions taking longer to process transactions of NPOs;
- delays for wire transfers;
- unclear and escalating due-diligence requirements;

9. See Paragraph 114

- inability to open bank accounts and arbitrary closure of bank accounts;
- wholesale termination of entire classes of customer and wholesale termination of entire classes of transaction...without taking into account their actual level of risk or risk mitigation measures.

An evident observation flowing from the above discussions is the misconception that all NPOs are high-risk and therefore susceptible to illicit financial activities. This misconception is inconsistent with the SCUML's TFRA results. Contrary to these widespread misconceptions, a significant proportion of NPOs operate on minimal income, relying predominantly on voluntary contributions. Data from various countries further reveal the heterogeneous nature of the NPO sector. This evidence negates the prevailing narrative that stringent financial regulations should be uniformly applied across all NPOs.

FATF requires countries to adopt proportionate measures tailored to the unique realities of the NPO sector. They have an obligation to ensure that the implementation of [FATF] Recommendations:

- does not adversely and disproportionately affect NPOs
- does not unduly hinder civil society and the delivery of humanitarian assistance

This sentiment is re-echoed in other global security frameworks such as the United Nations Security Council Resolution which urges states “*when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities...*”¹⁰ Some recommended safeguards and measures to allow legitimate NPO activity to continue could include:

- Use of consent regimes for particularly high-risk transactions
- Limited exclusions of certain types of transaction
- Agreeing to approved routes for certain types of transaction
- Protecting the safety and privacy of NPOs and their beneficiaries

Doing this requires a multi-sectoral collaboration in developing holistic solutions to enhance financial access for NPOs. By fostering dialogue

10. UNSCR 2462 (para 24)

between NPOs, financial institutions, and regulatory bodies, stakeholders can co-create innovative approaches that balance regulatory imperatives with the need for financial inclusion.

• **RECOMMENDATIONS** •

The recommendations and next steps agreed at the conference include:

- 1. Multi-Sectoral Collaboration:** Top on the list of the conference's recommendations is the encouragement of multi-sectoral collaboration between NPOs, financial institutions, regulatory bodies, and government agencies to develop holistic solutions that balance regulatory imperatives with the need for financial inclusion and safeguarding civil liberties while combating TF abuse.
- 2. Differentiated Approach for NPOs:** Banks and other financial institutions should transact with non-profit organizations (NPOs) on a case-by-case basis. They should consider the unique qualities and risk levels of each NPO when providing financial services. This way, they can serve NPOs better consistent with the findings of the TFRA.
- 3. Collaboration and Information Sharing:** Fostering collaboration between financial institutions, regulatory bodies, law enforcement agencies, and international organizations is necessary to identify emerging threats, track illicit financial flows, and disrupt terrorist networks more effectively.
- 4. Capacity Building for NPOs:** Provide capacity building and training programs for NPOs to educate them about terrorism financing risks and equip them with the knowledge and skills to detect and prevent abuse effectively. This may include sanction screening, suspicious transaction reporting, and awareness-raising campaigns. Currently, Spaces for Change has conducted this type of specialized training for over 1000 NPOs across the six geopolitical zones in Nigeria.

5. Capacity Building for Law Enforcement Agencies (LEAs): There is a need for continuous investment in training and capacity-building programs for LEAs to enhance their understanding of anti-money laundering and counter-terrorism financing laws and regulations, enabling them to avoid confirmation bias, but rather, effectively investigate and prosecute all cases of terrorism financing.

6. Recognition of Self-regulatory Measures and Internal Controls: When regulations are impracticable, they cannot be enforceable and create an atmosphere of over-regulation. Regulators need not enforce additional measures where self-regulation is adequate and effective. Voluntary compliance is the key to effective regulation. Over-regulation is toxic to voluntary compliance.

In conclusion, the conference represented a significant step forward in the discourse on expanding financial access for NPOs. Through constructive dialogue and collaborative problem-solving, stakeholders can pave the way for innovative solutions that balance regulatory imperatives with the need for financial inclusion. By leveraging the diverse expertise and perspectives of all stakeholders, Nigeria can create a more equitable and sustainable financial ecosystem that empowers NPOs to fulfill their vital societal roles without hindrance.

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