



The AFSA's report on the outcome of its 2022 Anti-Money Laundering Thematic Review of Non-Profit Incorporated Organisations and Foundations registered in the AIFC

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I. Executive summary

a. Background

In 2022, the Regulatory Office of the Astana Financial Services Authority (the “AFSA”) conducted an anti-money laundering thematic review (the “Review”) of the AIFC Non-Profit Incorporated Organisations and Foundations (“non-profit organisations” or “NPOs”). The Review was aimed at assessing the vulnerability of the NPOs to money laundering (ML) and terrorist financing (TF) risks.

The Review was undertaken in two stages:

I. Review of responses to the questionnaires supported by the documented evidence.

II. Desk-based reviews, including the review of the documentation provided by NPIO/Foundation.

The Questionnaire comprised 49 questions and three sections (General; NPIO / Foundation Activities; AML/CFT) focusing on the NPIOs’ and Foundations’ oversight and verification controls, their activities and understanding of ML/TF risks involved.

The Questionnaire was circulated to 40 NPIOs and three Foundations (the “NPOs”). However, only 20 responses were considered for the assessment purposes due to a failure by the remaining entities to respond in full which, in turn, reduced the AFSA’s ability to get as wide a picture as to whether the firms were in compliance with the related regulations.

Therefore, the AFSA issued a restrictive notification to these NPOs indicating their inability to undergo the Review and, as a result, imposing limitations on their activity in the AIFC until they fulfill their obligations to facilitate the assessment.

Overall, as at the Review dates, the AIFC’s NPO sector was mostly inactive, except for a few entities that provided sufficient information and data for assessment purposes.

b. Summary of findings and observations

There were no known cases or suspicions of terrorist financing abuse of NPOs in the AIFC.

The review analysis showed that for those inspected NPOs that fell into the category undertaking, "expressive activity" (see below for definition), this type of NPO

dominated in sector. Therefore, money laundering risk is comparatively higher than terrorism financing risk.

Regulated banking institutions can, to a certain degree, offer insight into the origins of the funds, quantities, donor and beneficiary locations, and flow of funds. In this regard, the review showed that the banking sector, being regulated for AML/CFT purposes, is the major financial channel employed by the inspected NPOs both for receiving funding and in executing their programs. This provides additional preventive measures specifically on financial transaction visibility to mitigate possible ML/TF involvement of NPOs.

Program delivery to intended beneficiaries is generally effective, meaning the reviewed 'active' NPOs demonstrated sufficient controls and awareness to mitigate potential misuse of funds disbursement. Delivery of service/programs to intended beneficiaries/recipients are normally undertaken through direct service by the NPO's own staff.

II. Analysis: NPO type, activity, location and size

The FATF's functional definition of non-profit organisation:

A non-profit organisation (or NPO) is any legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works".

The FATF has established the following classification of NPOs subject to their particular types of activities:

"Expressive NPO" - Non-profit organisations predominantly involved in expressive activities, which include programmes focused on sports and recreation, arts and culture, interest representation, and advocacy.

"Service NPO" - Non-profit organisations predominantly involved in service activities, which include programmes focused on housing, social services, education, and health care.

a. NPO activities

Of 43 NPOs inspected, the greater part fall within the "Expressive" NPO type.

Service NPO:	Expressive NPO:
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Education (14)	Sports and Recreation (2) Interest Representation (3) Advocacy (21) Charity (3)
33%	67%

As to the Service NPOs, of the 14 entities engaged in educational activities, nine did not respond to the review due to their inactive status. Therefore, only five Service NPOs were considered for analysis purposes, which is 12% of the overall population of NPOs registered in the AIFC.

The FATF identifies Service NPOs as mostly exposed to the risk for terrorist financing. As regards the Expressive NPOs, 29 entities, the majority (72%) fall into the “advocacy” category with programmes focused on the support of IT, environmental, agricultural, financial, and other industry initiatives.

None of the FATF case studies showed terrorist entities targeting Expressive NPOs, meaning they are engaged in less vulnerable activities.

b. Activity status

Of the total population of 43 NPOs (40 NPIOs and three Foundations), the vast majority had an “inactive” status, meaning the entities were not in operation and/or not engaged in any primary activity, as at their review dates.

Active	Inactive
7	36
16%	84%

Of the above seven active NPOs, four entities fall within the Service type of NPOs with programmes focused on education. However, these primarily educational activities are mainly focused on providing awareness in such areas as digital, engineering, entrepreneurship and academia, and do not relate to espousing any religious ideology and/or advancing philosophies designed to promote recruitment to a terrorist organisation.

The other three active NPOs were engaged in charity, advocacy and interest representation.

c. Locations and size

The reviewed NPIOs and Foundations raised funds through domestic sourced donations. Also, these entities had no operations in cash-intensive environments and used regulated banking institutions (Kazakhstan-based commercial banks) to deposit and transfer their funds, thus ensuring an additional preventive measure on financial transaction visibility to mitigate possible ML/TF involvement of NPIOs/Foundations.

The review did not identify any NPO using virtual currencies or assets.

All “active” NPOs reviewed operated domestically (in Kazakhstan) without any overseas activity and/or structural connections outside of Kazakhstan.

The workforce of the reviewed entities were generally represented by their own staff of up to 10 employees with additional volunteer involvement.

The below table indicates the financial size of the AIFC NPO sector based on the reported data for 2021 – 2022:

Total value of income	Total value of expenditure
USD 6.4 million	USD 14.3 million

III. Findings and observations

According to the FATF R.8 Best Practices guidance, to ensure that NPOs are not exploited for terrorist activities, the most effective way is to ensure good governance and sound financial management, including having well-defined internal and financial controls and risk management procedures.

Therefore, this section of the report groups the reviewed internal governance mechanisms of the inspected entities into the following four categories: 1) organisational integrity, 2) partner relationships, 3) financial transparency and accountability, and 4) programme planning and monitoring.

1. Organisational integrity:

(Implying that: NPOs are established and operate in accordance with a governing document, for example, articles of incorporation, a constitution, or bylaws that outline purposes, structure, reporting practices, and guidelines for complying with local laws.)

a. The inspected NPOs operated under a Charter of Organisation as required by the AIFC NPIO Regulations and Foundation Regulations. In addition, the NPIO/Foundation cannot conduct activities in or from the AIFC unless incorporated (or registered) as an Incorporated Organisation/Foundation. Hence, all NPOs must only be, in fact, NPIOs in the AIFC.

b. A few NPOs demonstrated a lack of the active running and regulation of the governing body or senior management of the organisations.

c. Some NPOs experienced difficulties in the determination, clarity and publicity of the organisation's mission as well as the planning and monitoring of their activities. This has a potential to impact the concept of well-organised controls when members of the governing body do not understand properly their goals and do not act in the best interests of the organisation, which, in turn, may influence the ability of the governing body to maintain oversight over the organisation by establishing strong financial and human resource policies.

2. Partner relationships:

(Implying that: To prevent the abuse of funds by partners, NPOs carry out appropriate due diligence on those individuals and organisations that the NPO receives donations from, gives money to or works with closely before entering into relationships or agreements.)

a. In some instances, as part of a “know-your-beneficiary” scope, the NPOs employed a counterparty verification checks via commercial data tools.

b. It was observed that not all NPOs carry out appropriate due diligence on those individuals and organisations that the NPO receives donations from, gives money to or works with closely before entering into relationships or agreements.

c. A small number of NPOs failed to demonstrate a properly implemented order of verification of partner reputations through the use of selection criteria and searches of publicly available information, including domestic, international and UN sanctions lists. If the due diligence procedures were conducted, mostly they were incidental and irregular and not part of the targeted procedure.

d. A number of NPOs provided services / programs to intended beneficiaries / recipients through direct service by their own staff. These NPOs had minimum verification requirements established and the following controls implemented: beneficiary verification, project management, and a “know-you-employee” system.

3. Financial transparency and accountability:

(Implying that: NPOs prevent financial abuse and misuse of resources and funds by establishing strong financial controls and procedures.)

- a. The inspected entities evidenced their basic accounting tools and practices such as role distribution, fund transfer procedures, the existence of their accounting books and financial record-keeping.
- b. In a number of instances, it was noted that the NPOs had no governing bodies to approve an annual budget and monitor the use of funds. The NPOs' responses showed that not all organisations maintain detailed budgets for each project nor generated regular reports on related purchases and expenses.
- c. Generally, the NPOs had established procedures to trace funds, services and equipment, and to carry out transactions through the banking system. However, some NPOs did not have bank accounts and could not evidence regular financial statements.
- d. The NPOs utilised regulated systems in conducting their financial transactions.

4. Programme planning and monitoring:

(Implying that: NPOs establish internal controls and monitoring systems to ensure that funds and services are being used as intended.)

- a. Senior accountants generally performed oversight and monitoring functions with regard to streamlining their fund disposal processes.
- b. However, only a minor part of the observed NPOs kept adequate and complete financial records of income, expenses, and financial transactions throughout their operations, including the end use of the funds.
- c. Some NPOs did not have clearly stated programme goals when collecting funds, and did not have proper procedures to ensure that funds are applied as intended.
- d. Some entities maintain procurement rules in order to ensure all expenses are reported accurately.

IV. Significant points to note

FATF international case studies and typologies provide that individual terrorists and terrorist organisations may use NPOs to raise, store and move funds, provide logistical support, encourage the recruitment of terrorists and otherwise support terrorist organisations and their activities. This misuse not only facilitates terrorist operations, but also undermines donor confidence and jeopardises the integrity of the NPO sector as a whole.

Thus, protecting the NPO sector from terrorist abuse is both a critical component of the global combating of terrorism and an important step in maintaining the integrity of the NPO sector, the donor community, and foundation projects. According to Kazakhstan's National Risk Assessment and associated typologies provided by the FIU of the Republic of Kazakhstan, NPOs have characteristics that make them attractive and vulnerable to misuse for terrorist financing purposes. Having access to sources of financing, as well as considering their activities are often associated with the use of large amounts of money, is susceptible to attracting offenders in the form of terrorists and terrorist organisations.

As per the risk assessment conducted by the AFSA, the NPO sector in the AIFC has never been penetrated for terrorist purposes. Nonetheless, the NPO sector possesses vulnerabilities that can be potentially exploited for terrorist and other criminal purposes.

The main vulnerabilities of NPOs are that:

- they generally benefit from high levels of public confidence and trust, which is crucial to their success;
- it is not complicated to legally set up a NPO;
- they rely on goodwill, donations and voluntary support;
- their diversified nature and activities are often connected to different layers of society and various jurisdictions, including higher risk ones;
- large number of individuals can come into close contact with NPOs, including those who may abuse them through their services, property, staff, and volunteers;
- they may have complex financial operations covering multiple donors, transfers, investments, and currencies;
- they may have complex programs of operation, channeling funds through intermediate partner organisations to deliver services;
- they can be cash intensive, in terms of income and outcome;
- they may have branches or distinct projects that are not under the direct supervision or regular control of governing body; and
- they may have poor governance as well as inaccurate regular reporting.

Misuse of NPOs for terrorist purposes can take many forms, given the diverse nature of activities, delivery channels, products, services, and jurisdictions of operation. The

funds, facilities and name of an NPO are valuable tools that can be used for illicit purposes. Observational history conducted by FATF shows that these tools are usually at greater risk of outside influence, although abuse can also be inside the NPO and facilitated by a related party.

Nevertheless, not only terrorists seek to abuse NPOs, but also other criminals could misuse the NPO because of the high level of public trust and confidence which exists in the NPO sector, given that their aims are generally perceived as altruistic. Such individuals may abuse NPOs by way of the unauthorised use of a NPO's trade name, as well as intercepting and redirecting funds and operations. Individuals, such as Controllers and volunteers, appointed within a NPO may abuse their position to contribute to illegal activity, often in exchange for a monetary or non-monetary benefit.

Abuse of power and position to facilitate terrorist activity (directly or indirectly) may take place via the following:

- 'skimming' off / stealing money, or other assets, from charitable collections and redirecting them;
- arranging for the use of the NPO's premises; and
- deliberately inviting speakers or using volunteers with terrorist motives to visit and work with the NPO in order to influence the NPO's operations in such a way that supports terrorist activity.

V. Conclusion and recommendations

All of the reviewed NPOs meet the FATF definition. The level of risk of terrorist financing through the abuse of the NPOs is low given the majority of the AIFC NPO population belongs to an "expressive" type, while the "service" NPOs were not engaged in any vulnerable activity.

Although NPOs are not obliged entities under the FATF's Recommendations, the AFSA firmly maintains that a NPO's internal governance controls are crucial in having a robust AML/CFT regime. A NPO's strong "tone from the top" is expected to ensure that AML/CFT is a top priority of the organisation. The AFSA has a zero tolerance for money laundering / terrorist financing and, therefore, encourages the NPOs' senior management to demonstrate due skill, care and diligence.

The AFSA also encourages all NPOs to carry out their own assessment of the threats and vulnerabilities to which they are exposed, and adopt the appropriate risk mitigating measures. It is essential that due diligence is carried out towards donors

and beneficiaries to the extent of the entity's abilities, and a solid procedure for documenting and storing donations is established.

In order to make sure that employees, collaborators, volunteers, and beneficiaries are not engaging in terrorist financing or connected to terrorist actors, verification mechanisms need to be set up, especially through the periodic scrutiny of the United Nations Security Council's consolidated list of sanctions and any other applicable international sanctions.

Consequently, internal rules and procedures should be formulated with selection criteria that will allow for a thorough knowledge of the background of employees, collaborators and volunteers.

Annual budgets should be approved by governing bodies to guarantee a better control of sources of income and targets of expenditure.

Training plans should be devised for employees, collaborators, and volunteers, especially those who take part in the raising and disbursement of funds, to make sure they gain a proper understanding with respect to the prevention and combatting of money laundering and terrorist financing and can recognise possible signals or "red flags".

The AFSA will continue to monitor NPOs' activities and practices following a risk-based approach and in engaging with organisations directly on an entity-level where necessary.