

AML/CFT: From Awareness to Compliance

Non Government Organizations (NGOs)

The abuse of charitable organizations for the purposes of Money Laundering (ML), Terrorist Financing (TF) and the Proliferation of Weapons of Mass Destruction has grown considerably in recent years, as the techniques used by perpetrators have also grown in complexity. The Financial Action Task Force (FATF) has recognized the vulnerabilities and risks posed to this sector and has therefore, as part of its 40 Recommendations, published Recommendation 8, which speaks to ensuring that legislation, guidelines and a robust framework are in place to identify, monitor and protect Non Government Organizations (NGOs) from being used for illegitimate purposes.

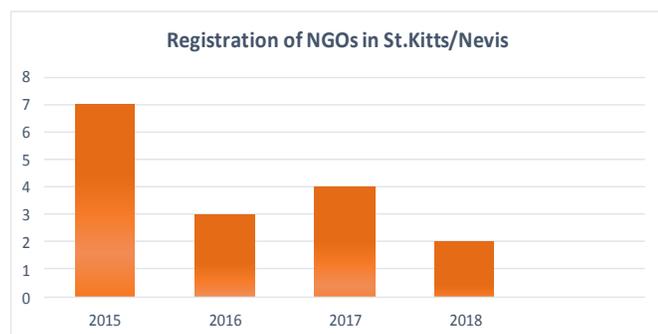
What is a Non-Government Organization (NGO)?

According to Section 3 of the Non-Government Organizations (NGO) Act Cap 20.59, an NGO is a non profit making non-governmental body whose aims, nature and objectives are primarily for the benefit of the public and shall include the following activities:

- * Patriotic
- * Charitable
- * Sporting
- * Human Rights
- * Artistic
- * Religious
- * Scientific Inquiry
- * Community Development
- * Sustainable Development
- * Protection of Animals

NGOs are to be independent of Government control in their operations and management. Their aims and purposes shall be to achieve sustainable development on a voluntary, non-profit basis. They shall be formally constituted in terms of a written self governing instrument such as a Constitution or Articles of Association.

In St. Kitts and Nevis, the Registrar of NGOs is also the Registrar of Companies. Currently, there are twenty three (23) NGOs registered with the Registrar of Companies. The figure below shows the registration of NGOs during the period 2015—2018 in the Federation.



Importance of NGOs

NGOs are committed to and essentially designed to provide voluntary service to improve society and enhance the quality of life. Additionally, as Governments are faced with the challenge of meeting the unlimited needs of citizens with very limited resources, NGOs give ancillary support to the people. NGOs may also act as checkpoints for the possible misuse of public assets and abuse of power.

Reasons for Vulnerabilities in the NGO Sector

NGOs are vulnerable to ML/TF and other criminal activities for a number of reasons.

1. NGOs involve high levels of public trust and confidence which can be an attractive vehicle used by criminals to carry out their activities including the financing of terrorism.
2. They are relatively easy to set up and attract less scrutiny from the authorities.
3. They have a global presence, which includes branches or offices in high risk or conflict areas where there may be weak AML/CFT regimes allowing the frequent movement of money, goods or people throughout these areas without proper monitoring and screening.
4. They often have complex financial operations which include donations and investments involving high volumes of cash in multiple currencies.
5. NGOs can be effectively used for bringing people together for a common goal which can create a ready-made network and platform for terrorists or terrorist activities.



Topics Discussed:

- ⇒ What is an NGO?
- ⇒ Importance of NGOs
- ⇒ Reasons for Vulnerability in the NGO Sector.
- ⇒ Methods used to abuse NGOs
- ⇒ Registration & Reporting Requirements for NGOs
- ⇒ Benefits of Compliance to NGOs
- ⇒ Actions to Prevent the Abuse of NGOs

Methods used to abuse NGOs



The methods used by criminals to abuse NGOs may be complex, given the diverse nature of the sector. An NGO's funds, reputation, and assets are placed at great risk from outside forces but persons directly involved with or connected to the operations of the NGO may also seek to abuse it for their personal criminal activities. Abuse may occur in the following ways:

NGO Fund

An NGO Fund seeks to gain donations in the name of an NGO which are then used by the fundraisers to support terrorist purposes with or without the knowledge of the NGO. In instances where an NGO's funds are moved from one jurisdiction to another, the funds could be diverted before reaching their intended recipients especially if the financial controls of the NGO are weak. The recipients themselves might misuse the funds if proper and ongoing due diligence checks are not conducted.

Use of an NGO's Assets

An NGO's vehicles may be used to transport people, cash and weapons while its premises may be used to store or hide them. Individuals purporting to work for NGOs may use their name to gain access to regions or communities to participate in terrorist activities such as training camps. In some instances, the NGOs provide opportunities for the terrorists to meet with or without the knowledge of the NGO's Board or Trustees.

NGO set up for Criminal Purposes

Criminals may try to establish a phony NGO posing as a charitable organization giving aid to persons in need but whose sole purpose is to raise funds or use its assets in the coordination of unlawful activities.

Registration & Reporting Requirements for NGOs

Pursuant to Section 6 of the NGO Act, all organizations desirous of being registered as an NGO should make a formal application to the Registrar. The following documents must accompany the application:

1. Identification and Proof of Address of the NGO;
2. Constitution or Memorandum & Articles of Association;
3. Statement outlining the aims, objectives and purposes of the NGO;
4. Organizational structure of the NGO including its membership and management;
5. Identification, Proof of Address and Occupation of all Members of the Board of Directors;
6. The Bylaws of the NGO; and
7. Registration Fee of EC\$150.00 and EC\$20.00 for Annual Renewal.

By September 30th of each year , each registered NGO shall submit the following documents to the Registrar:

- * **Statement of its Accounts**
- * **Certified copy of its financial statements.**
- * **Report outlining its program of activities and policies during each financial year.**



Failure to comply may result in the cancellation of registration and loss of tax exemption privileges.

Benefits of Compliance to NGOs

In order to avoid the abuse of NGOs, it is imperative to establish robust registration, identification and monitoring systems to scrutinize the activities of NGOs and the individuals connected to them.

These systems ensure that NGOs are used for legitimate purposes and that the Federation is compliant with international standards to combat ML/TF thereby reducing the risk of illegal and criminal activities.

Full adherence to local legislation and international guidelines will promote transparency, accountability, integrity and public confidence in the administration and management of NGOs.

Actions to Prevent the Abuse of NGOs



In order to build and maintain transparency and the integrity of the NGO sector, we must implement control mechanisms and practices to prevent the sector from being used for illegal purposes.



There should be full engagement with the NGO sector with respect to their ML/TF risks and the regulations and guidelines which should be followed to mitigate these risks.

Proper documentation and registration of NGOs are important in deciphering the legitimate from the bogus.

All major donors, trustees and beneficial owners should be known and identified. Fit and proper tests should be conducted on these persons before they are allowed to associate themselves with the NGO.

Funds should be kept in bank accounts and formal financial channels should be used to transfer money. Financial institutions should work with the FIU and other authorities to continuously monitor the transactions of NGOs in an effort to detect and report suspicious activities.

NGOs should maintain for at least five (5) years, records of domestic and international transactions with adequate details to verify that funds are being collected and spent according to the purpose and objectives of the NGO.

There should be effective mechanisms in place to ensure that there is cooperation, coordination and information sharing among all authorities.

REFERENCES

- * Non—Government Organizations Act of St. Christopher and Nevis Chapter 20.59.
- * Guidelines and Prevention of ML & TF for NGO/NPO Sector—United Kingdom Charity Commission
- * FATF International Standards on Combating ML/TF Recommendations 2012