



## RISK INDICATORS

# ‘The Abuse of Non-Profit Organizations’

## GUIDANCE FOR REPORTING ENTITIES

UAE-FIU 2021

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## 1. CONTENT AND OBJECTIVES

This Guidance is part of the Strategic Analysis Plan (SAP) adopted by the UAE FIU also considering the requirements of the *National Assessment of Inherent Money Laundering and Terrorist Financing Risks in the United Arab Emirates* (NRA) and the following *UAE National Action Plan to Implement the Combating Anti-Money Laundering and Terrorism Financing National Strategy 2020-2023* (NAP).

This Guidance is based on the results of the strategic analysis relating to the Non-profit Organizations (NPOs) registered and/or operating in the UAE and their possible abuse in the context of Terrorist Financing (TF) schemes.

The purpose of this Guidance is to:

- Promote the awareness of the risk of abuse of NPOs also to enhance the compliance with the AML/CFT requirements.
- Provide the REs with an updated list of indicators (or red flags) relating to the possible abuse of NPOs.

## 2. LIST OF ACRONYMS

Terms & Definitions	Description
<b>ML/TF</b>	Money Laundering and Terrorist Financing
<b>UAE-FIU</b>	Financial Intelligence Unit of the UAE
<b>LE</b>	Legal Entity
<b>FATF</b>	Financial Action Task Force
<b>FI</b>	Financial Institution
<b>DNFBPs</b>	Designated Non-Financial Businesses or Professions
<b>LEA</b>	Law Enforcement Authority
<b>ECDD</b>	Enhanced Customer Due Diligence
<b>CDA</b>	Community Development Authority
<b>CDD</b>	Customer Due Diligence
<b>IACAD</b>	Islamic Affairs and Charitable Activities Department
<b>IHC</b>	International Humanitarian City
<b>KYC</b>	Know Your Customer
<b>GoAML</b>	The Financial Intelligence Unit online reporting application
<b>MOCD</b>	Ministry of Community Development
<b>STR</b>	Suspicious Transaction Report
<b>SAR</b>	Suspicious Activity Report
<b>SD</b>	Spontaneous Dissemination
<b>RFI</b>	Request for Information
<b>RE</b>	Reporting Entity
<b>PEP</b>	Politically Exposed Person
<b>PP</b>	Public Prosecution
<b>JP</b>	Juridical Person
<b>NP</b>	Natural Person

### 3. INTRODUCTION

Non-profit Organizations (NPOs) are key stakeholders providing services to local communities, particularly to those in need, as well as around the world, and often in remote regions.

Pursuant to the Article 1 of the **Federal Decree-law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organizations** (AML/CFT Law), the notion of NPO refers to: ‘Any organized group, of a continuing nature set for a temporary or permanent time period, comprising natural or legal persons or not for profit legal arrangements which are non-profit for the purpose of collecting, receiving or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes or any other types of good works.’.

The same definition is provided by the Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations. The definition of NPO established by the UAE AML/CFT Law and by-Laws is in line with the FATF Glossary.

The definition of NPO provided by the FATF refers to: ‘a legal person or 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.’.

Currently, there are more than **493** NPOs registered in the UAE (Source: MOCD) and subject to the supervision of the relevant competent authorities, such as *Ministry of Community Development* (MOCD – Federal jurisdiction), the *Rulers of the individual Emirates* (Emirate-level Ruler’s Funds), the *Islamic Affairs and Charitable Activities Department* (IACAD – Dubai jurisdiction), and the *International Humanitarian City* (IHC – Dubai Free Zone jurisdiction) (**See Table 1**).

**Table 1**

NPO Licensor	Number of NPOs Licensed	Number of NPOs that conduct international activities	Types of NPOs
MOCD	271	20	Associations: 219 Foundations: 34 social funds: 18
<i>NPOs licensed by the Rulers of the seven Emirates:</i>			
Federal License	1	1	
Abu Dhabi	20	2	
Dubai	23 (as of 2018)	15 (as of 2018)	
Sharjah	7	3	
Ajman	5	3	
UAQ	0	0	

RAK	5	0
Fujairah	3	0
IACAD	15	7
IHC	61	61
CDA	82	0
TOTAL:	493	97

The abuse of NPOs and specially charities is a serious risk that many Countries are facing and are trying to combat. The UAE recognizes the risk of abusing NPOs particularly in Terrorist Financing (TF).

Although only some types of NPOs have been qualified as high-risk, terrorists and terrorists groups may still abuse legitimate NPOs, often without their knowledge, or may create sham charities to funnel funds to terrorists.

## **NPO'S EXPOSURE TO THE UAE'S FINANCIAL SYSTEM**

To issue this Guidance, the UAE FIU gathered and analyzed a broad range of data and information, including the number and types of NPOs registered in the Country, the number of accounts/relationships held with the financial institutions (FIs), main activities, etc.

The cooperation with the REs was crucial for the mapping of accounts and relationships held by the NPOs. The UAE FIU requested information from 21 domestic banks, 74 financial free zones banks (under the Financial Services Regulatory Authority `FSRA` and Dubai Financial Services Authority `DFSA`), 40 foreign banks/representative offices, 92 money exchange houses, and 2 money service providers in FSRA.

Currently, there are more than 4,000 active bank accounts/relationships related to NPOs exists in the UAE (wherein the currency is UAE Dirhams), whilst over 300 accounts are noted to be in other currency.

## **4. THE ABUSE OF NON-PROFIT ORGANIZATIONS (NPOS)**

NPOs are subject to a comprehensive legal regime and to the supervision of five sectoral Supervisors. Nevertheless, NPOs are still vulnerable as possible vehicle for TF activities.

In the period from January 2020 until June 2021, the UAE FIU received many STRs wherein the reason for reporting selected by the RE was relating to TF. They also include cases of possible abuse of NPOs, which have been the subject to in-depth analysis by the UAE FIU. The case example is described in this Guidance (see below para. 5).

The FATF Recommendation (8), requires Countries to apply focused and proportionate measures, in line with the Risk-based Approach (RBA), to NGOs to protect them from terrorist financing abuse, including:

(a) by terrorist organizations posing as legitimate entities;

(b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and (c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.

The NPOs and their activity have been subjected to a solid and comprehensive legal regime and supervision. The legal framework has been further enhanced with the adoption of the Federal Law No. (3) of 2021 on Donations.

In this context, the correct fulfillment by the REs of the requirements relating to Customer due Diligence (CDD) and Reporting of Suspicious Transactions and Activities (STRs and SARs) has a pivotal relevance for the prevention of TF and abuse of NPOs.

Section 3, Articles 5 to 14 of the Cabinet Decision No. (10) of 2019 established relevant provisions relating to CDD and KYC, including specific provisions, particularly Article 8 (1)(b), Article 9, and Article 10, applicable to legal entities and arrangements, including NPOs. Pursuant to the Article 4(2)(b) of the Cabinet Decision No. (10) of 2019, REs shall perform enhanced CDD in case of TF higher-risk, while FIU-K may allow REs to perform the simplified CDD for the case of TF low-risk.

Pursuant to Articles 16 and 17 of the Cabinet Decision No. (10) of 2019 REs shall file STRs to the UAE FIU have reasonable grounds to suspect that a transaction, attempted transaction, or funds constitute crime proceeds in whole or in part, or are related to the crime or intended to be used in such activity.

In assessing the TF risk associated to NPOs, REs may consider at least the factors relating the geographic area, the structure and organization, and the activity of NPOs. These are not static assessments. Factors change over time, depending on how circumstances develop, and how threats evolve. REs shall ensure that they will perform adequate monitoring of the relationships and transactions to enable detection of suspicious or unusual transactions to be reported to the UAE-FIU.

## 5. DEVELOPED INDICATORS RELATING TO THE ABUSE OF NPOS AND CHARITIES

To promote compliance with the AML/CFT Law and the fulfilment of the STRs requirements, the UAE FIU developed a list of indicators (or red flags) based on which there is reason to suspect the abuse of NPOs. It should be noted that the indicators of potential abuse of NPOs are primarily intended to raise awareness among REs. The list is not intended to be exhaustive and provides examples of the most common ways by which a substantial risk can be detected. On the one hand, the presence of these indicators does not imply as such that the activity, or transaction, is suspicious. Nevertheless, the apparent absence of these indicators does not connote as such that the activity, or transaction, is not suspicious. REs shall carry out an overall weighting in the light of all available information, adopting the Risk-based approach, in assessing whether an activity, or transaction, is suspicious and whether there are conditions for filing a STR or SAR to the UAE FIU.

### **Indicators or red flags relating to possible abuse of NPOs:**

- Transactions carried in NPO account does not commensurate with the purpose and objectives of stated activities.
- NPO or any of its controlling person(s), or its affiliates, found associated with a High-risk jurisdiction.
- NPO is reluctant to provide vital information while establishing the relationship, in particular, details of controlling person(s), list of beneficiaries (for Donation or Charitable accounts), and details of associate NPOs or organizations.
- Derogatory remarks/news found on any of the NPO's controlling person(s), including board members, managers or senior officers, as well as any associate organization, especially if the remarks indicate either exploiting the NPO by, or actively support, terrorists or terrorist organisations.
- Any of the NPO's controlling person(s), including board members, managers or senior officers, as well as any associate organization, is listed either in Domestic Terrorist list on UN Sanctions list.
- Local NPO receives multiple cash deposits of small amounts followed by either large cash withdrawal or outward remittances to other countries.
- Local NPO receives inward remittances from international counterparties without adequate rationalization.
- Intensive cash transactions in NPO account, or when cash is the only means of operating/transacting in NPO's account especially if it involves cross-border cash movement.
- NPO providing 'service activities' (i.e. housing, social supports, education or health services) in close proximity to an active threat of extremism.
- Unjustified complexity of transactions and Diversion of funds through foreign counterparties or pass funds through Third-party intermediaries.
- "Sham" organizations relied on deception to mislead donors and other NPOs for terrorist financing purposes.
- An Individual or a Company account receives funds from foreign NPO.
- NPOs using alternative remittance systems or informal money transfers.

- Failure to provide documentary evidences to sustain the transactions, or providing vague justifications when being questioned by the Financial Institution.
- Sudden surge in the account's activities without any proper justification.
- The NPO's controlling person(s), including board members, managers or senior officers, as well as any associate organization, has frequent travel history without reasonable justification to/from jurisdictions where terrorist groups are known to have a substantial presence.
- The NPO has obscure leadership or decision-making structure potentially aiming to disguise its ultimate controller.
- The NPO's funds or assets are commingled with personal or private funds making it difficult to be traced and its purpose unidentifiable.

## 6. EXAMPLE CASE

### TF abusing foreign NPOs and other Legal entities:

A local UAE bank filed an STR relating to Companies A and B, which are two general trade companies licensed in a UAE free zone. Both Companies received transfers and checks from foreign NPOs in Country A, Country B and Country C, for about AED 20 million during the period from April 2016 to May 2017. This was the first suspicion whereby these two commercial companies received funds from Third-party NPOs. The FIU requested additional information from the bank about the two companies and their activities inside the country. From February 2015 until May 2017, amounts totaling AED 51 million were transferred from the company accounts into other accounts via checks and cash withdrawals. It was also found that the same companies that received funds from Company X, also received funds from Company Y, as the transactions were authorized by the same owners or the same account signatories.

In addition, the companies receiving the funds also had bank transactions that did not match their level of turnover. Finally, a link was found between the foreign NPOs and a terrorist organization, and a suspected relationship with another terrorist group, which is a group included in the UAE terrorist list.

The FIU ordered the freeze of the companies' accounts (with the approval of H.E. The Governor), with whom the companies held accounts (49 accounts in 4 banks) totaling approximately AED 29 million.

The report was transferred to the State Security Prosecution, and the Public Prosecutor issued a decision to continue freezing the accounts of the two companies. The Prosecution ordered the formation of a task force composed of the State Security Prosecution, State Security, other law enforcement agencies and the FIU to create an action plan, gather additional information, follow-up and track the funds transferred to the two concerned companies as well as the companies and organizations they dealt with.



The case involved 48 legal persons and 31 natural persons, and included charges for TF. Travel bans were placed on the individuals, and there was Interpol coordination and international cooperation requests made by UAE to other countries on this case.

**Red Flag Indicators:**

- Diversion of funds through foreign counterparties or passing of funds through Third-party intermediaries.
- Entities involved owned/controlled by the same individuals.
- Large turnovers (Debit & Credit) without any proper justifications.
- External searches resulted in derogatory remarks/news found on the involved parties, which led to identification of links to terrorist groups.
- Funds were received from/transferred to High-Risk Jurisdictions.
- Entities involved mainly were based in Free Zones.
- Circulation of funds between relevant entities' accounts indicating layering activity.



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## 7. GLOSSARY

<b>Associate NPOs</b>	Refer to foreign branches of international NPOs, and NPOs with which partnerships have been arranged.
<b>Beneficiary</b>	Refers to those natural persons, or groups of natural persons who receive charitable, humanitarian, or other types of assistance through the services of the NPO.
<b>NPOs</b>	Refer to any organized group, of a continuing nature set for a temporary or permanent time period, comprising natural or legal persons or not for profit legal arrangements which are non-profit for the purpose of collecting, receiving or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes or any other types of good works.
<b>TF abuse</b>	Refers to the exploitation by terrorists and terrorist organizations of NPOs to raise or move funds, provide logistical support, encourage or facilitate terrorist recruitment, or otherwise support terrorists or terrorist organizations and operations.

## 8. KEY LEGAL SOURCES (SELECTED)

### **Federal Decree-law No. (20) of 2018**

On Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organizations.

### **Cabinet Decision No. (10) of 2019**

Concerning The Implementing Regulation of Decree Law No. (20) of 2018 on Anti- Money Laundering and Combating the Financing of Terrorism and Illegal Organizations.

### **Federal Law No. (3) of 2021**

On Donations.