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Stakeholder Dialogue on De-risking

Financial Access for Nonprofit Organizations

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EXECUTIVE SUMMARY

The World Bank/ACAMS stakeholder dialogue addressed the serious ongoing problem of financial exclusion and de-risking of non-profit organizations (NPOs) during a meeting in June 2018, with participants from NPOs, the U.S. Government, the United Nations, financial institutions and payment service providers. The objectives were to discuss practical solutions to improve access to financial services for NPOs in 2019 and promote wider awareness of the issue and its impact on the delivery of essential humanitarian and development assistance.

The meeting focused on three topics relating to NPOs' financial access challenges: regulatory approaches; assessing and managing risk; and the role of technology. Findings from the discussion include:

- De-risking, which affects humanitarian assistance to those most in need, at a time when those needs are growing to more than 135 million people annually, appears to be worsening for NPOs; moving funds across borders in a timely and predictable fashion can literally be mean life and death for the world's most vulnerable populations.
- The challenge of financial access for NPOs is a shared responsibility of all stakeholders with each having essential roles to play in developing potential solutions; all must collectively acknowledge and take ownership of their portion of the problem.
- Likewise, because humanitarian assistance is dependent on the international financial system and intermediary correspondent banks, NPO de-risking issues must be addressed collectively at the international level.
- There remains a persistent lack of understanding about NPOs, with outdated misperceptions of all NPOs as high-risk, resulting in excessively cautious attitudes that affect financial institutions' willingness to bank NPOs. Outreach, engagement, and education/training among stakeholders will advance understanding of the sector and build trust and certainty with financial institutions to promote financial access.
- To create greater clarity regarding expectations and risks associated with the nonprofit sector, guidance (ideally supported by governments) as to how financial institutions and NPOs can assess and mitigate risk is necessary.

Because of the urgent need to address the serious consequences of limited financial access for charities and NPOs, participants coalesced around the following near-term deliverables:

- Guidance for assessing and mitigating risk associated with the NPO sector. A resource document of NPO and financial stakeholders could establish norms around banking charities and reduce misunderstanding previously contributing to de-risking;
- Training and informational resources for financial institutions, governments, and NPOs about NPOs and bank due diligence requirements;
- Requirements and assessment of the utility of an NPO KYC repository to help lower the costs and ease the compliance burden of banking NPOs;
- Enhanced international engagement with other multi-stakeholder initiatives to forge multilateral approaches to address de-risking challenges.

INTRODUCTION

On 18 June 2018, the World Bank Group and the Association of Certified Anti-Money Laundering Specialists (ACAMS) hosted the **Stakeholder Dialogue on Financial Access for Nonprofit Organizations** in Washington DC.

Representatives from more than sixty non-profit organizations (NPOs, umbrella charitable organizations, donors, think tanks, and academic institutions), the U.S. Government (including policy and regulatory authorities), financial institutions and providers of payment services, and international organizations (UN Office for Humanitarian Affairs) participated in the event.

The meeting was part of the overall World Bank/ ACAMS Stakeholder Dialogue on De-Risking, an initiative begun in 2016 to address financial exclusion of various communities.[1] The specific focus on financial access problems experienced by NPOs commenced in January 2017.[2] While previous stakeholder engagements centered on understanding the challenges NPOs and financial institutions face in transferring funds in support of humanitarian and development activities, and collecting ideas to address these problems, the objectives of this meeting were to discuss practical solutions to ensure financial access for NPOs and promote wider awareness of the issue and its impact on the delivery of essential humanitarian and development assistance. The multi-stakeholder group aims to materially improve access to financial services for NPOs in 2019.

The discussion was organized around three general topics relating to NPOs' financial access challenges, with several participants providing introductory comments for each of the sessions:

- Regulatory approaches;
- Assessing and managing risk; and
- The role of technology.

This report captures the general themes that emerged from the meeting and provides recommendations on next steps. The findings included reflect the day-long discussion, and do not necessarily represent the opinions of the World Bank or ACAMS.

THEMES

Discussions at the meeting reflected a common understanding that financial access for NPOs can be a matter of life and death, with some charities at risk of losing access to bank accounts entirely if improvements are not implemented in the near term.

This is particularly disconcerting as de-risking directly affects humanitarian support to those most in need, and at a time when those needs are increasing. The United Nations estimates that in 2018, more people than ever before will require humanitarian assistance and protection—136 million people, in 25 countries, at an estimated cost of more than $22 billion. Armed conflict, protracted crises and natural disasters continue to be the main drivers of need, which remain at exceptionally high-levels in Nigeria, South Sudan, the Syrian region (where over 13 million people depend on humanitarian aid), and Yemen, the world's worst humanitarian crisis. To effectively respond to these crises, funds must be able to move across borders in a timely and predictable fashion.

Although there is widespread support for critical humanitarian and development activities, the consequences of anti-money laundering/ countering the financing of terrorism (AML/CFT) policies have made it difficult for NPOs to access financial services that are fundamental to their programs. The focus of the meeting, therefore, was to consider how all stakeholders, working together, can promote the requisite conditions and measures for financial institutions to feel comfortable doing business with NPOs.

Based on recent reports, it appears that financial access problems for NPOs may be worsening. A study released in March 2018 by the Charity Finance Group in the United Kingdom indicates that overall, nearly four-fifths of respondents had difficulties accessing or using mainstream banking channels.[3] This is an increase from the two-thirds figure contained in the 2017 study by the Charity & Security Network of U.S. NPOs that work internationally.[4]

In June 2016, the Financial Action Task Force (FATF) amended its standard on NPOs. Having originally labelled them "particularly vulnerable" to abuse for terrorist financing, it changed Recommendation 8 and called on countries to "apply focused and proportionate measures, in line with the risk-based approach." Unfortunately, it has proved difficult to dislodge the widely held perception that NPOs are universally high-risk. There remains much to be done in terms of awareness-raising and changing perceptions of NPOs as all high-risk. Very few countries have taken the change made by FATF to heart and implemented such an approach in their own regulations.

Noting that too little progress has been made to remedy the challenges around financial access, despite growing awareness of the impact, stakeholders agreed that the time has come to advance more practical near-term solutions.

STAKEHOLDER PERSPECTIVES

Impact on NPOs

Much of the discussion in the ongoing stakeholder dialogue centers on reports by charitable organizations of increasing barriers to financial access and, at times, the loss of bank accounts altogether. Small and medium-sized NPOs and faith-based charities, such as small Muslim charities, appear especially likely to be de-risked. Many NPOs noted that access to accounts has become more difficult over time, but their ability to transfer funds internationally to support humanitarian assistance has worsened dramatically. Among the drivers of de-risking, increased screening and compliance costs related to AML/CFT/sanctions regulatory requirements and enforcement penalties are the most frequently cited. Financial institutions often request additional information of NPOs to substantiate transactions and address compliance requirements (such as Treasury's Office of Foreign Assets Control (OFAC) screening and transaction monitoring), processes that can take months.

While NPOs report a strong preference for conducting their business via formal banking channels, increasingly they have resorted to alternative means such as carrying cash or utilizing money service businesses or hawala to ensure consistent in-country payments for services. Unfortunately, use of informal mechanisms raised red flags, making it even harder to open or maintain bank accounts moving forward. In cases where a financial institution chooses to de-risk a charity, other banks will typically elect to do the same in response, leaving the NPO without access to the international financial system.

Governments and financial institutions generally have little familiarity with NPOs and how they operate, leading NPOs often to be treated with suspicion. NPO representatives explain that they maintain significant internal control procedures, as well as extensive monitoring and evaluations, in large part for purposes of accountability to regulators and donors and assessing program impact. These measures, along with sectoral financial practices standards and ratings programs such as Guidestar[5] and Charity Navigator[6] and self-regulatory programs such as InterAction's PVO Standards,[7] constitute rigorous policies and procedures to which many NPOs adhere. They help to mitigate risks and should provide financial institutions with greater confidence in banking NPOs, but there is little understanding of these measures due to a general ignorance of the charitable sector.

Likewise, NPOs often lack familiarity with financial institutions' compliance requirements, particularly smaller charities who may not have experience dealing with banks' due diligence processes, but who often are the only organizations working on the ground in conflict areas delivering the last mile of humanitarian assistance. Participants discussed new approaches such as NPOs standardizing risk mitigation practices as a sector or pooling financial services to address access problems for smaller NPOs but recognized the need for procedures to be flexible and context-specific. Outreach and engagement to promote greater understanding among all stakeholders about the financial access problems NPOs face are important in addressing these challenges.

Overall, participants agreed that while most NPOs are not actually high-risk, and even those that operate in higher risk regions can mitigate risks, the challenges of access to financial services continue and have grown in recent years. Without concerted action by stakeholders to address the situation, future delivery of essential humanitarian and development assistance will be impaired.

Role of Government

While much of the session focused on the U.S. regulatory system, participants emphasized the importance of coordinating with other governments to develop international responses to address de-risking.

Discussion around the role of regulators noted ways in which the current system leaves the question of accountability unanswered. Considering the low-risk appetite of financial institutions when it comes to less-profitable accounts such as NPOs, opacities and uncertainty in the system tend to leave banks even less willing to engage with charitable organizations operating in higher risk regions. Though OFAC has indicated that its enforcement priority is not on transactions where humanitarian assistance inadvertently winds up in the coffers of a sanctioned group, it is a policy statement and not legally binding. Financial institutions view the lack of clear guidance and official policies upon which they can rely as an indication of a zero-tolerance approach. Additionally, while government representatives state that funds generally tend to be stopped downstream by correspondent banks rather than in the U.S. banking system, correspondent banks claim that they are taking such action to comply with U.S. regulations.

In response to calls for updated official guidance, U.S. regulators contend that they are poorly positioned at this point to issue new policy guidance. In lieu (or even in advance) of this, participants indicate an appetite for guidelines and recommendations as to how to assess and mitigate risk associated with NPOs.

The group also discussed the importance of transparent, evidence-based processes to assess risks associated with the charitable sector. FATF requires countries to undertake national risk assessments of sectors vulnerable to terrorist financing, and then consider measures to mitigate the risks.[8] In many cases, however, assessments fail to consider NPOs practices, including measures they take to mitigate risk through self-regulatory mechanisms. Moreover, assessments must include the participation of all relevant stakeholders (intelligence, law enforcement, regulators, and civil society/NPOs) to adequately assess risk and overcome the persistent perceptions of all NPOs as inherently high-risk. Appropriate national assessments can serve as the basis for identifying the subset of NPOs that pose risks and lay the foundation for mitigation measures in respect of that subset. Several participants called attention to the U.K. Government's 2017 assessment of NPOs that changed the risk rating of charities for terrorism financing purposes from medium-high (in 2015) to low.[9]

Additionally, conflict environments, in which sanctioned actors operate, pose continually changing risks, notwithstanding governmental policies supporting the provision of humanitarian assistance. Specialized measures may be needed in such situations. Dialogue participants discussed conflict environments such as Syria, the Democratic Republic of Korea, and Yemen, where international sanctions and the limited number of operating banks make it largely impossible for humanitarian actors to safely move funds. The lack of humanitarian exemptions in UN sanctions resolutions and the inability of the EU to implement general licenses, illustrate the need for reform of the humanitarian licensing system to enable assistance in such situations. Where financial institutions are unable to bear the risks of transferring funds in support of relief efforts, risk-sharing with governments is necessary. This could be in the form of safe payment channels, wherein certain providers are approved to transmit funds into high-risk areas, a situation requiring high-level political buy-in. Some participants suggested that central banks or international organizations might play a role in facilitating the movement of funds into high-risk areas on an emergency basis.

Banking Experiences and Concerns

Stakeholders have dedicated much effort to assessing and managing risk from the perspective of financial institutions. Participants emphasize the direct correlation between misunderstanding and suspicion, emphasizing the importance of education and outreach in establishing trust between NPOs and financial institutions. While some banks claim to be providing financial services to more charities today than in the past, they acknowledge that NPOs have never been, nor are likely to be, profitable—such activity is largely seen as a charitable endeavor itself.

That said, some financial institutions have committed to banking more charitable customers by finding new efficiencies in their business processes. Efforts include standardization of information required of NPOs to open accounts through a questionnaire, and collaboration with regulators to deepen understanding of the operational context (collaboration with governments is especially strong in the UK, Canada, and the Netherlands). Several financial institutions have undertaken training programs to explain due diligence requirements and promote internal control programs. However, most financial representatives indicate that the lack of incentives will continue to impede broader financial access for the charitable sector. A safe harbor, for example, from significant fines for inadvertent violations could alter the current incentive structure if banks demonstrate and maintain rigorous AML/CFT/sanctions compliance procedures.

One bank providing financial services to NPOs is the UK-based Charities Aid Foundation (CAF) Bank, a nonprofit itself that serves about 15,000 NPOs. Since CAF Bank caters exclusively to NPOs, its knowledge and understanding of the charitable sector and appreciation of risks and mitigating factors is significant. CAF Bank's experience working with NPOs provides important lessons to other financial institutions, particularly regarding small Muslim charities which are the most likely to be de-risked. In response to this common problem, CAF Bank has developed mechanisms to use the hawala network safely and effectively—for example by releasing funds in the UK only after verified receipts have been issued at the point of destination. That said, CAF Bank still struggles to overcome significant compliance challenges. Nearly 15% of its employees are devoted to compliance, and it continues to strive to serve very small charities who seek to bank funds that are worth less than the cost of the due diligence required to service them.

Financial institutions also noted that while the Risk Based Approach (RBA) is widely endorsed by governments and the AML community, it hasn't worked in practice due to lack of regulatory clarity and the strict liability standard in sanctions law. Banks understand that a truly effective RBA is not about eliminating or avoiding risk, but by managing it; financial representatives expressed the ability and willingness to manage risks associated with banking NPOs operating in higher risk jurisdictions but underscored the counter-productive effects of second-guessing by examiners of all transactions involving NPOs.

TECHNOLOGICAL TOOLS

Technological developments have the potential to play a significant role in lowering banks' compliance costs and helping to facilitate NPOs' access to financial services. Some banks have begun deploying blockchain technology to secure transactions and ensure that funds reach their intended destinations. Many financial institutions utilize Know-Your-Customer (KYC) tools to address customer due diligence (CDD) requirements in a cost-effective manner (which reportedly reduce time spent on due diligence among participating banks by 45%). In terms of enhancing effectiveness in CDD processes, big data systems have proven useful for the management of large heterogeneous datasets, while artificial intelligence/machine learning have enabled advance pattern recognition and prediction of potential risks. If these practices are more widely adopted, substantial efficiency gains and improved capabilities in AML/CFT compliance could result.

The notion of creating a specialized NPO utility or repository for use by banks was explored. It could be modeled on NGO Source, a custom-built database which provides fee-based access to comprehensive information on registered NPOs to grantmakers for purposes of equivalency determinations under U.S.

tax law. Foundations and regulators initially were skeptical, but now 275 foundations are using the service. Potential benefits of a CDD repository for NPOs include streamlined processes and reduced costs for financial institutions and elimination of duplicative requests for information from NPOs.

Financial institutions generally expressed interest in and support for such an NPO repository, especially if there is a third party which validates the information. While regulators indicated that they cannot endorse any specific tool, they noted that in general they are supportive of such CDD tools. Participants underscored the usefulness of such databases and information-sharing, while acknowledging the importance of strong privacy protections, given the changes under the EU General Data Protection Regulation.

FINDINGS AND RECOMMENDATIONS

The challenge of financial access for NPOs is a shared responsibility of all stakeholders with each having essential roles to play in developing potential solutions; all must collectively acknowledge and take ownership of the problem.

Likewise, because humanitarian assistance is dependent on the international financial system and intermediary correspondent banks, NPO de-risking challenges must be addressed collectively at the international level.

There remains a persistent lack of understanding about NPOs, their forms of governance, financial transaction patterns, and activities. Outdated misperceptions that all NPOs are high-risk have resulted in suspicious and excessively cautious attitudes that impact financial institutions' willingness to bank NPOs. Outreach, engagement, and education/training among stakeholders will advance understanding of the sector and build trust with financial institutions to promote financial access.

With the goal of creating greater clarity regarding expectations and risks associated with the nonprofit sector, guidance from governments as to how financial institutions and NPOs can assess and mitigate risk is necessary.

NEXT STEPS

The group discussed the potential for developing guidance on conventions among the stakeholders for assessing and mitigating risk. If formal guidance from regulators is not forthcoming in the near term, a document developed by NPO and financial stakeholders could serve to demonstrate consensus and establish norms around banking charities. An informational resource guide possibly with FAQs could serve to reduce the misunderstandings that often lead to de-risking.

Stakeholders also agreed on the need both for greater understanding about NPOs among banks and regulators/policymakers and about bank due diligence requirements among NPOs. Specific recommendations include the development of training and informational resources, as well as raising awareness of the issues at senior levels within government and financial institutions.

To potentially lower compliance costs for financial institutions in banking NPOs and ease the burden on NPOs, participants endorsed moving forward to scope the requirements for an NPO repository/utility.

Finally, the importance of addressing financial access issues for NPOs on an international basis was emphasized. The World Bank/ACAMS process will engage with other multi-stakeholder initiatives to forge international approaches to address these challenges.

SPECIFIC RECOMMENDATIONS FOR WORLD BANK/ACAMS ACTION 2018-2019

Provide guidance on risk assessment/mitigation measures

- Prepare resource document of practical guidance for NPOs, financial institutions, and countries on assessing and managing AML/TF risk related to the NPO sector
- Pursue U.S. revision of the Federal Financial Institutions Examination Council (FFIEC) BSA/AML Examination Manual section on NPOs, and development of FinCEN guidance on the issue

Develop training resources

- Develop training modules/resources for NPOs on bank due diligence/risk management, and for banks/regulators on NPOs

Develop technological options to facilitate NPO transfers

- Develop parameters for a NPO KYC Utility and consult FIs on information necessary

Promote greater understanding of NPO financial access challenges

- Expand web resources on NPO financial access issues
- Engage senior policymakers/regulators to raise visibility/understanding of financial access challenges for NPOs, and advocate for solutions, including clarifying regulatory requirements and expectations
- Pursue international discussion/exchange among stakeholders (e.g., through the G20, United Nations, World Economic Forum, etc.)

Explore safe payment channels and improve humanitarian licensing/exemptions

- Explore alternatives to facilitate the movement of funds for humanitarian assistance into high-need areas
- Develop recommendations to improve licensing of humanitarian assistance and humanitarian exemptions in UNSCRs

ENDNOTES

1 Stakeholder Dialogue on De-risking, May 31-June 1, 2016, at: http://www.worldbank.org/en/events/2016/05/31/stakeholder-dialogue-on-de-risking; and https://www.acams.org/aml-resources/npos/

2 Supporting Financial Access for Humanitarian Organizations and Charities at: http://files.acams.org/pdfs/2017/Supporting_Financial_Access_for_Humanitarian_Organizations_and_Charities.pdf. See also Report of the International Stakeholder Dialogue: Ensuring Financial Services for Non-Profit Organizations("The Hague Stakeholder Dialogue"), 15 February 2018, at: http://fatfplatform.org/wp-content/uploads/2018/02/Ensuring-Financial-Access-for-Non-profit-Organizations_Final-Report.pdf

3 Charities Finance Group, Impact of money laundering and counterterrorism regulations on charities, March 2018, at: https://www.thirdsector.co.uk/charities-de-risked-mainstream-banks-says-cfg-report/finance/article/1460805

4 Sue Eckert et al., Financial Access for U.S. Nonprofits, February 2017, at: https://www.charityandsecurity.org/system/files/FinancialAccessFullReport_2.21%20(2).pdf

5 Guidestar, the "world's largest source of information on nonprofit organizations" gathers and disseminates information about each IRS-registered nonprofit organization. The website collects, organizes, and presents information on the mission, legitimacy, impact, reputation, finances, programs, transparency, governance, etc. of NPOs, but does evaluate or rank charities. It provides access to IRS submissions (Form 990) of nearly 2 million IRS-recognized tax-exempt organizations and US NPOs operating internationally (Form 990 Schedule F), as well as information on faith-based nonprofits not required to register with the IRS. See https://www.guidestar.org

6 Charity Navigator, the "largest and most-utilized evaluator of charities" has developed an objective, numbers-based rating system to assess over 9,000 of America's charities, examining two broad areas of a charity's performance - their Financial Health and their Accountability & Transparency. See https://www.charitynavigator.org/

7 InterAction's PVO Standards are intended to ensure and strengthen public confidence in the integrity, quality and effectiveness of charitable organizations and their programs. See https://www.interaction.org/document/interaction-pvo-standards

8 To date, only one country has been assessed by FATF as fully compliant with Recommendation 8 on NPOs – Canada.

9 The UK's reassessment was not based on a change in the charitable sector itself, but rather on its understanding of the sector; the report stated that the government "now assess the risk of abuse of Non-Profit Organizations altogether for terrorist financing as low, with certain parts of the sector facing significantly higher risks." It should be noted that some participants expressed the view that labels of "low or high risk" often fail to take account of mitigating efforts and argued for more nuanced thinking regarding risk.

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