

# Voluntary Best Practice Principles for Non-Profit Organisations – Counter-Terrorism Financing<sup>1</sup>

## Introduction

In the wake of the terrorist attacks in the United States (US) on 11 September 2001, the United Nations (UN) Security Council adopted Resolution 1373 (2001) imposing a series of obligations on UN Member States to combat terrorism. Preventing the financing of terrorism is an important component of these obligations.

The Financial Action Task Force (FATF), of which Australia is a founding member, has developed *Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing* which include implementing strategies to combat terrorism financing. Special Recommendation VIII (SR VIII) sets out measures FATF member countries should take to ensure that non-profit organisations (NPOs) cannot be misused for the purposes of terrorism financing.

The Australian Government is committed to implementing its international obligations to prevent the misuse of NPOs for the purpose of terrorism financing. The Government recognises that the NPO sector is a vital component of the Australian economy, providing important and often essential services to the community. However, international research has shown that NPOs are vulnerable to misuse for the purpose of terrorism financing. There are a variety of reasons for these vulnerabilities. NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. Terrorist organisations can take advantage of these characteristics of NPOs to infiltrate the sector and misuse NPO funds and operations for terrorist activity. While some NPOs may not be aware that their organisation is being misused, these principles have been developed to assist all NPOs avoid the risk.

These Principles are designed to assist NPOs to protect themselves from misuse for the purpose of terrorism financing. The misuse of NPOs for the purpose of terrorism financing not only facilitates terrorist activity but also undermines the good work of NPOs. In minimising the risk of such misuse, the Australian Government is mindful of the need to not disrupt or

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<sup>1</sup> These Principles are based on the Financial Action Task Force (FATF) *Combating the Abuse of Non-Profit Organisations: International Best Practices* (11 October 2002) and the Interpretive Note to Special Recommendation VIII: Non-Profit Organisations (15 February 2006).

These Principles are designed to assist non-profit organisations (NPOs) to protect themselves from misuse for the purpose of terrorism financing. They are not intended to address the problem of NPOs that use charitable work as a cover for terrorist activities or for providing support to terrorist organisations. Non-adherence to these Principles, in and of itself, does not constitute a violation of existing Australian law. Conversely, adherence to these Principles does not excuse any individual or organisation from compliance with any State, Territory or Commonwealth law or regulation, or local laws in relation to overseas aid, nor does it constitute a legal defence against any civil or criminal liability for violating any such law or regulation. These Principles are also separate from requirements that apply to NPOs under State or Territory charitable licensing legislation, or as applicable under the *Income Tax Assessment Act 1936* (ITAA 1936) and/or the *Income Tax Assessment Act 1997* (ITAA 1997).

discourage legitimate charitable activities. The aim of these Principles is to enhance best practices and promote accountability and transparency, and are intended to engender greater public confidence in the NPO sector.

## Guiding principles<sup>2</sup>

1. It is important that all NPOs make all reasonable efforts to ensure that aid funds and resources are not being misused to support terrorist activity.
2. NPOs must comply with all applicable Australian laws<sup>3</sup>.
3. Where possible, an NPO should be licensed or registered with relevant authorities.
4. If an NPO conducts programs outside Australia, it must also comply with applicable foreign laws, regulations and conventions.
5. NPOs should ensure that directly funded persons/organisations and local partners are aware of and obliged to comply with relevant laws, and that they in turn are obliged to make sure that their distribution of the funds or support is made on the same basis.
6. NPOs should know who their beneficiaries are and ensure that all reasonable efforts are taken to prevent funds being misused to support terrorist activities.
7. NPOs should keep records of funds they provide to beneficiaries and make all reasonable efforts to implement appropriate follow-up procedures to ensure they know where and how those funds were used.
8. NPOs should ensure that funds, assets or assistance are not provided to people or organisations that are listed under the *Charter of the United Nations Act 1945* or which meet the definition of a terrorist organisation under the *Commonwealth Criminal Code Act 1995*, including those organisations which have been listed under the *Criminal Code Regulations 2002*.
9. NPOs should report any suspicious activity to the Australian Federal Police, if in Australia, or to the appropriate local authorities, if overseas.

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<sup>2</sup> The *Voluntary Best Practice Principles for Non-Profit Organisations – Counter-Terrorism Financing – Appendices* provide a more detailed explanation of these Principles to assist NPOs in their interpretation and implementation of these Principles.

<sup>3</sup> Relevant Australian Laws include, but are not limited to, the *Criminal Code* and the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. Refer to Appendix III for further information.