

Analysis of the 2016 National Risk Assessment Report for the Nonprofit Sector in Nigeria

INTRODUCTION

The National Risk Assessment Report is a country level assessment to identify, understand and assess the risk of money laundering and terrorist financing in a country. Nigeria conducted its first **Money Laundering and Terrorist Financing (ML/TF) Risk Assessment in 2015 and a Published Report in 2016** which covered the NPOs and other Designated Non-Financial Institutions (DNFIs), the overall vulnerability of nonprofits was **rated high** as a result of ineffective regulations and inability to trace transaction records.

The assessment was in response to recommendation 1 of the Financial Action Task Force (FATF) 40 recommendations which, requires all countries to identify, assess and understand the money laundering and terrorist financing risks elements prevalent in their jurisdictions for the development of efficient measures to combat the crime and efficient allocation of scarce resources.

The World Bank National Risk Assessment tool was adopted in the conduct of the exercise. The tool was considered most appropriate for Nigeria due to the nature, size and complexities of the country's political structure, financial sector and economy. The model defines Money Laundering risk as a combination of national threat and national vulnerability.

Consequently, the exercise involved the assessment of Money Laundering risks arising from the occurrence of predicate offences and sector vulnerabilities (Banking, Capital Market, Insurance, Other Financial Institutions and Designated Non-Financial Businesses such as the nonprofit sector against the national combating ability of the law enforcement agencies in the country and existing control measures.

Nonprofit organisations in Nigeria are entities incorporated or set up for the advancement of any religious, educational, literacy, scientific, social development, cultural, sporting or other charitable purpose. The scope of this description covers Non-Governmental Organizations, Civil Society Organisation, Religious Institutions, Philanthropic Foundations etc. Two broad categories of NPOs operate in Nigeria- the Domestic NPOs and the International NPOs. The domestic NPOs are higher in number than the international NPOs.

A typology report by the FATF and GIABA in 2013, titled "Terrorist Financing in West Africa" (pages 20-21), identified some cases of nonprofit organisations or other charitable causes being used for the financing of terrorism. An example is an international NGO based in the Middle East which sought to open a bank account in Nigeria and was flagged.

Subsequent investigation revealed that the NGO had operated in Nigeria over a period of time, with bank accounts in different banks. Furthermore, the International NGO had links with another NGO known to have supported terrorist groups. The frequency of withdrawals from the NGO's accounts, especially in the states known for the insurgency, raised concerns about the ultimate use of these funds. This above case study makes International NPOs vulnerable to abuse by terrorists for these reasons; Nonprofits enjoy substantial public trust because they are registered as a form of 'trust', have access to considerable sources of funds and are often cash intensive. They have a global presence that provides a framework for national, international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. <http://www.fatf-gafi.org/media/fatf/documents/reports/tf-in-west-africa.pdf>

Due to the weak and ineffective monitoring measures in place for the regulation of nonprofits activities, it has become difficult to track the activities of nonprofits effectively, such as matching their expenditure against their perceived income. SCUML on-site examinations revealed that most domestic nonprofits do not have comprehensive internal control measures, however international nonprofits have comprehensive internal control measures. Furthermore, responses from the on-site examination revealed that 75% of respondents, indicated that transactions are traceable but time consuming, The on-site examination also confirms that the traceability of nonprofits transactions records is difficult and time consuming. **In view of this, the overall inherent vulnerability is rated high.**

The practice of foreign agencies or individuals sending money directly to nonprofits without being accountable to any regulatory body is a potential risk for money laundering. According to the 2016 National Risk Assessment (NRA) findings, 85% of nonprofits were interviewed, of which 50% receive funding from foreign donors while 35% receive 100% of their funding from domestic donors.

The Nigeria Network of NGOs is self-regulatory in the regulation of the activities of nonprofits in Nigeria, while the International Cooperation Department of the National Planning Commission is charged with monitoring their activities especially inflow of foreign grants and utilization of such grants to ensure that expenditure is in line with mandate of the NGO. Records of grants received from donor agencies and how these grants are utilized were unavailable. However, the practice of self-regulation by NPOs is plagued with weak enforcement systems and inability to effectively check members. While about 60,000 NGOs are registered in Nigeria with the Corporate Affairs Commission (CAC), only 3,869 of them are registered with SCUML in the last 5 years (2010-2014). **Page 172** <https://www.nfiu.gov.ng/images/Downloads/downloads/nrreport.pdf>

The primary regulation of the nonprofit sector in Nigeria is largely fragmented among various agencies of Government. The Corporate Affairs Commission holds some supervisory powers over the incorporating entities. NPOs like other incorporated entities are also obliged to file annual returns to the agency. SCUML is responsible for AML/CFT compliance. Furthermore, registration with SCUML serves as an additional entry control for Designated Non-Financial Businesses.

The SCUML registration requirements include CAC certificate, Particulars of Board Members, Tax Identification number as well as memorandum and article of association which serves as a complimentary entry control measure.

The abuse of nonprofits for money laundering may seem to be potentially low, due to the fact that nonprofits are not effectively regulated, they pose a significant threat for money laundering in the country, while there are no available data on cases of assets frozen, seized or confiscated in relation to money laundering, It is still very obvious from findings that the nonprofit sector poses a risk, hence the money laundering assessment level for the nonprofit sector is rated **Medium High**.

The risk assessment finding from the NRA indicated that there is ineffective regulation for nonprofit organisations which poses current and future high levels of risk to the sector, hence the need for the sector to be well sensitized and informed of regulations, laws and policies affecting their operations.

Findings also showed that there is an inadequate understanding of the nature and extent of AML/CFT issues in the various sectors in the country. Generally, the assessment of the national risk on money laundering in Nigeria is adjudged to be timely considering the pervasive threat it poses to the internal security, growth as well as the development of the country.

This menace seemingly perpetrated by both public and private sector is responsible for the wide range of unemployment, increased criminality, lack of value change, poor Foreign Direct Investment (FDI) and under development of the country with attendant consequences of undermining the sovereignty of the nation.

Assessment of AML knowledge and awareness within the nonprofit sector was rated 75% with 25% of respondents stating that they have been sensitized/trained on obligations within the ML(P) as amended by SCUML and others. These statistics rated the knowledge of Anti Money Laundering laws amongst nonprofits as **medium low**.

Though the practice of self-regulation by NPOs might have been plagued with weak enforcement systems, nonprofits are now complying and paying more attention to laws guiding their operations while also making sure that their accounting book of records are kept accurately and up to date for financial transparency and accountability purposes

Effectiveness of Compliance Function

The NRA also assessed the effectiveness of compliance within the nonprofit sector, the rating of the variable indicated that nonprofits are compounded by lack of documented

AML/CFT policies and procedures, as well as the non-appointment of compliance officers. The assessment rated the effectiveness of compliance function as **medium-low**.

Effectiveness of Supervision/Oversight Activities

In Nigeria, Designated Non-Financial Institutions (DNFIs), referred to as Designated Non-Financial Businesses and Professions (DNFBPs) internationally, are regulated and supervised by the Special Control Unit against Money Laundering (SCUML) in compliance with the **Money Laundering Prohibition Act 2011 (as amended)**. These businesses and professions play a vital role in the economic and financial activities of Nigeria, as they provide essential services in both the formal and informal sectors of the economy.

The ML(P)A 2011(as amended) for Designated Non-Financial Institutions have domesticated the FATF recommendations as it relates to supervision of DNFBPs. The law made provision for customer due diligence, record keeping, enhance due diligence of Politically Exposed Persons and high-risk countries, reliance of customer due diligence by third parties, suspicious transaction reporting, internal controls and supervision for AML compliance.

Section 5(4) of the Money Laundering Prohibition Act, 2011 (as amended), empowers the SCUML to supervise DNFBs in Nigeria. In the course of its supervisory activities, SCUML has developed guidelines for the DNFBs, on Customer Due Diligence, filing of suspicious transaction reports and other statutory reports, training, internal control mechanism and a host of others as required by the extant AML/CFT laws. SCUML also has an examination manual for its compliance officers that equip them with the necessary skills for both on-site, off-site and spot check examinations.

SCUML also developed a ML risk assessment matrix with the support of the International Monetary Fund (IMF), which it uses to grade the DNFBs risk level. See guidelines/manuals here <https://www.scuml.org/guidelines-and-circular/>.

This risk grading also provide a basis for the conduct of all its examinations and it uses several criteria such as volume of transactions of the nonprofit, number of staff, annual gross income etc. Consequently, the effectiveness of supervision/ oversight activities is rated medium.

Effectiveness of Suspicious Activity Monitoring and Reporting

Nonprofits are mandated by Section 6 of the Money Laundering Prohibition Act, 2011 (as amended) to put in place mechanism for identifying and reporting suspicious transactions to the Nigeria Financial Intelligence Unit (NFIU).

However, effectiveness of Suspicious Activity Monitoring and Reporting within the nonprofit sector is particularly poor. This goes to buttress the lack of AML/CFT compliance function in the nonprofit sector and the poor understanding of what constitutes a suspicious transaction.

The Nonprofit Sector Vulnerability to Terrorist Financing

The nonprofit sector was adjudged to be highly vulnerable to the financing of terrorism. This was contained in the Trends and Typologies Report on Terrorism Financing in Nigeria published by the NFIU in April 2013. This coupled with inadequate supervision and regulation provides a fertile ground for the Boko Haram sect to engage in fund raising through this sector through the sale of used cars and other commodities.

Coupled with the use of cash within the sector further compounds the problem as it wipes out the trail of the money which makes it difficult for investigators of Terrorism Financing to follow the money. The size of the sector also makes it difficult for effective supervision by SCUML thus, leading to inefficient monitoring of its activities and lack of reporting of suspicious transaction (STR) on Terrorism Financing. <https://www.nfiu.gov.ng/images/Downloads/downloads/tf.pdf>

Conclusion

Terrorism/terrorism financing is fast becoming a pervasive scourge threatening security and development of Nigeria. This menace has been facilitated by several factors, including widespread poverty and gross unemployment. The growing incidents of terrorism in recent times and the attendant adverse consequences calls for urgent practical steps and holistic approach to address the challenges posed by terrorism and terrorism financing.

Consequently, Nigeria needs to review and strengthen existing CFT measures as well as improve both human and infrastructural capacity.

Based on the National Risk Assessment Analysis, the following recommendations are proffered to minimize the incidences of terrorism/terrorism financing in Nigeria:

- 1 There should be an enhanced public awareness and sensitization to improve nonprofit sensitization on the negative effects of terrorism and terrorist financing, need to report any suspicious activities or individuals to the appropriate authority.
- 2 There is the need to enhance the regulatory oversight of reporting entities for compliance with CFT measures.
- 3 Minimize factors engendering terrorism- Deliberate efforts should be made to address the underlying drivers of terrorism such as widespread poverty, pervasive corruption, unemployment, and socio-economic and political exclusion that generates feelings of marginalization, especially among the youth.
- 4 Regulatory agencies should provide appropriate guidance and support the capacity training needs of nonprofits, particularly in the areas of identification and reporting of suspicious transactions relating to terrorism financing and other

References

The 2016 National Risk Assessment (NRA) Report <https://bit.ly/3scrVlq>

About NNNGO

NNNGO is the first generic membership organisation for nonprofits in Nigeria dedicated to improving the operational environment for nonprofits. NNNGO brings together more than 2,700 nonprofits from around the country focused on education, health, environment, gender, agriculture, social protection, youth, poverty, good governance, and other areas of progressing national development. Since 1992, NNNGO has worked to advance the common interests of the sector, providing programs that advance national development, civil society legitimacy, transparency, and accountability. www.nnngo.org

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