Chapter 7
NONPROFIT ORGANIZATIONS

> *"Our inability to transfer funds in support of our programs is a growing crisis among American NPOs, threatening the lives of beneficiaries and our continued ability to function as humanitarian organizations."*[198]

NPOs[199] are "…organization[s] that primarily engage 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.'"[200] As mission-oriented entities dedicated to particular social benefit projects, NPOs utilize revenues to further their missions (as distinct from for-profit entities, which maximize and distribute income to shareholders) and often work in challenging, conflict-ridden environments. For all NPOs with a presence in foreign countries, the ability to transfer funds via the formal financial system is crucial to carrying out their operations.

The following section, drawn heavily from focus groups and interviews conducted for this study, addresses general views of the NPO sector, misperceptions and misunderstandings NPOs find that other stakeholders have about them, specific problems NPOs have experienced in accessing the financial sector and responses to address obstacles to financial access.

Overview of the U.S. Charitable Sector and Global Need

There are approximately 1.4 million public charities recognized by the IRS, along with an additional 300,000 small charities or houses of worship that are not required to file for recognition of their tax-exempt status with the IRS.[201] The number of charities that include international activities in their annual reports to the IRS is small but growing. In 2006, the Center on Nonprofits and Philanthropy found that nearly 5,600 organizations work in the international arena.[202] The research for this report identified 8,665 such organizations (see Chapter 4).

---

198 Stakeholder interviewee, a representative of a U.S.-based NPO.

199 As noted previously, charities and NPOs are often used interchangeably, but the NPO sector is larger and more diverse, including human rights groups and funds, foundations, faith-based and secular organizations, hospital and health providers, colleges and universities and cultural and professional associations, among other organizations.

200 FATF definition of NPO. FATF, Best Practices: Combatting the Abuse of Non-Profit Organisations (Recommendation 8), at 7, June 2015, http://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf.

201 Financial Action Task Force & Asia/Pacific Group on Money Laundering, "United States Mutual Evaluation: Anti-Money Laundering and Counter-Terrorist Financing Measures," at 103, December 2016, http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-United-States-2016.pdf.

202 Elizabeth J. Reid and Janelle A. Kerlin, "The International Charitable Nonprofit Subsector in the United States: International Understanding, International Development and Assistance, and International Affairs," The Urban Institute Center on Nonprofits and Philanthropy, at 7, January 2006, http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411276-The-International-Charitable-Nonprofit-Subsector-in-the-United-States.PDF.

U.S. public charities working in foreign countries include major international non-governmental organizations, human rights groups and funds, friendship societies, foundations, faith-based and secular organizations, environmental groups, museums, hospital and health providers, colleges and universities, cultural and professional associations and a variety of other organizations and charities. These groups carry out their work through staff based in field offices outside the U.S. or through financial support to partner organizations or grantees that implement programs.

In 2015, total U.S. charitable giving reached an estimated $373.25 billion, achieving an all-time high for the second consecutive year.[203] Donations for the international subsector made up about 4% of all donations in 2015, an increase from the previous year. Online giving is an important element of this funding stream, particularly in times of urgent need. In the 2016 "Luminate Online Benchmark Report" from Blackbaud, a nonprofit consulting firm, they found that disaster relief donations averaged $121.01, an increase from the previous year.[204] The international subsector of U.S. nonprofits is likely to continue to grow, making it increasingly important that access to regulated financial channels be protected.[205]

Escalating humanitarian crises around the world increase the urgent need for NPOs' international work, particularly humanitarian relief. The scale of humanitarian need is staggering. According to the incoming UN Secretary-General, "When I started as High Commissioner 10 years ago, there were 38 million people in the world displaced by conflict and persecution.... Today, there are more than 60 million refugees, asylum-seekers and internally displaced persons worldwide as a result of conflict and persecution."[206]

Beyond these escalating humanitarian crises, NPOs face enormous practical difficulties operating in conflict zones that put employees at risk. InterAction, the largest association of U.S. international NGOs,[207] argues that, "Over the past 20 years, the operational environment of NGOs has become increasingly dangerous. Serious incidents—killings, kidnappings, or attacks that cause serious injuries—are on the rise, as are politically-motivated attacks against NGO staff."[208]

203 Giving USA, New Giving Record Is More Than a Number, June 14, 2016, https://trust.guidestar.org/new-giving-record-is-more-than-a-number.

204 Blackbaud, Luminate Online Benchmark Report 2015, at 42, http://luminatebenchmarkreport.com/LuminateBenchmarkReport2015-R.pdf.

205 On September 15, 2015, the UN General Assembly ratified the 2030 Agenda for Sustainable Development, adopting 17 Sustainable Development Goals (SDGs) and 169 targets toward a "plan of action for people, planet, and prosperity." These benchmarks are meant to focus on and drive the international development agenda for the next 15 years. SDGs include a greater role for philanthropy and nonprofit organizations, highlighting the importance of both the funding capacity and expertise of philanthropic institutions.

206 Opening remarks at the 66th session of the Executive Committee of the High Commissioner's Programme by António Guterres, United Nations High Commissioner for Refugees: Geneva, October 5, 2015, http://www.unhcr.org/56122bd76.html.

207 "Nongovernmental organizations" are generally considered to be a subset of organizations within the nonprofit sector that provide human services.

208 Interaction, NGO Security: Overview, https://www.interaction.org/project/ngo-security/overview.

NPOs Support AML/CFT Policies but Are Frustrated with Lack of Action to Address Narrowing Financial Access

Throughout the study's engagement with numerous NPOs, conversations consistently began with the same point: an understanding of the important security concerns that the U.S. government and financial institutions are promoting. At no time did interviewees express anything less than full support for the objectives underlying U.S. AML/CFT or sanction policies that have resulted in enhanced scrutiny by FIs. In fact, NPOs underscored that when operating in conflict zones, they are directly at risk of terrorist activities and want to do everything possible to protect their employees, beneficiaries and programs. While trying to ensure that both they and their partners fully comply with U.S. law, NPOs noted that working toward legal compliance creates tensions with the principles that underlie their stated missions.[209] NPOs are frustrated by the increasing difficulties they have encountered in trying to access financial services to support their programs abroad.

> *"Nonprofit groups repeatedly underscored their willingness to work together with FIs to ensure that compliance requirements are addressed."*

Many NPOs expressed the view, however, that banks seem increasingly reluctant to work with them. Because of the pervasive view that the nonprofit sector is high risk and low profit, FIs tend to require additional, labor-intensive due diligence and seem less than desirous of taking on NPOs as clients. There was also a feeling that FIs are "trigger-happy" in terms of looking for opportunities or excuses to end relationships with NPOs rather than finding ways to make them work. By the time NPOs are informed of questions or issues, FIs have often already made decisions to deny transfers or close accounts. This results in delays and complications for achieving the NPOs' missions. Rarely are NPOs given any information concerning the reasons accounts are terminated or not opened or wire transfers are delayed. Many NPOs expressed concern that their business was not valued, likely because it is not large or lucrative enough.

NPOs Are Not Valued Customers

In one case, as part of an NPO's annual KYC review with its bank, the FI asked for an extraordinary amount of invasive information for all 30 members of the large international NPO's board, in large part because the account was auto-flagged as high risk. The demand departed from previous practices in which data was only requested for certain foreign nationals. In the process of discussing the request, however, the FI indicated that there was no flexibility because the branch was being audited, and abruptly notified the long-standing customer that its account would be closed in 30 days. NPO staff appealed to their relationship manager, asking what could be done to make the relationship more lucrative for the FI, but the response was that the compliance department's decision to terminate the relationship was final.

209 International humanitarian law is based on the basic principles of humanity, impartiality, neutrality and independence. International Committee of the Red Cross, What is International Humanitarian Law? July 2004, https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

A significant frustration of NPOs is the absence of sustained meaningful engagement and solution-oriented responses to the financial access issues raised. NPOs reported that officials seemed to lack an appreciation or understanding of the essential humanitarian and development benefits that the charitable sector provides and seemed to have a general lack of interest in addressing problems raised.

Finally, there was a palpable sense of apprehension among many NPOs interviewed. Most organizations preferred to discuss experiences on a non-attribution basis, fearing reputational damage if they were "on the record" talking about the difficulties they have encountered. Hesitation to disclose problems that might encourage government scrutiny and have a chilling effect on donors was also evident. Some even feared for potential reprisal they might incur for appearing to criticize U.S. policies and officials. These qualms were most disconcerting to the research team.

(Mis)perceptions and Misunderstanding of NPOs

Discussions with other stakeholders confirmed that there are numerous mistaken impressions surrounding the nonprofit sector. The following perceptions and attitudes are among the most prevalent that NPOs routinely face and strive to overcome.

Perception of NPOs as Inherently Risky

In the immediate aftermath of 9/11, NPOs came under intense scrutiny as potential sources of terrorist financing, beginning what has been a difficult, and at times overtly contentious, relationship with the U.S. government. NPOs contend that the less-than-complete information regarding NPOs' risk of terrorist financing helped to create an overall perception of NPOs as especially risky. This was exacerbated by FATF's original recommendation enshrining the notion of nonprofits as "particularly vulnerable" to abuse. This notion has persisted and has been reinforced over time, leaving NPOs struggling to overcome the associated stigma.[210]

NPOs consider this depiction to be unwarranted and inaccurate, tainting an entire sector with suspicion and failing to acknowledge the important and positive humanitarian, social, educational and medical activities that provide vital assistance to millions of people in need. The characterization of NPOs as "high-risk" organizations, regardless of the good work charitable groups provide, continues even after it has become clear that NPOs are not a significant source of terrorist financing.[211] Although FATF removed the "particularly vulnerable" language in June 2016, there has been no subsequent guidance from the U.S. government to encourage FIs to update their risk assessments of NPOs.

210 See OMB Watch and Grantmakers Without Borders, Collateral Damage: How the War on Terror Hurts Charities, Foundations, and the People They Serve, July 2008, http://www.ombwatch.org/sites/default/files/npadv/PDF/collateraldamage.pdf.

211 Emile van der Does de Willebois, "Nonprofit Organizations and the Combatting of Terrorism Financing: A Proportionate Response," 2010, https://openknowledge.worldbank.org/handle/10986/5926; FATF, International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations, updated October 2016, http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf.

Unfamiliarity with NPO Business Model

NPOs report that FIs reviewing financial transactions come back to NPOs frequently, asking basic questions such as "What is humanitarian relief?" This indicates a general lack of understanding on the part of banks as to the nature of NPO work. This low level of awareness is not surprising—nonprofit work uses an entirely different business model than commercial accounts. Nonprofits work where the market systems fail: when other entities cannot make a profit while meeting a community's needs. Whether it is providing development assistance, access to education or food and medical care in the aftermath of disasters and war, most NPOs rely on donations to support core operations that would not prove profitable in a market context. NPOs exist to sustain those activities.[212]

The unique mission-driven norms that govern NPOs' work, especially those providing humanitarian and emergency relief, are also not widely appreciated by either the government or FIs. Established principles governing humanitarian assistance—independence, impartiality and neutrality—are not commonplace in a private-sector business model. Coupled with this is the fact that many groups routinely operate in areas of conflict, entailing significant risk to staff, beneficiaries and operations. As a result, many international humanitarian NPOs have developed comprehensive risk management frameworks to enable effective programing while protecting their staff, operations and reputations. Even so, NPOs understand and accept that risk cannot be completely eliminated. There will always be residual risk that must be managed and mitigated to avoid negative consequences. This residual risk is acceptable in light of the benefit that NPOs provide.[213] It is also consistent with the risk-based approach. However, the risk calculations used by NPOs may not easily translate into financial risk analysis approaches, because NPOs include the cost of inaction in their analysis and may choose to accept risk to their staff and operations if it can address risks faced by civilians in need of humanitarian aid.

Unique Operational Challenges

NPOs that work in foreign countries face many challenges, from operating in war or disaster zones to being targets of repressive regimes. International NPOs routinely function amid heightened risk, especially in countries such as Afghanistan, Central African Republic, Iraq, Syria, Somalia, South Sudan and Yemen. These conflict-driven emergencies, with highly politicized dimensions, tend to involve multiple risks, including the potential for violence against personnel, accidents, corruption, diversion, program failure and other negative outcomes.[214] Challenges are greatest for NPOs working in areas in which terrorist organizations such as ISIL, al-Qaeda, Boko Harm and Hezbollah operate. These are often the areas where humanitarian need is greatest.[215]

---

212 Allen J. Proctor, "Linking Mission to Money: A "Dual-Business" Model for Nonprofit Sustainability," Georgia Center for Nonprofits, http://www.gcn.org/articles/Linking-Mission-to-Money-A-%E2%80%9CDual-Business%E2%80%9D-Model-for-Nonprofit-Sustainability.

213 Humanitarian Outcomes for Interaction, "Residual Risk Acceptance: An Advocacy Guidance Note," September 2016, https://www.humanitarianoutcomes.org/sites/default/files/residual_risk_advocacy_guidance_note.pdf.

214 Ibid.; Humanitarian Outcomes and Interaction, "NGOs and Risk: How international humanitarian actors manage uncertainty," February 2016,
https://www.humanitarianoutcomes.org/sites/default/files/ngo-risk_report.pdf.

215 See Listed Terrorist Groups and Humanitarian Crises, Charity & Security Network website interactive map, http://www.chari-

> ***NPOs themselves have the most to lose if problems arise, with significant ramifications in terms of donor funding, access to financial services and the risk of civil or criminal penalties.***

Moreover, sending money into conflict zones presents particular challenges, as in most cases there will be a minimal banking system to receive funds. The inability for direct line payments poses significant complications for compliance systems based on transparency and a risk-based approach. FIs often feel they are left with no option but to decline transactions, given the absence of shared views on appropriate risk management. The lack of direct bank-to-bank channels, and therefore increased reliance on unregulated informal channels, raises specific challenges that require greater analysis and guidance.

In these environments, the armed groups exercising territorial control may impose registration fees or taxation on NPOs or dictate the conditions on which NPOs might gain access to civilian populations. In such cases, humanitarian actors may need to engage in customary, necessary and incidental transactions with listed entities as the governing power. Complex situations need to be recognized and managed, even when there may be unintended or incidental contributions to sanctioned groups.

Due Diligence and Effective Controls

NPOs generally undertake considerable efforts to protect themselves from potential terrorist abuse, instituting internal controls and due-diligence procedures. Before interviewing potential partners, some NPOs undertake compliance checks at multiple levels, which often are shared with their banks. Recipients of NPO funds, including vendors, are screened against sanction lists. Humanitarian organizations have developed internal policies and practices in line with humanitarian principles to help ensure that aid and assistance reaches the intended beneficiaries. NPOs receiving USAID funds engage in a formal vetting program. Donors are increasingly requiring NPOs to sign clauses in grant and partnership agreements requiring implementation of specific anti-bribery, anti-fraud and anti-terrorism-financing policies.[216] NPOs themselves have the most to lose if problems arise, with significant ramifications in terms of donor funding, access to financial services and the risk of civil or criminal penalties.

---

tyandsecurity.org/node/1437.

216 "An Analysis of Contemporary Anti-Diversion Policies and Practices of Humanitarian Organizations," Harvard Law School, Project on Law and Security, May 2014, http://blogs.harvard.edu/cheproject/files/2013/10/CHE_Project_-_Anti-Diversion_Policies_of_Humanitarian_Organizations_May_2014.pdf.

Table 9: Transparency Standards and Initiatives Developed by NPO Sector*

Standard or Initiative	Developing Organization(s)
Principles of Conduct in Disaster Response Programmes	International Red Cross and Red Crescent Movement
The Do No Harm Handbook: The Frame-work for Analysing the Impact of Assistance on Conflict	Collaborative for Development Action, Inc.; CDA Collaborative Learning Projects
Private Voluntary Organization (PVO) Standards	InterAction
Humanitarian Accountability Partnership Standard	Humanitarian Accountability Partnership
Preventing Corruption in Humanitarian Operations Handbook of Good Practices	Transparency International
Humanitarian Charter and Minimum Standards in Humanitarian Response	The Sphere Project
Evaluation and Learning Activities	Active Learning Network for Accountability and Performance in Humanitarian Action

*Source: Risk of Terrorist Abuse of Nonprofit Organizations Financial Action Task Force, June 2014, at 22.

Financial Access Problems Experienced by NPOs

Sending funds through FIs has become more problematic as each transaction is scrutinized and more detailed information about recipients, beneficiaries and partnering organizations is required. In most cases cited, transfers have been delayed or blocked pending further information. Other examples include payments declined or funds frozen, accounts closed or applications to open new accounts refused.

The following examples are from interviews, focus group discussions or public sources. To encourage openness, names and identifying details have been withheld in order to ensure confidentiality.

Account Closures

As noted from the survey results, even though account closures represent 6.3% of NPOs' experiences, the effects can be devastating. After maintaining its business account at a U.S. bank for many years, one charity applied for a new account at the suggestion of the bank, citing security reasons. The bank declined to open the new account (encountered about 10% of the time for NPOs surveyed) and then refused to reopen the old account, freezing the charity's funds and forcing delays in the payment of employees' salaries. The bank gave the charity 2–3 days to transfer its funds to another FI. The charity was ultimately able to find a small local bank to take its business, but that institution did not provide services for making overseas payments (see Chapter 4 for more information on account closures).

In another case, upon receiving notice that their accounts were about to be closed, one NPO met with its relationship officer and then asked to meet with risk management staff at the bank. The NPO proactively addressed the activities they assumed to be of concern (no information was provided by the bank officials as to the reason for closure). These involved transactions in support of programs in Syria and Yemen, as well as international partners. After presenting information, documentation and rationale for their activities, the NPO was thanked for coming. Ultimately, however, their efforts did not have a positive impact and the FI terminated the accounts.

Yet another charity providing essential financial support to a hospital in Aleppo had two different financial institutions close their accounts. As a result, hospital staff experienced 4-month delays in receiving salaries.

Denial of Wire Transfers

When FIs reject wire transfers, there can be significant impacts on program beneficiaries. An NPO operating an orphan sponsorship program for hundreds of children in Lebanon was forced to end the program because its FI would not process wire transfers. Two clinics for Syrian refugees, one in Saida and another Akkar, were also forced to close because they could not get funds to the clinics. Some banks have stopped processing vendor payments altogether in certain countries. As a result, an NPO was sued in Sierra Leone by vendors it was unable to pay.

Although education is free in Afghanistan, many students from poor communities cannot take advantage of the opportunity because they cannot afford the additional costs for room and board, food, supplies, transportation and other necessities. One American charity funded a dormitory for 400 underprivileged students so that they could attend university. Fundraising efforts focused on providing students with standard-sized beds, instead of cushioned mats on the ground, and other items that would permit them to comfortably focus on their studies. Information on individual students, their background of need and programs of study were made available to donors to encourage support.

Wire transfers destined to the program began to experience delays and were eventually denied entirely. No reason was provided. Unable to transfer funds and ashamed by their inability to fulfill their commitment, the NPO apologized to the local partner and was forced to abandon the students, some of whom were likely unable to continue their studies.

Foundation and grantmaker NPOs likewise have experienced banking problems in supporting international programs. Problems with wires to numerous countries, including Myanmar, Crimea, Yemen and Iran, have been increasing since late 2013/early 2014. In Afghanistan, there was a backup in the summer of 2014 during which all payments were rejected (evidently as a result of small banks not being in line with AML/CFT rules).

Delays in Fund Transfers

> ***Some NPOs reported that each and every wire takes a minimum of 2 weeks, often longer, to reach their final destinations.***

In every meeting with NPOs, the most commonly cited problem concerned delays in wire transfers. Results from the random sample survey (Chapter 4) confirmed that these delays are the most frequent ongoing problem for NPOs, occurring 37% of the time. In some cases, the transfers were destined to the accounts of employees or other charities in the U.S. While some may assume that delays are less harmful than account closures for NPO operations, interviewees underscored that delays are critical and have severe consequences.

Some NPOs reported that each and every wire takes a minimum of 2 weeks, often longer, to reach their final destinations. For many NPOs supported by grants with specific timelines by which funds must be expended, such delays damage program operations and the reputation of the NPO. When they are uncertain as to their ability to transfer funds in support of grants, some NPOs actually reported forgoing grant opportunities.

Country partners may also add finance charges and late fees when there are delays in paying for services abroad. This strains relationships and causes problems for local employees dependent on regular salaries. Some universities reported that students studying abroad were denied access to their educational institute as a result of delays in payments being received.

According to another interviewee, efforts to ensure that payments are actually processed have become a full-time job:

> "Every single wire generates questions, requiring two [to] three rounds of inquiries… with 15 wires per month, it's a full-time job just to ensure our transfers are processed. Even repeat wires for the same destination encounter the same questions, taking up to a month, or five [to] six weeks, for wires to reach their destinations."

One NPO operating in Jordan cited government requirements that each program have its own application and approval process. Money must be wired separately for each project to the same Jordanian entity, necessitating many wires each month. Yet the FIs asked for the same information each time, delaying the transfer, which in turn delays salaries, purchases of medicine and other items.

Delays in financial transfers can mean life or death for some of the most vulnerable populations. In spring 2015, one charity was unable to pay for the fuel needed to supply power to a hospital in Syria because of the banks' lengthy delays in transmitting funds. The FI questioned the transfer and held the funds. The result was that the hospital ran out of fuel. "Delays have real human costs."

One international NPO supported a "winterization program in Afghanistan that we generally fund annually, providing tents, blankets, and other non-food items. With delays in transferring funds, by the time we were able to send the money, the winter was over and the aid was never delivered.

Frequently working in dangerous and uniquely challenging environments, NPOs' staff and contractors can face real physical jeopardy when funds are not available. One recounted a situation in the field where people expecting to be paid showed up with guns.

This caused a significant number of beneficiaries to suffer severe health complications and, we expect, some deaths due to winter weather."

Other charities talked about the consequences for international employees and vendors of not being able to make payroll or pay bills and employees unable to receive pension distributions, some waiting for years. Frequently working in dangerous and uniquely challenging environments, NPOs' staff and contractors can face real physical jeopardy when funds are not available. One recounted a situation in the field where people expecting to be paid showed up with guns.

Because of the delays in wire transfers, some charities have turned to third parties to ensure that payroll for employees abroad is not delayed. This requires 2–3 months of advance payments to be held by the third party, which imposes penalties when transfers are delayed. Wages paid to the U.S. bank accounts of aid workers living abroad have also been delayed, even when it is a transfer within the U.S.

FINANCIAL ACCESS PROBLEMS OF HIGHER EDUCATION

Previously, there was little appreciation of the banking problems experienced by universities and colleges. These institutions were among the NPOs that expressed significant problems in transferring funds internationally. The nature of their work abroad primarily consists of supporting faculty/staff in field research, organizing and managing students' study abroad programs (including housing, food and travel), sponsoring visits such as sports teams' tours and paying honoraria for international speakers.

Due to the limited duration of faculty and student programs abroad and the difficulty involved with opening bank accounts in foreign countries, universities have increasingly shifted to utilizing MSBs for financial transfers. While expressing a strong preference for and comfort with using FIs, representatives nonetheless have to explore these workarounds "when we can't get banks accounts in country or wire funds." Brazil, Mexico and Chile were among the countries in which educational NPOs encountered frequent problems.

NPOs expressed an aversion to relying on cash because it puts their employees at risk when they carry large sums, but in some countries where electricity is not reliable (and therefore credit cards are not an option) researchers have been forced to carry cash to conduct field work. Dangers exist, however, that staff could get held up in at the border or mugged, creating personal and reputational risks for researchers and institutions. As a result, some higher-education institutions have begun using MSBs to transfer funds for researchers and study abroad programs.

Excessive Information Requests

Information requests by FIs are standard procedures for exercising customer due diligence; however, 26% of NPOs surveyed reported unusual and excessive requests that were unreasonably invasive, impractical or resulted in undue delays. NPOs recounted a wide range of information requests by FIs, especially related to wire transfers, including a variety of requests from branches of the same institution. At times, it was reported, there is even a lack of clarity as to what information is required to ensure legal compliance on the part of both banks and NPOs.[217]

Of particular concern were requests for personal information of those initiating transactions, such as home addresses, driver licenses, passports and copies of utility bills. One bank requested information on every working director of the NPO, as well as every board member, including passport information of those individuals and of their parents. Another NPO indicated that the FI wanted the maiden names of mothers of the individuals undertaking the transactions.

Other NPOs reported having to present IDs and a utility bill in order to open a bank account. FIs also required that each trustee of the charity go personally to the bank and present due-diligence documents. Some NPO employees felt they were profiled: if they sent employees with Western names/appearances, they did not experience the same degree of questions and identification requests as when they sent employees who had Arab or Middle Eastern-sounding names or appearances.

NPOs frequently send recurring payments to the same recipients (such as employees or partners abroad) yet experience repeated requests for the same information/documentation each time a payment is sent; NPOs complained that FIs generally do not appear to have systems for retaining information provided. Moreover, banks indicate that information is required to be provided within 1–2 days, although FIs are never held to such deadlines.

When money is sent to vendors, banks frequently ask for extensive documentation, including copies of service contracts, receipts, invoices and confirmation that the vendors do not have a relationship with any sanctioned entities. In the case of an NPO office in the UK (registered as a UK entity), the New York-based FI requested information every other month regarding vendors and invoices for recurring payments such as rent. Not only do such requests result in delayed payments (for which several NPOs reported being sued), but they can also be difficult to obtain in cultural environments that operate with less formality.

Another charity reported problems with processing travel expenses for employees in India. While it is not uncommon for NPOs to experience foreign banks holding funds and not crediting to accounts in a timely way, this NPO was asked by its U.S. bank to see copies of expense reports (never more than a few hundred dollars) before processing the funds. The bank refused to credit the employees' accounts and returned the money, even though it was the same bank with offices in India with which the NPO had a long relationship.

217 FATF Rec 16 suggests standard requirements for cross-border wire transfers via correspondent banks—originator and beneficiary information—intended to minimize denials of transactions for destinations perceived to be high risk.

Even *de minimus* dollar amounts are subject to the same high level of information requests and scrutiny, reflecting strict liability in governing law.

Reluctance to Provide Information: Protection of Recipients

NPOs may not always be as transparent or proactive about who is being served, with their hesitancy to provide names of beneficiaries in wire transfers stemming from security or ethical concerns. In certain countries with repressive governments, NPOs and those who work for them are targeted or surveilled. Providing identifying information can link individuals with foreign funding and endanger NPO staff and beneficiaries. Many NPOs expressed the need to keep confidential information on staff in these difficult operating environments; while there is no concern with providing names, addresses, etc. to the U.S. bank, the possibility that information in the wire transfer may pass on to intermediary banks in such countries can be problematic. "We don't like to give the name and address of beneficiaries for security reasons. Even seemingly innocuous information, such as purpose of funds, can present a security risk in certain countries; in such cases, we use generic characterizations, like 'charitable grants,' because of security concerns." The fear of sharing too much information on recipients causes groups to be hesitant in sending information (such as invoices for grant payments) than should be necessary.

Others note concerns about violating the humanitarian principle that assistance be provided on the basis of need alone. Such information goes beyond KYC due diligence to "know your customer's customer" (KYCC), which both the Treasury Department and FATF have emphasized is not expected (see Background, Chapter 2).

Most of the time, NPOs are totally in the dark as to where the questions are coming from or the status of their transfers. Intimidating information requests such as the following have been received, even for wire transfers from one U.S. account to another (from an NPO to its employee).

> The following information is requested in order for their Bank to process this wire.
> 1. Detailed purpose of wire payment
> 2. All entities and organizations involved
> 3. Nature of goods or services rendered and to where services were rendered and to whom services are being provided
> 4. Include all countries directly and indirectly involved.
>
> The intermediary bank has given your bank three days to return the requested information to them. In the event we are unable to meet the deadline, the following results could be encountered:
> 1. The funds could be returned back to your bank.
> 2. An OFAC investigation could be initiated against your bank, which could result in fines to our bank.
> 3. Funds could be seized pending an OFAC investigation (funds are held permanently or not released for several weeks or months.
>
> Please understand that compliance with Due Diligence processes is a serious issue for all banks.

One NPO received a request for additional information concerning a wire to reimburse a physician for travel expenses associated with a medical mission, six weeks after initiating the wire.

Problems Opening Foreign Accounts

While opening an account in the country where programs are operating may at first look like a solution to some financial access problems, many NPOs expressed frustration at the amount of time and effort it took to open bank accounts abroad, even with branches of major international banks. There is no consistency in the information required, even within the same bank, and U.S. account representatives indicated that issues and problems must be dealt with by the NPOs' local bank. India was cited as an example of routinely requiring 1 year of background checks, extensive paperwork, certified identification, etc. for foreigners to open accounts. In China, NPOs reported that it took from between 11 months to 2 years to open an account, and in Kenya, 8 months. In some countries (Egypt was cited), political problems made it difficult to open or hold accounts, and in Mexico, routine requests such as changing the authorized signers took nearly 18 months.

Banking conventions in developed countries require that wire transfers are instantaneous, or at most, next day. However, in many of the third-world countries where NPOs operate, transfers can take days (3–5) or even weeks.

NPOs also complained of the excessive amount of information requested in opening accounts at foreign banks. In addition to corporate documents (by-laws, board, officers and directors, etc.), banks have asked for home addresses, not only of the person opening the account but of the NPOs' trustees as well. For corporate accounts, many local banks require personal information, including utility bills, drivers' licenses, and passports. Because of the difficulties in opening accounts, some NPOs reported employees opening personal accounts rather than business accounts. Numerous interviewees also reported extensive questioning of NPOs concerning the tax-exempt status of nonprofits. Many non-U.S. banks seemed unable to understand the notion of U.S. not-for-profit entities when establishing accounts.

Humanitarian Licensing

There is confusion among some NPOs and FIs over the OFAC licensing process. For example, some FIs request a Specific License, which is redundant in situations where a General License is available. In other cases, FIs ask for licenses when the activity supported by the NPO does not require one. One NPO, with appropriate OFAC licenses for humanitarian assistance to North Korea, was told by several banks that they do not process any payments associated with the country.

A number of countries are seemingly "off-limits" for many FIs due to concerns regarding sanctions. These include Syria, Iran, Myanmar, North Korea, Sudan and Yemen. Notwithstanding the availability of some General Licenses, several

Licensing Delays Shut Down Orphan Program in Sudan

Many multi-year development projects have been constrained by license delays, with some charities reportedly taking as long as 11 months to get an OFAC license, which is valid for 2 years. In the case of one NPO, the license expired before the orphan sponsorship program in Sudan was completed and funds expended. OFAC required that NPO operations be suspended while the license was under review. Representatives of the charity asked, "What are the kids supposed to do? Starve?" Applying for licenses for the orphan program, medical treatment, food and shelter took a huge amount of time, which severely affected recipients. The application for the charity's license renewal was not acted upon for more than 5 years.

NPOs noted that there is little appetite among banks to process transactions directed at these countries. Any financial transactions involving these “red flag” countries trigger excessive delays and additional questions, with most ultimately leading to transaction denials.

Cost/Time of Routine Equipment to Sanctioned Countries

For NPOs working in conflict zones, which are also often countries subject to sanctions, it can be complicated and time consuming to send even basic office equipment to support field operations. Understanding when Specific Licenses are required or General Licenses may apply can be challenging, often requiring legal assistance. One charity wanted to export laptops to their office in Syria and were advised that this required an OFAC license. They applied, and the license was approved after several months but contained strict conditions regarding end use and disposal. The costs of legal assistance to obtain the license exceeded the value of computers. “Even in instances where ‘no’ license is required, the fear that goods or finances could be diverted to designated individuals or entities has created a ‘chilling effect.’” For this reason, FIs and exporters will often go well beyond what is actually required, in essence implementing a “compliance buffer zone.”[218]

For countries subject to comprehensive sanctions, such as Syria, available licenses are often not broad enough to cover the range of humanitarian activities, and therefore the banks are unable to process payments. There is also no mutual recognition of licenses approved among like-minded governments, which creates hurdles for humanitarian projects. Moreover, in conflict areas often subject to significant sanctions, there is no viable payment gateway or corridor to get humanitarian funds safely into the country. It is not an issue of risk appetite by FIs, but rather a more fundamental structural problem regarding lack of available banking channels into conflict zones.[219]

“Red Flag” Countries

One NPO experienced significant delays due to intense scrutiny of each and every wire because the project supported Syrian refugees in Turkey: “Anything with ‘Syria’ in the name is being flagged and stopped as high-risk.” Even salary payments from an NPO account in the U.S. to its employee’s account in the U.S. took 1 month and prompted many questions, ostensibly because the NPO’s name contained “Syria.”

Another American charity had agreement for support from a Canadian group, but their bank refused a wire to any “Syrian-related accounts in the U.S.,” indicating that the Canadian government does not allow transfers to any organization “related to Syria” except UN organizations. Yet another NPO sent repeated payments to the same pharmacy for the same partner organization. Each transfer was delayed, and in fact, the delays increased and the same questions were asked each time. Some charities actually changed their names to avoid problems and delays associated with anything related to Syria.

Alternative Methods NPOs Use to Address Financial Access Difficulties

Accustomed to working in difficult environments and committed to their missions, NPOs have developed practical

218 Justine Walker, Study on Humanitarian Impact of Syria-Related Unilateral Restrictive Measures: National Agenda for the Future of Syria, May 16, 2016, https://assets.documentcloud.org/documents/3115191/Hum-Impact-of-Syria-Related-Res-Eco-Measures-26.pdf.

219 Ibid.

workarounds to problems of access to the formal financial system. The primary means NPOs cited to move funds in the face of problems with FIs include using MSBs and carrying cash; 41.7% of NPOs report doing this. While some were forced to cancel programs (3.4% of NPOs), many spoke of their reluctant acceptance of alternative ways of moving funds, which tend to involve less-transparent channels. All interviewees clearly preferred using established international financial institutions, but when such options are not available, other ways are found.

Money transmitters/MSBs have become frequent alternatives for NPOs to move money; 29.4% of NPOs use these services. While some NPOs expressed concerns that MSBs might not be as reliable as FIs and stated that they would prefer using banks, they felt forced to use these channels. In certain circumstances, however, even these options may be limited. Some NPOs mentioned wiring money to an individual rather than an organization. Transfer to and from individuals can be risky, however, because it adds an additional layer of vetting and puts the organization at risk if individuals abscond with the money. Some NPOs have employees use personal credit cards for travel-related expenses, with the expectation that they are easier to reimburse.

Some NPOs also reported an increase in the use of informal value transfer systems based on trust and personal ties—known as hawala[220]—because it is often the only way of getting cash into areas of conflict such as Syria.

Many NPOs have resorted to the greater use of cash despite increased vulnerabilities to theft and loss and the heightened physical risk to employees. Interviewees understood the value of audit trails, preferring not to use cash unless no other option was available (see Chapter 4). “Recently we had to send cash by hand (to Greece and Lebanon), which we hate but the problems made it necessary. Obviously that can’t be done with large amounts; it can help in an emergency but cannot be the normal routine.”

To hedge against potential account closures, NPOs reported that sometimes they open and maintain multiple bank accounts. The irony, however, is that multiple accounts can be a liability, making banks suspicious and increasing the likelihood of account closures. In addition, spreading assets among multiple accounts also makes each one less profitable for FIs, also potentially leading to terminations.

To manage increased risks of alternate methods, some charities have taken out crime insurance policies for possible thefts related to cash or bank transactions. However, carriers have begun dropping NPOs from coverage due to increased risks. In disaster situations, there is often no electronic banking, and even if there are banks, they aren’t always considered safe.

220 Hawala, an Arabic word meaning transfer or trust, is a popular and informal value transfer system based on the performance and honor of a huge network of money brokers, primarily located in the Middle East, North Africa, the Horn of Africa and the Indian subcontinent.

Effects of Financial Access Problems

Chilling Effect on Donors and Fundraising

A potentially significant cost to NPOs that are experiencing difficulties moving money is how this might affect donors who want to ensure that their support makes a difference. Delays in funding to programs or delivery of services have an unsettling effect on donors. Moreover, with competition for scarce resources (especially in places like Syria), an NPO's inability to consistently operate within expectations can be harmful to future fundraising.

With the perception that Muslim charities can be subject to increased scrutiny, some donors have stopped donations for fear of bank accounts being flagged. Reportedly, one donor had personal accounts closed due to contributions to Muslim charities. "The scariest thing is the chilling effect on large donors to Muslim organizations."

In some cases, NPOs have been hesitant to speak out about the problems they experience with sending funds abroad for fear it would dissuade donors: "We were suffering privately because we were worried donors would switch-up if this became public." The uncertainty regarding sending funds has hurt fundraising efforts, as NPOs are not sure they will be able to transfer funds to pay for programs (see Chapter 4).

Increasing Compliance Costs and Challenges

A number of NPOs indicated that financial access problems have driven up costs of compliance to the point that they have been forced to either abandon certain programs or forgo pursuing grants: "Some donors require no overhead, or a zero indirect rate,
but with compliance costs rising, it's impossible to carry out responsibilities without our increasing rates.... This is money that's not going to help at-risk populations." Donors, including government donors, generally have not increased funding to account for this additional overhead in their grants.

When NPOs cannot maintain bank accounts in the U.S., or when wire transfers are delayed or canceled, it affects their operations. NPOs must devote scarce resources to handle questions and additional documentation requests. One grantmaker whose organization sends 20 to 40 wires per day said that 10%–20% of them are kicked back. "We have to increase staff to work out these details," she explained.

Afghan Literacy Program
"If we're not in there, the Taliban will be."

A major children's charity was informed by their financial institution that operating in Afghanistan raised their risk profile and would lead to difficulties with their other accounts globally. Rather than risk being debanked in more than two dozen other countries in which the charity operated, they reluctantly closed down the Afghan literacy program for nomadic children and returned funds to the UK. In Afghanistan's north (where children rarely attend school and the literacy rate among men is less than 7%, and among women less than 2%) the project provided flexible community-based classes and study groups to support girls' education. It was supported by a £1.7 million grant from the UK's Department for International Development, and it facilitated literacy efforts for 2,000 children, including 1,200 girls, in Afghanistan.

The Thomson Reuters Foundation conducted a survey of 21 NGOs and found that government donors and banks were also demanding more in-depth audits for programs in Syria, thus increasing costs. Seven NGOs, whose Syria aid budgets ranged from $500,000 to $75 million, reported that additional audit costs had risen substantially to a total of $7.5 million. One charity said the cost of compliance reporting had doubled since March 2014.[221]

Some NPOs reported relocating assistance programs to other areas in Syria "because of difficulties dealing with armed groups and fears of running afoul of anti-terrorism laws." According to one study, bureaucratic workload for projects in Syria has risen by an average of 7,000 extra man-hours per charity in the 2 years since ISIS had taken root, the equivalent of three full-time staff members.[222]

Some NPOs Are Limiting Programs

NPOs frequently mention the hard choices they have faced in shutting down programs or halting specific assistance due to banking problems, which 3% of NPOs reported doing. "Because of the possibility of serious delays or cancellation, we have to pick programs that will do least damage if operations are suspended. This excludes some of the most important programs related to development and assistance." One NPO reluctantly decided it would no longer be able to support Sudanese orphans because of financial access-related issues: "In trying to prevent money laundering and terrorism finance, restrictions on sending money are resulting in the death of persons, particularly the victims of terrorism."

Tom Esslemont, "Syrians suffer as anti-terror laws squeeze charities – survey," Thomson Reuters Foundation, February 24, 2016, http://news.trust.org/item/20160224000357-rtjoh.

222 Ibid.

SYRIA: MICROCOSM OF FINANCIAL ACCESS CHALLENGES

The crisis in Syria represents unprecedented challenges on multiple fronts:[223] more than 13 million people, including 6 million children, are in dire need of humanitarian assistance. Reports set the toll at more than 470,000 Syrians dead as a result of the war. With 6.5 million internally displaced people, Syria has become the largest displacement crisis globally.[224] The magnitude of need has helped to propel the growth of Syrian-American civil society organizations with the establishment of numerous humanitarian and development NGOs. Among the many dilemmas they face, sending money transfers to Syria has become extremely difficult. Problems stem in part from sanctions directed at the Syrian regime, as well as the fact that any reference to "Syria" in the name, destination, etc. is intensely scrutinized by FIs and frequently denied (which has led many organizations to change their names and remove "Syria" from their titles).[225]

Nearly all of the obstacles NPOs have encountered in accessing financial services over the past several years play out in the case of Syria. Humanitarian organizations have reported FIs closing bank accounts, delaying and denying transfers, asking for unprecedented amounts of detailed information regarding partners, purposes of funds and anyone associated with operations, and outright denial of any transactions involving Syria. This includes transactions directed to Syrian refugees in Turkey and elsewhere. Syria represents one of the world's worst humanitarian crises while simultaneously posing extreme challenges in terms of NPOs' ability to access vulnerable populations, to ensure they do not support ISIL and exercise due diligence to protect employees and to transfer funds into the region to provide effective assistance.

Many NPOs working in the northern part of Syria operate programs from Turkey, where tens of thousands of people have sought sanctuary from an intensifying offensive by Russian and Syrian government forces. Because moving money into Syria is so difficult, NGOs have taken to withdrawing cash from Turkish banks and transferring it across the border using hawala. Supplies are procured outside and transported in to Syria, with hawala providing the most effective means of settling accounts. Syrian drivers, doctors and logistical staff often require that salaries be paid through MSBs or hawala in Turkey, but even these have been delayed or blocked for those living close to the Syrian border. Syrians who work for Western charities report salary payments being blocked from the Turkish side of the Syrian border. Fadi Hakim of the Syrian NGO Alliance said there was little that aid groups could do to deal with the system: "The regulations are not ours to change. They are out of our hands, so in the end you just deal with things the way they are."[226] As one NPO representative stated, "We need to untie the hands of people trying to help Syrian people; excessive risk aversion of banks is making a tragedy even worse."

223 Ibid.

224 "Syria: UN says aid convoys unable to reach besieged areas despite US-Russia deal on ceasefire" U.N. News Centre, September 15, 2016, http://www.un.org/apps/news/story.asp?NewsID=54927#.WIGZ8PkrLyR.

225 Zedoun Alzoubi, "Syrian Medical NGOs in the Crisis: Realities, Perspectives, and Challenges," Norwegian Peacebuilding Resource Center, October 1, 2015, http://noref.no/Regions/Middle-East-and-North-Africa/Syria/Publications/Syrian-medical-NGOs-in-the-crisis-realities-perspectives-and-challenges.

226 Tom Esslemont, "Syrians suffer as anti-terror laws squeeze charities – survey."