



26 June 2018

Testimony before the Subcommittee on Financial Institutions and Consumer Credit  
Committee on Financial Services, U.S. House of Representatives

### *International and Domestic Implications of De-Risking*

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Chairman Luetkemeyer, Ranking Member Clay, and distinguished members of the subcommittee, thank you for the opportunity to testify today on the international and domestic implications of de-risking.

I applaud your efforts to call attention to the critically important phenomenon of de-risking, something that is not well understood but which has profound impacts on some of the most vulnerable populations. It is particularly disconcerting as it directly affects humanitarian assistance to those most in need, and at a time when those needs are growing. The U.S. has a unique role to play in addressing de-risking globally, as the dominance of the U.S. dollar and American regulatory policies set the stage for other countries.

My comments today, focused primarily on the impact of de-risking on charities and nonprofit organizations (NPOs)<sup>1</sup> are based on the research I conducted for the February 2017 report, *Financial Access for U.S. Nonprofits*, commissioned by the Charity & Security Network (C&SN) and supported by the Bill and Melinda Gates Foundation. While I am currently affiliated with the World Bank/ACAMS Initiative on Financial Access for NPOs, the views I express today are my own.

Financial tools, in particular, Anti-Money Laundering (AML), Countering the Financing of Terrorism (CFT), and international sanctions policies, have become essential instruments in protecting the integrity of the global financial system and promoting international security. In recent years, however, the unintended consequences of these policies on some developing countries and certain sectors such as money service businesses (MSBs) and humanitarian organizations have become apparent. Anecdotal examples abound regarding the significant challenges charities face when financial institutions terminate or restrict business relationships to avoid rather than manage risk. Without the ability to transfer funds internationally, NPOs are unable to deliver vital humanitarian and development assistance.

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<sup>1</sup> The term nonprofit organization (NPO) has been defined by FATF as: “A legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works.”

*Bold.*

*Innovative.*

*Bipartisan.*

## Drivers of de-risking

De-risking is a complex phenomenon driven by the multiple considerations and calculations by financial institutions. Among these various drivers are concerns for reputational and liability risk, profitability, business strategy, the cost of implementing AML/CFT/sanctions and other regulatory requirements, and exposure to penalties by supervisory and law enforcement authorities.

Compliance-related concerns and regulatory expectations are among the most frequently cited reasons for de-risking by banks. For many financial institutions, decisions to decline to provide financial services relate to perceptions that certain customers such as NPOs are high-risk, and certain countries (subject to sanctions or where non-state armed groups such as ISIS and al Shabaab are active or exercise territorial control) are high-risk jurisdictions. Such locations are often the places where humanitarian and development NPOs operate, creating compliance challenges for banks in facilitating transactions to these regions. Regulatory requirements and expectations, as well as routine second-guessing by examiners of financial institutions' decisions require banks to undertake extensive and expensive efforts to mitigate risks and justify decisions, frequently tipping the risk–reward scale toward exiting such relationships. Despite statements from government officials, financial institutions perceive a clear disconnect between what policy officials say and what happens at the individual bank examination level. This reluctance has been fueled by a fear of penalties.

In recent years, several major banks have had large fines levied for AML/CFT/sanctions violations; many financial institutions are still under deferred prosecution agreements or consent orders requiring substantial compliance reforms and costly monitoring. In the aftermath of the 2008 financial crises, U.S. regulators (on both the federal and state levels) cracked down on regulatory violations, imposing unprecedented fines. Over the last 15 years, both the number and value of AML-related fines have increased in both the U.S. and the U.K.

The upward trend in U.S. enforcement actions and penalties against banks, along with the complexity in AML/CFT/sanctions regulatory requirements, result in increased compliance costs for financial institutions. Bank representatives consistently note decreased profitability resulting from the increased monitoring and compliance costs of AML/CFT regulations as a key driver of de-risking. Some reports place the additional burden at upwards of \$4 billion annually. One bank reportedly employed 4,000 additional compliance staff in one year, at a cost of \$1 billion. According to a 2016 survey by the Association of Certified Money-Laundering Specialists (ACAMS), three-fifths of respondents cited enhanced regulatory expectations as the greatest AML compliance challenge. Supervisory actions including personal liability of compliance officers for regulatory violations further contribute to escalating costs and challenges. This trend is not limited to the U.S.; a 2015 survey of Commonwealth members identified decreased profitability resulting from the increased monitoring and compliance costs of AML/CFT requirements as a key driver of de-risking. Added to this is the fact that NPO accounts are not usually hugely profitable.

Countries base their AML/CFT frameworks on international standards established by the Financial Action Task Force (FATF). Central to the 40 recommendations issued in 2012 is the risk-based approach that calls for financial institutions to establish systems to assess client risk and adopt measures to mitigate those risks. Financial institutions need to take appropriate steps to identify and assess their money laundering and terrorist financing risk (for customers, countries or geographic areas; and products, services, transactions or delivery channels), and put into place policies, controls, and procedures enabling them to effectively manage and mitigate identified risks. Since the introduction of the risk-based approach, however, regulations have not fully incorporated it and the current system remains a hybrid of rules-based and risk-based approaches. Lack of regulatory clarity has resulted in termination or restrictions on relationships with countries and customer categories perceived to be high-risk. Numerous studies have shown that de-risking has impacted correspondent banking, MSBs, and NPOs’ transactions, among others, posing a threat to financial connectivity, financial inclusion, and financial transparency.

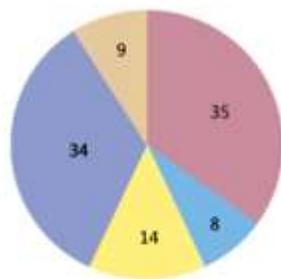
Significant analysis has been undertaken on the decline in correspondent banking relationships by the World Bank and the Financial Stability Board (FSB); such reports confirm related pressures on NPOs and MSBs. In 2017, the FSB collected information on the motives behind respondent banks’ decisions to terminate services to customers, including NPOs, money transfer operators, payment service providers, Politically Exposed Persons, and other financial institutions. The main drivers reported were the perceived risk (35%) or the “additional KYC (Know Your Customer) or CDD (Customer Due Diligence) measures” associated with these customers (34%) and therefore presumably related to AML/CFT deficiencies, whether detected or apparent.

Drivers of termination of end-customers by respondents

In per cent

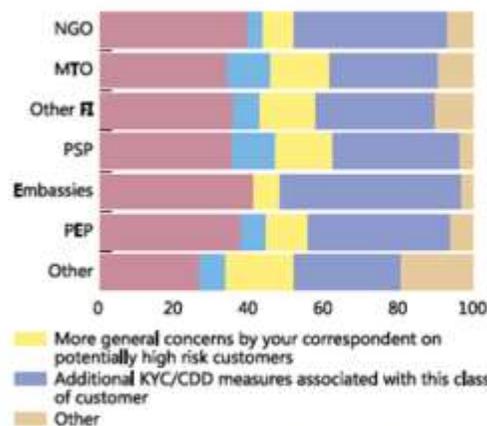
Graph 26

Drivers for terminations – All categories



■ Perceived risk  
■ An explicit requirement from one of your correspondent banks, as a condition for the continuation of the correspondent banking relationship  
■ More general concerns by your correspondent on potentially high risk customers  
■ Additional KYC/CDD measures associated with this class of customer  
■ Other

Drivers by category of end-customers



Answers provided by 118 banks; Other drivers mentioned are business strategy, suspected involvement in money laundering activities, lack of profitability, high risk jurisdiction, fraud and failure to comply. Other institutions reported are FX companies, brokerage firms, casinos, gambling related businesses, virtual currency-related entities.

Source: FSB-CBCG Survey

## De-risking of NPOs

Over the past several years, numerous reports document the consequences of financial access problems for de-risked communities, with most focusing on correspondent banking and, to a lesser extent, MSBs. While anecdotes concerning difficulties charities experience have been growing, there had been no solid data available concerning NPOs' problems accessing banking services, save for an indicative survey in 2014 of U.K. charities by the Charity Finance Group.

Moving beyond anecdotes, *Financial Access for U.S. Nonprofits*, released in February 2017 presented the first empirical data as to the scope and nature of problems NPOs encounter. The study was both qualitative and quantitative, including interviews and roundtables with all stakeholders – policymakers and regulators, financial institutions, and NPOs, as well as a random sample survey of U.S. NPOs, designed and conducted by the Schar School of Policy and Government at George Mason University (which entailed telephone interviews of 305 charities; findings were determined to be valid within a 5.4% margin of error).

The report's surprising results paint a picture of a far more pervasive problem than expected, affecting many kinds of NPOs operating in all parts of the globe.<sup>2</sup>

Among the report's major findings:

- 2/3 of all U.S. nonprofits that work abroad are having financial access difficulties
- 15% of nonprofits report having these problems constantly or regularly
- Delays in wire transfers, which can last up to several months, are the most common problem, affecting 37% of nonprofits
- One-third of NPOs have experienced fee increases, and 26% have faced additional, unusual documentation requests
- Account closures represent 6% and refusal to open accounts 10% of NPOs, but often can have devastating effects
- Transfers to all parts of the globe are impacted; the problem is not limited to conflict zones or fragile and failing states
- Smaller NPOs, often the last mile in delivering essential assistance, are more likely to encounter delayed wire transfers, fee increases, and account closures
- When money cannot be transmitted in a timely manner, 42% of nonprofits resort to carrying cash and nearly 30% use money remitters

***The report concluded that international banking difficulties constitute a “serious and systemic challenge for the continued delivery of vital humanitarian and development assistance,” a core component of U.S. foreign and security policies.***

As further evidence of the growing problem of NPO de-risking, a new study released in March of this year by the **U.K. Charity Finance Group** found that 79% of British charities face difficulty in

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<sup>2</sup> See Appendix A for the Executive Summary and Data Highlights of the report, *Financial Access for U.S. Nonprofits*

accessing or using mainstream banking channels. The same number of respondents also said that banks had become "substantially or slightly more risk averse to them." An increasing number of reports in the past several years document the problems and effects of limited financial access for NPOs.<sup>3</sup>

### Essential role of NPOs and impacts of de-risking

The U.S. NPO sector is extremely diverse, ranging from large regional, national or international charities to small, community-based organizations offering a wide variety of programs and services. Research institutes, churches, and professional associations are among the many types of NPOs that typically depend, in whole or in part, on donations, dues or voluntary service for support. The IRS recognizes more than two dozen types of NPOs, with charities making up the largest category of exempt organizations.

The charitable sector provides essential services, complementing U.S. Government initiatives to assist those in need, often in high risk areas, conflict zones, and inaccessible regions. NPOs' charitable activities help to meet vital humanitarian and development needs. The U.S. recognizes and supports the crucial role of charity in communities worldwide, viewing provision of financial services to NPOs to be in the public interest and consistent with AML/CFT goals. Many NPOs, in fact, play critical roles in fighting conditions conducive to terrorism, reducing the appeal of terrorism by building social structures and increasing intercommunity dialogue and understanding. Inadequate financial access and/or delayed transactions can undermine U.S. foreign policy objectives.

Financial services are essential for NPOs to be able to operate safely, effectively and transparently. When NPOs are unable to access banking services, charitable funds may go underground, through increased cash transactions and off-shore cash couriers, or alternative remittance systems, often unregulated. The use of cash, particularly in higher-risk jurisdictions, creates safety concerns for NPOs and their staff, and make it more difficult to ensure that funds reach intended recipients.

There are also additional concerns that de-risking may result in increased flows of informal money. The U.K. reported circumstantial evidence that greater use of cash and other unconventional channels have resurged in some places as a possible consequence of de-risking of NPOs. AML/CFT objectives of transparency and traceability are undermined if financial transactions are driven outside of regulated channels into untraceable banking alternatives.

When NPOs are turned away as customers, have their accounts closed, or experience delays or denials of wire transfers, serious complications result for the delivery of timely humanitarian assistance to countries such as Syria, Somalia and other conflict areas. The 2016 *Study of the Humanitarian Impact of Syria-Related Unilateral Restrictive Measures* documented the "chilling effect" of the private sector's reluctance to support humanitarian activity, particularly by the financial sector fearful of penalties for inadvertent regulatory violations.

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<sup>3</sup> See Appendix B for a list of reports related to NPOs and financial access challenges.

Examples abound regarding the deleterious impacts of financial access difficulties. One NPO sought to transfer \$2m from the US to UK to cover costs for a Syrian winterization project. It was delayed and ultimately denied 6 months later; the inability to transfer funds caused significant operational challenges across the global organization because of the resulting shortfall of cash, not to mention the broken trust and danger to staff created for the field office because they are in arrears with vendors. In another case, a wire transfer (via Turkey for a hospital in Aleppo) was delayed by 6 months. By the time the transfer was processed, the siege was over. Lengthy delays in transmitting funds to pay for fuel to power another Syrian hospital reportedly resulted in the hospital running out of fuel, leading to severe health complications and suspected fatalities. Funds were denied for two clinics in Lebanon for Syrian refugees that ultimately resulted in the closure of the clinics. In Sudan, a license expired before funding for a Sudanese orphanage program was complete. The NPO was told to suspend operations pending renewal of the license, which took 5 years to approve - food, shelter, and medical care at the orphanage were halted as a result. There have been instances where flights for UN food drops have been loaded but grounded on the tarmac waiting for payments to be approved before being allowed to take-off, which could have a knock-on effect of endangering the awarding of future contracts to customers involved in UN activities.

Financial access problems have also had a chilling effect on donors and fundraising, increased compliance costs and operational challenges, and resulted in limitations on humanitarian assistance programming, not based on need but rather on where banks will transfer funds. “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.” The widespread use by financial institutions of commercial data providers such as World Check and Lexis Nexis to fulfil Know-Your-Customer (KYC) and due diligence (DD) requirements has also been highly problematic; the high number of false positives raise red flags that have resulted in decisions by banks to halt NPO transactions.

At the same time NPOs’ abilities to access the financial system have been hampered, the level of humanitarian need worldwide has reached unprecedented levels. Violent conflicts, climate disasters, and political repression have generated the largest number of displaced persons since World War II. The UN Office of the Coordinator for Humanitarian Affairs (OCHA) reports more than 135 million people across the world will need humanitarian assistance and protection in 2018, an increase of 5% from 2017. Emergencies in Syria, Yemen, South Sudan, Iraq and Sudan, as well as long-term crises in Somalia, Pakistan, and elsewhere have increased the demand for humanitarian and development assistance, yet the very countries in most dire need of support are among those to which NPOs are having the greatest difficulties in receiving/transferring funds. The United Nations reported in mid-June that the number of hungry people in the world has risen for the first time in more than a decade, with approximately 38 million more undernourished people, rising to 815 million in 2016 (the year for which the latest statistics are available). According to the [2018 UN Sustainable Development Goals report](#), conflict is now one of the main drivers of food insecurity in 18 countries.

## Outdated perceptions of risk associated with NPOs

The problems many NPOs experience today stem from action taken in October 2001 by the FATF, whereby protection of the NPO sector from terrorist abuse became a component of the global fight against terrorism. In adopting Special Recommendation VIII (R8), FATF identified NPOs as “particularly vulnerable” to terrorist financing abuse. Over time, however, the FATF refined its standard, acknowledging the changed threat environment and the development by the NPO sector of standards and initiatives to ensure accountability and transparency in their operations. In 2014 and 2015, FATF guidance explicitly stated that legitimate charitable activities should not be disrupted or discouraged, clarifying the subset of NPOs that required greater attention - NPOs engaged in service activities and operating “in a close proximity to an active terrorist threat.” [FATF](#) warned that:

“Financial institutions should also not view all NPOs as high risk. Most NPOs may face little, if any, risk of terrorist financing abuse. For example, financial institutions should not view NPOs as high risk simply because they may operate in cash-intensive environments or in countries of great humanitarian need.”

According to FATF, a “one size fits all” approach to NPOs, whether it comes to supervision and monitoring of NPOs, or how banks manage business relationships with NPO customers, is not appropriate.

Reflecting the decreased risk associated with NPOs, FATF revised R8 in 2016, recognizing that not all NPOs should be subject to the same measures, especially “where humanitarian needs are acute and where charitable work contributes positively to the fight against regional and global terrorism.” Subsequent national terrorist financing risk assessments also reflect the lower risk of abuse of NPOs. The [U.K. National Terrorist Financing Risk Assessment](#) noted:

“In comparison to the overall size of the UK charity sector, the amount of known abuse for terrorist financing is very low. It is unlikely that charities have been set up for the purpose of funding terrorism. As such, we now assess the risk of abuse of NPOs altogether for terrorist financing as low, with certain parts of the sector facing significantly higher risks.”

Similarly, the 2015 U.S. Terrorist Financing risk assessment referenced sham or front organizations as the greatest threat to the nonprofit sector, rather than legitimate NPOs (a revised U.S. assessment is expected by fall 2018).

The outdated and overly broad view of the terrorist financing risks associated with the NPO sector persists, however, notwithstanding changes to FATF R8 to remove the “particularly vulnerable” language and call for a proportionate risk-based approach. In fact, most governments have not issued new regulatory guidance reflecting FATF’s revision of R8 or even national assessments of risks related to NPOs; only 1 country assessed by the FATF under the revised standard was found to be compliant - Canada.

Moreover, there is a pervasive lack of understanding of the charitable sector in general, and unfamiliarity with the NPO business model. Many banks and regulatory officials are unaware of the risk assessment and due diligence measures NPOs routinely undertake, not only to comply with sanctions and CFT regulations, but also to account to donors and manage risks to operations and employees. The fact that NPOs are subject to a complex system of regulation and oversight at the federal, state and local levels, and required to register and be monitored by the IRS and state authorities is not well-understood. In addition to reporting requirements, many NPOs also adhere to voluntary self-regulatory standards and controls to improve individual governance, management and operational practice, beyond internal controls required by donors and others. These regimes primarily regulate raising, spending and accounting for funds, seek to protect the public from fraud, and encourage charitable giving. NPOs receiving federal grants undergo additional review by grant making agencies to comply with standards required by OMB (e.g. Agency for International Development recipients are subject to rigorous scrutiny, compliance, and independent auditing requirements).

Without change to the Bank Secrecy Act or the AML Bank Examination Manual, or new U.S. regulatory guidance, it's not surprising that financial institutions continue to consider NPOs categorically as high-risk, a view reinforced by examiners. International transfers to sanctioned countries are viewed with extreme caution: numerous NPOs report that any request involving a reference to Syria (e.g. assistance destined to Syrian refugees in Turkey or Lebanon) has become a red flag, even for NPOs that have secured necessary government approval or licensing for such activities. Several charities aiding Syria report wire transfers being denied and even closure of their bank accounts.

To try to reassure banks, U.S. officials have issued statements noting that the charitable sector as a whole, does not present a uniform or unacceptably high risk of money laundering, terrorist financing or sanctions violations. Policymakers urge banks to apply due diligence obligations reasonably, "not that they be infallible in doing so". However, the fact that there have been no changes to regulations or guidance to encourage financial institutions to update their risk assessments of NPOs ensures that de-risking of NPOs will continue. Without action by government, financial institutions will continue to be reluctant to bank NPOs.

### Responses to date

As de-risking is an international phenomenon, various governments have attempted to address concerns of NPOs in a variety of ways over the past several years. In cases of sanctions, the U.S. has amended general licenses for NPOs engaging in humanitarian activities (e.g. Syria, Somalia, and Sudan). Within the European Union, the Syria regulation and FAQs have been issued to clarify the applicable legal framework and encourage the reliance on the humanitarian derogations in the Syria autonomous sanctions. These measures relate to licenses to facilitate the delivery of aid, but do not address bank payments specifically.

Over the past year and half, multi-stakeholder initiatives, bringing together government, financial institutions, and charities to address the impact of de-risking of NPOs have been organized. Such efforts are relatively recent and while encouraging, results to-date have been limited.

In 2016, the World Bank and ACAMS (Association of Certified Anti-Money Laundering Specialists) convened the *Stakeholder Dialogue on De-Risking* with more than 100 participants from government (policy, regulatory, and law enforcement authorities), international organizations, financial institutions, MSBs, and NPOs to discuss de-risking and how to address it. Until then, most de-risking discussions had focused primarily on challenges of correspondent banks and MSBs, but the dialogue noted the significant difficulties humanitarian organizations and charities were experiencing with financial access.

In recognition of the importance of supporting critical humanitarian and development work globally, the World Bank/ACAMS organized a second dialogue (*Supporting Financial Access for Humanitarian Organization and Charities*) in January 2017 to foster relationships between NPOs, financial institutions, and government; improve the regulatory and policy environment; and develop tools to facilitate understanding and information-sharing. As a result, four workstreams were organized and initiatives are ongoing to:

- provide guidance regarding the type of information banks require to conduct due diligence on NPO customers, and develop training programs/resources;
- propose amendment of the Bank Examination Manual to implement FATF R8, consider options for specialized payment channels for humanitarian crises when the traditional banking is unable to move funds, and explore improvements in humanitarian licensing and exemptions;
- explore technological solutions to facilitate NPO access to financial services, particularly transfers to areas of higher risk and help lower the cost of compliance with CDD requirements in banking NPOs (e.g. NPO KYC utility), and
- promote greater understanding of NPOs and broader financial access challenges through online resources and outreach

A further World Bank/ACAMS stakeholder meeting took place in Washington, DC in mid-June to discuss the lack of progress in addressing financial access problems while NPOs' difficulties appear to be worsening. In partnership with the Dutch Ministry of Foreign Affairs and the Human Security Collective, the World Bank/ACAMS convened an *International Stakeholder Dialogue: Ensuring Financial Services for Non-Profit Organizations* in The Hague in February 2018 to discuss comparative national approaches to the NPO de-risking challenge.

Multi-stakeholder dialogues have also taken place in the Netherlands and the United Kingdom. In October 2017, the Human Security Collective hosted a session to discuss financial access experiences of Dutch NGOs, the requirements on and concerns of financial institutions, and perspectives of the Ministries of Finance and Foreign Affairs. The meeting was the first in a series to explore possible solutions, including identifying tailor-made proposals for different types of NPOs. In the U.K, various initiatives by UK Finance (formerly the British Bankers Association) and the Disasters Emergency Committee (DEC) over the past several years have attempted to address aspects of financial access problems of NPOs, especially concerning humanitarian aid to Syria with limited success. A British multi-stakeholder initiative was also launched in late 2017 to address operating risks facing NPOs in high-risk contexts such as Syria and Somalia where the

delivery of humanitarian assistance and development and peacebuilding activities are particularly challenging. Three sub-groups working on the topics of Guidance and Legislation, Training and Best Practices, and Innovation and Information Sharing (including technological solutions) are exploring possible solutions.

### Potential solutions

While multi-stakeholder initiatives are in the early phases of developing potential solutions, financial access problems continue, and for some NPOs, appear to be worsening.

To effectively address the challenges of financial access, all stakeholders must work together in a concerted manner; viable solutions will be found only when the problems are viewed as a shared responsibility of all. There is no single clear-cut solution that will resolve such a complex set of issues but rather a range of measures that need to be investigated in multi-stakeholder settings. Following are actions that could usefully be explored.

#### Raise awareness and promote a balanced approach

To enhance understanding of NPOs by financial institutions and regulators, and by NPOs of regulatory requirements and expectations, enhanced engagement among all stakeholders is necessary. Collective recognition and awareness of the imperative of humanitarian and development assistance can promote a shared responsibility among stakeholders and ensure balance between mitigating sanctions and terrorist financing risks and facilitating the movement of funds necessary to deliver vital assistance.

Some financial institutions, viewing support for humanitarian organizations as a social responsibility, have committed resources to develop guidance and procedures to support charitable groups operating in sanctioned countries. Likewise, many NPOs have adopted self-regulatory measures to ensure accountability, effective control, and transparency in their operations. Greater sharing of information about risk assessment and mitigation procedures can help build mutual confidence and understanding that may reduce delays and questions with financial transactions. NPOs and banks should deepen their engagement with one another and regulators.

#### Provide regulatory and policy guidance

The Treasury Department and supervisory agencies should develop policy and regulatory guidance that provides greater clarity to banks and NPOs on the implementation of the risk-based approach. Statements that NPOs are not by definition high-risk customers are helpful but insufficient to change financial institutions' willingness to bank NPOs. Revision of the BSA-AML Examination Manual to implement FATF Rec 8 is essential for financial institutions to change their outdated treatment of NPOs as inherently high risk and implement a risk-based approach to banking charities. As part of the World Bank/ACAMS initiative, banks and NPOs jointly developed a proposal to revise the existing manual, a testament to the potential of multi-stakeholder strategies. The proposal is currently pending review by regulatory agencies.

Development of better guidance and risk tolerance standards so banks have a clear understanding of regulatory expectations concerning due diligence are important. Such guidance must be practical and proportionate to any actual risk identified, and measures to ensure consistent implementation by bank examiners is critical.

#### Explore incentives for financial institutions to bank NPOs

A menu of measures, including the creation of a safe harbor to incentivize financial institutions to bank NPOs should be developed. Monetary incentives, such as tax credits, reputational incentives, or recognition of financial institutions who engage in—rather than avoid—effective risk management of NPOs could be explored. A mechanism for NPOs to pool accounts might also provide incentives for banks by streamlining administration and lowering costs.

Financial institutions who bank NPOs in good faith and meet criteria for effective control systems, should receive benefits, such as being held harmless or subject to reduced penalties if funds inadvertently end up in the wrong hands. The miniscule risk that funds are mislaid is outweighed by the need to ensure that aid is delivered to conflict areas to build resilience against terrorism. Safe harbor measures would provide banks confidence that they can do business with NPO customers if they maintain rigorous risk-mitigation and internal compliance controls. Various formulations could be developed on a trial basis, such as temporary waivers of sanctions enforcement, reduced penalties, and limited relief from regulatory actions for all but egregious willful violations. Moreover, if the U.S. Government (e.g, through AID) supports and funds NPO projects, banks should be able to rely on such approvals as adequate due diligence since the extensive governance and oversight grantees must meet make additional customer due diligence by banks duplicative and unnecessary.

#### Create safe payment channels

When the international financial system is unable to meet the needs of NPO customers doing humanitarian work, special procedures to facilitate the transfer of funds into conflict areas are necessary. Thoughtful options to create safe banking and payment channels into high-risk jurisdictions have been advanced, primarily focused on ways to move international humanitarian funds into Syria. Potential solutions are likely to include identification of private banks approved to receive humanitarian-related funds. Safe payment corridors should be explored, and specific proposals developed, as they are likely the only option to provide humanitarian assistance to conflict areas where need is greatest but where banks will not go without such assurances. Concerted efforts by like-minded governments and regulators, financial institutions, NPOs, and international organizations, will be required.

For NPOs who have lost bank accounts but are providing services supported by the U.S., consideration should be given to the central bank or a regional development bank facilitating the movement of funds into high-risk areas on an emergency basis.

#### Improve humanitarian licensing and exemptions

Sanctions have increased in number and scope, and include multilateral UN measures, regional EU sanctions, and unilateral measures by the U.S. and other countries. These sanctions have had significant impacts on the ability of many NPO to operate, with licenses often requiring months to process. Suggestions to improve licensing of humanitarian relief efforts and the payments needed to carry them out should be explored.

To promote more flexible licensing, United Nations Security Council resolutions imposing sanctions should routinely include humanitarian exemptions (UNSCR 2317 concerning Somalia is the only sanctions regime that has adopted a humanitarian exemption) or a standing humanitarian exemption should be adopted by the Security Council to provide clear legal safeguards for humanitarian exemptions.

#### Explore Technological Solutions to Facilitate NPO Transfers

With new payments platforms, innovative technologies have emerged that could increase efficiency and reduce compliance burdens associated with banking NPOs. Technological options to enhance transparency and information sharing capabilities such as KYC utilities, e-credits, and legal entity identifiers could help promote NPOs transfers and lower the cost of CDD compliance in banking NPOs. The World Bank/ACAMS process is exploring the parameters for a repository/utility containing comprehensive information on NPOs.

#### Provide capacity assistance

The complexity of AML/CFT/sanctions policies has increased substantially, and many countries and their stakeholders lack resources to effectively implement regulatory requirements. Some countries assert that their inability to train regulators, banks and affected communities such as NPOs, in implementation may exacerbate de-risking. Capacity building assistance is needed in numerous countries to explain regulatory requirements and compliance obligations to stakeholders.

Thank you for the opportunity to discuss the de-risking of charities and NPOs. I look forward to questions and hopefully to working with the Committee to address these critical challenges.

## Biography

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The Honorable Sue E. Eckert is an Adjunct Senior Fellow at the Center for a New American Security, where she focuses on issues at the intersection of economics and national security. Research interests include economic statecraft, sanctions, terrorism and proliferation financing, and cybersecurity. She also is an adjunct professor of law at Case Western Reserve Law School, teaching in the first master's degree program in financial integrity.

She was appointed by President Clinton and confirmed by the U.S. Senate as Assistant Secretary of Commerce for Export Administration (1993-1997), responsible for dual-use export control policy and defense industrial base programs. Previously, she was a member of the professional staff of the U.S. House of Representative's Committee on Foreign Affairs, where she oversaw national security/nonproliferation, international trade, and technology transfer issues.

From 1998-2016, Ms. Eckert was Senior Fellow at Brown University's Watson Institute for International and Public Affairs where she directed projects on U.N. targeted sanctions, terrorist financing, and economic security. Recent publications include: *Financial Access for U.S. Nonprofits* (2017); *Targeted Sanctions: The Impacts and Effectiveness of UN Action* (2016, Cambridge University Press); *The Compendium of the High Level Review of UN Sanctions* (resulting from the 2014-15 initiative supported by five Member States and led by Ms. Eckert and colleagues to strengthen the implementation of U.N. sanctions); and the "The Role of Sanctions" in *The UN Security Council in the 21<sup>st</sup> Century*. She also collaborates with the U.S. Naval War College, hosting biannual cybersecurity workshops and forming a new political economy of security initiative of scholars.

She co-led an international research initiative (*Targeted Sanctions Consortium*) of more than 50 scholars and practitioners examining the impacts and effectiveness of United Nations targeted sanctions, resulting in the creation of **two new databases** and a new online tool, *SanctionsApp*. Working extensively with national governments and U.N. bodies to enhance instruments of collective security, Ms. Eckert co-authored *Targeted Financial Sanctions: A Manual for Design and Implementation* and the series of "*Watson Reports*" to address due process concerns in sanctions designations, participated in multilateral initiatives (the Interlaken, Bonn-Berlin, and Stockholm Processes), and organized workshops, simulations, and training for the Security Council and Member States, among others.

Ms. Eckert has served as a consultant and member of numerous working groups and committees addressing security and technology issues, including the National Academy of Sciences Committee on Detering Cyberattacks, and the Resource Group advising the United Nations High-Level Panel on Threats, Challenges, and Change. She has testified before the U.S. Congress and Canadian Parliament, United Nations, and European committees, participated in numerous other international fora and is a frequent commentator on international security issues.