

# Tips for Successful Banking Relationships for NPOs

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Moderator:

*Kay Guinane, Charity & Security Network*

Speakers:

*John Byrne, AML RightSource*

*Andrea Hall, Charity & Security Network*



# Setting the Stage

- Tension between business line and compliance function of bank
- Regulatory oversight questions certain relationships
- Banks de-risking rather than managing risk
- Today's focus on nonprofit organizations
- New guidance document – a possible template for engagement
- Practical advice on staying away from blanket de-risking



# Consortium for Financial Access

Outgrowth of a “stakeholder dialogue” begun in 2017 with ACAMS/World Bank

The Consortium for Financial Access is the outgrowth of a multi-year effort by a committee of various stakeholders, including nonprofit organizations (facilitated by the Charity & Security Network), a number of large multi-national financial organizations, community banks, money services businesses, security firms, credit unions, law enforcement, regulators, advisory firms and academics, who all originally came together under a “stakeholder dialogue” organized by the Association of Certified Anti-Money Laundering Specialists and the World Bank. This “dialogue” centered on the many unfortunate challenges faced by the charitable sector in gaining and retaining financial services. The Consortium has drafted this paper after lengthy consultation with the representatives mentioned above.

# “Banking NPOs – The Way Forward”

The guidance document includes extensive recommendations and advice for both NPOs and FIs and makes the larger point that:



*Although not every banking difficulty can be foreseen or prevented, transparency and communication from both the FI and the NPO*

*can go a long way to helping maintain a relationship. It should be remembered that NPOs are focused on serving those in need.*

*Any time an NPO is left without financial services, programs might be delayed or canceled, meaning that the ultimate impact is on the beneficiary.*

# Regulation and Oversight of NPOs

- All countries' regulations are different, but generally address fundraising and spending money, protecting the public from fraud, money laundering and terrorist financing.
- In U.S. – combines registration, reporting and monitoring at state, federal and local levels
  - Must apply for tax-exempt status
  - Must file Form 990 with IRS annually
  - If conduct international activities, must also file Schedule F
  - Filings are available to the public through [Guidestar.org](https://www.guidestar.org)
- State level – must file articles of incorporation and by-laws
  - Some states require annual reporting
- Nonprofits receiving federal grants must submit to audits set by federal government

# NPO Good Governance and Due Diligence



- NPOs voluntarily adhere to a host of due diligence, oversight and transparency mechanisms
- Designed to ensure that funds are spent solely for charitable purposes
- NPOs undertake considerable efforts to protect themselves, their programs, their staff and their donors and their funds from terrorists
- No one-size-fits-all approach
- Risk assessment; screen vendors and partners against government lists; internal policies and practices in line with humanitarian principles

# NPOs vs. Commercial Customers

## NPOs

- Donors (individuals, companies, foundations, governments)
- Beneficiaries
- Public service mission supported by all of its expenditures
- Activities and fundraising dictate their transaction patterns

## Commercial Customers

- Owners or shareholders
- Customers
- Profit-driven
- Business decisions and sales dictate transaction patterns

# Key Recommendations for FIs

- Apply a risk-based approach – not all NPOs are high-risk
- Much information is publicly available through an NPO's Form 990
- FI not expected to identify each individual donor to an NPO – but enhanced due diligence for high-risk accounts should evaluate large contributors
- Understand the NPO's funding and disbursement criteria
- Distinguish sham vs. legitimate NPOs
- Collect only what is relevant from the NPO
- Consider privacy concerns and proprietary information



# Conduct Due Diligence Carefully

- In conducting due diligence on NPOs, FIs should only use trusted and reliable sources.
- Should an FI encounter negative information on an NPO that seems contrary to the FI's understanding of the NPO, the FI should engage with the NPO to discuss the contrary information and assess its accuracy.
- Especially with NPOs that are providing assistance in repressive or conflict geographies, there is a tendency for negative reporting and disinformation by those that may have political disagreements with the groups providing assistance or with the assistance itself.
- Such reporting may find its way into well-known and used services that provide due diligence information to FIs. For this reason, among others, it is important for FIs to be willing to review contrary information with NPOs.



# How To Consider NPO Transaction Patterns



- NPO activities and fundraising programs dictate their banking transaction patterns.
- NPOs receive funds from numerous sources and donors and may pay funds out in large amounts on an infrequent basis.
- Contributions to NPOs may come in sporadically as the result of fundraising campaigns or end-of-year charitable contributions.
- Accordingly, FIs should ensure that their review of an NPO's activities, fundraising efforts and banking patterns take these attributes into consideration.
- Most of the information necessary to perform the required due diligence about an NPO's activities should be readily available from public sources or easily obtained from the NPO.

# What NPOs Should Understand About FI Operations

In the US:

- FIs must obtain info about the nature and prospective use of accounts and services
- FIs must conduct an AML/CFT risk assessment of each account holder, anticipated use of account and prospective transactions
- FIs must monitor transactions and account activity for unusual and suspicious activity
- FIs must file Suspicious Activity Reports (SARs) upon discovering an unusual or suspicious activity

# Key Recommendations for NPOs

Provide the financial institution (FI) with info on:

- the history, size, location(s) of the NPO, as well as names and addresses of trustees/board members, and a description of the specific sector the NPO serves
- the nature and purpose of the NPO
- the projected use of the requested account
- the nature and size of the projected transaction activity
- an explanation of the regulatory oversight of the NPO, as well as the internal controls, good governance and due diligence the NPO employs



# NPOs: Be Proactive

- NPOs should also provide their FIs with:
  - periodic updates of anticipated changes in information related to the NPO, or anticipated transactions not consistent with prior activity
  - information on specific transactions that, without an explanation, might create concerns for the FI
- Designate a single point person within the NPO to communicate with the FI and ask for periodic meetings with the FI account manager, if possible
- If any of NPO's key personnel has been falsely accused of financial crime or has been confused with someone listed in the terrorist database, let the FI know before it uncovers the problem on its own
  - provide the FI with all info necessary to prove the NPO's case

# Transferring Funds Internationally

- Send all accompanying info to the FI up front
- Send all additional, relevant info – do not wait until there is a problem
- When sending a large transfer, outside the NPO's usual pattern of activity, notify the FI in advance regarding the timing, amount and purpose of the transfer.
- Ask the FI what additional info is needed
- Provide enough info for the FI to eliminate a "false positive" hit if the name comes up in their screening process (for example, provide birth date and address)



# More Recommendations

- Many difficulties seen in NPO-FI relationships can be averted through communication and, where possible, transparency.
- To the extent feasible, it may be helpful for an FI to establish a point of contact within the FI for NPO customers in order to better manage these unique relationships.
- FIs should be careful to not require excessive or unnecessary information from NPOs and should ensure that all information collected from NPOs is relevant to the stated purpose, remembering that NPOs have legal and ethical obligations to protect the privacy of their donors, beneficiaries and members

# What About Our Regulatory Partners?

Governments and banking regulators can take steps to address the issue of de-risking and to encourage FIs to consider providing financial services to NPOs:

- Emphasize that NPOs are not inherently risky and that, with appropriate due diligence, FIs should be able to engage with NPOs, similar to the way they deal with their other customers
- Clarify that the policy objectives of combatting illicit finance (financial integrity) and promoting humanitarian and development assistance (financial inclusion) are complementary goals
- Establish due diligence expectations





# Our Regulatory Partners (cont.)

- Provide information on the diversity of the NPO sector, the regulation and oversight NPOs are subject to, and the voluntary standards and self-regulatory mechanisms engaged in by NPOs
- Issue policy statements stressing governments' support for the NPO sector and its humanitarian and developmental efforts
- Modernize the FFIEC Bank Examination Manual and training
- Institute safe harbors, affirmative defenses or other protections for FIs based on their good faith and/or the rigorousness of their programs
- Send an appropriate message that not all NPOs are high-risk and that, with proper due diligence, FIs can open bank accounts for NPOs and provide them with banking services.

# Next Steps



- Read the Guidance!
- Communicate, communicate, communicate...
- Not all nonprofit organizations are high-risk and not all high-risk clients are the same...



**Thank You**