



700 12<sup>th</sup> Street Suite 700  
Washington, DC 20005  
+1 (202) 770 1751

Honorable Brian E. Nelson  
Under Secretary for Terrorism and Financial Intelligence  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

Dear Under Secretary Nelson,

I am writing on behalf of the Charity & Security Network (C&SN) to provide comments and suggest issues to address as part of the 2024 National Terrorist Financing Risk Assessment (NTFRA). We appreciate the continued engagement that the Office of Foreign Assets Control (OFAC) has offered to the NGO community as this biennial process takes place. C&SN, along with several NGO colleagues, recently spoke with several of your staff during a video conference on Dec. 14, 2023, and were invited to submit written comments as well.

C&SN has a long history of engagement with Treasury on issues relating to nonprofit organizations (NPOs) and the impact of counter-terrorism and terrorist financing measures, and we appreciate the NTFRA's recognition of the importance of the work of NPOs globally and of the diligent steps NPOs take to protect their programs and resources from abuse by terrorist organizations.

We are especially pleased to see recognition of the financial access challenges NPOs continue to experience and the Treasury's commitment to the implementation of proportionate and risk-based measures to address that problem.

During our recent conversation with Treasury, we offered our perspectives on key issues stemming from counter-terrorism financing (CFT) measures that continue to confront our colleagues as they work to implement humanitarian programs, as well as peacekeeping and human rights work. This letter captures several of the points we raised in that conversation.

- 1) **The emphasis that the issuance of UNSCR 2664 and the US Treasury's new and amended baseline general licenses do not equate to a greater risk of diversion.**

The US-led adoption of the UN Security Council Resolution 2664 and the U.S. Treasury's subsequent issuance of the new and amended baseline general licenses (GLs) have been very positive

in making clear the broad range of activities that are permitted in sanctioned areas. At the same time, there has been some degree of politicizing these exceptions as increasing risks of diversion. Our community has worked to dispel the myth that broader permitted activities equate to greater risk. However, it would be helpful to have the NFTRA be specific in stating that these exceptions do not mean there is a greater risk of diversion.

**2) Our sector is susceptible to disinformation attacks. Treasury and the financial sector should be aware of this dynamic, and Treasury should encourage financial institutions to conduct proper due diligence to avoid reliance on disinformation.**

Particularly in the current context with conflict ongoing in Israel-Gaza, there have been baseless disinformation attacks on a number of NGOs. While our own community has experienced this in the past and has developed tools to address these attacks, they nonetheless create problems in the continuity of our work. Financial transactions are interrupted, donors hesitate, and our own operations can suffer. It would be helpful if the NFTRA included a note of caution about derogatory disinformation, mentioning that financial institutions in particular should take all precautions to ensure that the information they rely on is based on fact.

**3) Address financial access barriers for NPOs by making enforcement standards consistent with the risk-based approach.**

U.S. law imposes strict liability for sanctions violations, which contributes to the risk-averse approach many financial institutions take regarding NPO customers. As the FATF's 2016 evaluation of the United States noted, "[a]s violations of TF-related TFS [targeted financial sanctions] are strict liability offenses, the authorities should continue to work with the NPO community to understand and mitigate the real TF risks that exist while engaging stakeholders on banking challenges that some NPOs may face when working in conflict zones." International standards have been moving toward a more proportionate and flexible risk-based approach (RBA) for over a decade, including FATF Recommendations 1 and 8. This approach, if implemented properly, is in line with international humanitarian and human rights law. On the other hand, strict liability standards are at odds with the RBA and contribute to barriers NPOs experience in accessing resources to carry out their work. As Treasury is aware, recently the FATF [revised](#) Recommendation 8 on NPOs and its Best Practices Paper. The revised Standard [clarifies](#) the application of the risk-based approach, noting that "[c]ountries should take steps to promote focused, proportionate and risk-based oversight or monitoring of NPOs. A 'one-size-fits-all' approach would be inconsistent with the proper implementation of a risk-based approach."

**4) Include nuanced language around threats to the NPO sector, including specific language that the vast majority of the NPO sector is not at risk of terrorist financing.**

During the recent call between NGOs and Treasury, it was explicitly stated by Treasury colleagues that “the vast majority of charitable organizations have very limited exposure to terrorist financing.” The Treasury and FATF have both stated publicly and routinely that NPOs historically face little to no risk of terrorist financing abuse. Including this language alongside any mention of concern for terrorist financing through charitable organizations protects against the narrative that charities are generally susceptible to terrorist financing abuse. This narrative has been proven [false](#) and [damaging](#) to charitable work over the years. Therefore, it is crucial that the 2024 NTFRA and any future publications by the US Treasury present nuanced and affirmative language surrounding the low risk of terrorist financing abuse that the NPO sector faces.

We look forward to ongoing dialogue and engagement with the Department of Treasury on these important issues and appreciate your consideration of this input.