

CHECKLIST: PROTECTING YOUR CHARITY AGAINST THE RISK OF TERRORISM FINANCING

Your charity will have a reduced risk of being misused for terrorism financing if it:

- has strong governance arrangements (including financial controls, risk management policies and procedures and appropriate due diligence)
- keeps appropriate records and reports annually to the ACNC, and
- has an ongoing practice of reviewing and strengthening its internal controls (for example, policies, procedures, delegations of decision making powers, record management systems, financial management systems and tools).

Compliance with the ACNC governance standards will assist your charity to reduce the risk of being misused for terrorism financing. The ACNC governance standards are a set of core, minimum standards that deal with how charities are run (including their processes, activities and relationships) – their governance.

The checklist below can help you identify whether your charity is meeting the ACNC governance standards and other ACNC obligations in ways that reduce the risk of being misused for terrorism financing.



If your charity is a basic religious charity it should consider implementing these governance measures to ensure it is protected against the risk of being misused for terrorism financing.



Australian Government



Australian
Charities and
Not-for-profits
Commission



Meet governance standard 1: Purposes and not-for-profit nature

- Does your charity take steps to make sure that its activities overseas agree with its purpose and its character as a not-for-profit?
- Does your charity do its due diligence to know its partners who are carrying out its activities or supporting it with fund and asset transfers?

Meet governance standard 2: accountability to members

- Does your charity keep its members informed of its activities and give them the opportunity to raise concerns?

Meet governance standard 3: compliance with Australian law

- Does your charity check that it does not provide support to the individuals and organisations associated with terrorism, or contravene Australian sanctions laws?

Meet governance standard 4: suitability of responsible persons

- What steps has your charity taken to make sure its responsible persons are suitable?

Meet governance standard 5: duties of responsible persons

- Does your charity equip its responsible persons so they understand your charity's unique risks, including the terrorism financing risks in the locations where your charity operates?
- Does your charity have financial controls that promote transparency and accountability?

Meet record-keeping obligations

- Does your charity keep up to date financial and operational records, including records of its activities and the details of any third parties involved?

Meet notification obligations

- Does your charity have a policy on what to do if they notice any suspicious activity?

More information and resources are available at acnc.gov.au



Meet governance standard 1: purposes and not-for-profit nature

Summary: charities must be not-for-profit and work towards their charitable purpose. They must be able to demonstrate this and provide information about their purposes to the public.

Does your charity take steps to make sure that its activities overseas agree with its purpose and its character as a not-for-profit?

Does your charity do its due diligence to know its partners who are carrying out its activities or supporting it with fund and asset transfers?

Governance standard 1 requires a charity's funds to be used to pursue its purposes and the charity to maintain its character as a not-for-profit. Charities must meet this standard to remain entitled to be registered as a charity.

Where funds are being transferred overseas or through other agents in Australia, it can be easy for charities to lose sight of exactly how these funds are being used. Monitoring and evaluating the projects and activities that your charity is sending its funds to is essential. This allows you to check that the charity's funds are used for the right purposes.

Charities often work with agents, partners, contractors and other employees. There is no substitute for knowing these other people thoroughly and satisfying yourself that they do not support terrorism and the funds sent are going to further your charity's charitable purpose. Ask for details and cross-check information from everyone your charity works with – this is part of the due diligence you must undertake.

Questions to ask your charity

- Does your charity maintain reasonable internal control procedures (including processes for recording transactions and delegations of decision making) that reduce risk?
- Does your charity monitor and evaluate its activities to make sure they were carried out as intended?
- Does your charity know who has ultimate control over the project that your charity's money and resources are going towards, and what the money and resources are used for, including after the particular project is finished?
- Does your charity know who uses its facilities and for what purpose – for example, your office or meeting space, name, bank account, credit cards, website, computer system, telephone or fax? Does your charity have clear written agreements with agents/contractors/other partners, in Australia and abroad, covering what activities will be undertaken and how they will be monitored and accounted for? Do you check that the agreements are being followed?
- Does your charity review the capacity and capability of partners to manage, deliver and track funds and resources?
- Does your charity know who else might be supporting the person or cause that it is endorsing in public statements, or is using the charity's name?

Steps you can take

- Read and share guidance on ACNC governance standard 1, available at acnc.gov.au/governancestandards
- We recommend you visit acfid.asn.au and read the Australian Council for International Development's Code of Conduct and implementation guidance which includes particular requirements around the relationships with partners operating overseas.



Meet governance standard 2: accountability to members

Summary: charities that have members must take reasonable steps to be accountable to their members and provide them with adequate opportunity to raise concerns about how the charity is governed.

Does your charity keep its members informed of its activities and give them the opportunity to raise concerns?

This standard requires charities to be accountable to members. If your charity is transparent to members about the activities your charity undertakes, members will be in a position to understand the charity's operations and raise questions relating to governance.

Questions to ask your charity

- Does your charity have an annual report which outlines the activities and financial circumstances of the charity?
- Does your charity report on the outcomes from programs?
- Does your charity hold annual general meetings to allow members an opportunity to raise any concerns?
- Have there been any changes for your charity that have not been explained to its members?
- Does your charity submit its Annual Information Statement to the ACNC that includes details of its activities overseas, the countries where it operates or sends money, the beneficiaries it assists and its financial activity?
- Does your charity have a clear and accessible complaints-handling mechanism?

Steps you can take

- Read and share guidance on 2, available at acnc.gov.au/governancestandards
- Learn more about the ACNC tools for governing and managing your charity at acnc.gov.au



Apply governance standard 3: compliance with Australian law

Summary: charities must not commit a serious offence (such as fraud) under an Australian law or breach a law that may result in a penalty of 60 penalty units (currently \$10 200) or more.

Does your charity check that it does not provide support to the individuals and organisations associated with terrorism, or contravene Australian sanctions laws?

Like all Australians, a registered charity must comply with Australian law. When an organisation registers as a charity, it agrees to meet all of its obligations to the ACNC, including ACNC governance standard 3 which requires compliance with Australian laws.

International obligations

Australia has an international obligation to combat terrorism financing as a party to the International Convention for the Suppression of the Financing of Terrorism and pursuant to UN Security Council resolutions on terrorism which are given effect in Australia through the Charter of the United Nations Act 1945 (Cth). Australia is also a member of the Financial Action Task Force (FATF). The FATF is an inter-governmental body which develops and promotes global standards for combating money laundering and terrorism financing.

Australian offences

Significant penalties apply under the *Charter of the United Nations Act 1945* (Cth) and the *Autonomous Sanctions Act 2011* (Cth) for contravening a range of sanctions measures. These sanctions measures include targeted financial sanctions which prohibit making assets of any kind available to a listed person or entity, or using or dealing with a listed person or entity's assets. These offences have extra-territorial effect. This means if your charity makes funding or other assets available to a listed person or entity, whether overseas or in Australia, this could result in prosecution under Australian law.

Australia's terrorist act offences and terrorist organisation offences are set out in the *Criminal Code Act 1995* (Cth) ('the Criminal Code'). The Criminal Code sets out the penalties (up to 25 years' imprisonment) for providing support intentionally or recklessly to a terrorist organisation.

Lists of terrorist organisations, individuals and other 'entities' to check

List of terrorist organisations

The Australian National Security website at nationalecurity.gov.au provides an up-to-date list of the relevant names and aliases of listed terrorist organisations under the Criminal Code.

Consolidated list

The Department of Foreign Affairs and Trade maintains a list of all persons and entities subject to targeted financial sanctions or travel bans under Australian sanctions laws (Consolidated List available at dfat.gov.au). Listings for targeted financial sanctions are distinct from listings under the Criminal Code and impose separate legal obligations.

It is a serious criminal offence making assets of any kind, including funds, available to a listed person or entity, or to use or deal with a listed person or entity's assets.



Financial transactions with Iran

In addition to the sanctions measures set out above, Australia has imposed particular restrictions on financial transactions with Iran in response to international concern about terrorist financing threats emanating from that country. Since 1 March 2012, transactions of \$20,000 or more between Australia and Iran are prohibited without prior authorisation from the Department of Foreign Affairs and Trade. This is irrespective of whether the transaction is carried out through electronic funds transfer, transfer under other remittance arrangements, or through a bill of exchange, promissory note or letter of credit.

Questions to ask

- Does your charity send money or have operations in a country in relation to which sanctions have been imposed, or in which listed persons or entities are known to operate?
- Does your charity take reasonable precautions and exercise due diligence to avoid contravening Australian sanctions laws?
- Are your charity's responsible persons, staff and volunteers aware of the list of terrorist organisations and the Consolidated List, and do they understand the legal impact of listings?
- Does your charity have appropriate controls in place to manage the risk that beneficiaries, partners, stakeholders, staff or other people associated with your charity are listed as a terrorist organisation or for targeted financial sanctions?
- Do you have an understanding of the background and affiliations of your board members, employees, fundraisers, volunteers and partners?

Steps you can take

- Read and share guidance on 3, available at acnc.gov.au/governancestandards
- Promote awareness in your charity of the list of terrorist organisations and the Consolidated list
- Review the list of groups proscribed as terrorist organisations under the Criminal Code on the Australian National Security website
- Review the Consolidated List and targeted financial sanctions against persons and entities appearing on the Consolidated List
- Promote awareness within your charity of other obligations under Australian sanctions laws set out on the DFAT website
- Seek legal advice if you are uncertain of your obligations under the law
- Read about other obligations your charity may have at acnc.gov.au
- Read and share *Safeguarding your organisation against terrorism financing: A guidance for non-profit organisations* at livingsafetogether.gov.au.



Meet governance standard 4: suitability of responsible persons

Summary: charities must take reasonable steps to:

- *be satisfied that its responsible persons (such as board or committee members or trustees) are not disqualified from managing a corporation under the Corporations Act 2001 (Cth) or disqualified from being a responsible person of a registered charity by the ACNC Commissioner, and*
- *remove any responsible person who does not meet these requirements.*

What steps has your charity taken to make sure its responsible persons are suitable?

For the ACNC, responsible persons (“responsible entities” under the ACNC Act) are the people (or organisations, in some limited cases) responsible for directing a charity, who are members of the charity’s governing body (including directors or committee members), or trustees (including insolvency trustees or administrators).

This standard requires registered charities to take reasonable steps to be satisfied that its responsible persons are not disqualified from:

- managing a corporation under the *Corporations Act 2001* (Cth), or
- being a responsible person by the ACNC Commissioner, within the previous 12 months.

If a charity is not satisfied, it must not appoint this person. If the person is already appointed, the charity must take reasonable steps to remove them as a responsible person.

Questions to ask

- Do you have a good understanding of the background and affiliations of your responsible persons?
- Does your charity know if your responsible person has any other reason for wanting to be involved with your charity?

Steps you can take

- Read and share guidance on ACNC governance standard 4, available at acnc.gov.au/governancestandards
- Read the Factsheet: What is a ‘responsible person’?, available at acnc.gov.au/faq
- Read more about disqualification from being a responsible person at acnc.gov.au/governancestandards
- Search the ASIC Register of banned and disqualified persons at asic.gov.au to make sure your charity’s responsible persons are not listed
- Search the Office of the Registrar of Indigenous Corporations (ORIC) Register of disqualified officers at oric.gov.au to make sure your charity’s responsible persons are not listed
- Search the ACNC Register of disqualified persons at acnc.gov.au/findacharity to make sure your charity’s responsible persons are not listed.



Meet governance standard 5: duties of responsible persons

Summary: Charities must take reasonable steps to make sure that responsible persons are subject to, understand and carry out the duties set out in this standard.

Does your charity equip its responsible persons so they understand the charity's unique risks, including the terrorism financing risks in the locations where your charity operates?

Charities must make sure that their responsible persons are meeting the duties as set out in governance standard 5. This includes making sure they understand the responsibilities that they are taking on as part of their role within the charity.

There are certain reasonable processes that a charity with overseas activities will need to have in place to make sure that their responsible persons can meet their duties.

Charities will all face risks that they need to manage, however those charities that operate overseas will often face risks which have more significant impacts, for example when considering occupational health and safety for staff working in warzones or where providing support in jurisdictions where there are well established terrorist groups or known corruption.

Steps you can take

To make sure that the charity's responsible persons act with the expected degree of care and diligence the charity should take steps to:

- understand the types of risks associated with their activities
- manage those risks including the risk of accidentally being a channel for terrorism financing and
- communicate all of this to their responsible persons.

Questions to ask

- Does your charity review its governance arrangements, financial controls, reporting and risk management policies and procedures?
- Does your charity have a risk register to identify and monitor risks in relation to terrorism financing?
- Do your charity's responsible persons consider the risks faced by your charity and take steps to manage those risks?

Does your charity have financial controls that promote transparency and accountability?

Make sure appropriate controls are in place

When sending money overseas, charities may face particular risks of their charitable funds being diverted or otherwise misused, even if they are working with a local organisation which has similar charitable purposes. The ways an overseas charity will reduce this risk will vary according to its particular circumstances, such as its size, the sources of its funding, the nature of its activities, as well as the needs of the public. However, it will be necessary to have appropriate controls.



Being confident that funds are sent through the appropriate channels includes making sure that when your charity is not using the formal banking system, any alternative remittance service providers they use are registered with the Australian Transaction Reports and Analysis Centre (AUSTRAC) on the Remittance Sector Register.

AUSTRAC monitors the risk of money laundering, terrorism financing or the financing of people smuggling for those remittance service providers on the Remittance Sector Register.

Overseas aid and development organisations

A number of non-government aid and international development organisations are members of the Australian Council for International Development (ACFID), which is a peak body. All ACFID members sign up to the ACFID Code of Conduct (the ACFID Code). The ACFID Code promotes good practice and aims to improve international development outcomes and increase stakeholder trust by enhancing transparency and accountability of the members. Even if your charity is not a member of ACFID, complying with the ACFID Code of Conduct is a good way of promoting good practice and good governance.

Questions to ask

- Does your charity have strong additional controls and audit trails to protect your charity's funds and show how and when they were used?
- Does your charity have appropriate delegations and separations of authority over the collection, handling and depositing of cash and the issuing of receipts?
- Does your charity transfer money using normal banking mechanisms or through an alternative remittance service provider?
- Does your charity check if its remittance service provider is registered with AUSTRAC?

Steps you can take

- Read and share guidance on ACNC governance standard 5, available at acnc.gov.au/governancestandards
- Read *Governance for good*, our guide to governance for board members, at acnc.gov.au
- Read *My charity and the ACNC: guide to your charity's obligations to the ACNC* at acnc.gov.au. This guide gives an overview of a charity's obligations and how to meet them, and includes a handy checklist
- Read our Factsheet: Overseas aid and development charities at acnc.gov.au/faq
- Read and share our *Protect your charity from fraud: a guide for charities* at acnc.gov.au
- Read AUSTRAC's report on Terrorism financing in Australia 2014 at austrac.gov.au
- Check the remittance sector register at austrac.gov.au to make sure your charity's remittance service provider is listed
- Read and share AUSTRAC's report on Terrorism financing in Australia 2014 at austrac.gov.au
- Read the Australian Council for International Development's Code of Conduct, and review their learning and development training, which includes particular requirements around the control of funds and anti-fraud and anti-corruption for charities that operate overseas. These are available at acfid.asn.au



Meet record keeping obligations

Does your charity keep up to date financial and operational records, including records of its activities and the details of any third parties involved?

Under the ACNC Act, your charity must keep two types of records: financial records and operational records. A record is an account in permanent form (e.g. in writing) of facts, events or transactions that shows your charity has operated or acted in a particular way, or spent or received money or other assets (made a transaction).

Keeping good records of both your financial and operational activities will make sure that it is easier to detect if charitable funds are being misused or diverted to another purpose.

Questions to ask about record-keeping

- Does your charity monitor and keep records of the performance of its projects?
- Does your charity keep financial records of income, expenses and financial transactions?
- Does your charity have detailed budgets for each project and generate regular reports on the progress of each project?

Steps you can take

- Read more about how you can meet your record keeping obligations to the ACNC at acnc.gov.au
- Complete the ACNC record-keeping checklist, available at acnc.gov.au

Meet notification obligations

Does your charity have a policy on what to do if they notice any suspicious activity?

Charities must notify the ACNC when they believe they are not meeting an obligation under the ACNC Act, including the governance standards.

Those who work for a charity are often best placed to identify where activities appear suspicious or processes are not being followed.

Make sure that your charity's responsible persons, employees and volunteers are aware of their obligations and know what an issue of concern is, including suspicious activity, and how and when to report.

Steps to take

- Notify the ACNC if you believe there has been a breach of obligations
- If you notice suspicious activity contact the Australian Federal Police
- If you suspect terrorism financing, contact National Security Hotline:
 - Call: 1800 1234 00
 - From outside Australia: (+61) 1300 1234 01
 - Email: hotline@nationalsecurity.gov.au
 - MMS: 0429 771 822
 - TTY: 1800 234 889.



External resources

Terrorism financing

- Read *Living Safe together* and *Safeguarding your organisation against terrorism financing: A guidance for non-profit organisations* at livingsafetogether.gov.au for information and advice on terrorism
- Read the Attorney-General's Department's website at ag.gov.au for more information on Australia's national security and counter-terrorism laws
- Read AUSTRAC's report on Terrorism financing in Australia 2014 at austrac.gov.au
- Read DFAT's website at dfat.gov.au for more information about sanctions laws.

Strong governance arrangements and financial controls

- Financial help sheets and resources from Our Community and their guides *Damn good advice for treasurers* and *Damn good advice for board members* at ourcommunity.com.au
- Guidance for Not-for-profits from Chartered Accountants Australia and New Zealand at charteredaccountants.com.au
- Professional resources for not-for-profits from CPA Australia at cpaaustralia.com.au
- The Australian Council for International Development's Code of Conduct, and their learning and development training at acfid.asn.au
- Indigenous Governance Toolkit from Reconciliation Australia and the Australian Indigenous Governance Institute at reconciliation.org.au



This guide contains references to external websites. Any external websites referred to by the ACNC are for convenience and do not constitute an endorsement or recommendation of any material at those sites. Information and resources provided by the ACNC is for general information only and is not intended to be a substitute for professional advice regarding your charity's particular circumstances.

Contact the ACNC

phone 13 ACNC (13 22 62) | email advice@acnc.gov.au | fax 1300 232 569

mail Advice Services, Australian Charities and Not-for-profits Commission, GPO Box 5108, Melbourne VIC 3001