



**Montserrat Financial Services Commission**

# **Guidance for Combating Terrorist Financing Abuse of Non-Profit Organisations**

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# 1. REGISTRATION

## 1.1 Definitions

<b>TERMS</b>	<b>DEFINITION</b>
<b>Applicant</b>	An individual or entity that has applied to the NPO Supervisor to be registered as an NPO under the NPO Regulations or to be exempted from the requirement to register under the NPO Regulations.
<b>Controller</b>	A person who owns, controls or directs a non-profit organisation applicant. This includes a trustee, director, general partner, or however else described.
<b>NPO Supervisor</b>	Regulation 3 of the NPO Regulations identifies the Financial Services Commission (the Commission) as the NPO Supervisor.
<b>Non-Profit Organisation</b>	An organisation that— (a) is established solely or primarily for charitable, religious, cultural, educational, social or fraternal purposes or for the purpose of benefiting the public or a section of the public; and (b) raises or disburses funds in pursuance of those purposes.
<b>Person</b>	A corporation or an individual.

## 1.2 Purpose

1. The purpose of this Guideline is to provide applicants with a clear understanding of the NPO registration application process. Applicants are encouraged to refer to this Guideline when preparing their application.
2. The NPO Supervisor is committed to transparency and consistency in the registration of NPOs and to the appropriate monitoring and supervision of the sector.
3. This Guideline may be amended from time to time. The amended Guideline will be shared with the NPO Sector and placed on the Commission's website.

## 1.3 What is an NPO?

Section 2 of the Proceeds of Crime Act, Cap. 04.04 defines an NPO. An NPO is any organisation that:

- (a) is established solely or primarily for –
- a) charitable;
  - b) religious;
  - c) cultural;
  - d) educational;
  - e) social;
  - f) fraternal purposes; or
  - g) to benefit the public or a section of the public or for any other purpose; and
  - h) raising or disbursing funds in pursuance of those purposes

## 1.4 Who Needs to Register?

Regulation 6 of the NPO Regulations requires the registration of NPOs incorporated, formed, or otherwise established in Montserrat or administered in or from within Montserrat. All NPOs operating in Montserrat are required to register with the NPO Supervisor; failure to do so is an offence.

However, there is an exemption from this requirement on the following basis:

- NPOs with gross annual income not exceeding \$27,000 and assets not exceeding \$55,000 in value.

## 1.5 How do I Register?

Application forms for registration are available from the Commission on request.

Consideration needs to be given to the questions regarding:

- Contact details, including the address of the NPO. The NPO must have a physical presence on the island whether that is through persons' resident on the island, a place of where the organisation will be operating from on island or a registered office. **(If a registered office it is to be stated whether the registered office will be holding the books and records or if**

### **they are only providing the service of registering the NPO)**

- Purpose and objectives
- Legal form (i.e. whether the NPO is incorporated as a non-profit company, an unincorporated association, a trust, a partnership, etc.)
- Programs, services, and fundraising activities
- Source of the funds to be used by the NPO
- Controllers - personal physical and P.O. Box address, email address and a phone number should be provided for each Controller/Senior Officers. (Controllers are defined as the person who owns, controls or directs the NPO)
- Financial information on how income will be generated and expended
- The application (**Appendix 1**) must also be accompanied by:
  - A copy of the governing document which may be a constitution, by-laws, articles, or memorandum of association. this states why the NPO exists and what the purpose and activities will be in raising of funds and the roles and duties of the positions that exists within the organisation.
  - A copy of the financial accounts of the organisation for the last three years if already in existence.
- Personal Questionnaires (PQs) and identity<sup>1</sup> and address verification<sup>2</sup> documents for each controller (**Appendix 2**). A non-resident controller is required to provide two forms of identification which must be certified by a notary public, commissioner of oaths, justice of the peace, etc.
- Applications can be submitted for pre-screening via the email address [info@fsc.ms](mailto:info@fsc.ms), with originals to follow, which can be submitted to the Commission's office in Brades, Montserrat.

#### **1.6 How are Applications Processed?**

- Upon receipt of an application, the NPO Supervisor will check to ensure that all relevant details are provided, that the application form and PQs are properly dated and signed.
- The governing documents are examined to review the purpose, objectives, and activities of the applicant to determine eligibility for registration and the classification of the applicant for risk rating.
- Additionally, the governing document is examined to ensure the following clauses are included:-
  - a) Name of the organisation;
  - b) Date of establishment of the organisation;
  - c) Place where the organisation was established;
  - d) Membership rules (including eligibility, suspension and expulsion) and terms of office (length of terms, limits on re-election);

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<sup>1</sup> Passports are preferred for identity confirmation however other acceptable forms of ID include driver's license, National ID card, ID card issued by a government agency

<sup>2</sup> Acceptable address verification include a bank statement or a utility bill, a current driver's licence, correspondence from a central or local government department or agency, a letter of introduction confirming residential address from regulated person or a foreign regulated person, a personal visit to the individual's residential address.

- e) Duties and responsibilities of individual officers and of members (e.g. to pay membership fees);
  - f) Minimum number of board members/office-bearers;
  - g) Minimum number of board meetings and method of convening meetings;
  - h) Decision-making procedures (number needed for quorum, how to vote and record decisions) with explicit indications that decisions are to be taken collectively;
  - i) Record of board meeting minutes;
  - j) Office-bearer with primary responsibility for managing or otherwise dealing with the organisation's money and their powers;
  - k) General statement about the way the finances of the organisation should be handled, including what should happen to the organisation's funds if the organisation is dissolved. Detailed financial procedures including the amount and collection procedures for dues, if any;
  - l) Identification of the officer responsible for maintaining records of income and expenditure and a statement obligating such officer to provide full details of the organisation's finances to the general membership at a General Meeting;
  - m) Date for the end of the organisation's financial year (if applicable);
  - n) Condition that the organisation's income and property are not to be distributable to its members or office-bearers, except as reasonable compensation for services rendered in furtherance of the organisation's objectives;
  - o) Procedure for amending the governing document;
  - p) Procedure by which the organisation may be wound up or dissolved and provision for assets/liabilities of the organisation to be transferred to another non-profit organisation having similar objectives;
- Complete applications are processed within 5 – 7 working days.

### 1.7 Refusal of Application to Register

- Regulation 9 of the NPO Regulations sets out the reasons a registration application can be refused by the NPO Supervisor.
- An application can be refused on the following basis:
  - (a) the application does not comply with regulation 7(1) and (2) of the NPO Regulations as the
    - 
    - (i) application was not made in a form specified by the NPO Supervisor;
    - (ii) application was not signed by a controller (or intended controller) of the organisation or proposed organisation;
    - (iii) application was not accompanied by an appropriate governing document;
    - (iv) applicant did not provide PQ(s) along with suitable identification (Passport preferred) and address verification documents for the controllers;
    - (v) financial information (income, expenses, assets) for the last three years was not provided for an applicant that is already operating;
    - (vi) source of funds was not provided
    - (vii) NPO Controller Declaration was not signed by each controller;
    - (viii) letter of undertaking<sup>3</sup> was not provided; and

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<sup>3</sup> A letter of undertaking is required for an NPO that has not yet been established and so is unable to show evidence of having a bank account. The letter is a written commitment from the NPO promising to show evidence at a bank account has been opened.



- (ix) formation documents (Certificate of Incorporation, Articles of Association or equivalent, trust instrument, partnership agreement, etc.) in respect of a controller that is a legal person or legal arrangement were not provided;
  - (b) the applicant is not, or the proposed purposes and activities of the applicant does not satisfy the definition of an NPO;
  - (c) the applicant is being used for terrorist financing or it is intended or likely that it will be used for such purpose;
  - (d) it is contrary to the public interest for the applicant to be registered;
  - (e) a persons involved in the establishment or operation of the applicant has been convicted of an offence involving dishonesty;
  - (f) the applicant, having previously been registered under the NPO Regulations, has been de- registered;
  - (g) the applicant is established for illegal purposes;
  - (h) the applicant does not have a connection with Montserrat;
  - (i) the information represented on the application for registration is incorrect;
  - (j) the name of the applicant is identical to a name by which an NPO in existence is already registered or contains words which are prohibited from use, or its use is controlled;
  - (k) the name of the applicant is different from the name in which the entity was established, if the entity was established as a company, trust, partnership, or foundation.
- Where the NPO Supervisor refuses to register an applicant, the NPO Supervisor will provide the applicant with a written notice of refusal, stating the grounds for its refusal.

## 1.8 Registration of De-Registered NPOS

- NPOs that have been de-registered pursuant to regulation 10 of the NPO Regulations, may apply to be re-registered. The NPO must complete a new application for registration and will have to follow the process set out in this Guideline.
- The NPO Supervisor may require that all outstanding financial statements be submitted along with the corresponding submission fee.
- A de-registered NPO must take note that, because of de-registration, its name will be available to subsequent applicants.
- In considering a re-registration application, the NPO Supervisor may rely on documents previously filed with the NPO Supervisor by a de-registered NPO, if the document has not expired and the document is relevant and accurate.

## 1.9 What are my Duties Once Registered?

### 1.9.1 Registered NPOs

- Registered NPOs must –
  - (a) keep the following records for a period of at least five years:
    - i) their purpose, objectives and activities;
    - ii) the identity of the persons who control or direct their activities, including, as appropriate, senior officers, directors and trustees;

- iii) the identity, credentials and good standing of its beneficiaries and associate NPOs; and
  - iv) financial records that show and explain its transactions, within and outside Montserrat, and that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives, and activities, and show the source of its gross annual income.
- (b) file annual financial statements/accounts with the Supervisor.
  - (c) file annual certificate of compliance with the Supervisor to ensure the Supervisor has a current profile of the organisation to include a listing of the current controllers (**Appendix 3**)
  - (d) inform the Supervisor of NPOs/Registrar of Companies, as soon as possible, of any changes in the registered details of the NPO (Change of Particulars forms are available on request).

### 1.9.2 Exempted NPOs

Exempted NPOs are not subject to the requirements of the NPO Regulations. However, exempted NPOs must –

- (a) Keep for the following records for a period of at least five years:
  - i) their purpose, objectives and activities;
  - ii) the identity of the persons who control or direct its activities, including, as appropriate, senior officers, directors and trustees, the identity;
  - iii) credentials and good standing of its beneficiaries and associate non-profit organisations; and
  - iv) financial records that show and explain its transactions, within and outside Montserrat, and that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives and activities, and show the source of its gross annual income.
- b) The NPO Supervisor will monitor exempted NPOs, via the information provided in update filings, to determine if an exempted NPO –
  - i) poses a risk of facilitating terrorist-financing; or
  - ii) has a gross annual income and assets that exceed \$27,000 and \$55,000 respectively.

Where the Supervisor reasonably determines that an exempted NPO no longer meets the criteria for exemption, the Supervisor shall provide the exempted NPO with written notice that it will no longer be exempt from the requirement to be registered, and unless the NPO, within 14 days after the date of the notice, shows good reason to the satisfaction of the NPO Supervisor why it should continue to be exempted, the NPO will no longer be exempt from the provisions of the NPO Regulations.

All registered and exempt NPOs must ensure that regulated financial channels are used to receive and disburse funds within and outside Montserrat.

### 1.10 Evidence of Registration

The NPO Supervisor evidences the registration of an NPO or the exemption of an NPO by issuing a registration certificate or exemption certificate. These certificates are issued by the NPO

Supervisor to fulfil its responsibilities under regulation 8 of the NPO Regulations. These certificates are issued under the authority of the NPO Supervisor; accordingly, marking of any kind on the certificate may **only** be applied by the NPO supervisor otherwise. Any unauthorised marking may be interpreted as an alteration to an official document issued by the NPO Supervisor.

### **1.11 Periodic Review of Guideline**

The Supervisor will keep this Guideline under review to ensure it remains current and appropriate for its purpose.

## **2. GENERAL GUIDANCE AND BEST PRACTICES FOR THE SECTOR**

### **2.1 Statutory Functions of the Supervisor of Non-Profit Organisations (NPOs)**

Regulation 3 of the Non-Profit Organisations Regulations prescribes the Financial Services Commission as the Non-Profit Organisations Supervisor (“NPO Supervisor”), responsible for supervising the Non-Profit Organisation (“NPO”) Sector.

Pursuant to Regulation 4, 5(1), 7 and 12 of the NPO Regulations, the Supervisor is empowered to:

- a) Act as the registration, supervision and enforcement authority for NPOs
- b) Monitor compliance; with the registration requirements of the Regulations, and; by registered NPOs with the NPO Regulations
- c) Monitor the effectiveness of the NPO Regulations in; protecting NPOs from being used for terrorist financing , and; ensuring the compliance of Montserrat with the FATF Recommendations, to the extent they apply to NPOs
- d) Undertake periodic reviews of the NPO sector in Montserrat for the purpose of identifying the features and types of NPOs that are at risk of being used for terrorist financing
- e) Undertake outreach to NPOs with the objective of protecting the NPO sector in Montserrat from being used for terrorist financing
- f) Establish and keep a register of NPOs
- g) Receive and process NPO registration applications;
- h) Obtain and review annual returns;
- i) Obtain and review annual financial statements (where appropriate);
- j) Ensure that NPOs have appropriate internal controls in place to mitigate the risk of TF;
- k) Ensure that financial records are maintained for a minimum of five years;
- l) Conduct or authorize investigations;
- m) Discharge such other functions as may be assigned under the Act, these Regulations or any other legislation.

### **2.2 Supervisory Approach**

The Supervisor has adopted a risk and principles based approach to supervision. The Supervisor will continue to publish guidance in relation to best practices and set its minimum expectations commensurate with the scale, complexity, and activities of NPOs. This Supervisory Approach was founded on the objective to supervise and protect the NPO sector from abuse in such a way so as not to discourage charitable efforts, whether by monies or deed.

Moreover, although the risk of terrorist financing (“TF”) and extremism in the NPO sector

and Montserrat is low, the Supervisor endeavors to regularly educate and sensitize NPOs through outreach regarding continued best practices associated with mitigating the risk of TF, TFS, and PF. Due to the inherent nature of best practices and internal controls, it follows that the risk of fraud, theft, and corruption in the NPO sector will also be decreased.

Where there are concerns about suspected terrorist abuse or criminal offences connected to an NPO, the Supervisor will always liaise, share intelligence, and work closely with enforcement agencies (e.g. Royal Montserrat Police Service) and other competent authorities. In essence, a fundamental role of the Supervisor is to complement the work of incumbent regimes and initiatives (e.g. terrorist asset freezing) to combat financial crimes.

### **2.3 Definition of NPO**

Section 2 of the Proceeds of Crime Act, Cap. 04.04 defines an NPO as an organisation that;

- a) “is established solely or primarily for charitable, religious, cultural, educational, social, or fraternal purposes, or for the purpose of benefitting the public or a section of the public; and
- b) raises or disburses funds in pursuance of those purposes.”

Generally, the following entities meet the legal definition of an NPO and are legally required, as per section 6(2) of the NPO Regulations, to register as a NPO with the Supervisor.

- Charities;
- Sporting associations;
- Philanthropic organisations;
- Religious organisations - churches, synagogues, religious groups, etc.;
- Community groups or organisations established for the benefit of the community;
- Professional associations - (i.e. organisations established for continued professional development);
- Sporting organisations - all sport teams/clubs that solicit or raise funds from the public or received sponsorship from corporate bodies; and
- Community groups - includes parent teachers associations, community groups, and neighborhood watch committees.

### **2.4 Use of the Regulated Financial Sector**

All registered NPOs are expected to establish a bank account with a financial institution on Montserrat. It is mandatory for all financial institutions licensed and registered on Montserrat to comply with the Banking Act, Cap. 11.03, Proceeds of Crime Act, Cap. 04.04, Anti-Money Laundering Regulations, Anti-Money Laundering and Terrorist Financing Code 2016 and the Anti-Terrorism (Financial and Other Measures) (OT) Order.

NPOs use of domestic financial institution serves as an additional preventative tool to mitigate the risk of TF and PF, as well as sanctions and reputational risk on a micro and macro level. NPOs should not, under any circumstances, use any alternative banking arrangements/services or unregulated and unlicensed money service businesses to remit funds overseas (e.g. via the Hawala money transfer system). NPOs found to be in contravention of the requirements of the relevant legislation will be penalized to the full extent of Montserrat’s legal framework and may

be subjected to deregistration, forfeiture of assets, and criminal investigation.

## 2.5 Internal Controls

### 2.5.1 Internal Controls Defined

- Internal controls, which are typically categorized into preventative, detective, and corrective measures, can be defined as *“the policies, processes, tasks, behaviors, attitudes, and other aspects of a NPO that, taken together, facilitate effective operations by enabling it to respond in an appropriate manner to significant business, financial, operational, compliance, and other risks in order to achieve its objectives. This includes safeguarding of assets and ensuring that liabilities are identified and managed”*.
- Simply put, internal controls are important to help ensure the longevity of a NPO’s operations by protecting the organisation from various risks, including compliance risk, and reducing risk exposures. In addition, proper internal controls enhance the confidence of donors and other stakeholders (e.g. regulators, governments, general public, beneficiaries, employees, suppliers, customers, the community, and environment).
- There are many different types of internal controls, with no one size fit all approach, and the degree of sophistication depends on the NPO’s activities and purpose as well as its size and complexity of operations.
- Senior Management has the responsibility to set the tone of internal controls within the NPO by implementing comprehensive written policies, procedures, charters, mandates, employee handbooks etc., including reference to the top-down organisational culture, and ensuring adherence to the before-mentioned. It is required that Senior Management regularly deliberate and be informed and updated during Board/Management Committee meetings through which the NPO is managed. The decisions and/or outcomes of these meetings must be legibly documented and executed by way of minutes and resolutions, as appropriate. Minutes serve as the official record of meetings held by Controllers whilst resolutions evidence decisions made by the Board/Management Committee. Larger NPOs, unlike smaller NPOs, will more likely have systems in place which define the specific roles and functions of Members (e.g. Secretary or Treasurer). Differences aside, at all times, NPOs must demonstrate prudent management and evidence of good internal controls must be exhibited.
- Internal controls must be effectively communicated to all parties involved in the organisation, together with the reasons for and importance of compliance with the said controls as well as the consequences for non-compliance. Effective and tactful communication, whether verbal or non-verbal, is extremely crucial to avoid duplication of effort as well as to facilitate efficiency and staff morale, therein abating operational risk.

### 2.5.2 Governance

- Governance refers to the way in which NPOs are directed/managed/administered; it is comprised of established Board/Management Committee approved policies and procedures which outlines operational rules and processes; identifies power holders (i.e. parties which can make decisions and the decision-making processes); and establishes accountability; it is, in essence, a toolkit that enables management and front line staff to effectively deal with the challenges of running the NPO.
- Members of Senior Management are ultimately responsible for the proper running of the NPO and by virtue of their appointment have a fiduciary duty to act honestly, in good faith, and in the best interest of the NPO. They must exercise care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances. Thus, it is imperative that effective governance is in place in order to safeguard the interests of all stakeholders.
- The effectiveness of the NPO's Board/Management Committee has a powerful impact on the long-term success and sustainability of the NPO. The governing body has a responsibility to:
  - i) explicitly and clearly outline its accountability to the NPO, indicating that in performing its duties, all decisions will be made within the best interest of the NPO; and
  - ii) set, with contributions from management, and approve the objectives, strategy (including short and long-term growth plans and strategic initiatives), risk management and oversight framework, values, codes of ethics and conduct, and operational policies and procedures (e.g. regarding document retention and storage) of the NPO, as well as constantly review the same to ensure that desired outcomes are being met.
- As a best practice, Controllers should implement acceptable methods (e.g. comprehensive self- assessments or independent, external reviews) to assess the effectiveness of board. This assessment can include evaluations with respect to two aspects - attributes and processes. Attributes speak to the role of each Controller in terms of their respective level of independence in decision making, skill sets, diversity, and other characteristics that adds value to the composition of the Board/ Management Committee. On the other hand, processes consider whether performance evaluation and feedback are used to consider future needs or the direction of the NPO, as well as the process to nominate, select, and resign a Controller.

### 2.5.3 Risk Management

- Risk of a systemic nature (i.e. risks at the NPO's level) can be defined as the possibility of monetary or non-monetary losses as a result of an event. There are

many different types of risks<sup>4</sup> and the onus is on Senior Management to implement a robust risk management framework to understand and identify, prioritize, and mitigate risks. Written action plans and/or a risk register should be developed for significant risks and shared with key operational personnel for consultative and training purposes.

- Proper risk management is crucial because unchecked risk will more likely adversely affect the NPO's short, medium, and long-term objectives (i.e. operations, tactics, and strategy). Therefore, it must be recognized that risk management is not a static process; in fact, risk registers must be monitored and updated carefully and frequently, at least annually or as required due to a substantial change.
- It is important to emphasize that the risk management process is neither a static nor copy and paste exercise. Risks will vary across NPOs depending on the nature of activities and purpose, scale of operations, as well as the type of internal controls implemented.
- Equally, it is important to highlight that proper risk management is pivotal in protecting NPOs from misuse by terrorist or terrorist organisations attempting to raise, store, move, or use funds<sup>5</sup>. Terrorism can be financed using the proceeds derived from predicate offences (e.g. theft and fraud) or legitimate earnings.
- NPOs which raise, store, move, and use funds only in Montserrat will have less exposure to the risk of TF, but will still be at risk for theft or fraud. On the other hand, NPOs with international connections where money is remitted overseas, especially to high-risk jurisdictions, will have a higher exposure to TF. Where funds are sent to high-risk jurisdictions, NPOs are required to know the identity of beneficiaries and the purpose for donated funds, as well as have a system to obtain evidence that funding was used for the intended purpose. Consideration should be given to the use of a reputable intermediary with sound local knowledge of the high-risk jurisdiction and the intended beneficiary.
- On a similar note, PF refers to the act of providing funds or financial services which are used, in whole or part, for the manufacture, development acquisition, possession, export, trans-shipment, brokering, transport, transfer, stockpiling, or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technological and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations. NPOs which operate exclusively in Montserrat will have minimal risk exposure to PF. Contrarily, NPOs which engage in activities resulting in money being sent abroad should ensure that it knows the identity of business partners and, prior to

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<sup>4</sup> E.g. Theft, fraud, terrorist financing, proliferation financing, sanctions, regulatory, legal, reputational, operational, and money laundering risks.

<sup>5</sup> International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation, Financial Action Task Force

commencing any dealings, conduct the requisite due diligence to identify any relevant risk factors and mitigate the same where the risk posed is within the NPO's risk appetite.

- Consequently, as mentioned above, it is important that NPOs conduct a basic and comprehensive internal risk assessment to understand and identify, prioritise, and mitigate the risk of TF amongst other relevant risks. This basic risk assessment should consider the following non- exhaustive areas, where appropriate:
  - reputation;
  - governance
  - fiscal oversight;
  - fraud protection;
  - insurance coverage;
  - youth protection policy and procedures;
  - employee or volunteer recruitment and training practices;
  - work place or physical location safety (i.e. potential hazards in the work place or outdoors);
  - data protection (i.e. the way in which confidential information is collected, maintained, and shared);

#### **2.5.4 Governance, Risk, and Compliance**

In light of the legal obligations and regulatory requirements that NPOs are subjected to, as well as the importance of risk management and governance (“GRC”), it is crucial to highlight that while governance, risk, and compliance are distinct disciplines, they are intrinsically intertwined and should not be approached independently in order to prevent duplications and omissions. Effective GRC is a plaited system which acts as the pioneer to the NPO's sustainable and continuous operations as well as its ability to appropriately respond in an increasingly dynamic and globalized world economy and society.



## 2.5.5 Examples of NPOs Being Misused

Form of Abuse	Preventative Internal Controls
<p><b><u>Theft of Cash</u></b></p> <p>Historically, and nowadays, there have been multiple instances of theft from non-profit organisations, often where employees and volunteers abuse their position, using a variety of techniques such as stealing cash from fundraising events (e.g. raffle ticket theft - obtaining extra raffle ticket books and stealing money raised from ticket sales), sale of donated goods, monthly/annual subscriptions, and bank deposits.</p>	<ul style="list-style-type: none"> <li>▪ Separation of duties at all stages of the cash flow cycle (i.e. <i>collection, storage, counting, consolidating and recording, and banking</i>).</li> <li>▪ Proper record keeping of all transactions, to include the date of receipt, amount, source of contributions, and the relevant account.</li> <li>▪ Adoption of safeguard measures to restrict physical access to the account systems.</li> <li>▪ Independent, continuous monitoring of all areas where cash is handled.</li> <li>▪ Performing independent reconciliations, as well as internal verification, of ledger accounts</li> <li>▪ Surprise audits or reconciliations; these are very useful in situations where the NPO is small and, due to resource constraints, one person is required to perform multiple roles.</li> </ul>
<p><b><u>Fraudulent Disbursements</u></b></p> <p>Fraudulent disbursement occurs when an employee or volunteer uses false information (e.g. false billing/invoicing, payroll, and expense reimbursement schemes) to misguide the NPO into making a payment for a seemingly appropriate purpose. The perpetrator will use every effort to give the falsified information a veil of legitimacy through, for instance, the use of Internet downloaded images, scanners, desktop- publishing software, shell/fictitious companies/traders and other computer-based tools as well as non-accomplice vendors, where the perpetrator uses invoices for legitimate vendors, who are not privy to the fraud scheme, and double pays or overpays; for instance, a clerk might intentionally pay an invoice twice and then call the vendor and request that one of the cheques be returned and intercepts delivery. Further, a clerk might make a payment to the wrong vendor and then request refund.</p>	<ul style="list-style-type: none"> <li>▪ Monthly reconciliation of disbursements and payables with reference to evidence of service, product/inventories, or expense.</li> <li>▪ Implementing an authorization rule such that payouts in excess of a particular threshold require approval from the Board/Management Committee prior to any disbursements (e.g. small NPOs may set such a threshold at CI\$200.00, whereas larger NPOs will set a high threshold).</li> <li>▪ Enforcing a list of approved vendors. Where a non-approved vendor is proposed, written approval should be required from the Board/Management Committee and this information must be tabled in the reconciliation or financial report for further deliberation by the governing body at the next scheduled meeting.</li> </ul>

**Overpaying Volunteers or Employees**

This occurs where NPOs pay excessive salaries and/or benefits to employees or contractual counterparts of the NPO, resulting in a significant portion of the NPO's assets being used for salaries, with minor contributions being allocated towards its purpose and objectives. Red flags also include payments or salaries which are unusually above market value for comparable goods or services rendered.

- Salaries and other forms of compensation should be subjected to oversight by the Board/Management Committee. When compiling salary packages, the governing body should take into consideration the financial position of the NPO and its sustainability as well as market value of position.

**Personal Purchases Using NPO's Assets**

Employees with purchasing authority may exploit their position by using the NPO's funds for person benefit. These schemes can be committed in different ways; for example, an employee may make a personal purchase and send the invoice to the NPO's accounts payable department or treasurer for reimbursement; alternatively, the employee might use the NPO's credit card or chequing account to make a personal purchase.

- Separation of duties within the procurement process (i.e. prohibit employees from originating/identifying/sourcing goods to be bought and approving the same purchase, especially for larger NPOs).
- Implement a policy for the post-review of small purchases in order to validate authenticity and reasonableness.
- Establish maximum purchasing limits for employees and an authorizing procedure once limits have been exceeded.
- Monthly special reconciliation related to such expenditures.

**Other red flags include:**

- an employee making an unusually high or unexplained volume of purchases which could be used for resale or personal purposes;
- an employee making significant purchases from a retail vendor;
- an employee, who is involved with an external firm, is suspected of selling the NPO's inventory;
- consumer items are purchased, but need replacement in a relatively short amount of time;
- items suitable for personal use or resale are absent or unaccounted from inventory, and
- purchased items are returned to a vendor without vendor credit or refund documentation.

## **2.5.6 Record Retention**

NPOs must have good record retention practices, which includes maintaining copies of Board/Management Committee minutes and resolutions, invoices, bank statements, receipts, contracts related to the NPO's operations, volunteer agreements, and Board/Management Committee compensation. All records should be maintained for a minimum of five years or longer until any legal, regulatory, or social investigation is concluded.

## **2.5.7 Internal and External Reporting**

Proper internal controls facilitate proper record keeping practices and ensure that the quality of information flowing to internal and external stakeholders is accurate, timely, and reliable.

## **2.5.8 Due Diligence**

### **2.5.8.1 Due Diligence Defined**

- i) Due diligence refers to the collection, analysis, and evaluation of information and documentation obtained during the course of forming a relationship, an investigation, and a complaint that a reasonable entity is expected to complete prior to entering into a contract or other dealing with another party.
- ii) Due diligence must be completed, commensurate with risk levels, at the onset of any relationships/dealings as well as continuously thereafter.
- iii) As a part of implementing internal controls, including a system to identify TF and other illegal acts pursuant to the POCA and NPO Legislation, NPOs are required to apply "know your beneficiaries and associate NPOs" rule i.e. owners, controllers, employees, volunteers, and business partners and other related parties.

### **2.5.8.2 Sanctions**

- i) At times, a key indication of high risk relating to TF, PF, human smuggling and trafficking, and financial crimes is sanctioned entities. Sanctions are prohibitions and restrictions imposed, by supervisors, competent authorities, courts and reputable international standard setting and/or social welfare bodies, on entities to prevent and condemn a particular inhumane and/or negative behavior or policy as well as to encourage corrective action that facilitates prudent risk management, therein mitigating contagion risk as well as maintaining and restoring world peace and security. Sanctions can be comprehensive or targeted in nature. Comprehensive sanctions prohibit all dealings with a particular jurisdiction, whereas targeted sanctions restrict and/or prohibit dealings with particular individuals, firms, organisations,

vessels, goods (e.g. trade in arms and weaponry), and services (e.g. financial services and assets).

- ii) The imposition and enforcement of sanctions in Montserrat is derived from several authorities.
  - a) Given that Montserrat is a British Overseas Territory, the United Kingdom's Overseas Orders in Council requires the application of sanctions issued by the United Kingdom (UK) and United Nations (UN);
  - b) Specific sanctions are implemented directly in Montserrat pursuant to the provisions of the TL, and UK's Terrorism and Terrorist Financing Regimes, and
  - c) Montserrat can also impose its own domestic financial sanctions in certain circumstances under the TF/PF Legislation. The Financial Intelligence Unit, administers and coordinates the implementation of, as well as raises awareness with respect to, financial sanctions in Montserrat, albeit the local competent authority for financial sanctions is the Governor. The most common types of financial sanctions are asset freezes, which prohibits dealings with a sanctioned party's liquid or illiquid assets and the provision of funds or goods (directly and indirectly) to sanctioned entities, and restrictions on access to financial services and markets. The purpose of financial sanctions is to:
    - i) coerce those under sanctions to change their actions;
    - ii) send broader political messages, locally and internationally;
    - iii) signal disapproval, stigmatize and potentially isolate those under sanctions;
    - iv) block access to finance and other economic resources that would allow those under sanctions to finance their actions; and
    - v) protect an economic agent's personal, business, or charitable assets until misappropriated assets are returned.
- iii) All Montserratian and non-Montserratian individuals as well as Montserrat registered businesses and NPOs, carrying out operations in Montserrat or overseas, are required to comply with all sanctions imposed on Montserrat (i.e. sanctions issued by the UK, UN, FCAU, and other sanctions issued by the competent authorities). Non-compliance with the relevant sanctions constitutes an offence, carrying conviction on indictment, a term of imprisonment, a fine, or both. All Montserratian and non-Montserratian individuals as well as Montserrat registered businesses and NPOs, carrying out operations in Montserrat or overseas, have a duty to adhere to all relevant sanctions which greatly helps maintain the integrity of the Montserrat economy.
- iv) Where an entity discovers that it is dealing with a sanctioned individual/entity, all reasonable and relevant steps must be taken and documented as soon as

possible, including but not limited to:

- a) review all known information about the individual/entity, including ownership structure where applicable;
  - b) verify whether the individual/entity is on:
    - i) the Consolidated Sanctions List issued by the UK's Office of Financial Sanctions Implementation (OFSI);
    - ii) any financial sanction notices published by the FSC;
    - iii) the Consolidated List published by the UN, which is available via <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>;
  - c) upon reviewing all relevant information, evaluate the nature of the relationship with the individual/entity, discontinuing as appropriate, and submit a duly completed Report to the Governor.
- v) Hence, NPOs internal controls must include satisfactory reference to all relevant sanctions as well as detailed procedures for:
- a) keeping abreast with updated sanctions;
  - b) conducting due diligence of all relevant parties against said lists once a thorough assessment of projects have been completed to identify all entities involved in operations (e.g. suppliers, contractors, couriers, airlines, employees, volunteers, financial institutions, etc); and
  - c) steps to be taken in the event of a breach.

## 2.5.9 Monitoring

Under regulation 4(b)(ii) of the NPO Regulations, it is the function of the NPO Supervisor to monitor compliance by registered non-profit organisations with the NPO Regulations. Monitoring of NPOs is primarily achieved through NPOs submission of their annual compliance certificate, annual financial statements and subjecting NPOs to compliance visits by the NPO Supervisor anchored by its risk-based approach framework.

### 2.5.9.1 Annual Compliance Certificate

Submission of the Annual Compliance Certificate allows the NPO Supervisor to verify the profile of a registered NPO by ascertaining the status of the information previously collected from an NPO. This is achieved through ascertaining the following in respect of registered NPOs, which are not exclusive –

- the name and registration number of the NPO
- listing of existing controllers and their addresses;
- the gross annual income;
- the net assets;
- the signed certification by the authorized signatories.

All NPOs are required to submit an annual compliance certificate.

### 2.5.9.2 Financial Statements

All registered NPOs are required to submit financial statements. Submission of financial statements allows the NPO Supervisor to track and assess financial information which may impact the risk exposure of NPOs. The required financial information includes details of annual income and the source of the income, annual expenses, the value of the assets of the organisation, significant donations and the types of programs and services of the NPO.

### 3. SUPERVISORY REQUIREMENTS

#### 3.1 Governance

NPOs must have a clearly identified leadership structure charged with the running of the organisation. The NPO Supervisor expects NPOs to be organized in a manner that enable the organisation to be properly administered, allowing for the clear identification of reporting lines (e.g., persons charged with responsibility over the organisation's finances must be identified) and overall accountability for the operations of the organisation. The organisation's policies and procedures must be appropriate to its size and complexity.

All NPOs must operate with a governing document which set out the following –

- i) the name of the organisation;
- ii) the officers of the organisation;
- iii) a declaration that the organisation is a non-profit organisation;
- iv) a statement of the organisation's purpose, objectives and activities;
- v) a statement of the manner of electing the governing body of the organisation;
- vi) the organisational structure;
- vii) the duties and powers of the governing body, including procedures for the financial decisions of the organisation;
- viii) provisions limiting the objects of the organisation to—
  - a) pursue solely or primarily charitable or non-profit purposes and requiring the organisation to apply its income solely to promoting those purposes, and
  - b) prohibit the organisation from distributing any part of the profits generated to members, shareholders or office-bearers, except for the payment to any member or office-bearer as reimbursement of any expense or in consideration of any property made available or services provided by the member or office-bearer for the benefit of the company in furthering its purposes.
- ix) state the procedure for changing the governing instrument;
- x) require that, on the closing of the organisation, any surplus assets are not to be paid or transferred to its members or office-bearers but must be transferred to another non-profit organisation, whether in the Islands or elsewhere—
  - a) specified in the governing instrument; or
  - b) designated by resolution of the members at a meeting of the organisation called for the purpose of making such a designation or for purposes that include the making of such a designation.”.
- xi) require that provision is made for the organisation's financial transactions to be conducted through regulated financial channels.

### 3.2 Controllers

A controller as “a person who owns, controls or directs a non-profit organisation and includes –

- i) A trustee of a trust, where the non-profit organisation is established as a trust;
- ii) A director of a company, where the non-profit organisation is established as a company;
- iii) A general partner of a partnership, where the non-profit organisation is established as a partnership;
- iv) A person responsible for the management and administration of an unincorporated association, where the non-profit organisation is established as an unincorporated association;
- v) A person not specified in paragraphs (i), (ii), (iii), or (iv) where the non-profit organisation is established by that person”.

Every NPO must have at least two persons as its controllers and these persons will have the fiduciary duty to administer the affairs of the NPO in a prudent manner. A fiduciary is expected to manage the assets of the organisation for the benefit of the organisation (and by extension, those persons who benefit from the purpose of the organisation) rather than for controller’s own profit i.e. controllers cannot benefit personally from their management of the NPO. Controllers therefore must exercise their duties with a high standard of care.

The controllers of an NPO should:

- be responsible for the proper administration of their organisation;
- safeguard and protect the assets of their organisation;
- act in the best interests of their organisation;
- avoid any conflict between their personal interests and those of the organisation;
- act reasonably and prudently in all matters relating to their organisation; and
- accept ultimate responsibility for everything their organisation does.

The following are indicators that the standards outlined above are being achieved: -

- The affairs of the organisation are conducted in an open, fair and transparent manner;
- Controllers actively participate in meetings of the organisation, including committee meetings;
- Committees established by the organisation are subject to the control of the controllers;
- Decisions and the reasoning which underpin decisions of the board are documented;
- Controllers have general knowledge of the books and records of the NPO;
- Controllers assure accurate recordkeeping;
- Controllers protect the organisation’s assets;
- Controllers conduct the business of the organisation in accordance with a governing document; and
- Where necessary, controllers obtain outside help to comply with the law.

Controllers must act in the best interest of the organisation which they control and exercise extreme care in dealing with the affairs of the organisation. Controllers should bear in mind that they can be held personally liable for breaches of their fiduciary responsibilities.

### 3.3 Provision of Information

A registered NPO has certain reporting obligations under the NPO Regulations which they must comply with.

### **3.4 Information on Donors**

The financial statements of a registered NPO must include information on donors who have donated in excess of \$10,000 to an NPO as a single donation or cumulatively during the year.

### **3.5 Notification of Changes**

The NPO Supervisor must maintain current and accurate information for each NPO on the register of NPOs. This information is relied on by the NPO Supervisor in its supervisory functions and may also be relied on by other competent authorities, including law enforcement. It is vital that the NPO Supervisor be informed of changes which concern an NPO.

Information which was provided to the NPO Supervisor during the registration of an NPO may at some point no longer be accurate and/or relevant, mostly due to expiry of documents or changes to the rules of the organisation. In accordance with the NPO Regulations, certain changes that occur within the organisation must be reported to the NPO Supervisor, these include –

- i) changes to the non-profit organisation's purposes, objectives and activities;
- ii) changes of controllers and their addresses and other contact details;
- iii) changes of the non-profit organisation's address and other contact details; and
- iv) changes to the governing instrument (before making any changes to a governing instrument, it is advisable to ensure that these changes will not affect the NPO's non-profit status).

If an NPO experiences any of the changes set out above, written notice must be provided to the NPO Supervisor for recording.

### **3.6 Financial Records**

All registered NPOs are required by law to keep financial records that show and explain their transactions, within and outside Montserrat, and that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives and activities.

Registered NPOs must also keep financial records that show the source of their gross annual income.

### **3.7 Administrative Records**

NPOs are required to maintain administrative records with enough details to provide a clear understanding of the operations of the NPO. Administrative records are those records which are not financial records. These include the following records: -

- Due diligence records (i.e. identification and principal residential address records) for all controllers;



- Governing documents (originally signed version) setting out the purpose, objectives, activities and regulating powers of the NPO and all amendments to the governing document;
- Register of controllers, listing the name, address, occupation, date of appointment and departure, and position of all controllers;
- If the NPO is a non-profit company, then the Certificate of Incorporation, Articles of Incorporation, Annual Returns (if required), Registers of Directors, Secretaries, Officers, Members, and Charges;
- Records which relate to the distribution of the NPO's funds, including any reasoning applied to selecting beneficiaries, and information on beneficiaries such as name, principal residential address, sex and age.

### **3.8 Record Keeping**

The principal reason for imposing record keeping requirements on NPOs is to ensure that law enforcement agencies in Montserrat are not hindered in their investigation of terrorist financing offences and claims for the confiscation of the proceeds of crime, and in assisting overseas law enforcement agencies in their investigations and prosecutions. The record keeping requirement is also to assist the NPO Supervisor in the exercise of its functions.

As previously noted in this Guideline, registered NPOs must keep financial and administrative records. Records of the NPO must be kept in a manner that enables them to be readily produced in Montserrat in either physical or electronic form. NPOs are required to keep the records identified above for a period of at least five years.

NPOs should take steps necessary to safeguard their records by storing these documents in a safe and properly ventilated area. The records, in whatever form they are kept (i.e. computerized or in some other electronic form), should be retrievable within at least 48 hours so that it can be produced to the NPO Supervisor or law enforcement authorities.

### **3.9 Risk Management Framework**

Recognizing the importance of the NPO sector to Montserrat and recognizing the general vulnerability of this sector to terrorist financing, it is imperative that NPOs have good governance systems as described below. These controls play an important role in preventing terrorist financing.

#### **3.9.1 Organisational Integrity**

NPOs are required to establish and operate in accordance with a governing document i.e. articles of incorporation, a constitution or bylaws that outline the purpose(s), structure, reporting practices, and guidelines for complying with local laws. Members of the governing board should understand and act in the interest of the organisation. The governing board should maintain oversight over the organisation by establishing strong financial and human resource policies, meeting on a regular basis, and actively monitoring the activities of the NPO.

### **3.9.2 Partner Relationships**

To prevent the abuse of funds by principals, NPOs should carry out appropriate due diligence on individuals and organisations that the NPO receives funds from, gives money to or work closely with before entering into relationships or agreements. NPOs should conduct appropriate due diligence on principals and counterparties through searches of publicly available information, for example, including domestic and UN sanctions lists or, through other means including paid due diligence search providers. Written agreements can also be used to outline the expectations and responsibilities of both parties, which include detailed information as to the application of funds and requirements for regular reporting, etc.

NPOs must ensure that they know the beneficiaries of their funding. For example, beneficiaries may be children with disabilities or women who have been victims of domestic violence and for whom counselling is offered. It should be clearly documented who may qualify to receive funding or some other form of assistance from an NPO. NPOs must also ensure that they know the NPOs with which they have an association. This can be demonstrated by obtaining constitutional documents, such as, the governing document and certificate of registration, along with a list of all the controllers of the associated NPO.

### **3.9.3 Financial Accountability and Transparency**

NPOs can prevent financial abuse and misuse of resources by establishing strong financial controls and procedures. Examples of controls include, but is not limited to, establishing an annual budget with processes for monitoring the use of funds. NPOs should keep adequate and complete financial records of income, expenses, and financial transactions throughout their operations, including details on how its expenditures have achieved the desired objectives. NPOs should clearly state programme goals when collecting funds and ensure that funds are applied as intended. Information about the activities carried out should be made available to the public. NPOs should be informed as to the sources of their income and establish criteria to determine whether donations should be accepted or refused.

### **3.9.4 Programme Planning and Monitoring**

NPOs should establish internal controls and monitoring systems to ensure that funds and services are being used as intended. For example, NPOs should clearly define the purpose and scope of their activities, identify beneficiary groups, and consider the risks of terrorist financing and risk mitigation measures before undertaking projects. They should maintain detailed budgets for each project and generate regular reports on related purchases and expenses. NPOs should establish procedures to trace funds, services, and equipment, and carry out transactions through the banking system to maintain transparency of funds and mitigate the risk of terrorist financing. Project performance should be monitored on a regular basis by verifying the existence of

beneficiaries and ensuring the receipt of funds. NPOs should take appropriate measures, based on the risks, to account for funds and services delivered.

The measures noted above are aimed at combatting fraud, corruption and help to mitigate terrorist abuse by enhancing the transparency and integrity of the NPO sector in its operations and flow of funds.

#### **4. GUIDANCE ON INTERNAL FINANCIAL CONTROLS**

Internal financial controls are used to prevent/minimise the misuse of an NPO, which would mitigate the risk of the NPO being used to finance terrorism or in the facilitation of other crimes. By ensuring that funds are used appropriately, financial affairs are well managed, adequate accounting records are kept, and that relevant financial information is prepared in a timely manner, an NPO would be able to identify and manage the risk of terrorist financing. Internal financial controls do not eliminate risks, but they can help controllers identify problems sooner and take the necessary action. Some controls can also help to ensure that an NPO achieves good value for money.

Internal financial controls should be set out in writing (e.g., Policies and Procedures Manual) and describe the procedures that an NPO will follow, as well as the persons vested with certain responsibilities. The goal of internal financial controls is to create practices within the NPO that serve as “checks and balances” on staff, controllers, and outside vendors, to ensure the proper use of the NPO’s assets.

Financial controls are important for all NPOs regardless of their size, the complexity of their structures, and the level of risk of terrorist financing; all NPOs must protect their assets and ensure that its resources are used in a manner that allows for them to achieve their purpose and objectives. Not all controls will be relevant for all NPOs; it is for controllers to decide which controls are appropriate for their NPO. The controls put in place by controllers should be proportionate to the risks involved.

The UK Charity Commission published a checklist of internal financial controls which are found below, with modifications to fit Montserrat’s NPOs. The checklist below looks at various areas of financial activity and sets out several internal financial controls that can be used to reduce the risk of NPOs being used in financial crimes, such as terrorist financing and money laundering.

## I Some Key Issues and Monitoring Arrangements for Financial Crimes

<b>1. Financial controls throughout the NPO</b>	<b>Yes</b>	<b>No</b>
Is there segregation of duties to provide 'double check'?		
Do controllers carry out an annual review of the internal financial controls?		
<b>2. Monitoring activities</b>	<b>Yes</b>	<b>No</b>
Are the budgets of income and expenditure prepared, and approved by the controllers?		
Is performance measured against budgets at regular intervals and explanations sought for variances?		
<b>3. Internal audit and audit committee</b>	<b>Yes</b>	<b>No</b>
Have the controllers considered the need to appoint an internal auditor or set up an audit committee?		
<b>4. Information and communication</b>	<b>Yes</b>	<b>No</b>
Are the controllers provided with regular information about the financial performance of the NPO?		
Do controllers discuss the financial performance of the NPO at each meeting?		
Are terms of reference in place for any finance sub-committee or similar sub-groups of the board?		
Does any finance sub-committee report to the full board of controllers for final decision making?		
<b>5. Controllers' responsibilities</b>	<b>Yes</b>	<b>No</b>
Are sufficient accounting records kept of all transactions?		
Are the accounts formally approved by controllers at an annual meeting?		
Have the accounts been certified by an accountant?		
Are newly appointed controllers given a copy of the latest accounts?		
Do the controllers provide an annual report to the members and donors?		
Do the controllers file the update form <sup>1</sup> and annual accounts on time?		
<b>6. Managing the risks of financial crime and abuse</b>	<b>Yes</b>	<b>No</b>
Are controllers and staff made aware of why the NPO is at risk from financial crime and abuse and of typical examples of potential fraudulent activities?		
Does the NPO have an anti-bribery policy, policies on the acceptance of hospitality, the acceptance of donations, and a register of interests?		
Does the NPO have policies and controls over access to and storage of electronic information?		
Does the NPO have computer programmes to protect its data and systems from external interference?		
Does the NPO have procedures for reporting suspicions internally, to the Financial Intelligence Agency and to the Commission?		

### I. Income

<b>1. Income received in the post</b>	<b>Yes</b>	<b>No</b>
Is incoming mail opened in the presence of two unrelated people?		
Are all incoming cheques and cash recorded immediately?		
Does the NPO keep unopened mail secure?		
<b>2. Income from public collections and fundraising events</b>	<b>Yes</b>	<b>No</b>
If the NPO undertakes public collections or fundraising events:		

are collection boxes numbered and their allocation and return recorded?		
are all collection boxes sealed?		
are all collection boxes regularly opened and counted by the NPO and a record kept of their locations and history of takings?		
are two unrelated people involved in counting and recording the income?		
is cash banked as soon as possible and without deduction of expenses?		
are records maintained for each fundraising event?		
For ticket incomes are:		
tickets pre-numbered?		
records kept of all persons issued with tickets to sell, and which ticket numbers they have been allocated?		
records kept of which tickets sold?		
reconciliations made of money received against tickets sold?		
<b>3. Substantial donors</b>	<b>Yes</b>	<b>No</b>
Has the NPO identified donors donating in excess of \$10,000 as a single donation or cumulatively, during the year are disclosed in the Statement of Donations sheet in the Financial Reporting Form?		
<b>4. Trading income</b>	<b>Yes</b>	<b>No</b>
If the NPO undertakes trading activities (trading in furtherance of its objects):		
does the NPO have a pricing policy for the goods and services supplied?		
does the NPO have invoicing procedures for goods and services supplied?		
does the NPO review outstanding debts and collection procedures?		
are there procedures to reconcile amounts invoiced and cash received to outstanding invoices?		
<b>5. Banking and custody procedures</b>	<b>Yes</b>	<b>No</b>
Are incoming receipts banked promptly?		
Are funds banked without deduction of expenses?		
<b>6. Checks on income records</b>	<b>Yes</b>	<b>No</b>
Are regular checks made to ensure income records agree with the bank paying-in books and statements?		
Are checks made by someone other than the person who made the entry in the accounting records?		

## II. Purchases and Payments

<b>1. Controls and authorisation of expenditure on goods and services</b>	<b>Yes</b>	<b>No</b>
Is there a written policy on the authorisation of expenditure?		
Are invoices received checked against orders confirming pricing and the receipt of the goods or services ordered?		
<b>2. Controls and authorisation of expenditure on grants</b>	<b>Yes</b>	<b>No</b>
If the NPO makes grants, does it have a grant-making policy?		
Does the NPO make and monitor grants in accordance with the grant-making policy?		

<b>3. Payment by cheque</b>	<b>Yes</b>	<b>No</b>
Does the NPO follow any stipulation in the governing document about who can sign cheques?		
Does the bank mandate require at least two signatories?		
Is there a practice of not signing blank cheques?		
Are cheque books etc kept in a secure place with access only by nominated persons?		
Are any monetary limits placed on an individual's signing recorded in writing?		
Is all cheque expenditure recorded in the cash book and noted with the relevant cheque number, nature of payment and payee?		
Are cheques signed only with documentary evidence of the nature of the payment, e.g. invoice?		
<b>4. Payments by debit/credit/charge card</b>	<b>Yes</b>	<b>No</b>
Does the NPO have a policy for the use of payment cards, including the criteria for their issue, spending limits and security?		
Does the NPO communicate the policy for the use of cards to all controllers and staff using them?		
Are cards cancelled when the holder ceases to work for the NPO?		
Is all card expenditure supported by vouchers and invoices and recorded in the accounting records each time the card is used?		
Are card statements sent to the NPO finance team and checked to supporting records and invoices?		
Is the cardholder's use of the card independently reviewed periodically to confirm its use is consistent with the policy?		
<b>5. Payments by direct debits (SWIFT, BACS, etc.) and standing orders</b>	<b>Yes</b>	<b>No</b>
Are only named individuals authorised to set up direct debits, standing orders and direct credits?		
Does the NPO use a dual authorisation system for electronic payments?		
Does the NPO monitor the arrangements to ensure that automatic payment arrangements are cancelled when the goods and services are no longer being supplied to the NPO?		
<b>6. Payment in cash</b>	<b>Yes</b>	<b>No</b>
Is every effort made to minimise cash payments?		
Are all payments by cash made from a cash float and not from incoming cash?		
Is supporting documentation authorised by someone other than the person maintaining the petty cash or the person making the claim?		
Are details of all payments entered in a petty cash book?		
Are regular independent checks made of the petty cash float and records?		
<b>7. Wages and salaries</b>	<b>Yes</b>	<b>No</b>
Are statutory deductions made from employees' wages and salaries and regularly forwarded to the relevant statutory authority?		
Are any other deductions from salaries made only where they are required or authorised?		

Are wages and salaries recorded in the NPO Financial Reporting Form?		
Do all employees have contracts of employment?		
Are personnel records kept and held separately from wages records?		
Are salary levels properly authorised and recorded?		
Is there a system of authorisation for recording and notifying starters and leavers, changes of hours and other payroll changes?		
Are payments made by direct debit payments?		
<b>8. The payment of expenses and reimbursements</b>	<b>Yes</b>	<b>No</b>
Does the NPO have a written policy to cover the payment and reimbursement of expenses?		
Is the policy communicated to all controllers, staff and volunteers?		
Are expenses reimbursed only where the individual incurred the expense in the course of carrying out the NPO's business?		
Does the expense claim include a self-declaration that the claim is accurate and incurred on the business of the NPO?		
Are reimbursements made by direct debit payments or cheque?		
If the NPO pays mileage rates for travel, are the rates in accordance with the NPOs approved rates?		
<b>9. Loans</b>	<b>Yes</b>	<b>No</b>
Are the terms of the loan documented?		
Does the NPO have a repayment plan in place to repay the principal and any interest due?		
<b>10. Checks on expenditure records</b>	<b>Yes</b>	<b>No</b>
Are regular checks made to ensure expenditure records are accurate and agree with the bank statements?		
Are regular checks made to ensure no discrepancies between the payments made and the original invoice or payment records?		
Are checks made by someone other than the person who made the entry in the accounting records?		

### III. Assets and Investments

<b>1. Controls over fixed assets</b>	<b>Yes</b>	<b>No</b>
Is a comprehensive fixed asset list held and updated regularly?		
Are assets checked regularly to ensure they are still in good repair and are of use to the NPO?		
Has insurance cover been considered?		
Is the use of fixed assets reviewed annually (to ensure they are put to best use and serving the NPO's interests)?		
<b>2. Investments</b>	<b>Yes</b>	<b>No</b>
Does the NPO have an investment policy?		
Does this policy include the need to consider diversification of investments, including bank accounts?		
Is the performance of investments regularly reviewed?		
Is professional advice taken, where appropriate, on the selection or disposal of investments?		

Does the NPO inspect investment properties to ensure tenant covenants are adhered to?		
Are there controls to ensure that all investment income due is received?		
<b>3. Money held as a current asset</b>	<b>Yes</b>	<b>No</b>
Are secure records held of all bank and other accounts?		
Are bank statements regularly received and regular bank reconciliations carried out?		
Are instructions to open or close accounts properly authorised and reported to controllers?		
Are checks made to ensure that there are no dormant accounts?		
Are the accounts monitored to ensure there is no third-party use?		
Do the controllers regularly review the costs, benefits and risks of their current and deposit accounts?		
<b>4. Electronic banking</b>	<b>Yes</b>	<b>No</b>
If the NPO uses electronic banking to make payments does the system used require authorisation of transactions by two individuals?		
Are PCs kept secure with up-to-date anti-virus and spyware software and a personal firewall?		
Are controllers and staff made aware of the need to ensure that the NPO's security details (including the password and PIN) are not compromised?		
Is the PIN and password regularly changed, for example to mitigate the risks of compromising security when individuals leave the NPO?		
Does the NPO maintain a list of persons (controllers and staff) who are approved to have access to the PIN and password?		
Does the NPO keep an audit trail of electronic banking transactions?		
Have those using online banking facilities been trained in their use?		
<b>5. Non-traditional banking</b>	<b>Yes</b>	<b>No</b>
If the NPO uses non-traditional banking methods:		
• are policies set and approved by controllers defining the circumstances when non-traditional banking methods may be used?		
is the use of such methods limited to essential transfers where traditional banking methods cannot be used?		
does the NPO keep an audit trail of non-traditional banking transactions?		
does the NPO ensure that the controls that are in place for its traditional bank transactions also operate with non-traditional banking transactions?		

The implementation of appropriate and proportional controls will be considered by the NPO Supervisor when considering the terrorist financing risk of an NPO.



## 5. GUIDANCE ON ANONYMOUS DONATIONS

Non-Profit Organisations ('NPOs') occupy an important place in Montserrat. They complement the government and private sector in providing essential services to a wide range of beneficiaries. While there are NPOs that derive their funding from fundraising activities, many NPOs rely heavily on the generosity of donors to carry out their community service activities. Some individuals and organisations donate regularly to NPOs and have no concerns about confidentiality. However, there are donors that, for legitimate reasons, prefer to remain anonymous in their support.

There are various reasons for such anonymous giving, including modesty, a desire to keep the focus on the NPO's mission and not on themselves, or to avoid solicitations from other NPOs. However, anonymous donations can create opportunities for terrorist groups, financiers to support nefarious activities, such as terrorism or for criminals to dispose of the proceeds of crime.

While it may be acceptable and reasonable for donors to give anonymously, this presents a higher level of terrorist financing risk because of the difficulty in ascertaining the identity, credentials and good standing of the donor and the source of funds of the donation. Therefore, before accepting and using anonymous donations, an NPO must apply a greater degree of scrutiny to satisfy itself that the donation is for a legitimate purpose in furtherance of the NPO's purpose and objectives. If an NPO is unsure about the legitimacy of a donation the NPO should refuse it and make a report to their Bank or other financial institution and inform the NPO supervisor and law enforcement agencies..

### 5.1 How can Controllers Identify Suspicious Donations?

Anonymous donations might be suspicious, particularly if the donation is made at a foreign location in which the regulatory and legal frameworks are not as rigorous as in Montserrat, or if the controllers are unable to satisfy themselves about the appropriateness of the donation. NPOs should pay particular attention to these characteristics as well as where donations involve unusually large amounts, there are conditions on the use of the donation, the donation involves complex banking and transfer arrangements, where a general solicitation for donations has not been made or the donation is in effect some kind of loan.

NPOs should recognise that donations may take forms other than money, for example shares or goods. Controllers should, of course, remember that the donor might be entirely legitimate, but they should not rule out the possibility that somebody is trying to exploit the NPO.

The following situations may indicate higher risks:

- unusual or substantial one-off donations or a series of smaller donations from unidentified sources, particularly when it is made in cash where the donation was not expected
- where the donation was not expected
- where the donation originates from outside Montserrat and the country is associated with high levels of terrorism, terrorist financing, money laundering, corruption, etc.
- where an NPO is asked to act as a conduit for the passing of a donation to a second body

- which may or may not be another NPO
- where donations are conditional on particular individuals or organisations being used to do work for the NPO
  - if conditions are attached to a donation that would make the NPO a vehicle for transferring funds from one individual or organisation to another without the controllers being able to satisfy themselves that they have been properly used
  - where an NPO is told it can keep a donation for a certain period of time, perhaps with the attraction of being able to keep any interest earned whilst holding the money, but the principal sum is to be returned at the end of a specified period
  - where donations are made in a foreign currency, and again unusual conditions are attached to their use, e.g., including a requirement that the original sum is to be returned to the donor in a different currency.

## **5.2 How can Controllers Protect their NPO from Abuse?**

Due diligence checks must be carried out on donors as this process can help an NPO to understand where its money is coming from. Due diligence refers to the practical checks an NPO can make to confirm the identity, credentials and good standing of the persons giving money to the NPO, as well as the beneficiaries of the NPO and its partners. Implementing due diligence checks is important because it helps an NPO to:

- assess the risks arising from accepting a particular donation;
- be reasonably confident that a donation is not from an illegal or inappropriate source; and
- assess whether any conditions attached to a donation are appropriate and acceptable.

The amount of due diligence to be applied depends on the risks involved, including the size and nature of the donation and whether it has any suspicious characteristics such as those described in earlier paragraphs. NPOs should be alert and apply a greater amount of scrutiny to anonymous donations which must be done before the donation is used by the NPO. NPOs should be guided by the indicators identified above to satisfy themselves that the donation is legitimate. NPOs should also ensure that the donation reaches its intended beneficiaries and is not diverted to support activities not consistent with the mandate of the NPO or returned to donor by way of loan repayments.

NPOs must also ensure that they have good governance, robust financial controls, and strong management to protect themselves against those who might want to take advantage of the organisation, while ensuring this does not put off legitimate donors. The Internal Financial Controls provides a checklist of recommended internal controls that NPOs should implement to protect their organisations from terrorist financing and any other financial crimes.

## **6. GUIDANCE ON TERRORIST FINANCING**

### **6.1 Terminology**

#### **6.1.1 Customer Due Diligence (CDD)**

CDD includes;

- Identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from customer or through reliable and independent source.
- Identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures to verify his identity so that the financial business is satisfied that it knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement.
- Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and
- Monitoring of accounts/transactions on ongoing basis to ensure that the transactions being conducted are consistent with the financial business's knowledge of the customers, their business and risk profile, including, where necessary, the source of funds and, updating records and data/ information to take prompt action when there is material departure from usual and expected activity through regular matching with information already available with the financial business;

#### **6.1.2 Designated Non-Financial Business and Profession (DNFBP)**

A financial business, as set out under Schedule 1 (12) of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations (AML Regulations), that is not a regulated financial business as set out under Schedule 1 of the AML Regulations.

#### **6.1.3 Financial Action Task Force (FATF)**

The Financial Action Task Force (FATF) is an inter-governmental organisation that designs and promotes policies and standards to combat financial crime. Recommendations created by FATF target money laundering, terrorist financing, and other threats to the global financial system. FATF was created in 1989 at the behest of the G7 and is headquartered in Paris.

#### **6.1.4 Financial Institution (FI)**

A financial business that has been issued a license under a regulatory enactment.

### **6.1.5 Non-Profit Organisation (NPO)**

An organisation that —

- (a) is established solely or primarily for charitable, religious, cultural, educational, social or fraternal purposes or for the purpose of benefiting the public or a section of the public; and
- (b) raises or disburses funds in pursuance of those purposes.

### **6.1.6 Terrorist**

The term terrorist is defined by the FATF as any natural person who:

- i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;
- ii) participates as an accomplice in terrorist acts;
- iii) organises or directs others to commit terrorist acts; or
- iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

### **6.1.7 Terrorist Act**

The FATF defines a terrorist act as including any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act.

### **6.1.8 Terrorist Financing**

The term terrorist financing is defined by the FATF as the financing of terrorist acts, and of terrorists and terrorist organisations.

### **6.1.9 Terrorist Organisation**

As defined by the FATF, a term terrorist organisation refers to any group of terrorists that:

- i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;
- ii) participates as an accomplice in terrorist acts;
- iii) organises or directs others to commit terrorist acts; or
- iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

## 6.2 Introduction

The main objective of carrying out terrorist acts is to intimidate a population or compel a government to do something. This is done by intentionally killing, seriously harming, or endangering an individual or individuals, or causing substantial property damage that is likely to seriously harm people. It can also be done by seriously interfering with or disrupting essential services, facilities, or systems.

Terrorists need financial support to carry out terrorist activities and achieve their goals. In this respect, there is little difference between terrorists and other criminals in their use of the financial system. A successful terrorist group, much like a criminal organisation, is one that can build and maintain an effective financial infrastructure. For this, it must develop sources of funding and means of obscuring the links between those sources and the activities the funds support. It needs to find a way to make sure that the funds are available and can be used to obtain whatever goods or services needed to commit terrorist acts.

The fundamental aim of terrorist financing is to obtain resources to support terrorist activities. The sums needed to mount terrorist attacks are not always large and the associated transactions are not necessarily complex. While there is no known presence of terrorists or affiliation with external terrorists and terrorist organisations. Montserrat can be exploited by terrorist financiers to enable financial flows or assist in the shipment of illicit goods, services and technology needed for supporting terrorism.

Disrupting funding flows creates a hostile environment for terrorism, constraining overall capabilities of terrorists and helping frustrate their ability to execute terrorist acts. Therefore, preventing terrorist financing is an important part of combatting terrorist financing. It is essential to prevent terrorist financing and disrupt the financial support that terrorists need.

This Guidance will describe terrorist financing and will outline the legal obligations of NPOs, FIs and DNFBPs regarding terrorist financing, the characteristics that makes certain sectors more vulnerable to TF than others, as well as indicators for TF. The paper will also outline preventative measures that FIs, NPOs and DNFBPs can take under Montserrat's TF/PF framework.

## 6.3 Scope and Objectives of Guidance

### 6.3.1 To Whom does this Guidance Apply?

This guidance applies to NPOs, FIs and DNFBPs, which include the following categories of business and professions as listed in Schedule 1 of the AML Regulations:

- Banks
- Money Service Businesses
- Trust Companies
- Company Managers and Agents
- Investment Dealers
- Long Term/Life Insurers

- Independent Legal Professionals
- Accountants, Auditors and Bookkeepers
- Realtors
- High Value Dealers; Jewellers, Pawn Shops, Vehicle and Boat Dealers
- Micro Financers
- Money Lenders
- Debt Purchasers
- Payment Service Providers

### **6.3.2 Related Guidance Documents**

This guidance should be read in conjunction with the following documents:

- Proceeds of Crime Act, Cap. 04.04 (POCA);
- Anti-Money Laundering and Terrorist Financing Regulations;
- Anti-Money Laundering and Terrorist Financing Code 2016;
- Non-Profit Organisations Regulations;

### **6.4 Status of this Guidance**

This guidance is supplemental to the Proceeds of Crime Act, Cap. 04.04 (POCA), Non-Profit Organisations (NPO) Regulations, Anti-Money Laundering and Terrorist Financing Regulations (AML/TF Regulations) and Anti-Money Laundering and Terrorist Financing Code 2016 (AML/TF Code). It is not legal advice and is not intended to replace the NPO Regulations, AML/TF Regulations, and the AML/TF Code 2016. The guidance is intended for use by controllers of NPOs and senior management and compliance staff of FIs and DNFBPs to assist in the development of internal systems and controls. Compliance with this guidance will be taken into consideration by the Commission when assessing an NPO's, FI's or DNFBP's compliance with their legal obligations.

### **6.5 Montserrat Terrorist Financing Legal Framework**

The FATF Recommendation 5 requires countries to criminalise terrorist financing. The United Kingdom, through order in council made pursuant to United Nations Security Council Resolution 1373, extended the Terrorism (United Nations Measures) (Overseas Territories) Order, 2001 to Montserrat.

Section 4(1)(c) of the Financial Services Commission Act, Cap. 11.02 and section 157(3)(a) of the POCA establishes the role of the Financial Services Commission to monitor compliance by NPOs, FIs and DNFBPs with their AML/TF obligations set out in the AML/TF Regulations and such other laws, regulations, codes, or guidance relating to money laundering or the financing of terrorism. The referenced legislation requires NPOs, FIs and DNFBPs to ascertain the risk of money laundering, terrorist financing and proliferation financing that they are exposed to, to apply appropriate internal controls to manage this risk, to keep records, to vet and train staff, and to periodically assess the effectiveness of their AML/TF Compliance Program.

NPOs, FIs and DNFBPs play a vital role in preserving the integrity of the Montserrat and Montserrat’s financial system. The identification, assessment, understanding, and management of TF risks by NPOs, FIs and DNFBPs is essential to a robust AML/TF regime. It is critical that every NPO, FI and DNFBP includes prevention of terrorist financing (PTF) in their AML/TF programme and risk management strategies.

## 6.6 Money Laundering vs Terrorist Financing and Proliferation Financing

Differences between Money Laundering, Terrorist Financing and Proliferation Financing:

	Money Laundering (ML)	Terrorist Financing (TF)	Proliferation Financing (PF)
<b>Purpose</b>	Use of illicit funds in the regulated system	Supports terrorist activities	Acquisition of Weapons of Mass Destruction
<b>Source of Funds</b>	<p>From illegitimate activities.</p> <p>Funded via the illicit activity of the criminal/criminal organisation ie corruption, tax evasion, the sale of drugs, robberies, ransomware attacks, illegal arms trade, prostitution, etc. The crime may not have been committed in MONTSERRAT.</p> <p>Organised crime groups may collaborate with terrorists and may also be classified as proscribed terrorist organisations.</p>	<p>From illegitimate/legitimate activities</p> <p>Numerous funding streams, including, for example:</p> <ul style="list-style-type: none"> <li>– Sponsored by financier/benefactor sympathetic to the cause</li> <li>– Self-funded</li> <li>– Funds raised via commercial activities (e.g. web shops, music festivals)</li> <li>– Funds raised via organised fund- raising activities (e.g. via non-profit sector, social media, crowdfunding platforms, groups’ own magazines)</li> <li>– Exploitation of natural resources in conflict zones (e.g. ISIL – Oil in the Middle East; Al-Shabaab – Gold in West Africa and Daesh – Timber in East Africa)</li> <li>– Looting and sale of cultural artifacts</li> <li>– Real estate (generating income, acting as an investment, and which certain terrorist groups use as club houses etc.)</li> </ul> <p>It is not unusual for terrorists to be involved in, or operating in close proximity to, conflict zones and</p>	<p>Often state-sponsored programs but also through fundraising activities by non-state actors.</p>

		<p>criminal methods to raise funds tend to emerge, either in isolation or working with criminal groups (e.g. illicit smuggling, human trafficking, extortion, drugs trafficking and kidnap for ransom).</p> <p>The United Nations reports that during the COVID-19 pandemic cash smuggling to territories where Da'esh was active became less prominent, whilst crypto transfers increased (e.g. using personal crypto wallets).</p>	
<b>Conduits</b>	Favours formal financial system	Favours cash carriers or informal financial systems such as Hawala and currency exchange firms.	Formal financial system is preferred up until the point of entry when the money is taken out in cash in a neighboring country and carried into a country that poses a high PF risk e.g. the Democratic People's Republic of Korea. Additionally, the use of distributed ledger technology has become a widely used mechanism to settle transactions for DPRK because of its decentralised nature.
<b>Detection Focus</b>	Suspicious transactions such as deposits uncharacteristic of customer's wealth or the expected activity.	Suspicious relationships, such as wire transfers between seemingly unrelated parties.	Individuals, entities, states, goods and materials, activities.
<b>Transaction Amounts</b>	Large amounts often structured to avoid reporting requirements.	Small amounts usually below reporting thresholds.	Moderate amounts.
<b>Financial Activity</b>	Complex web of transactions often involving shell or front companies, offshore secrecy havens, etc.	Varied methods including formal banking systems, informal value transfer systems, smuggling of cash and valuables	Transactions look like normal commercial activity, structured to hide connection to proliferator or proliferations activities
<b>Money Trail</b>	Circular money eventually ending up with the person who generated it.	Linear money trail; generated money is used to propagate terrorist groups and activities	Linear money trail: money is used to purchase goods and materials from brokers or manufacturers. The money can also move in the opposite direction (i.e., from the broker/manufacturer to the proliferator).



## 6.7 Stages of Terrorist Financing

The Terrorist Financing process typically involves three stages: raising, moving, and using funds and other assets.

### 6.7.1 Methods of Raising Funds to Finance Terrorism

The basic need of terrorists is to raise, move and use funds. Terrorism fundraising methods vary based on the sophistication and the aim of the terrorist organisations. Small groups and individual actors may require only modest amounts of money, which are more difficult to detect through TF transaction monitoring systems. Organisations with a larger support base require larger amounts of funding to support more sophisticated organisational structures and ongoing operational costs. These greater costs may require the use of larger scale and more organised fundraising methods. Key channels used to raise funds for terrorism financing include:

- i) **Raising Funds from Legitimate Sources:** Terrorist organisations receive considerable support and funding from and through legitimate sources including NPOs, businesses, and through self-funding by terrorists and their associates from employment, savings, and other means.
  - **NPOs:** NPOs or non-profit organisations possess characteristics that make them particularly attractive to terrorists or vulnerable to misuse for terrorist financing. They enjoy the public trust, have access to considerable sources of funds, and their activities are often cash intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often in or near areas most exposed to terrorist activity. Finally, NPOs are subject to significantly lighter regulatory requirements than financial institutions or other businesses, (for example, for starting capital, professional certification or background checks for staff and controllers at registration, or for ongoing record keeping, reporting and monitoring), depending on the country and legal form of the NPO and reflecting their principally non-financial role.
  - **Legitimate Businesses:** The proceeds of legitimate businesses can be used as a source of funds to support terrorist activities. This is a particular risk in sectors which do not require formal qualifications, or where starting a business does not require substantial investments. The risk that a business will divert funds to support terrorist activity is greater where the relation between sales reported and actual sales is difficult to verify, as is the case with cash-intensive businesses.
  - **Self-Funding:** In some cases, terrorist groups have been funded from internal sources, including family and other non-criminal sources. The amounts of money needed to mount small attacks can be raised by individual terrorists and their support networks using savings, access to credit or the proceeds of businesses under their control. Terrorist organisations can be highly decentralised, and self-funding can include cases in which a relatively autonomous external financial facilitator who is not directly involved in planning or carrying out an attack nevertheless contributes funding.

- ii) **Raising funds from criminal proceeds:** FATF reports have indicated that terrorist organisations engage in a variety of illegal activities to generate funds. Criminal activity can generate large sources of funds reasonably quickly, making it attractive to terrorist groups. Small cells and individual sympathisers may turn to crime if they have no other significant source of income or wider support network. Terrorist financiers use FIs to raise funds mainly via credit card fraud and cheques fraud. More specifically:
- **Credit Card Fraud:** Credit cards are highly vulnerable to misuse for terrorist financing purposes and other illegal activities. There is a market for illegally obtained personal details, including credit card account numbers, as well as personal information such as the card holder's full name, billing address, telephone number, start and expiry dates, the security number on the rear of the card, etc.
  - **Cheques Fraud:** Chequebook fraud allows terrorists to raise and move significant amounts of cash quickly. Several cases have been identified in which a basic model of bank fraud has been applied to generate funds for terrorism. These cases involved bank accounts being opened using false identity documents and fraudulent deposits. Organised individuals are likely to carry out this activity by drawing cheques from the same account simultaneously in several locations.

### 6.7.2 Methods of Moving Funds to Finance Terrorism

There are three main methods by which terrorists move money or transfer value. The first is through the use of the financial system, the second involves the physical movement of money (for example, through the use of cash couriers), and the third is through the international trade system.

#### i) Financial System

- Financial institutions and other regulated financial service providers represent the formal financial sector and serve as the principal gateway through which retail and commercial transactions flow. Additionally, the services and products available through the formal financial sector serve as vehicles for moving funds that can support terrorist organisations and fund acts of terrorism. The speed and ease with which funds can be moved within the international financial system allow terrorists to move funds efficiently and effectively and often without detection between and within jurisdictions.
- Combined with other mechanisms such as offshore corporate entities, formal financial institutions can provide terrorists with the cover they need to conduct transactions and launder proceeds of crime when such activity goes undetected.
- All financial institutions used to move funds are potentially vulnerable to TF by facilitating illicit fund transfers, including funds transfers through banks and Money or Value Transfer System (MVTIS) mechanisms.

##### (a) Funds Transfers through Banks

- The banking sector continues to be the most reliable and efficient way to move funds internationally and remains vulnerable to TF. Several FATF reports have referred specially to the use of the bank accounts of NPOs to move funds to terrorist organisations.
- The banking sector is an attractive means for terrorist groups seeking to move funds globally because of the speed and ease at which they can move funds within the international financial system. The sheer size and scope of the international financial sector gives terrorist groups and financiers the opportunity to blend in with normal financial activity to avoid attracting attention.
- AML/PTF mitigation measures put in place by financial institutions are likely making it more difficult to move terrorist funds through the financial sector; however, the risk remains. Traditional products can be abused for terrorist financing. For example, sympathisers of a terrorist group can open savings accounts and provide the debit card associated with the account to a member of the terrorist organisation to enable them to access cash via withdrawals from overseas bank ATMs.

**(b) Money or Value Transfer Systems (MVTs)**

- Along with the banking sector, the remittance sector has proven to be particularly attractive to terrorists for funding their activities and has been exploited to move illicit funds.
- Radical groups as well as persons related to terrorist organisations have used the network of the registered and worldwide operating money transfer companies to send or receive money.
- Migrant communities and families rely heavily on MVTs to remit funds home; this provides a channel for commingling TF with legitimate family transfers. It also makes it difficult to detect TF from normal family and community remittances.
- Advances in payment system technology have had a twofold impact on the potential abuse by terrorist financiers of such systems. Electronic payment systems allow law enforcement an increased ability to trace individual transactions through electronic records that may be automatically generated, maintained and/or transmitted with the transaction. However, these advances also create characteristics that may be attractive to a potential terrorist. For instance, the increased speed and volume of funds transfers - in the absence of the consistent implementation of standards for recording key information on such transactions, maintaining records, and transmitting necessary information with the transactions - could serve as an obstacle to ensuring traceability by investigative authorities of individual transactions.

**(ii) Physical Movement of Money**

- The physical movement of cash is another way terrorists can move funds without encountering the AML/PTF safeguards established in FIs and DNFBPs. Terrorists

and their supporters have converted cash into high-value and hard-to- trace commodities such as gold or precious stones in order to move assets outside of the financial system. International counter-terrorist operations have shown that cash couriers have transferred funds to a number of countries within the Middle East and South Asia. Direct flight routings are used for simple transfers; however, indirect flight routings using multiple cash couriers and changes in currencies take place within more sophisticated schemes.

- While funds may be raised in a number of ways, often they are converted into cash to be taken to conflict zones. This is assisted by porous national borders, difficulty in detecting cash smuggling (particularly in the small amounts that are sometimes smuggled for TF purposes), and the existence of informal and unregulated economies. The increase of bulk cash smuggling across borders between conduit countries and high-risk areas has also been noticed.

### **(iii) Trade System**

- The international trade system is subject to a wide range of risks and vulnerabilities, which provide terrorist organisations the opportunity to transfer value and goods through seemingly legitimate trade flows. For example, the over- and under-invoicing of goods and services, is one of the oldest methods of transferring value across borders, and it remains a common practice today. It is accomplished by misrepresenting the price of a goods or services in order to transfer money between colluding importers and exporters.

## **6.8 Terrorist Financing Threats to Montserrat**

The Montserrat 2023 National Risk Assessment (NRA) found that the risk of TF was low in Montserrat. The NRA revealed that Montserrat was not near any areas of conflict and that there was no known link to the financing of terrorism or support for terrorism among the population in Montserrat. The Assessment also noted that there was no significant business or trade relations with countries or regions with high terrorist threats and other conditions that could pose a threat to Montserrat. There have been no TF activities reported by any NPO, FI, DNFBP over the last 5 years or before.

On this basis TF threats to Montserrat are likely to be external from state actors and non-state actors that seek to exploit Montserrat's financial system, non-profit organisations, financial services businesses, or gatekeepers, to clandestinely finance, procure, ship, or trans-ship goods for use in the commission of terrorist acts outside of Montserrat.

Given that Montserrat is not an international financial centre and has a limited financial services sector that attracts little foreign customers; this characteristic contributes to lower TF risks in the jurisdiction. As such, while there is currently no evidence to suggest that Montserrat's regulated entities are involved in terrorist financing activities, it is imperative that the necessary safeguards are implemented to ensure the jurisdiction mitigate any potential TF risks.

## 6.9 Vulnerabilities to Terrorist Financing

While terrorist financing has been identified as currently a low risk in Montserrat's National Risk Assessment, this does not mean the financial system cannot be vulnerable to terrorist financing. Based on international typologies, terrorist financiers usually provide or collect funds or assets at places such as:

- non-profit organisations
- banks and money or value transfer businesses
- lawyers and trust and company service providers; and
- when moving physical cash across borders using formal or informal money remittance services.

### 6.9.1 Sectoral Vulnerabilities

#### NPO Sector

The NPO sector can be a potential channel for raising and distributing funds for terrorism financing. NPOs can be misused to raise funds to finance or support terrorist acts (with or without the NPO's knowledge) through:

##### *Using NPO Funding*

For example, a local organisation that has a relationship with the NPO to conduct project activities overseas, a 'partner organisation,' uses all or part of the NPO's money to fund acts of terrorism.

##### *Using NPO Assets*

For example, the NPO's vehicles or premises are used to transport or store weapons.

##### *Using the NPO's Name and Status*

For example, fundraising is conducted in the name of the NPO by a terrorist organisation, without the NPO's knowledge or consent.

##### *Committing Financial Abuse within an NPO*

For example, members of a terrorist group may infiltrate the NPO and pose as employees, who then skim off money from fundraising to fund terrorist purposes.

##### *Setting up an NPO for Illegal or Improper Purposes*

For example, a terrorist group registers an NPO, but the NPO does not work towards their charitable purpose. The group uses all of the NPO's funds for terrorism financing.

The factors that allow NPOs to achieve outcomes and gain trust and respect from the public also make them vulnerable to being misused to fund terrorism.

### ***Operating Locations***

- NPOs may have a global presence that provides a framework for national and international operations and financial transactions.
- NPOs are known to work within or near areas that are most exposed to terrorist activity.
- NPOs may operate in emergencies or provide humanitarian responses in locations where there are no banks or infrastructure, and they may have to deal in cash or use alternative remittance systems.

### ***Financial Operations***

- NPOs can have complex financial operations which are not always accounted for in detail, including:
  - multiple donors, investments, and currencies
  - a high volume of small transactions
  - informal money transfers.
- There may be unpredictable and unusual income and expenditure streams.

### ***Organisational Structure and Programs***

- NPOs may be run by one or two key individuals, often in unsupervised roles which makes it easy to quickly move money and assets around.
- There can be complex programs of operation and some NPOs may pass funds through intermediary partner organisations to deliver their services.

### ***The High Level of Public Trust***

- NPO activities may not be scrutinised as consistently as other sectors.

## **6.10 Preventative Measures**

### **6.10.1 Non-Profit Organisations**

Strong governance arrangements and internal controls within NPOs can reduce the risk of an NPO being used for terrorist financing. NPOs should establish governance standards, operate lawfully, and be run in an accountable and responsible way.

Additionally, the NPO Regulation requires NPOs to keep the following records for a period of at least five years:

- i) their purpose, objectives and activities;
- ii) the identity of the persons who control or direct their activities, including, as appropriate, senior officers, directors and trustees;
- iii) the identity, credentials and good standing of its beneficiaries and associate NPOs;
- iv) financial records that show and explain its transactions, within and outside Montserrat, and that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives, and activities, and show the source

- v) of its gross annual income; and
- v) a list of donors who have donated in excess of \$10,000 as a single donation or cumulatively, during the year.

NPOs must also report financial information annually to the Commission which adds to the accountability and transparency of NPOs.

### **6.10.2 Terrorist Financing Indicators**

Terrorism financing indicators are often indistinguishable from money laundering indicators. Terrorism financing often, but not always, involves smaller amounts of money than when illicit criminal funds are laundered. Funds intended for terrorism may also be derived from legitimate rather than illicit sources, making terrorism financing more difficult to detect.

The presence of a single indicator may not necessarily raise a suspicion but could warrant further monitoring and examination. Multiple indicators are more likely to result in a suspicion being formed. Additionally, an FI's overall knowledge of a customer, including the customer's established financial transaction history, can be as important as any of the indicators below in forming a suspicion of terrorism financing.

Terrorism financing indicators include, but are not limited to, the following:

- Structured<sup>6</sup> cash deposits and withdrawals, and international funds transfers to high-risk jurisdictions. These transactions may be conducted at multiple branches of the same reporting entity;
- Multiple customers conducting international funds transfers to the same beneficiary located in a high-risk jurisdiction;
- A customer conducting funds transfers to multiple beneficiaries located in the same high-risk jurisdiction;
- A customer using incorrect spelling or providing variations on their name when conducting funds transfers to high-risk jurisdictions;
- Transfer of funds between business accounts and personal accounts of business officeholders which is inconsistent with the type of account held and/or the expected transaction volume for the business;
- Large cash deposits and withdrawals to and from NPO accounts;
- Operating a business account under a name that is the same as (or similar to) a name used by listed entities locally and overseas;
- Individuals and/or businesses transferring funds to listed terrorist entities or entities reported in the media as having links to terrorism;
- Funds transfers from the account of a newly established company to a company selling chemicals that could be used in bomb making;
- Multiple low-value domestic transfers to a single account and cash deposits made by

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<sup>6</sup>'Structuring' is a money laundering technique, which involves the deliberate division of a large amount of cash into a number of smaller deposits or transfers (including international funds transfers) to evade reporting requirements or other scrutiny.

- multiple third parties, which could be indicative of fundraising for terrorism financing;
- Sudden increase in account activity, inconsistent with customer profile;
  - Multiple cash deposits into a personal account described as ‘donations’ or ‘contributions to humanitarian aid’ or similar terms;
  - Transfers through multiple accounts followed by large cash withdrawals or outgoing funds transfers overseas;
  - Multiple customers using the same address and telephone number to conduct account activity; and
  - Prohibited entities or entities suspected of terrorism using third-party accounts (for example, a child’s account or a family member’s account) to conduct transfers, deposits or withdrawals.





## FINANCIAL SERVICES COMMISSION

THE REGISTRATION OF A **NON-PROFIT ORGANISATION** IN ACCORDANCE WITH THE  
NON-PROFIT ORGANISATION REGULATIONS, CAP 04.04

### APPLICATION FOR REGISTRATION

(UNDER REGULATION 6 OF THE NON-PROFIT ORGANISATION REGULATIONS, 2010)

**FULL NAME OF THE NON-PROFIT ORGANIZATION:**

*Please complete all sections fully.*

*If you are completing this form by hand, please print.*

*Please send the completed form and two (2) copies of (a) the non-profit organization's constitution/memorandum/articles of association, (b) audited accounts or statements of assets and liabilities showing net assets for the previous year, and (c) the service provider's revenue and expenditure for the previous financial statement.*

Please return **completed forms** and **supporting documents** directly to:

The Commissioner  
Financial Services Commission  
P.O. Box 188, Phoenix House  
Brades, Montserrat

**FSC USE ONLY**

Date received:

## SECTION A

### GENERAL DETAILS OF THE NON PROFIT ORGANIZATION

1. Name (or proposed name) of the NPO to be registered

2. Any **former names** under which the NPO was registered or traded.

3. **Date of incorporation or registration** of the NPO  
(under the Companies Act or Friendly Societies Act)

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4. **Registered Office or proposed registered office** of NPO in Montserrat

5. **Physical Address** in Montserrat to which correspondence should be sent, if different to 4. above

6. Telephone Number(s)

7. Fax Number (if any)

8. Email address (if any)

9. Purpose or aim of the NPO  
(please provide copies of the organization's Constitution or Articles of Association if available)

10. Activities (or intended activities) of the NPO

11. State the manner in which the assets, funds and income of the NPO are to be used

12. Provide the particulars of each person who owns, controls or directs the NPO. If additional space is required, please attach a separate page to this application.

(i) Full name \_\_\_\_\_

(ii) Title/Role \_\_\_\_\_

(iii) Business Address \_\_\_\_\_

(iv) Residential Address \_\_\_\_\_

(v) a) Passport/Social Security: \_\_\_\_\_

b) Place and date of issue: \_\_\_\_\_

**(Please include copy of photo I.D.)**

(vi) Contact details (w) \_\_\_\_\_

(vii) Contact details (h) \_\_\_\_\_

(viii) Fax \_\_\_\_\_

(ix) Email \_\_\_\_\_

(x) Occupation (over the past 5 years) \_\_\_\_\_

(i) Full name \_\_\_\_\_

(ii) \_\_\_\_\_

(iii) Title/Role \_\_\_\_\_

(iv) Business Address \_\_\_\_\_

(v) Residential Address \_\_\_\_\_

(vi) a) Passport/Social Security No.: \_\_\_\_\_

b) Place and date of issue: \_\_\_\_\_

**(Please include copy of photo I.D.)**

(vii) Contact details (w) \_\_\_\_\_

(viii) Contact details (h) \_\_\_\_\_

(ix) Fax \_\_\_\_\_

(x) Email \_\_\_\_\_

(xi) Occupations (over the past 5 years) \_\_\_\_\_

(i) Full name \_\_\_\_\_

(ii) Title/Role \_\_\_\_\_

(iii) Business Address \_\_\_\_\_

(iv) Residential Address \_\_\_\_\_

(v) a) Passport/Social Security No.: \_\_\_\_\_

b) Place and date of issue: \_\_\_\_\_

**(Please include copy of photo I.D.)**

(vi) Contact details (w) \_\_\_\_\_

(vii) Contact details (h) \_\_\_\_\_

(viii) Fax \_\_\_\_\_

(ix) Email \_\_\_\_\_

(x) Occupations (over the past 5 years) \_\_\_\_\_

**If appropriate please add additional details on a separate page**

13. If the gross annual income of the NPO exceeds \$27,000 or the NPO holds funds or assets in excess of \$55,000, please tick this box:

**SECTION B**

**DECLARATION FORM**

I \_\_\_\_\_ (*name of Applicant*) declare that I am duly authorized by my organization to complete and submit this application and certify that the information provided is complete and correct to the best of my knowledge and belief.

With reference to my APPLICATION FORM submitted on \_\_\_\_\_ (date), I confirm that there are no other material changes to the facts declared therein other than those noted above.

I undertake to inform the Financial Services Commission (“the Commission”) of any changes material to this application which may arise while the application is being considered.

I understand the responsibilities and the legislation which relate to the proposed role.

I understand and accept that the Commission may wish to make enquiries—both now and on a continuing basis to satisfy itself as to my initial and continuing fitness and propriety.

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of signatory in block letters

\_\_\_\_\_  
Position



***FINANCIAL SERVICES COMMISSION  
PERSONAL QUESTIONNAIRE***

***(Print or Type)***

*DETAILS OF DIRECTORS, MANAGERS, EXECUTIVE MEMBERS OF NON-PROFIT ORGANISATION*

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**BIOGRAPHICAL SECTION**

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Full Name and Address of Registrant

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In connection with the above-named company, I hereby make representations and supply information about me as hereinafter set forth.

(Attach addendum or separate sheet if space herein is insufficient to answer any question fully.)

*Please state if answer is "no" or "not applicable" where appropriate*

1. Surname Name: \_\_\_\_\_  
Forename(s): \_\_\_\_\_

2. a. Has your name changed at any time? \_\_\_\_\_.  
If **YES**, explain reasons for the change

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Other names **OR** aliases used at any time \_\_\_\_\_

3. a. Social Security Number: \_\_\_\_\_

b. National Insurance Number: \_\_\_\_\_

c. Passport Number: \_\_\_\_\_

d. Place and Date issued: \_\_\_\_\_

**(Please include copy of photo I.D.)**

4. a. Date of Birth: \_\_\_\_\_

b. Place of Birth: \_\_\_\_\_

5. Nationality (indicating whether acquired by **birth, descent** or **naturalisation**)  
\_\_\_\_\_

Dated and signed this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of Affiant)

State of \_\_\_\_\_

County of \_\_\_\_\_

The above named \_\_\_\_\_ personally appeared before me and is personally known to me, being duly sworn, deposes and says that he executed the above instrument and that the statements and answers contained therein are true and correct to the best of his knowledge and belief.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(Seal)

My Commission Expires \_\_\_\_\_.





# FINANCIAL SERVICES COMMISSION

NAME OF NON-PROFIT OGRANIZATION:.....COMPANY/SOCIETY REG NO:.....

DATE OF RETURN: .....

NAME & POSITION OF EXECUTIVE MEMBERS

ADDRESS

.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

\*Gross Annual Income for the year ended: ..... Amount \$ .....

Net Assets as at year ended: ..... Amount \$ .....

I certify that the above information represents the true position of the organization:

.....

Authorized Signatory

Secretary

.....

Position

.....

.....

Date

Date

\*To include provision of goods and services, rental income, interest from investment, donations of money or property and grants.