



Australian Government
AUSTRAC



Australian
Charities and
Not-for-profits
Commission



NATIONAL RISK ASSESSMENT 2017

AUSTRALIA'S NON-PROFIT ORGANISATION SECTOR

MONEY LAUNDERING / TERRORISM FINANCING

© Commonwealth of Australia 2017

All material presented in this publication is provided under a Creative Commons Attribution 4.0 International licence (www.creativecommons.org/licenses).

For the avoidance of doubt, this means this licence only applies to material as set out in this document.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 4.0 licence (www.creativecommons.org/licenses).

Use of the Commonwealth Coat of Arms

The terms under which the Coat of Arms can be used are detailed on the It's an Honour website (www.itsanhonour.gov.au).

Contact us

For enquiries regarding the licence and any use of this report please contact AUSTRAC Media and Communications at media@austrac.gov.au.

This risk assessment is intended to provide a summary and general overview; it does not assess every risk relevant to the NPO sector. It does not set out the comprehensive obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), AML/CTF regulations and AML/CTF Rules, or the obligations for NPOs under Commonwealth and state and territory legislation. It does not constitute nor should it be treated as legal advice or opinions. The Commonwealth accepts no liability for any loss suffered as a result of reliance on this publication. AUSTRAC and ACNC recommend that regulated NPOs seek independent professional advice.

CONTENTS

04

Foreword

06

Introduction

- Acknowledgement
- Key terms
- Executive summary
- Purpose
- Methodology

14

Money laundering and terrorism financing in Australia

- Money laundering
- Terrorism financing
- Australia's AML/CTF framework

18

The NPO sector

- Charity population
- Financial snapshot
- Regulatory and administrative landscape

32

Threat

- Money laundering
- Terrorism financing

44

Vulnerabilities

- Prevention measures
- Regulation
- National cooperation and coordination
- Links to high-risk countries
- Transparency and accountability of money movements

58

Consequences

62

Appendixes

- Appendix 1: Money laundering risk methodology
- Appendix 2: Terrorism financing risk methodology
- Appendix 3: National survey
- Appendix 4: Types of legal structures for NPOs

/ FOREWORD

AUSTRALIAN CHARITIES HAVE A LONG HISTORY HELPING THE MOST VULNERABLE AND DISADVANTAGED, BOTH AT HOME AND ABROAD. COMBINED, AUSTRALIA'S 54,000 REGISTERED CHARITIES HAVE AN ANNUAL INCOME OF OVER \$134 BILLION AND ASSETS TOTALLING \$267 BILLION. OVER 8,000 OF THESE CHARITIES CONDUCT ACTIVITIES OUTSIDE AUSTRALIA, SENDING \$1.5 BILLION IN DONATIONS AND GRANTS OVERSEAS EACH YEAR.

Many of these charities operate in, or send funds to, conflict zones and other unstable regions. These are challenging environments, not only for service delivery but also for establishing and implementing governance structures and financial controls.

Charities have a vital role to play, but we must remain mindful of the risks they face at home and abroad. Charities therefore need to ensure they understand their risks and manage them accordingly.

The Australian Charities and Not-for-profits Commission (ACNC) and AUSTRAC, in collaboration with our industry and government partners, have prepared this assessment to better understand the risks faced by the NPO sector.

The assessment has identified that Australian NPOs remain vulnerable to the risk of money laundering and terrorism financing and industry needs to be aware of these risks.

While proven instances of money laundering and terrorism financing in the NPO sector remain low, this illicit activity could severely damage public trust and confidence in NPOs, and harm the communities they are working to assist.

This assessment will improve the NPO sector's own risk awareness and help NPOs to protect themselves from fraud and criminal activity. In light of the assessment's findings, we encourage NPOs to improve their safeguards by implementing good governance and controls.

Identifying and reducing money laundering and terrorism financing risks will continue to be a priority for the ACNC and AUSTRAC. The findings of this risk assessment will enable us to refine the risk-based approach we take to the regulation, supervision and monitoring of the NPO sector.

We thank the dedicated staff of the ACNC, AUSTRAC, the Australian Federal Police, Australian Criminal Intelligence Commission, Australian Taxation Office and other law enforcement and regulatory agencies for their work on this risk assessment. We also thank the NPO sector for contributing their collective expertise.



SUSAN PASCOE AM
Commissioner, ACNC



PETER CLARK
Acting CEO, AUSTRAC

“

“...COMPLETION OF THIS RISK ASSESSMENT IS A VITAL STEP FOR AUSTRALIA TO IMPROVE COMPLIANCE WITH INTERNATIONAL STANDARDS...”

90





ACKNOWLEDGMENT

THIS ASSESSMENT HAS BEEN COMPLETED BY AUSTRAC, AUSTRALIA'S FINANCIAL INTELLIGENCE AGENCY, AND THE AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (ACNC), WITH ASSISTANCE FROM THE AUSTRALIAN TAXATION OFFICE (ATO).

The assessment team would like to acknowledge the valued contributions of the Australian Criminal Intelligence Commission and Australian Federal Police to this project. The team also thanks the Australian Council for International Development and the not-for-profit/non-profit organisation (NPO) sector for their insights and feedback.

This assessment has fostered deeper collaboration among AUSTRAC, the ACNC, NPO regulators, law enforcement agencies, financial institutions and the NPO sector. It has enabled new information-sharing opportunities and discovered high-risk NPOs and individuals likely to be abusing them. In some cases, these entities were not previously known to regulators or law enforcement authorities.

KEY TERMS

NPO sector terminology

| Term | Description |
|---------------------------|--|
| NPO | 'Non-profit organisation' in this document also applies to 'not-for-profit' sector or entity. An organisation that does not operate for the profit, personal gain or other benefit of particular people (for example, its members, the people who run it or their friends or relatives). |
| Charity | An NPO whose purposes must be charitable, as set out in common law and in the <i>Charities Act 2013</i> . |
| Sham NPO | An NPO that has formed a legal entity in Australia, but is operating for the sole purpose of facilitating criminal activity or terrorism financing. |
| Fake NPO | Fundraising activity conducted by an individual(s) for a fake cause. This activity is often conducted under the guise of charitable giving, but is not linked to a legitimate NPO. |
| Service NPO | An NPO involved in service activities. These include programs focused on housing, social services, humanitarian aid, education, and health care. |
| Expressive NPO | An NPO involved in activities including programs focused on religious activities, sports and recreation, arts and culture, interest representation, and advocacy. |
| Reporting entity | An entity that provides a 'designated service' as defined in section 6 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (AML/CTF Act) and is subject to oversight by AUSTRAC. This includes banks, gambling institutions and remittance service providers. |
| Responsible person | Individuals responsible for governing the charity. Generally, a charity's responsible persons are its board or committee members, or trustees (including insolvency trustees or administrators). |

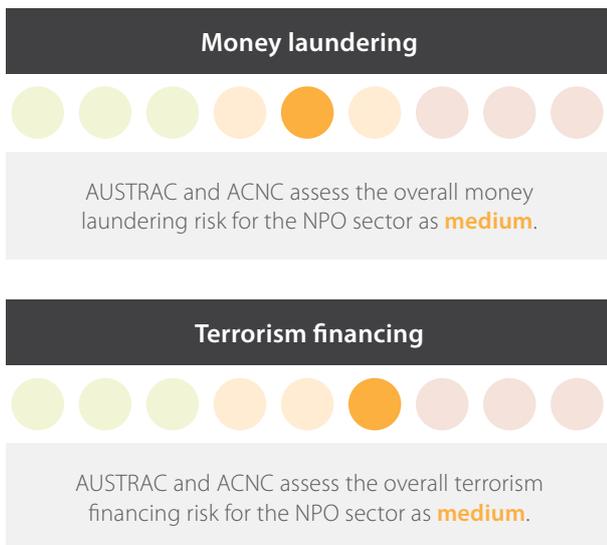
Risk terminology

| Term | Description |
|----------------------|---|
| Risk | Risk is based on the assessment of three factors: threat, vulnerability and consequence. |
| Threat | A threat is a person or group of people, object or activity with the potential to cause harm. In the terrorism financing context 'threat' includes criminals, terrorist groups and their financiers, associates and facilitators, including how they may seek to exploit funding sources and ways of transferring and storing funds. |
| Vulnerability | Vulnerability refers to the characteristics of a sector that make it susceptible to money laundering (including criminal misuse) or terrorism financing. |
| Consequence | Consequence refers to the potential impact or harms of money laundering and terrorism financing in the NPO sector. It involves consequences for NPOs, individuals, national and international security, and the Australian economy and community. |

EXECUTIVE SUMMARY

THIS ASSESSMENT ANALYSED AND RATED THE RISK OF MONEY LAUNDERING AND TERRORISM FINANCING MISUSE SEPARATELY. THIS WAS DONE TO AVOID COMBINING THE OVERALL RISK RATING OF THESE TWO DISTINCTLY DIFFERENT RISK ENVIRONMENTS. THIS ASSESSMENT INCLUDED PREDICATE CRIMES LINKED TO NPOs IN ITS OVERALL RISK RATING FOR MONEY LAUNDERING. A PREDICATE CRIME IS ANY OFFENCE THAT GENERATES PROCEEDS OF CRIME (THAT IS, CRIMINAL MISUSE).

Overall risk rating



This risk rating is lower than previous assessments and mainly reflects shifts in Australia's terrorism and terrorism financing threat environments.

These ratings are based on assessments of the criminal and terrorism threat environments, vulnerabilities in the sector, and associated consequences.

Criminal threat environment



MONEY LAUNDERING

The threat of money laundering, including criminal misuse, in Australia's NPO sector is assessed as medium. This is primarily based on suspicious matter reporting, the number of investigations into predicate crimes involving NPOs, and anecdotal insights from sector representatives regarding levels of criminal exploitation.

The key threats facing the NPO sector are fraud and theft of resources, with a low level of money laundering and tax evasion also detected. Offences are being committed by NPO personnel and affiliates at all levels, and are largely opportunistic. While the value attached to most offending is small, misuse of funds can have a significant impact on an NPO depending on its size and the amount of money it handles.

Analysis should be undertaken to determine the extent to which NPOs are being used to support illicit activity or launder money for criminal entities.

TERRORISM FINANCING

The threat of terrorism financing in the NPO sector is assessed as medium. This is based on the volume of suspicious matter reporting to AUSTRAC, intelligence holdings and the number of NPOs identified during counter-terrorism investigations as linked to persons of interest.

This rating is lower than previous assessments and reflects shifting terrorism financing behaviour. While historically several NPOs were used to raise and send large amounts of funds to support large global terror organisations, the current terrorism financing threat environment is dominated by self-funding activity.

Between 2012 and 2016, 28 suspicious matter reports (SMRs) linked or related to NPOs were submitted, with a total value of \$5.6 million (and average value of over \$200,000 per SMR). This is a significant amount in the current terrorism financing environment (albeit very small compared to the sector's overall income during the same period), noting SMRs are only an indicator of suspected activity (and not conclusive). While NPOs are not the main source of terrorism financing in Australia, they will continue to be attractive to financiers of terrorism because they have the capacity to raise and camouflage the movement of large amounts of funds.

In known and suspected cases, NPOs have primarily been used to raise funds in Australia and transfer money offshore to support individuals or groups engaged in foreign conflict. In some instances, individuals have demonstrated a moderate level of sophistication and ability to evade detection.

It is assessed as unlikely that NPOs are currently being used to raise funds for domestic terrorist activity. However, this could change as Australia's threat environment continues to evolve.

Vulnerabilities

Money laundering



It is assessed that the NPO sector poses a **medium** vulnerability to money laundering.

Terrorism financing



It is assessed that the NPO sector poses a **medium** vulnerability to terrorism financing.

Since the characteristics and activities of individual NPOs vary significantly, the vulnerabilities associated with different NPOs also varies. The risk rating criteria used in the risk methodology was designed to not only capture an overall sector-wide rating, but also be a guide for NPOs to measure their own level of vulnerability individually.

Factors that increase an NPO's vulnerability to money laundering or terrorism financing include (factors in bold are assessed as the most critical across the sector):

- poor understanding of the risks of money laundering and terrorism financing
- **poor due diligence on key personnel, volunteers, partners and beneficiaries**
- inexperienced staff
- lack of formalised training and ongoing professional development
- poor record keeping
- weak internal controls
- **poor transparency and accountability of the end-to-end funding cycle**
- **beneficiaries or operations in countries with poor AML/CTF regimes**
- **beneficiaries or operations in conflict or post-conflict regions**
- **beneficiaries or operations in dispersed ethnic communities in Australia, with strong links to high-risk countries (specific to terrorism financing only).**

The more prominent these factors are to an NPO, the higher its level of vulnerability is to criminal or terrorist misuse.

Consequences

Money laundering



The consequences associated with money laundering in the NPO sector are assessed as **minor**.

Terrorism financing



The consequences associated with terrorism financing in the NPO sector are assessed as **major**.

The most significant consequences of criminal misuse are experienced by NPOs directly, and intended beneficiaries who do not receive funds that are lost to crime. The security impact is the most serious consequence of terrorism financing misuse. Diminished revenue—through diversion of funds—can hamper an NPO’s operations and ongoing viability. This has potentially serious flow-on impacts for intended beneficiaries when vital services and supplies are reduced or not delivered.

Terrorism financing consequences are higher than money laundering because of the national and international security impacts. Tracing the end use of funds diverted for terrorism financing is difficult. However, it is likely that most NPO funds that end up in terrorist hands in the main conflict theatres in the Middle East will be used for military and operational purposes. The sector also faces reputational harm following a suspected or actual terrorism financing event.

To a lesser extent, money laundering and terrorism financing in the NPO sector can impact the reputation and operations of reporting entities (such as banks and other financial institutions) with business relationships with NPOs, or damage Australia’s international standing.

Higher-risk terrorism financing subset

International AML/CTF standards require countries to identify the subset of NPOs which, due to their activities or characteristics, are likely to be at risk of terrorism financing abuse. This assessment has identified Australia’s higher-risk terrorism financing NPO subset likely to be:

- a legal entity
- an incorporated association
- small (low annual turnover)
- based mainly in NSW
- relatively newly established
- service-oriented
- linked to at least one large cash transaction
- linked to at least one international transfer into or out of Australia – with a high likelihood that international funds transfer instruction (IFTI) activity will involve a high-risk terrorism financing country
- linked to one or more SMR.

Priority actions

Based on the most significant threats and vulnerabilities identified in this assessment, the following priority actions are proposed to address key areas of money laundering and terrorism financing risks in the NPO sector. Government authorities should:

- Follow-up the findings concerning terrorism financing higher-risk NPOs by:
 - » undertaking targeted outreach to the high-risk subset, including guidance and education on key risk indicators and case studies
 - » updating the assessment of the high-risk subset as required, including in light of findings from investigations into the entities identified in this assessment and as Australia’s threat environment evolves.
- Conduct further analysis into the NPOs identified in this assessment that have links to members of serious and organised crime groups, to determine the level of criminal risk involved and the appropriate operational response.
- Continue work to ensure the regulatory framework for NPOs is coordinated and that key risks affecting the sector are effectively mitigated by:
 - » ongoing improvements to the mechanisms for collaboration and engagement among AUSTRAC, NPO regulators, law enforcement and national security agencies, as part of criminal and terrorism financing disruption methodologies—this should include streamlining information-sharing secrecy provisions and harnessing the joint intelligence capabilities offered by partnerships with the private sector
 - » cooperating with peak sector bodies to implement, when finalised, ACNC external conduct standards for registered charities
 - » improving awareness of public NPO registers to ensure donations are made to legitimate NPOs.

PURPOSE

The purpose of this report is to assess money laundering and terrorism financing risks affecting Australian NPOs. It identifies the main criminal, money laundering and terrorism financing threats currently facing NPOs. It highlights key vulnerabilities that are exploited for criminal misuse, or to support or promote terrorism and its financing. It also addresses an international requirement to identify the subset of NPOs at high-risk of terrorism financing misuse.

This assessment is intended to support a whole-of-government approach in partnership with key NPO bodies, to improve risk-based supervision and monitoring of the NPO sector. This includes:

- targeted outreach to the most vulnerable NPOs
- coordination of information gathering and investigation of high-risk NPOs
- application of appropriate regulatory measures.

This assessment has also been developed to provide guidance and feedback to help the NPO sector identify, monitor and mitigate risks, and to report any suspicions or unusual behaviour to the appropriate authority.

Insights are provided for financial institutions and other businesses with AML/CTF obligations, which have business dealings with the NPO sector. This will help these reporting entities identify and monitor risks that may be applicable to their individual businesses, and subsequently report suspicious matters to AUSTRAC.

IMPROVING COMPLIANCE WITH FATF RECOMMENDATION 8

In April 2015 the Financial Action Task Force (FATF) released its mutual evaluation report of Australia. The report found Australia to be non-compliant with Recommendation 8, which relates to reducing the risk of terrorism financing through NPOs. A key factor underpinning this rating was that Australia had not conducted a specific risk assessment of terrorism financing through the NPO sector, and subsequently could not identify which organisations were at the greatest risk of abuse. Completion of this risk assessment is a vital step for Australia to improve compliance with Recommendation 8.

METHODOLOGY

Scope

For the purpose of this assessment, the NPO sector is defined as all charities and NPOs that have formed a legal entity in Australia. Unincorporated associations were also considered, but the depth of analysis was limited as details of personnel, operations and finances are not collected unless the NPO has taken steps to strengthen its legitimacy through registration with the ATO or ACNC.

This assessment considered fake NPOs – also referred to as ‘pop-up’ fundraising appeals conducted under the guise of charitable giving. However, the risks associated with these activities are taken to sit outside the sector, as they are not connected to a legitimate NPO. Nonetheless, fake NPOs are often indiscernible from legitimate ones. They divert money away from legitimate NPOs and undermine the reputation of the sector.

This assessment examines NPO use of crowdfunding and social media to raise or move funds, but does not assess the level of risk associated with such platforms. The use of these platforms to raise funds for ‘good works’ is not limited to NPOs. The risks associated with them extend beyond the NPO sector.

Risk model

This assessment follows FATF guidance that states money laundering and terrorism financing risk should be assessed as a function of threat, vulnerability and consequence. This assessment uses a range of FATF guidance on risk assessment methodology and draws on specific international advice for assessing risk in the NPO sector.

Two risk methodologies were developed for this assessment: one for money laundering and one for terrorism financing. This was done to avoid combining the overall risk rating of these two distinctly different risk environments. This assessment included predicate crimes linked to NPOs in its overall risk rating for money laundering. A predicate crime is any offence that generates proceeds of crime (that is, criminal misuse).

See Appendices 1 and 2 for each risk methodology.

Information collection

Key intelligence and data inputs to this assessment included:

- a formal request for information to 23 agencies including all Commonwealth, state and territory law enforcement bodies and NPO regulators¹
- financial, criminal and national security intelligence holdings, including the results of various data-matching exercises across these datasets
- national survey of the NPO sector (see Appendix 3 for details)
- feedback and professional insights offered during interviews and consultations with key NPO sector representatives, including two round-table discussions.²

Validation of results

To ensure accuracy of the findings, this assessment was developed in wide consultation with members of the NPO sector. This included providing the final risk ratings to the following organisations/forums for review:

- Australian Council for International Development – Australia’s peak body for non-government organisations involved in international development and humanitarian aid
- ACNC’s Professional User Group
- ACNC’s Sector User Group
- Non-government Organisations (NGO) Audit, Risk and Compliance Forum
- participants of the AUSTRAC-ACNC round-table discussions
- state and territory NPO regulators.

Structured consultations were also held with key government stakeholders and terrorism financing experts to collect information, capture a wide range of intelligence, policy and supervisory perspectives, and evaluate findings and judgements. Open-source information was collected to validate findings and assessments, including a review of relevant publications produced by FATF, the Asia/Pacific Group on Money Laundering and NPO peak bodies.

Report structure

This assessment is presented in three sections:

1. an overview of money laundering, terrorism financing and the Australian AML/CTF framework
2. a snapshot of the Australian NPO sector including size, range of activities, legal and regulatory landscape, and illustration of the sector’s financial activity—something that has never before been quantified
3. the final risk ratings, divided into three components: threat, vulnerabilities and consequences—each of which addresses money laundering and terrorism financing separately.

1 In total, 22 responses were received.

2 Round-table discussions were held in Sydney and Melbourne, attended by sector representatives from around the country.

“

“...AUSTRALIA'S TERRORISM FINANCING ENVIRONMENT IS LARGELY DRIVEN BY INTERNATIONAL TENSIONS AND CONFLICTS THAT HAVE INSPIRED A SMALL NUMBER OF INDIVIDUALS IN AUSTRALIA TO ADOPT OR SUPPORT VIOLENT EXTREMIST VIEWS...”

14



MONEY LAUNDERING & TERRORISM FINANCING IN AUSTRALIA

MONEY LAUNDERING

MONEY LAUNDERING ENABLES ALMOST ALL SERIOUS AND ORGANISED CRIME IN AUSTRALIA. IT IS A KEY RISK TO AUSTRALIA'S ECONOMY AND TAX REVENUE.

Criminals launder money to legitimise proceeds from committing crimes (referred to as 'predicate crimes'). Money laundering enables criminals to accumulate and hide wealth, avoid prosecution, evade taxes, increase profits through reinvestment, and fund further criminal activity.

The money laundering process has three stages:

- **Placement** occurs when illicit funds or assets are introduced into the formal financial system.
- **Layering** involves moving, dispersing or disguising illegal funds or assets to conceal their true origin.
- **Integration** is the movement of illicit funds back into the legitimate economy.

NPOs can be used mainly during the first two stages. NPO resources can be used to 'place' illicit funds into the financial system, then 'layer' the funds through multiple financial transactions and commingling with legitimate finance.

In this report, 'criminal misuse' refers to money laundering activity as well as the commission of underlying predicate crimes.

HOW DOES THE CRIMINAL CODE DEFINE MONEY LAUNDERING?

Money laundering is defined broadly in Division 400 of the *Criminal Code Act 1995* (Criminal Code) to include more than just concealing the proceeds or instruments of crime. The Criminal Code makes it an offence to 'deal with' the proceeds of crime or an instrument of crime. 'Deal with' is defined as a person receiving, possessing, concealing or disposing of money or other property as well as importing, exporting or engaging in a banking transaction relating to money or other property. Where an innocent third party receives money that is the proceeds of crime (such as an NPO carrying on its normal business) and the person has no knowledge of that fact, receipt of the money does not constitute an offence under the Criminal Code.

TERRORISM FINANCING

Australia's terrorism financing environment is largely driven by international tensions and conflicts that have inspired a small number of individuals in Australia to adopt or support violent extremist views.

Self-funding (for example from salaries, sale of assets, loans or credit cards) is the dominant method of terrorism financing in Australia. This reflects Australia's security environment that features small-cell and lone-actor attacks (that generally require minimal funds) and foreign terrorist fighters (who require small to moderate amounts of funds).

Terrorism financing is the financial support, in any form, of terrorism or those who encourage, plan or engage in terrorism. It generally falls into two broad categories:

- funding operational costs associated with terrorist acts—for example, expenses for travel, explosive materials, weapons and vehicles
- funding organisational costs associated with maintaining a terrorist network, organisation or cell—for example, training, salaries, propaganda and compensation for wounded fighters or families of terrorists who have died.

The terrorism financing process usually involves three distinct stages:

- raising funds through donations, self-funding, legitimate business or criminal activity
- transferring funds to a terrorist network, organisation, cell or individual, or between such entities
- using funds for direct and indirect costs associated with terrorist activity.

Funds also need to be 'stored' during the terrorism financing process. Storage methods might include hiding cash in a private residence or in a 'sandoog' (cash box), or depositing funds in a bank account or other financial product.

NPOs can be used at all three stages of terrorism financing. They may provide cover for raising funds and can be used to transfer resources abroad disguised as aid. NPOs that operate in, or close to, conflict zones can be vulnerable to siphoning of funds by terrorist groups and be used to distribute resources to support terrorist groups.

TERRORISM FINANCING OFFENCES

Division 103 of the Criminal Code contains specific offences for terrorism financing. In general terms, a person commits an offence if they make funds available to another person, provide funds or collect funds and are reckless as to whether the funds will be used to facilitate, or engage in, a terrorist act.

An offence is committed even if a terrorist act does not occur or if the funds will not be used towards a specific terrorist act. A person can be convicted of this offence even if it occurs outside Australia. The maximum penalty is imprisonment for life.

It is also an offence under section 102.6 of the Criminal Code if a person intentionally provides funds, makes funds available, or collects funds for or on behalf of, a terrorist organisation, and the person knows or is reckless as to whether that organisation is a terrorist organisation. The maximum penalty is 25 years imprisonment.

It is an offence for Australians to enter a foreign country with the intention to engage in hostile activities in that country. Division 119 of the Criminal Code includes offences relating to providing support to other persons intending to enter a foreign country for the purposes of engaging in hostile activities, including the provision of funds and goods.

AUSTRALIA'S AML/CTF FRAMEWORK

Australia's AML/CTF regime is based on international standards established by the FATF. These standards, known as the FATF Recommendations, form the basis of a coordinated international response to combat money laundering and the financing of terrorism and the proliferation of weapons of mass destruction. The AML/CTF Act and *Financial Transaction Reports Act 1988* provide the foundation for Australia's regulatory regime to detect and deter money laundering and terrorism financing.

AUSTRAC has a dual role as Australia's AML/CTF regulator and financial intelligence agency. AUSTRAC supervises the compliance of entities that provide designated services (for example, banks and casinos) with their obligations under Australia's AML/CTF regime - particularly their obligation to assess and mitigate their money laundering and terrorism financing risks and report certain financial transactions. AUSTRAC also provides guidance and information to regulated businesses to help them identify suspicious activity and provide information that contributes to law enforcement investigations.

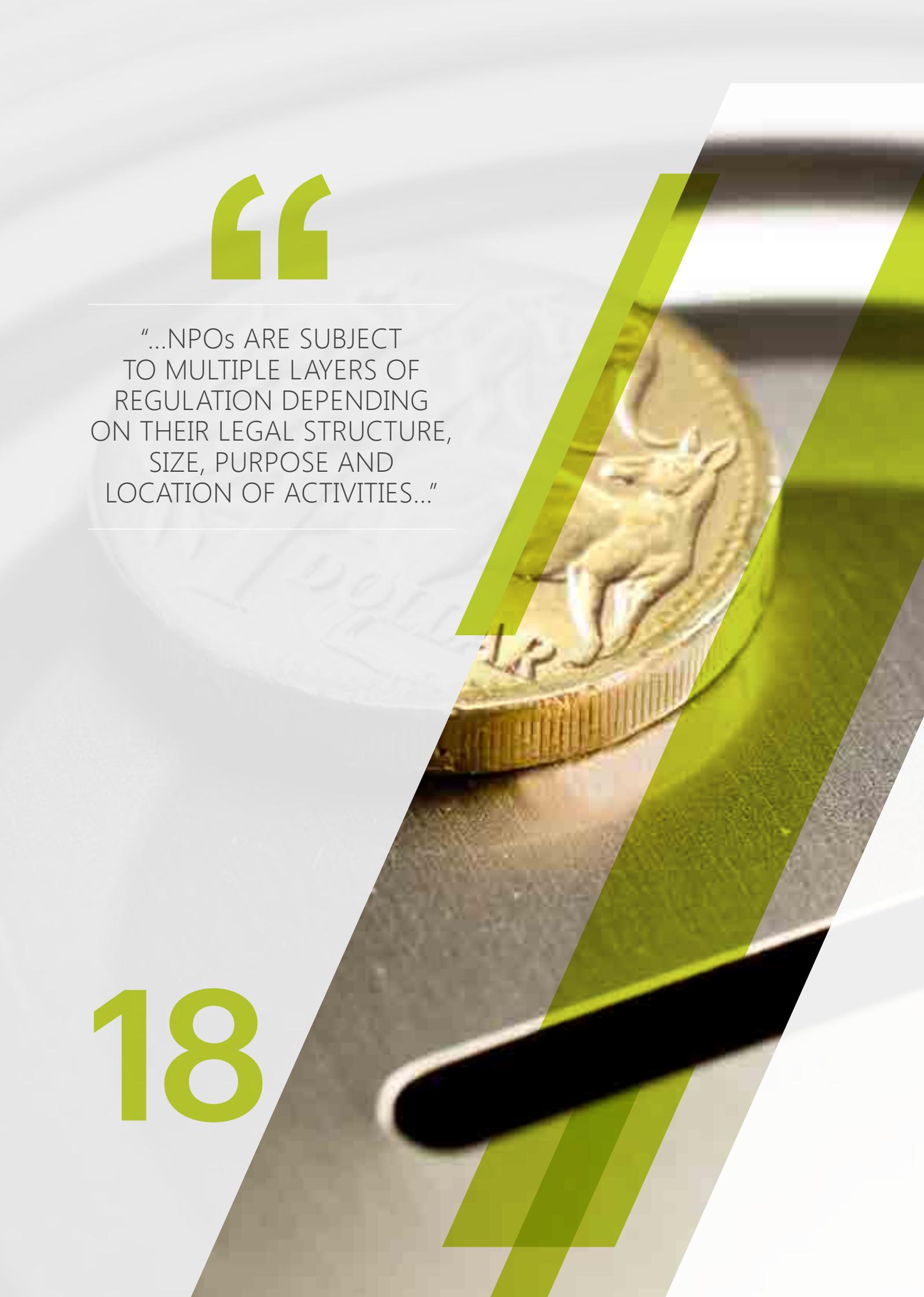
DOES AUSTRAC REGULATE THE NPO SECTOR?

The NPO sector is not directly covered by the AML/CTF regime. An NPO would only be regulated by AUSTRAC if it provides a designated service as defined in section 6 of the AML/CTF Act.

AUSTRAC has visibility of NPO financial activity where it occurs through regulated businesses (for example, through a bank account), or where it triggers the reporting of an SMR or cross-border movement of physical cash or a bearer negotiable instrument.

AUSTRAC also shares intelligence with law enforcement and national security partners and cooperates in joint operational matters. It is able to share information with the ACNC under defined circumstances upon request.

The *Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Bill 2016* will make the ACNC a 'designated agency' for the purposes of the AML/CTF Act and provide ACNC with direct access to AUSTRAC information. As a designated agency, ACNC will be able to better detect, monitor and halt money laundering, terrorism financing and other criminal activities involving ACNC-registered charities, and monitor ongoing compliance with regulatory requirements.



“

“...NPOs ARE SUBJECT TO MULTIPLE LAYERS OF REGULATION DEPENDING ON THEIR LEGAL STRUCTURE, SIZE, PURPOSE AND LOCATION OF ACTIVITIES...”

18



THE NPO SECTOR

AUSTRALIA'S NPO SECTOR IS LARGE AND DIVERSE. IT CONTRIBUTES SIGNIFICANTLY TO AUSTRALIA'S ECONOMY AND CIVIL SOCIETY. NPOs OPERATE LOCALLY, NATIONALLY AND INTERNATIONALLY. THEY PROVIDE A WIDE RANGE OF SERVICES AND UNDERTAKE A VARIETY OF ACTIVITIES FROM OPERATING A SPORTING CLUB TO PROVIDING DISASTER RELIEF IN THIRD-WORLD COUNTRIES.

This assessment identified approximately 257,000 NPOs operating in Australia. The majority of these entities are registered with the ATO for tax concessions. This figure does not include unincorporated associations that have not registered with the ATO or ACNC—the number of which is difficult to determine.³

3 There are no reliable estimates of the number of unregistered unincorporated associations operating in Australia. The most recent estimates were provided in 1995 by researchers for the University of Technology Sydney, who placed the figure at 380,000.

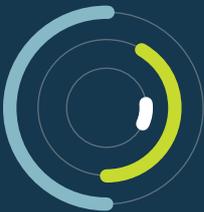
CHARITY POPULATION

ACNC requires registered charities to report a range of details regarding activities and finances. For this reason, the greatest level of transparency of the sector is probably in regulated charities. While they comprise only about 20 per cent of the NPO population, they are Australia's second largest employer and have twice the number of volunteers as the remaining NPO population. In 2015, the total income for registered charities was more than \$134.5 billion, of which \$11.2 billion was from donations and bequests.



Charities had combined total income

over **\$134 billion**



- **50.3%** from other income and revenue, including fees, social enterprises etc.
- **41.4%** from government grants
- **8.3%** from donations and bequests



\$1.5 billion

sent overseas as grants and donations



Charities spent

\$122.8 billion

pursuing their charitable purpose (including service delivery)



Total income for charities grew by **2%** from 2014 to 2015

Total income of the Australian Charity sector is equivalent to

8.3% of Australian GDP

2.97 million volunteers



4 out of **5** charities engage volunteers



Charities employ over

1.2 million staff

Second largest Australian sector for employment

Almost

1 in **2**

charities (47.5%) operate with no paid staff

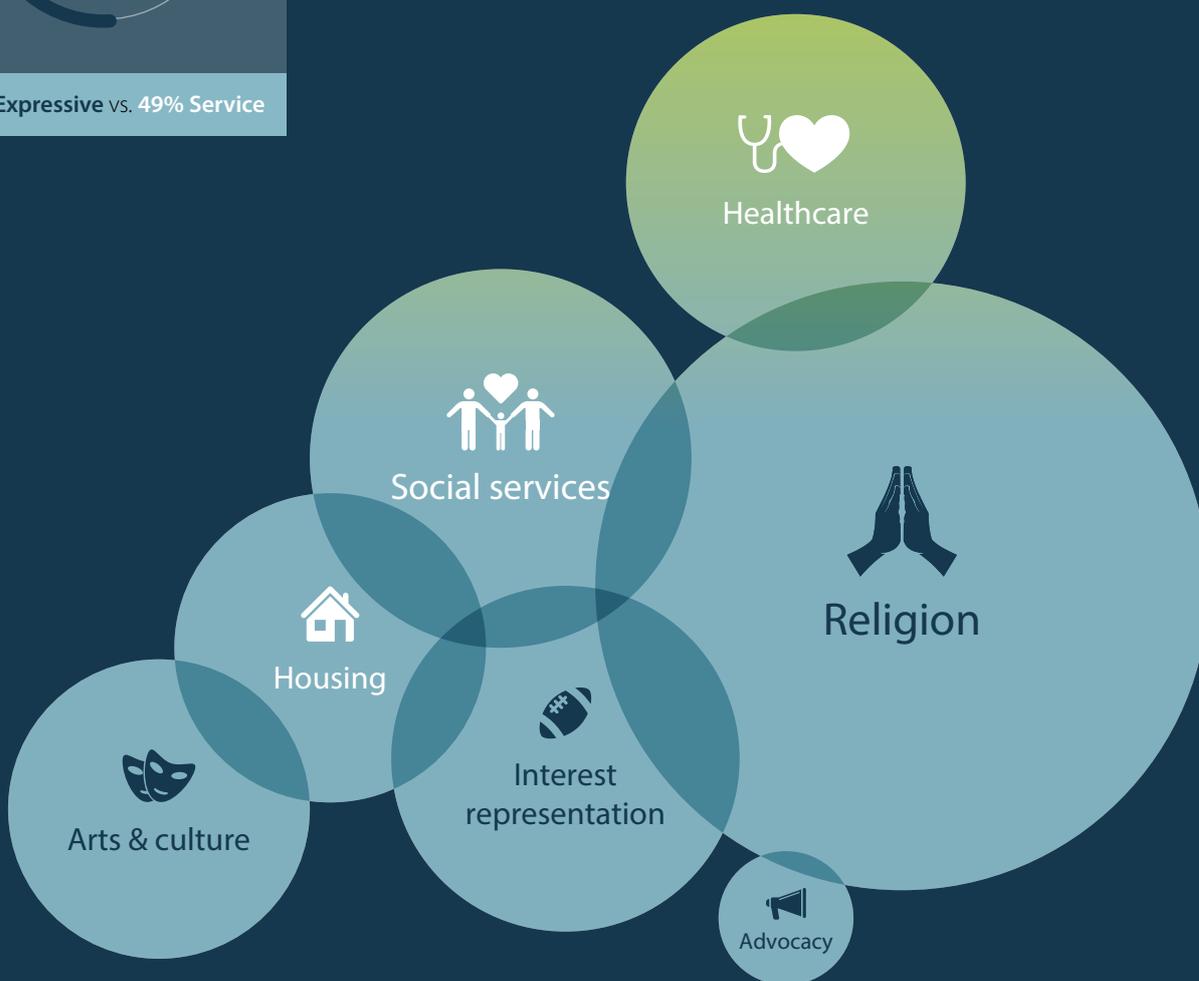
Overview of activities: 'expressive' versus 'service'

FATF categorises NPO activities as either 'expressive' or 'service', these terms are defined on page 8. In their research regarding terrorism financing risks facing NPOs, FATF noted that to date all identified cases globally related to NPOs involved in service activities*.

* FATF, *Risk of terrorist abuse in non-profit organisations*, 2014.



Size of income



Size of circle = size of population



Dark blue text = Expressive



White text = Service

FINANCIAL SNAPSHOT

FINANCIAL INFORMATION REPORTED TO AUSTRAC

Cross-border movement of bearer negotiable instrument (BNI). The mailing, shipping or carrying of a non-cash monetary instrument that contains the instruction 'pay to the bearer'. The bearer is the person in possession of the BNI. Common examples of BNIs are cheques, promissory notes, traveller's cheques, bearer bonds, money orders and postal orders. There is no restriction on moving BNIs into or out of Australia, but travellers must declare these items if requested to do so by a customs or police officer.

Cross-border movement of physical currency. The mailing, shipping or carrying of cash into or out of Australia. Movement of AUD\$10,000 or more (or a foreign currency equivalent) must be reported.

International funds transfer instruction (IFTI). Provides a range of details about funds coming into or being sent out of Australia via reporting entities, irrespective of the value of the funds.

Suspicious matter report (SMR). A report that is submitted following suspicions that a customer or transaction is tied to a criminal offence including money laundering, terrorism financing, or any other offence under a Commonwealth, state or territory law. Reporting entities also lodge SMRs in response to enquiries made by AUSTRAC's partner agencies in relation to particular activities or customers. SMRs provide valuable intelligence to AUSTRAC. AUSTRAC works with partner agencies to piece together intelligence from a range of sources including SMRs to develop a picture of criminal activities and networks. Many of AUSTRAC's partner agencies have direct access to AUSTRAC SMRs to conduct further analysis and investigation.

Threshold transaction report (TTR). Provides a range of details about the transfer of physical currency or e-currency of AUD\$10,000 or more (or foreign currency equivalent) within Australia.

This assessment matched 193,242 NPOs against all financial transactions reported to AUSTRAC since 1991. AUSTRAC holds transaction reports for 27,311 of these NPOs.

The majority of NPOs did not have an AUSTRAC footprint. This reflects the vast number of small and very small NPOs operating in Australia whose financial activity has not triggered reporting to AUSTRAC.

International movement of funds

IFTI REPORTS

Between 2012 and 2016, there were 14,460 NPOs recorded in 435,924 IFTIs with a combined total of \$19.8 billion. On average, 87,185 IFTIs linked to NPOs were reported per year with an average value of \$4 billion.

In 2016, there was a notable drop in the total volume and value of IFTI activity compared with previous years. Sector representatives suggest this probably reflects a drop in sector revenue that may be due to:

- reduced public funding (there were no major disasters or single events in 2016)
- growing private sector participation in the humanitarian space (shifting some government spending on overseas programs away from NPOs).

TOP 5 COUNTRIES IN IFTI DATA

Outward IFTI data likely reflects the global nature of NPO networks and operations. Many of the top 5 countries that feature in IFTI data share long-standing relationships with Australian NPOs. These countries may be home to an NPO's regional or head office, or partner organisations. This is particularly the case with countries with strong historical, cultural and political ties to Australia—for example, the United Kingdom and USA.

Some countries are also major financial centres. This probably reflects the investment decisions of Australian NPOs or the use of these locations to coordinate and move money through financial centres to other countries.

Inward IFTI data may reflect flows of money due to international relationships, or a return on NPO investments overseas.

Overall, IFTI data is influenced by some very large agricultural-based NPOs. Work is underway to further disaggregate the financial data to identify key countries and fund flows of interest.

A small percentage (about 4.5 per cent) of NPO-related IFTI reports involves countries considered high-risk for money laundering or terrorism financing. The value and significance of international funds sent to high-risk countries are discussed later in the 'vulnerabilities' section of this report.

CBM of physical currency reports

Between 2012 and 2016, there were 41 NPOs recorded in 45 CBM reports with a combined total of \$1.8 million. The total volume and value of CBM reporting is lower than expected given the significant use of cash within the sector. As reflected in the IFTI data, this is likely because NPOs use major international banking or remittance channels to move money overseas.

However, anecdotally some NPOs report carrying cash to countries and regions where other forms of banking and remittance channels do not exist. If this is occurring in large volumes, it is not reflected in CBM data. This may be due to individuals:

- failing to declare CBM activity at the border
- declaring the cash movement at the border, but not advising that the cash is being carried out on behalf of an NPO
- carrying cash amounts that are below the AUD10,000 reporting threshold.

TTRs

Between 2012 and 2016, there were 15,683 NPOs recorded in 427,579 TTRs with a combined total of \$14.3 billion. On average, 85,515 TTRs were reported per year with an average value of \$2.9 billion.

While this demonstrates the sector's significant use of cash-related fundraising activities, the total volume and value of TTR activity halved in 2016 compared to previous years. This probably corresponds with the overall decline in sector revenue for 2016 noted above. It may also reflect a broader move away from the use of cash and increased NPO use of online payment platforms for fundraising activities.

SMRs

Between 2012 and 2016, there were 271 NPOs recorded in 277 SMRs with a combined total of \$63.4 million. On average, 55 SMRs were reported per year with an average yearly value of \$12.7 million.

Compared to all SMR reporting, the volume and value of SMRs linked to NPOs has remained relatively consistent, with two exceptions:

- In 2015, there was a spike in the total value of NPO-linked SMRs. This was due to seven high-value SMRs with a total value of approximately \$22 million combined. By way of comparison, only two 'high-value' SMRs were reported in 2016 (with a combined total value of \$5.8 million).
- In 2016, the drop in the volume of NPO-linked SMRs was more significant than the drop in overall SMR reporting to AUSTRAC. Like IFTI and TTR reporting, this probably reflects the overall decline in NPO sector revenue and financial activity for that year.

2016 FINANCIAL SNAPSHOT

193,242

NPOs matched against AUSTRAC data holdings



14%

NPOs with AUSTRAC footprint

14,460

NPOs with at least one IFTI

15,683

NPOs with at least one TTR

41

NPOs with at least one CBM

Trend analysis



IFTIs (2016)

No. of reports: **62,458**

Total value: **\$3 billion**



TTRs (2016)

No. of reports: **46,300**

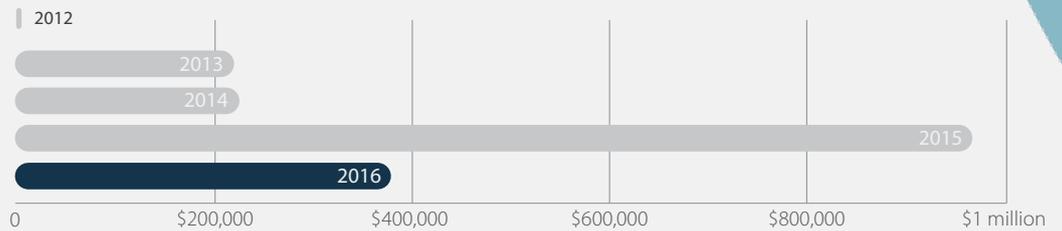
Total value: **1.5 billion**



CBMs (2016)

No. of reports: **11**

Total value: **\$378,484**



SMRs (2016)

No. of reports: **51***

Total value: **\$12 million**



* SMRs linked to NPOs with direct link organisation name

International movement of funds



In 2016 there were
62,458
IFTI reports with a total value of
almost
\$3 billion

Total value



Incoming \$800 million
Outgoing \$2 billion

Number of reports



Incoming 19,403
Outgoing 43,055

Top 5 countries for inward/outward IFTIs linked to NPO sector



REGULATORY AND ADMINISTRATIVE LANDSCAPE

NPOs are subject to multiple layers of regulation depending on their legal structure, size, purpose and location of activities. NPOs are not required to register at either a state/territory or Commonwealth level. However, registration with the ACNC and ATO can provide certain benefits including a degree of legitimacy and access to tax concessions.

Legal structures of NPOs

NPOs can operate under a range of legal structures. Companies limited by guarantee, incorporated associations and non-distributing co-operatives have specific regulators. Trusts and unincorporated associations are only regulated if they choose to register with the ATO and ACNC. Each regulator has different requirements, functions and powers.

An NPO's legal structure will affect a range of things such as governance structure, reporting and compliance obligations, access to tax concessions and government funding, where the NPO can operate (locally, nationally or internationally) and whether it can employ people or operate a bank account in its own name.

NPOs can choose to operate under more than one legal structure. In these instances, the NPO must comply with each relevant regulatory scheme. See Appendix 4 for an overview of different legal structures for NPOs.⁴

TAX CONCESSIONS FOR NPOs

Deductible Gift Recipient (DGR) status is a key tax incentive to assist NPOs with fundraising. It provides donors with a tax deduction for every donation of \$2 or more. Large registered charities are the main category of NPOs that have DGR status. However, a growing number of small, less-established NPOs are obtaining DGR status.

Other significant tax incentives include income tax exemption, fringe benefit tax and goods and services tax concessions. State revenue offices also offer various tax exemptions to charities including land tax, payroll tax and stamp duties. These can have a significant impact on the overall operational costs for an NPO.

Key obligations for NPOs

Existing regulatory frameworks all aim to ensure NPOs are being used for their not-for-profit purpose.⁵ NPO regulators use three main mechanisms to encourage NPOs to safeguard against criminal misuse and terrorism financing:

- corporate governance requirements, which range from prescriptive frameworks to more risk-based approaches across the sector
- reporting requirements of financial and other activities
- providing guidance and outreach, particularly to vulnerable NPOs.

Corporate governance and reporting requirements also exist to help NPOs, regulators, law enforcement and the public detect potential misuse.

4 More information on NPO legal structure is available at <https://www.ato.gov.au/Non-profit/getting-started/choosing-a-legal-structure/>.

5 For the ACNC and ATO, demonstrating funds are used for their intended purpose is central to determining if an NPO is entitled to registration or tax concessions.

Activity-based obligations

Based on the type of activity an NPO engages in, they can be subject to further reporting requirements. For example:

- NPOs that work with young people may be required to ensure their staff and volunteers undertake a 'working with children' or criminal history check
- NPOs that undertake fundraising activities must apply for a licence and meet obligations to the relevant fundraising regulator.⁶

Funding arrangements

Organisations and government departments that provide funding to NPOs often have additional reporting requirements. For example, NPOs seeking funding from the Department of Foreign Affairs and Trade (DFAT) must meet stringent accreditation requirements. Other requirements may include additional reporting on how funds are spent, registration with the ACNC or membership of a peak body.

Self-regulation

The NPO sector is acutely aware of the importance of public trust for its long-term sustainability. Some NPOs choose to meet voluntary standards such as codes of conduct or ethical practice set by professional associations, peak bodies or other agencies. For example, NPOs that provide overseas aid may be members of the Australian Council for International Development (ACFID), and follow ACFID's code of conduct.⁷

6 An NPO that is fundraising in multiple jurisdictions must acquire all relevant licences and meet the requirements for each relevant authority.

7 Details about ACFID and its Code of Conduct is available at: <https://acfid.asn.au/about>.

REGULATORY AND ADMINISTRATIVE LANDSCAPE

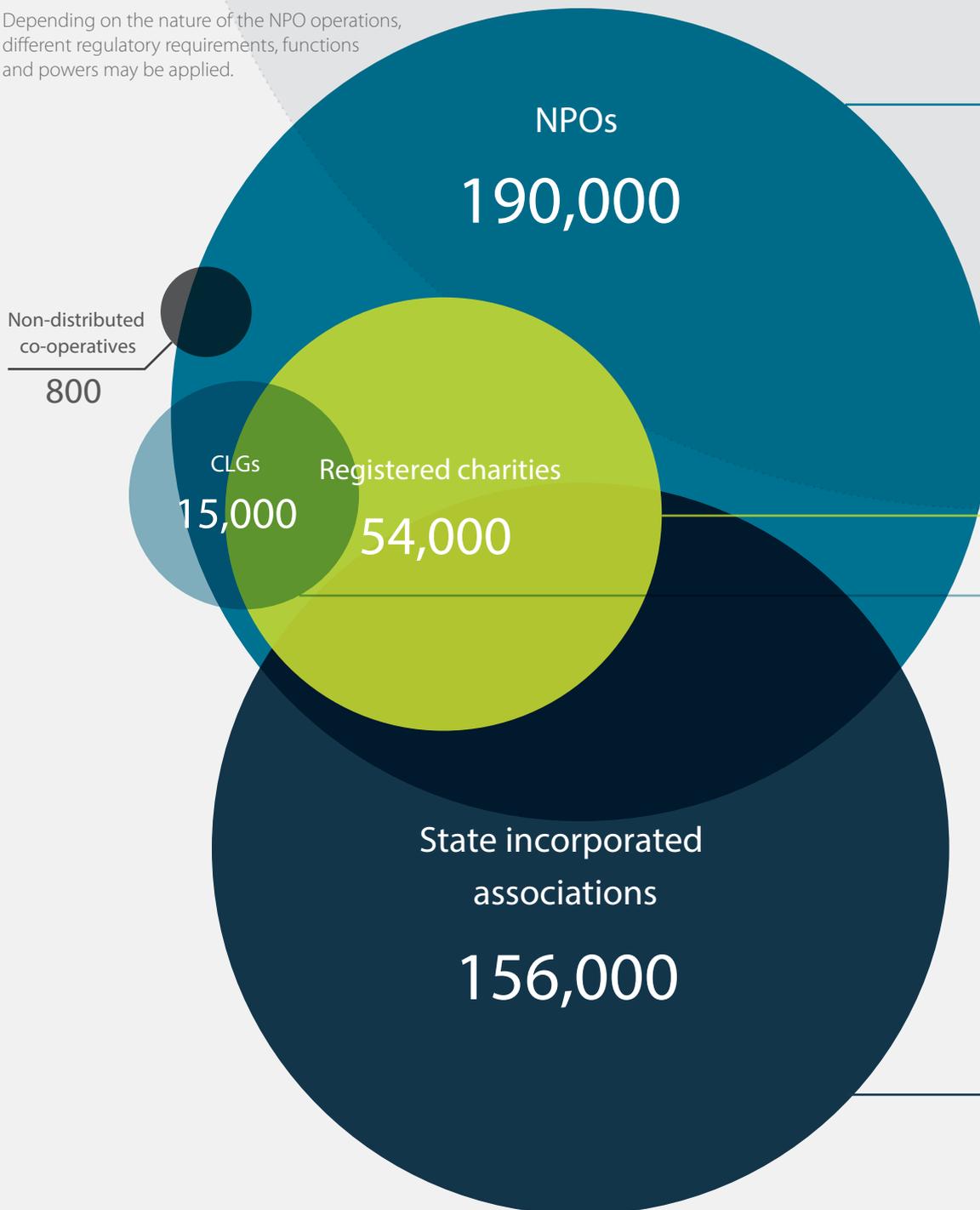
Unincorporated associations

approx.

380,000

NPOs can operate under a range of legal structures. Companies limited by guarantee (CLGs), incorporated associations and non-distributing co-operatives have specific regulators while trusts and unincorporated associations are only regulated if they choose to register with the ATO and the ACNC.

Depending on the nature of the NPO operations, different regulatory requirements, functions and powers may be applied.



ATO

The ATO administers tax concessions and obligations for NPOs including: determining entitlements to a range of charity tax concessions (including DGR status) and recognises certain other not-for-profit entities as tax exempt.

NPOs that are not charities can access tax concessions on a 'self-assessment' basis and the ATO monitors compliance.

Info collected



Key personnel



Purposes



Activities



Size

Requirements



Annual reporting



Financial review/audit



Director duties

Regulator powers



Revocation/removal



Enforcement

ACNC

The ACNC is Australia's national regulator of charities and maintains a public register of charities.

To be entitled to be registered, an NPO must have a charitable purpose and be for the public benefit as well as demonstrate that it meets minimum standards of governance.

There is no requirement for registration with the ACNC but it is the gateway to certain tax concessions.

Info collected



Key personnel



Purposes



Activities



Size

Requirements



Annual reporting



Financial review/audit



Director duties

Regulator powers



Revocation/removal



Enforcement

ASIC

ASIC is the national regulator responsible for oversight of the entities incorporated under the *Corporations Act 2001*. NPOs often incorporate with ASIC as companies limited by guarantee (CLG).

If a CLG is registered with the ACNC it is required to comply with the ACNC governance standards and reporting requirements.

Info collected



Key personnel



Purposes



Activities



Size

Requirements



Annual reporting



Financial review/audit



Director duties

Regulator powers



Revocation/removal



Enforcement

State authorities

Each state and territory regulator enforces their own legislation and requirements regarding incorporated associations.

If these associations want to operate in more than one state they can either incorporate in all states they operate in, apply to ASIC to operate as an Australian Registered Body or change their legal structure to an entity regulated by the Commonwealth.

State authorities are generally responsible for regulating co-operatives too, however different requirements apply.

Info collected



Key personnel



Purposes



Activities



Size

Requirements



Annual reporting



Financial review/audit



Director duties

Regulator powers



Revocation/removal



Enforcement

Publicly-available information about NPOs

A number of public registers contain information about NPOs (see below). This enables donors to ensure they are dealing with legitimate NPOs. The recent introduction of the ACNC 'charity tick' will also help donors. The charity tick is a symbol that ACNC-registered charities can display to show their registration status.

INFORMATION ABOUT NPOs AVAILABLE THROUGH PUBLIC REGISTERS

| Online public register | NPO name | Purposes | Activities | Address | Key personnel names | Financials | Tax concessions |
|---|----------|----------|------------|---------|---------------------|------------|-----------------|
| ACNC Register | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✗ |
| Australian Business Register | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✓ |
| ASIC register of companies and organisations | ✓ | ✗ | ✗ | ✓ | ✓ | ✓ | ✗ |
| Office of the Registrar of Indigenous Corporations register | ✓ | ✓ | ✗ | ✓ | ✓ | ✓ | ✗ |
| ACT incorporated associations | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✗ |
| NSW Incorporated Associations Register | ✓ | ✗ | ✗ | ⊘ | ✗ | ✗ | ✗ |
| NSW Charitable Fundraising | ✓ | ✗ | ✗ | ✓ | ✗ | ✗ | ✗ |
| Queensland charity or association register | ✓ | ✗ | ✗ | ⊘ | ✗ | ✗ | ✗ |

 Info available
  Info not available
  Some info available
  More info available on payment

| Online public register | NPO name | Purposes | Activities | Address | Key personnel names | Financials | Tax concessions |
|--|----------|----------|------------|---------|---------------------|------------|-----------------|
| Queensland charities and fundraising | ✓ | ✗ | ✗ | ⊘ | ✗ | ✗ | ✗ |
| South Australian Charity Licences | ✓ | ✓ | ✗ | ✓ | ✓ | ✗ | ✗ |
| Tasmanian Incorporated Associations* | ✓ | ✗ | ✗ | ✓ | ✓ | ✗ | ✗ |
| Tasmanian Charities | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✗ |
| Victorian incorporated associations | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✗ |
| Consumer Affairs Victoria registered fundraisers | ✓ | ✓ | ✗ | ✓ | ✗ | ✗ | ✗ |
| WA Associations online | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✗ |
| Licensed Charities in Western Australia | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✗ |

* More information available for free form submission.

 Info available
  Info not available
  Some info available
  More info available on payment

“

“...NPOs HAVE THE ABILITY TO RAISE LARGE AMOUNTS OF FUNDS AND MOVE THEM OFFSHORE. NPOs MUST ENSURE THEY HAVE STRATEGIES IN PLACE TO MITIGATE TERRORISM FINANCING RISKS...”

32



/THREAT

THE KEY THREATS FACING THE NPO SECTOR ARE LARGELY FRAUD AND THEFT OF RESOURCES, WITH A LOW LEVEL OF MONEY LAUNDERING ALSO DETECTED.

THE EXTENT OF SUSPECTED TERRORISM FINANCING INVOLVING NPOs IN AUSTRALIA IS LIMITED, BUT NPOs WILL REMAIN ATTRACTIVE TO AUSTRALIAN FINANCIERS OF TERRORISM AND THEIR ASSOCIATES AS A CHANNEL TO RAISE LARGE AMOUNTS OF FUNDS AND MOVE THEM OFFSHORE.

Money laundering



The threat of money laundering in Australia's NPO sector is assessed as **medium**.

Terrorism financing



The threat of terrorism financing in the NPO sector is assessed as **medium**.

| Category of vulnerability | Money laundering | Terrorism financing |
|---|------------------|---------------------|
| Sophistication of methods used | | |
| Involvement of foreign criminals | | N/A |
| Targeting by serious organised crime/terrorist groups (suspected or proven) | | |
| Number of instances of ML/TF | | |
| Exposure to predicate offences for ML | | N/A |

SUSPICIOUS MATTER REPORTING TO AUSTRAC

SMRs were one of several key data inputs used to inform the 'Threat' rating. Caution needs to be exercised when interpreting SMRs. The recorded value in SMRs may not necessarily relate to suspected criminal misuse or terrorism financing. SMRs are considered to be indicative of behaviour and trends only, rather than conclusive in their own right.

FEEDBACK FOR REPORTING ENTITIES

A number of SMRs were submitted after the reporting entity became aware of suspected criminal activity involving an NPO or one of its key personnel. Reporting entities are encouraged to regularly review and update transaction monitoring systems to ensure that suspicious financial activities are detected and reported to AUSTRAC as early as possible.

Some SMRs were highly detailed and showcased the analytical capabilities of reporting entities. These SMRs outlined key information that helped build an intelligence picture of NPO misuse. This included:

- results of checks against public registers to determine the legitimacy of an NPO
- details of customer salary credits or place of employment to determine a potential link to an NPO.

MONEY LAUNDERING

THE THREAT OF MONEY LAUNDERING IN AUSTRALIA'S NPO SECTOR IS ASSESSED AS MEDIUM. THIS IS PRIMARILY BASED ON SUSPICIOUS MATTER REPORTING, THE NUMBER OF INVESTIGATIONS INTO PREDICATE CRIMES INVOLVING NPOs, AND ANECDOTAL INSIGHTS FROM SECTOR REPRESENTATIVES REGARDING LEVELS OF CRIMINAL EXPLOITATION.

Between 2012 and 2016, there were 249 SMRs submitted with a total value of approximately \$57.8 million, for suspected criminal misuse involving an NPO. This is significantly higher than the value of funds suspected or detected in criminal investigations for that same period (approximately \$3.8 million). The lower amount of detected funds probably reflects the difficulty authorities face in tracing money trails—particularly once funds go offshore—and gathering evidence to pursue a money laundering prosecution. It can also be explained by under-reporting of suspected crime from parts of the sector.



* Statistics from 2012-2016

** A request for information was sent to 22 government and law enforcement agencies including state and territory NPO regulators, police services and crime commissions. These figures represent data provided by 20 of these agencies. They reflect the initiation of a case or investigation only. They do indicate a substantiation of criminal misuse.

UNDER-REPORTING OF CRIMINAL MISUSE

Between 2012 and 2016, approximately 733 investigations were initiated by NPO regulators and law enforcement agencies into allegations of criminal misuse involving an NPO. This is almost certainly an under-representation of actual misuse and reflects the reportedly high levels of under or non-reporting by NPOs to authorities.

Under-reporting is due to a lack of awareness of appropriate reporting channels, perceived poor response by authorities, and fear of reputational damage. Some sector representatives stated NPOs are more likely to report misuse to their bank rather than police or a regulator.

- Third parties acting as agents on behalf of an NPO may appear suspicious if their relationship to the NPO is not known to the reporting entity. For example, an NPO employee may make a number of legitimate cash deposits into the NPO's bank account. If the bank does not know that the transaction was conducted on behalf of the NPO, this activity would appear highly suspicious.

While trusts are recognised as attractive money laundering vehicles, charitable trusts are subject to greater transparency requirements and regulation. This helps mitigate the risk of misuse and exploitation of obscure structures afforded by other trusts. This assessment identified one example of a charitable trust being used to avoid taxation obligations.

NPOs AS A VEHICLE TO LAUNDER MONEY

NPOs are probably being used only to a limited extent to launder proceeds of crime on behalf of criminal entities. While money laundering was the most common suspected offence type reported in SMRs in the last five years, this offence type is probably over-reported. Reasons for this include:

- The nature of some legitimate NPO financial activity resembles money laundering methods (also known as typologies). For example, NPOs regularly receive low-value donations in cash, via electronic bank transfer or through online payment systems. This can appear as frequent deposits into a bank account, followed by large cash withdrawals or sporadic transfers to various accounts—on and offshore. While in most cases legitimate, this activity mirrors patterns seen in criminal cases.

PREDICATE CRIMES

Fraud/theft

Fraud and theft of resources are likely to be the primary threats facing the NPO sector. Of all investigations conducted by NPO regulators and law enforcement agencies into suspected NPO misuse between 2012 and 2016, nearly all related to fraud or theft of resources. This aligns with anecdotal reporting from sector representatives. Other reasons for investigation included:

- falsifying documentation
- altering payee and payment amounts on cheques
- collusion among tenderers and falsifying quotes submitted in tender processes
- falsifying qualifications relating to scholarship applications
- false invoicing and billing by partners and sub-contractors.

Offences are reportedly committed by NPO personnel and affiliates at all levels - including senior executives, volunteers and partners (onshore and offshore) - and are largely opportunistic, involving simple financial methods. However, in some instances individuals have used more complex methods, such as multiple business and banking structures, to mask their activities.

Relative to the estimated size of the criminal economy, the value of funds attached to the above offences involving NPOs is very low. For suspected matters between 2012 and 2016, values ranged from \$6,500 to \$800,000 for each offence. In proven matters, the value totalled approximately \$3.8 million for the same time period.

While these amounts are small compared with other financial crimes,⁸ they can have a significant impact depending on an NPO's size and the amount of money it handles.

FAKE NPOs

In 2016 alone, the Australian Competition and Consumer Commission recorded 1,172 reports of fake NPOs that resulted in approximately \$110,008 total public losses.⁹ These figures reflect reported cases only. The actual value of public losses is almost certainly higher.

Cyber-enabled fraud

Many large, well-established charities report that they are often the target of cyber-enabled fraud attacks by unknown persons external to their NPO. Attacks primarily include 'phishing'¹⁰ and the use of ransomware¹¹ to access funds or sensitive information held by the organisation. Although this threat has been apparent in the sector for several years, it has recently been growing in scale and sophistication, and the complexity is fast outgrowing preventative controls.

8 Organised fraud is estimated to cost \$6.3 billion a year. Australian Criminal Intelligence Commission, *The costs of serious and organised crime in Australia 2013-14*.

9 See <https://www.scamwatch.gov.au/types-of-scams/fake-charities> for up-to-date statistics regarding fake NPOs.

10 Phishing is typically carried out by email or instant messaging, and often directs users to enter personal information at a fake website that looks and feels almost identical to the legitimate one. Communications purporting to be from social websites, auction sites, banks, online payment processors or IT administrators are often used to lure victims. Phishing emails may contain links to websites that are infected with malware (malicious software).

11 Ransomware is computer malware on a victim's device. Simple ransomware may lock the system and display a message requesting payment to unlock it. More advanced malware encrypts the victim's files, making them inaccessible, and demands a ransom payment to decrypt them.

Tax evasion

Between 2012 and 2016, eleven SMRs were reported to AUSTRAC concerning suspected tax evasion through an NPO. In these cases, complex and multilayered business structures were used to avoid detection.

While volume of this activity is almost certainly low, law enforcement authorities report several suspected cases of individuals establishing an NPO solely to minimise or evade tax obligations. The volume of NPO fund flows to tax secrecy jurisdictions and financial hubs provides an opportunity to mask wealth as legitimate business transfers (see the section titled 'Links to high-risk countries').

SECTOR EXPERIENCES OF CRIMINAL MISUSE – RESPONSES TO THE NATIONAL SURVEY

"A person in charge of funds for a group of beneficiaries misappropriated funds for himself (country context we were working in has a lot of corruption). He publicly apologised to the community and admitted this wrongdoing, but there were no subsequent actions undertaken."

"Excessive entitlement and use of travel and credit cards by individual involved with the charity."

"Tools and equipment left in country to be available for use on next visit, disappeared, believed stolen, and sold for funds for personal use. Culprit/s reprimanded and advised no further assistance will be provided to him/them."

"Stealing of funds, offender not convicted and put on a diversion order."

"FUNDS BEING USED EXTENSIVELY FOR THE PERSONAL BENEFIT OF MEMBERS (ONE IN PARTICULAR). NO ACTION TAKEN BY AUTHORITIES."

"The high level of cash payments was unexpected at a particular event and appropriate numbers of trained staff and physical controls were not planned for and applied. Cash was stolen from a table where the entry fees were being collected."

/ ACNC CASE STUDY

Profiting from charitable funds

About the charity

A medium-sized charity that collects and donates blankets and clothing to the homeless, and provides personal development courses to young people.

Why ACNC got involved

A new board uncovered poor governance practices, which resulted in responsible persons profiting from the charity. These board members contacted and notified ACNC of the breach.

What action ACNC took

ACNC commenced an investigation and worked with the charity to determine how its charitable funds had been used. ACNC identified related-party transactions that were established to provide a private benefit. The investigation reviewed the current policies and procedures in the charity, especially those that protected the charity's assets and funds, and recommended areas for improvement.

What ACNC found

The charity's responsible persons had in the past awarded contracts to related parties who were profiting from the charity's activities. The charity's actions demonstrated its responsible persons had not acted in the best interests of the charity, conflicts of interest were not declared or managed appropriately, and the charity's finances were not managed responsibly.

What were the consequences?

The charity demonstrated a genuine commitment to working with ACNC to address areas of non-compliance. It removed the responsible persons who had allowed the poor governance and related-party transactions to occur. ACNC entered into a voluntary undertaking with the charity to improve its governance and financial management.

LESSONS FOR OTHER NPOs

NPOs must ensure conflicts of interest are declared and managed by responsible persons. NPOs must also ensure they have robust financial approval and expenditure processes, and that responsible persons are acting in the NPOs best interests at all times.

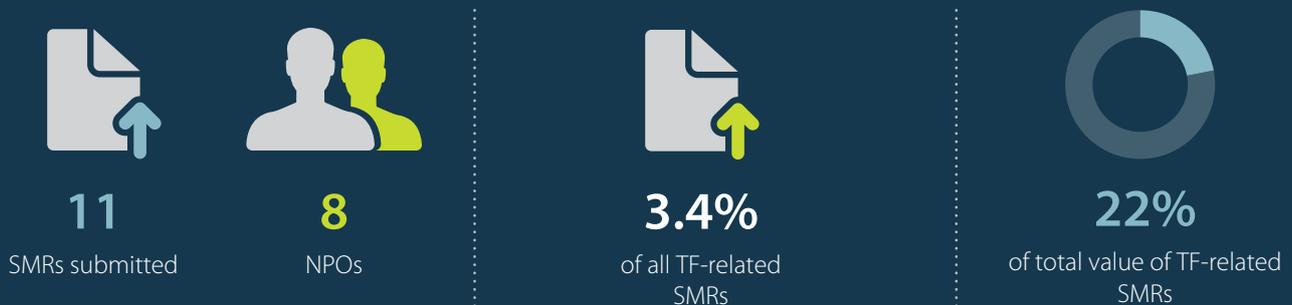
/TERRORISM FINANCING

THE THREAT OF TERRORISM FINANCING IN THE NPO SECTOR IS ASSESSED AS MEDIUM. THIS IS BASED ON THE VOLUME OF SUSPICIOUS MATTER REPORTING TO AUSTRAC, INTELLIGENCE HOLDINGS AND THE NUMBER OF NPOs IDENTIFIED DURING COUNTER-TERRORISM INVESTIGATIONS.

While significant in the current terrorism financing environment, the value of suspected terrorism financing involving NPOs is low compared with the economic size of the sector. This highlights the importance of identifying the subset of high-risk NPOs, rather than looking at the issue through a broad sector-wide lens.



Terrorism financing SMRs with direct link to NPOs (2016 only)



* Statistics from 2012-2016

NPOs are increasingly identified as directly or indirectly linked to individuals under investigation for terrorism offences. However, whether the NPO is being misused for terrorism financing is difficult to determine. This assessment has also identified a number of NPOs assessed to be potentially at higher risk of terrorism financing (see Higher-risk terrorism financing subset on page 42).

The relatively small number of specific NPO cases reflects the complexity in investigating and prosecuting terrorism financing matters more generally.¹² It also reflects Australia's broader counter-terrorism strategy of disruption, which gives priority to the most effective tools available to prevent or disrupt a particular terrorist threat. This can include prosecuting an individual for non-terrorism-related offences when there is insufficient evidence to support a terrorism-related charge.

INVESTIGATING AND PROSECUTING TERRORISM FINANCING - A CHALLENGING TASK

Authorities face challenges in investigating and prosecuting cases of suspected terrorism financing. For offshore funds flows, lines of enquiry can be slow and not produce clear and usable results.

With respect to both domestic and overseas investigations, proving intent or recklessness on the part of the alleged terrorism financier can be difficult. For offshore funds flows, this is particularly the case when money is sent to overseas organisations that deliver legitimate humanitarian aid and social services as well as engage in terrorist activities.

12 Since 2014, five individuals have been found guilty of terrorism financing offences, including foreign incursions offences relating to financing another person to engage hostile activities in a foreign country.

In known and suspected instances of terrorism financing, NPOs have primarily been used to raise funds in Australia and transfer money offshore (via banking and remittance channels), for individuals or terrorist groups engaged in foreign conflict. In most cases, donors probably believe they are contributing to a legitimate cause. Funds are then suspected to be diverted by senior NPO personnel to finance offshore terrorist activity, or are siphoned by local offshore terrorist groups. In some instances, individuals have demonstrated a moderate level of sophistication including:

- deliberate and prolonged attempts to infiltrate three separate NPOs by three different individuals—once in a position of trust, funds were diverted to support or finance terrorism activity
- use of multiple bank accounts and conduit countries to layer and disguise money movements
- use of online platforms to solicit funds, taking advantage of the anonymity and global reach to potential donors these platforms offer
- use of informal value transfer systems such as 'hawala' that are difficult to detect and regulate.

It is assessed as unlikely that NPOs are currently being used to raise funds for domestic terrorist activity. However, this could change as Australia's threat environment continues to evolve.

Between 2012 and 2016, there were 28 SMRs submitted with a total value of \$5.6 million (with an average value of over \$200,000 per SMR). While significant in the terrorism financing environment, this is a small amount compared with the sector's overall income during the same period.

While NPOs were linked to only three per cent of all terrorism financing-related SMRs submitted to AUSTRAC in 2016, those reports amounted to 22 per cent of the total value of terrorism financing-related SMRs. This indicates the misuse of NPOs is limited in extent, but the channel continues to be attractive to financiers of terrorism because NPOs have the capacity to raise and move large amounts of funds (as demonstrated in the average value of terrorism financing-related SMRs).

FAKE NPOs RAISING TERRORISM FUNDS

Fake NPOs generally appear or 'pop up' after a natural disaster or the outbreak of an overseas conflict. Social media and crowdfunding platforms are sometimes used to solicit donations and raise funds. Individual fundraisers exploit unwitting donors' good intentions and at times specifically target certain ethnically diverse communities. In these instances, funds are almost always transferred offshore to support an overseas conflict or assist Australian foreign fighters.

ACNC CASE STUDY

Charity revoked by ACNC

About the charity

A medium-sized charity that provides humanitarian aid and relief in a country considered high risk for terrorism financing. The charity had three responsible persons who were immediate family members.

Why ACNC got involved

ACNC wanted to ensure that the funds sent overseas to high-risk areas were being used for charitable purposes and not vulnerable to misuse, including the potential for terrorism financing.

What action ACNC took

ACNC commenced an investigation into the charity. It examined the charity's activities and the controls it had in place to protect its charitable funds and assets both in Australia and overseas.

What ACNC found

The ACNC investigation found significant deficiencies in the charity's governance. This included:

- the charity had no mechanisms to monitor or protect funds and assets once they left Australia
- financial affairs were not managed responsibly
- appropriate records were not kept
- the responsible persons had not exercised due diligence into overseas partners.

What were the consequences?

The charity's registration was revoked. ACNC determined that there had been a serious breach of governance standards and record keeping. While the charity made some efforts to improve its systems and processes, it was not able to satisfy ACNC that its charitable funds were adequately protected.

LESSONS FOR OTHER NPOs

NPOs should ensure their funds and assets are monitored and secure. This includes funds being sent overseas and when working through partners. NPOs need to have effective policies and processes in place, including strong financial controls, and exercise a high degree of due diligence and ongoing monitoring of overseas partners, staff, volunteers and contractors.

HIGHER-RISK TERRORISM FINANCING SUBSET - MEETING INTERNATIONAL REQUIREMENTS

LEGAL STRUCTURE

- 59% incorporated associations
- 22% public company
- 8% other unincorporated entity



MAIN PURPOSE OF THEIR ACTIVITY

- 80% 'service' oriented
- 20% 'expressive' (almost all are 'religion' related)



SIZE (BASED ON ANNUAL TURNOVER)

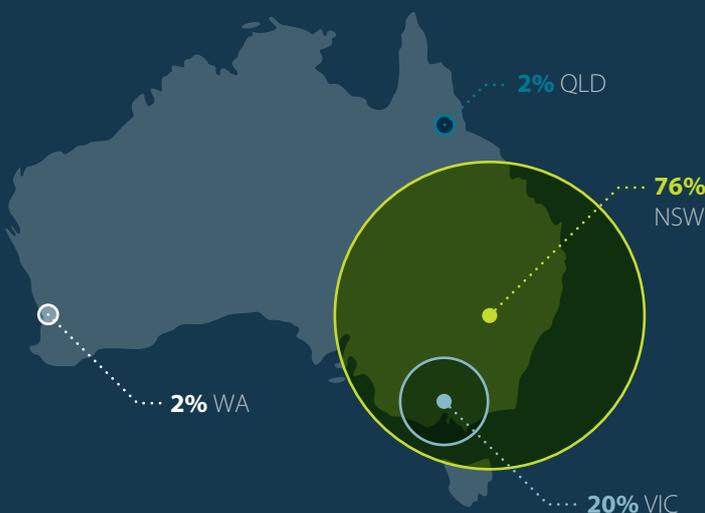
- 39% small
- 20% large
- 16% medium
- 24% unknown

NUMBER OF YEARS IN OPERATION

- 57% 1-4 years
- 14% 10-20 years
- 10% < 20 years
- 10% 5-9 years
- 8% > 1 year

LOCATION OF OPERATIONS IN AUSTRALIA

(registered address of the organisation)



INTERNATIONAL AND/OR DOMESTIC OPERATIONS

- 33% domestic only
- 33% international
- 35% unknown/unable to be determined



71%

linked to one or more TTR



55%

linked to one or more IFTI report



55%

linked to one or more SMR

International AML/CTF standards require countries to identify the subset of NPOs which, due to their activities or characteristics, are likely to be at risk of terrorism financing abuse. Focusing on the subset most at risk, instead of the whole sector, is intended to enable a targeted and proportionate response to outreach and monitoring. It also recognises that not all NPOs are inherently high risk and some may represent little or no risk.

This assessment identified a number of NPOs considered to be potentially at higher risk of terrorism financing due to indicators of misuse in financial and other intelligence holdings. These NPOs were examined to identify common characteristics and indicators of vulnerability. The results represent a baseline assessment that can be updated as required, particularly as Australia's threat environment evolves. In addition, the NPOs identified in this subset will be investigated to determine whether further action is required.

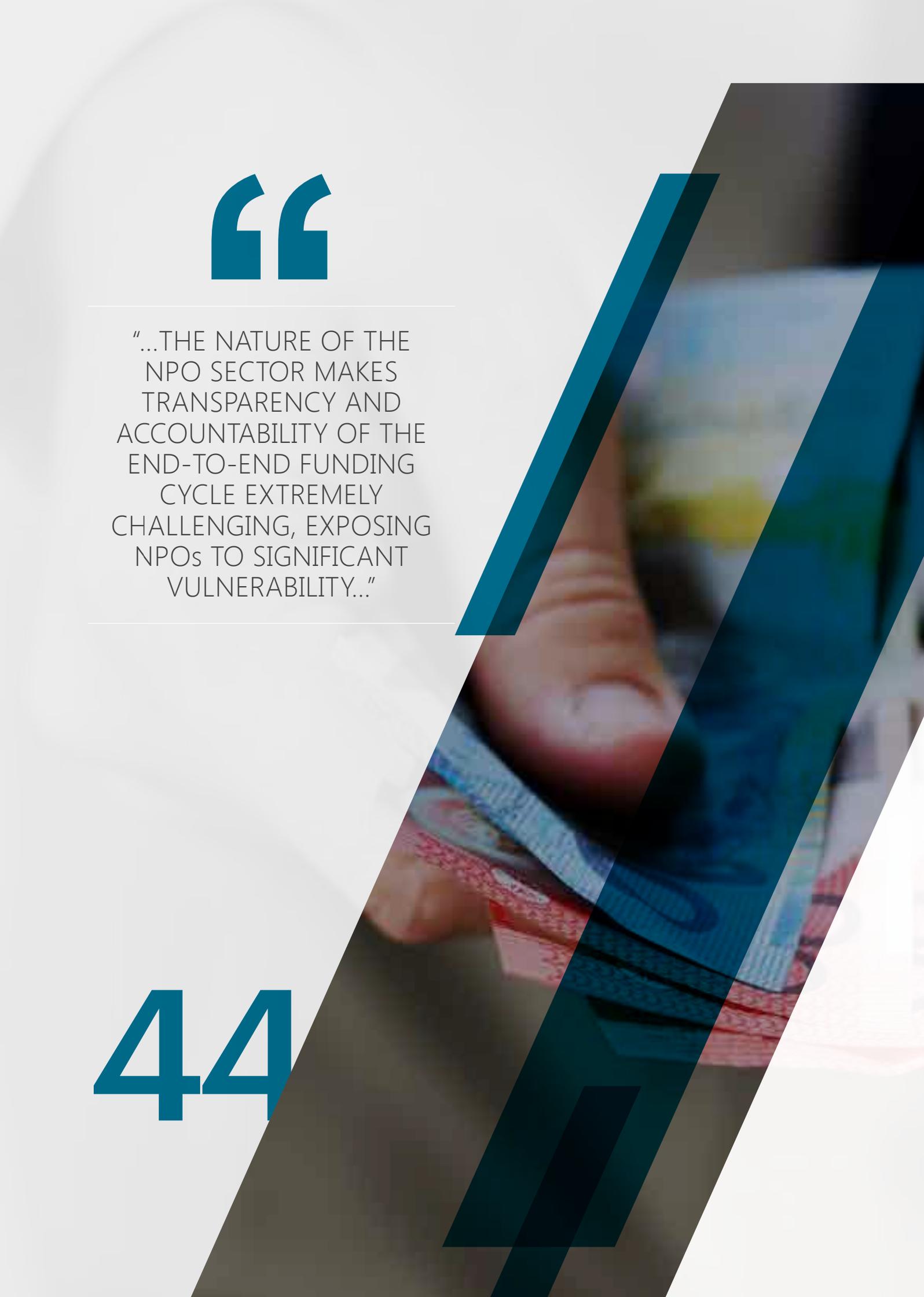
Nearly one quarter (22 per cent) of NPOs in the higher-risk subset did not have a footprint (that is, any recording) in AUSTRAC holdings. This may be due to these entities:

- handling small amounts of cash (that is, below the AUD10,000 reporting threshold to AUSTRAC)
- using electronic payment systems to move funds domestically (that is, not captured by reporting to AUSTRAC unless a suspicion is raised or AUSTRAC has requested this information from a reporting entity)
- moving funds offshore outside regulated mainstream banking and remittance channels
- using personal banking accounts instead of business accounts held in the NPO's name.

CHARACTERISTICS OF THE SUBSET OF AUSTRALIAN NPOs AT RISK OF TERRORISM FINANCING ABUSE

In Australia, NPOs that may be at higher risk of terrorism financing are more likely to be:

- a legal entity (there is no evidence that sham NPOs are being established)
- an incorporated association
- small (low annual turnover)
- based mainly in NSW
- relatively newly established
- service oriented
- linked to at least one large cash transaction
- linked to at least one international transfer into or out of Australia – with a high likelihood that IFTI activity will involve a high- risk terrorism financing country
- linked to one or more SMR.



“...THE NATURE OF THE NPO SECTOR MAKES TRANSPARENCY AND ACCOUNTABILITY OF THE END-TO-END FUNDING CYCLE EXTREMELY CHALLENGING, EXPOSING NPOs TO SIGNIFICANT VULNERABILITY..”

44

VULNERABILITIES

THE ONLY NOTABLE DIFFERENCE BETWEEN MONEY LAUNDERING AND TERRORISM FINANCING VULNERABILITIES RELATES TO LINKS WITH HIGH-RISK COUNTRIES. NPOs LINKED TO HIGH-RISK TERRORISM OR TERRORISM FINANCING COUNTRIES (EITHER CONDUCTING OPERATIONS OR SENDING FUNDS TO THESE COUNTRIES) ARE SLIGHTLY MORE VULNERABLE TO MISUSE, PARTICULARLY IN THE TERRORISM FINANCING CONTEXT WHERE SMALL SUMS OF MONEY CAN CAUSE HIGH LEVELS OF HARM.

Money laundering



It is assessed that the NPO sector carries a **medium** vulnerability to money laundering.

Terrorism financing



It is assessed that the NPO sector carries a **medium** vulnerability to terrorism financing.

| Category of vulnerability | Money laundering | Terrorism financing |
|--|------------------|---------------------|
| Prevention measures | ● | ● |
| Regulation | ● | ● |
| National cooperation and coordination | ● | ● |
| Links to high-risk countries | ● | ● |
| Transparency and accountability of money movements | ● | ● |

01 PREVENTION MEASURES

| Category of vulnerability | Money laundering | Terrorism financing |
|---|------------------|---------------------|
| Understanding of criminal misuse and terrorism financing risk | | |
| Due diligence and probity checks | | |

NPO UNDERSTANDING OF CRIMINAL MISUSE AND TERRORISM FINANCING RISKS VARIES SIGNIFICANTLY ACROSS THE SECTOR. THE CAPACITY OF NPOs TO EFFECTIVELY RESPOND TO RISKS LIKEWISE VARIES - HOW AN ORGANISATION PROTECTS ITSELF FROM MISUSE IS OFTEN TIED TO ITS CULTURE.

ACROSS THE SECTOR THERE IS AN OVER-RELIANCE ON TRUSTED RELATIONSHIPS. THE TYPES AND EXTENT OF DUE DILIGENCE CONDUCTED ON KEY PERSONNEL, VOLUNTEERS, PARTNERS AND BENEFICIARIES SHOULD BE STRENGTHENED.

Understanding of risk

Understanding of risk varies significantly across the sector. Large and more established NPOs generally better understand their risks and can employ more robust risk mitigation frameworks. On the other hand, small and medium organisations can have stronger internal oversight and control of their daily activities, which allows them to detect suspicious behaviour. Most, but not all, NPOs operating internationally review their activities and assess their risks on a regular basis.

The sophistication of risk mitigation frameworks and strategies NPOs have in place also varies significantly. It depends largely on an NPO's risk appetite and whether they have sufficient resources to implement appropriate controls. For many small-to-medium NPOs, provision of staff training and support to increase risk awareness is inconsistent. For most NPOs, the high turnover of volunteer staff impacts the continuity of training and risk awareness.

UNDERSTANDING AND MITIGATING RISK

The following statistics provide an indicator of how well NPOs understand their obligations, and whether they have the right systems in place to mitigate the risk of misuse. Self-reporting by NPOs that have experienced misuse largely aligns with findings from compliance activity by the ACNC or ATO. Generally, the most common reasons for misuse or adverse compliance action relate to poor financial management and controls, and insufficient due diligence.

RESULTS OF NATIONAL SURVEY

How did criminal misuse/terrorist financing occur?



COMPLIANCE INVESTIGATIONS 2014-16



ACNC CHARITY REVOCATIONS: 28



*These cases represent income tax reviews and audits of NPOs and does not reflect the full range of compliance action undertaken by the ATO for the population.

MISCONCEPTIONS OF TERRORISM FINANCING RISK

There are common misconceptions that only NPOs involved in overseas activities are vulnerable to terrorism financing. This view does not recognise the vulnerabilities domestic NPOs face that have strong communal links to high-risk countries. These NPOs can be at higher risk, wittingly or otherwise, of supporting or funding foreign fighters and violent extremism in Australia.

There are also common misconceptions that small NPOs carry a lower risk of misuse due to low amounts of fundraising. However, in the terrorism financing context, only small amounts of money are required to cause high levels of harm. Small NPOs with limited capacity to identify and mitigate risks may also be vulnerable to exploitation.

Responses to national survey

“Low Risk - no transactions with overseas parties.”

“WE ONLY DEAL WITH LOCAL PEOPLE AND ORGANISATIONS SO TERRORIST ORGANISATIONS PRESENT LITTLE OR NO RISK.”

“Australia is not known for terrorist activity.”

“Low income, low risk.”

“Most donations are less than \$200.”

Due diligence and probity checks

Most NPOs report they conduct some level of due diligence on employees and volunteers. However, few NPOs conduct checks that would identify criminal conduct. Often the level of due diligence conducted on employees and volunteers depends on the nature of the individual's role within the organisation and their access to information, finances or beneficiaries. Senior staff and those with more financial responsibilities are generally subject to greater due diligence checks.

Fewer organisations apply the same level of due diligence to contractors, partners and beneficiaries. The oversight and control over third parties also varies depending on the regulatory scheme an NPO falls under.

For example, organisations that receive DFAT funding are subject to stringent accreditation and reporting requirements. However, for organisations operating overseas, due diligence on offshore partners and beneficiaries can be extremely challenging because:

- access to timely and accurate information can be impeded by language or cultural barriers, local conflict, political instability or natural disaster
- smaller charities often rely on third-party due diligence or probity reports because they do not have the resources to conduct in-person visits
- overseas partners may also partner with, or sub-contract to, other individuals/groups outside the control and visibility of the Australian NPO.

WHAT IS THE APPROPRIATE LEVEL OF DUE DILIGENCE?

The capacity to conduct appropriate due diligence checks is compounded by the large number of individuals involved in the NPO sector. It is Australia's second-largest employer: in 2015, approximately 4 million people worked or volunteered for a charity (figures for the entire NPO sector would be higher).

At a minimum, organisations should check their contractors, partners and beneficiaries against Australia's list of terrorist organisations and the DFAT consolidated list (see below).

List of terrorist organisations

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

Consolidated list

DFAT maintains a list of all persons and entities subject to targeted financial sanctions or travel bans under Australian sanctions laws (available at dfat.gov.au).

Listings for targeted financial sanctions are distinct from listings under the Criminal Code and impose separate legal obligations. It is a serious criminal offence making assets of any kind, including funds, available to a listed person or entity, or to use or deal with a listed person or entity's assets.

SMRs LINKED TO KEY NPO PERSONNEL

To better understand the extent of potential misuse of an NPO by key personnel, analysis was conducted on all SMRs submitted to AUSTRAC between 2012 and 2016 that were linked to responsible persons of charities or NPO directors.

During this period, 1,795 SMRs were submitted with a total value of \$596 million. While some of these reports probably relate to personal financial transactions (as opposed to transactions conducted on behalf of the NPO), these individuals may pose a risk to the integrity of the NPO sector.

Key features of these reports include:

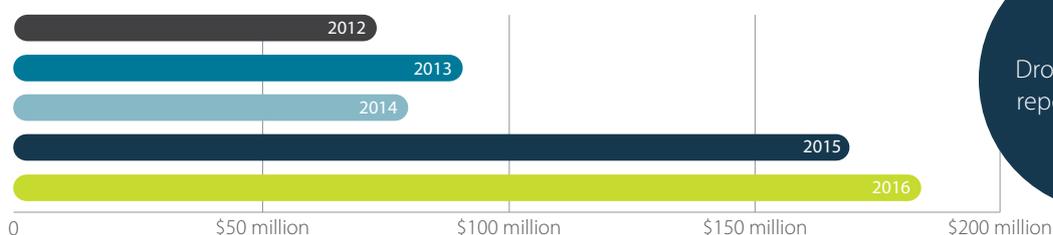
- Some key personnel are suspected to be avoiding reporting obligations, using fake identity documents and engaging in unusual gambling activity.
- Some key personnel may be using personal bank accounts to conduct financial transactions on behalf of the NPO.
- Most key personnel reside in New South Wales and Victoria.
- In 2015, the value of SMRs increased sharply. The value again increased in 2016, despite the number of reports dropping significantly. The reason for this shift to fewer but higher-value reports is unclear and further analysis is required to identify relevant implications for industry and the NPO sector.



Some key personnel are suspected to be avoiding reporting obligations, using **fake identity documents** and engaging in **unusual gambling activity**.



TREND ANALYSIS



2015
Drop in number of reports submitted, increase in value

02 REGULATION

| Category of vulnerability | Money laundering | Terrorism financing |
|-------------------------------|------------------|---------------------|
| Domestic regulatory landscape | ● | ● |

THE LEVEL OF OVERSIGHT AND CAPACITY TO EFFECTIVELY MONITOR NPOs VARIES SIGNIFICANTLY ACROSS DIFFERENT REGULATORS. THESE DIFFERENCES ARE COMPOUNDED BY THE SIZE OF THE SECTOR AND GAPS IN CURRENT REGULATORY FRAMEWORKS THAT LEAVE SOME NPOs OPEN TO MISUSE.

IT IS POSSIBLE TO ESTABLISH AND OPERATE A SHAM NPO. DESPITE THIS, THERE IS NO EVIDENCE THAT SHAM NPOs HAVE BEEN ESTABLISHED FOR THE SOLE PURPOSE OF TERRORISM FINANCING.

Domestic regulatory landscape

The regulatory landscape is multi-layered operating across Commonwealth, State and Territory requirements. This can cause uncertainty for members of the public in terms of knowing where best to report. Various regulatory requirements may also lead to the shifting of NPO resources and responsibility to meet various requirements.

The following gaps leave some NPOs open to misuse:

- **Limited third-party oversight and supervision.** While most NPOs are required to fulfil some form of financial reporting obligation, many only self-assess governance arrangements, risk mitigation and control strategies, and are not subject to independent oversight.

- **The lack of a consistent national framework** provides opportunities for non-compliant NPOs to move between different jurisdictions to avoid detection. It also results in inconsistent levels of outreach and support for vulnerable NPOs.
- **Exemptions for many religious NPOs.** For example, religious NPOs do not require a fundraising licence in most jurisdictions, and 'basic religious charities'¹³ do not need to comply with the ACNC governance standards.
- **Limited international reach.** Legislation relating to international fraud and corruption does not provide agencies with a strong reach outside Australia. This limits capacity to ensure appropriate controls are in place with foreign partners of Australian NPOs, address breaches, or investigate suspected criminal activity that occurs outside Australia.

As was noted in the discussion on Australia's AML/CTF Framework, AUSTRAC does not directly regulate the NPO sector. Requirements for supervision and monitoring of NPOs potentially at risk of money laundering and terrorism financing is mitigated in the following ways:

- counter-terrorism authorities are attuned to NPO vulnerabilities and engage with NPOs as required
- ACNC conducts specific outreach on terrorism financing risks and is looking to develop external conduct standards for registered charities operating outside Australia.
- transaction reporting, particularly on suspicious matters, to AUSTRAC provides a reasonable degree of visibility over financial activity that is used to monitor NPOs and provide intelligence leads.

¹³ A basic religious charity is defined in section 205 of the *ACNC Act 2012*. It is a registered charity with the sole purpose of advancing religion. It cannot be an incorporated association and cannot receive \$100,000 or more in government grants.

THE COST OF COMPLIANCE

Every year, registered charities spend a combined \$35 million to meet regulatory requirements.¹⁴ While the importance of strong compliance regimes cannot be understated, NPOs must balance administrative costs with public expectation that funds will be used on program delivery.

ACNC recognises the financial and resource implications of the complex regulatory landscape and is leading a program of work to:

- reduce administrative red-tape for charities
- harmonise reporting requirements across the sector
- improve coordination of regulatory and law enforcement responses.

Visit ACNC's website for further information: www.acnc.gov.au

FAKE NPOs

Fake NPOs conducting online fundraising campaigns can pose a particular problem for regulators. Individuals generally use a fake name and seek to avoid oversight and reporting required of legitimate NPOs. While fundraising licences are required in most jurisdictions—including for online fundraising activities—non-compliance is high. Regulators often do not have the necessary resources to effectively monitor and enforce licencing requirements.

For donors, public information to confirm the legitimacy of a fundraising appeal is limited, increasing their risk of unwittingly donating to a fraudulent cause.

The recent introduction of the ACNC 'charity tick' will help the public identify registered charities.

LACK OF COMPULSORY REGISTRATION

NPOs are not required to register at either the Commonwealth or state/territory level unless they are incorporated or conduct fundraising activities. The Commonwealth does not have specific legislative power under the Australian Constitution that enables it to regulate the NPO sector. It may therefore not be possible to introduce a compulsory registration scheme for all NPOs at the Commonwealth level without a referral of legislative power from the states. However, there may be scope to rely on the external affairs power under the Australian Constitution to introduce additional regulatory requirements for NPOs operating overseas, or whose Australian operations have an impact overseas.

PEAK BODIES

Some peak bodies play a role in reducing the risk of NPO misuse. Some provide recommendations for best practice, while others require members to meet a code of conduct. However, membership is voluntary and there is no uniform standard of governance requirements. Coverage of relevant NPOs can also be patchy. For example, only a limited number of NPOs involved in international aid and development activities are members of ACFID.¹⁵

ESTABLISHING A 'SHAM NPO'

According to sector representatives it is possible to establish sham NPOs under the current regulatory landscape and can be difficult to detect or discern from a legitimate NPO. With respect to criminal misuse, the risk posed by sham NPOs is partly mitigated by the challenge of soliciting large amounts of public funds.

Responses to the national survey

"It is very easy to set up a legitimate legal structure which can subsequently be used for nefarious purposes."

"A sham organization may find it quite easy to get 'lost' in the myriad of non-profits already established...and not everyone can be microscopically examined."

"It is easy to establish a company and charity and deceive the community because transparency is often lost in terms of knowing who actually receives the benefit of funds."

"Most of the controls currently in place depend on unaudited paper trails not face-to-face investigation."

¹⁴ Deloitte Access Economics, Cutting Red Tape Report, 2016.

¹⁵ Approximately 3,190 charities report sending funds overseas for aid and development, but only 130 are ACFID members.

03 NATIONAL COOPERATION AND COORDINATION

| Category of vulnerability | Money laundering | Terrorism financing |
|---------------------------------------|------------------|---------------------|
| National cooperation and coordination | ● | ● |

THE CAPACITY TO PROACTIVELY DETECT AND DISRUPT HIGH-RISK NPOs IS IMPROVING, PARTICULARLY IN RELATION TO TERRORISM FINANCING MATTERS. HOWEVER, INFORMATION EXCHANGE AND COOPERATION BETWEEN REGULATORS, LAW ENFORCEMENT AND NATIONAL SECURITY AGENCIES CAN BE IMPROVED.

EARLY DETECTION OF TERRORISM FINANCING ACTIVITY REQUIRES TIMELY AND ONGOING INFORMATION SHARING AMONG INDUSTRY, AUSTRAC AND NATIONAL SECURITY AGENCIES, AND SUPPORT BY NPO REGULATORS AND NPOs THEMSELVES WHERE APPROPRIATE.

With regard to terrorism and terrorism financing matters, law enforcement and national security agencies have in place effective cooperation and coordination protocols. These are underpinned by a sound enabling legislative framework, particularly for information sharing. However, understanding of the NPO regulatory landscape could be improved. While ACNC is increasingly involved in disruption activities involving NPOs, cooperation with other NPO regulators (including states and territories) may assist proactive identification of high-risk NPOs, as well as alternative targeting strategies.

Regarding criminal misuse of NPOs, information exchange and cooperation between NPO regulators and law enforcement agencies could be strengthened. While some state/territory agencies have well-established and functional working relationships, information sharing often depends on informal relationships rather than formal instruments. Information exchange and cooperation work best when supported by a broad-based enabling legislative framework that clearly identifies and authorises the agencies and types of information that can be exchanged.

Through innovative and collaborative strategies like the National Disruption Group (NDG) and Fintel Alliance, new avenues for information exchange and cooperation between law enforcement and non-traditional law enforcement partners are being realised.

NATIONAL DISRUPTION GROUP

The NDG brings together the Australian Federal Police and its partner agencies to coordinate operational disruption activities nationally and internationally. This aims to counter the enduring threat posed by foreign fighters.

The NDG includes a Diversion Team. It consolidates the capabilities of participating agencies to prevent, disrupt and prosecute Australian nationals who travel or intend to travel offshore to engage in hostilities and/or undertake terrorism training, as well as those providing support to them.

The NDG is a world-leading example of alternative disruption strategies and unique collaboration among a wide range of government agencies, including non-traditional law enforcement and national security partners.

FINTEL ALLIANCE

Led by AUSTRAC, Fintel Alliance is a world-first private-public partnership to combat money laundering and terrorism financing. It combines expertise and skills from AUSTRAC, law enforcement, national security, regulatory, academia and private sector partners, to allow timely sharing of actionable intelligence.

04 LINKS TO HIGH-RISK COUNTRIES

| Category of vulnerability | Money laundering | Terrorism financing |
|--|------------------|---------------------|
| Operations in high-risk countries (compared with overall sector) | | |
| Communal or family ties to high-risk countries | N/A | |
| Value of funds sent to high-risk countries | | |

ONLY A RELATIVELY SMALL NUMBER OF NPOs OPERATE IN HIGH-RISK COUNTRIES FOR TERRORISM FINANCING, OR IN AUSTRALIAN COMMUNITIES WITH STRONG LINKS TO THOSE COUNTRIES. HOWEVER, THESE NPOs MAY BE MORE VULNERABLE TO ATTEMPTED MISUSE BY TERRORISM FINANCIERS OR THEIR ASSOCIATES.

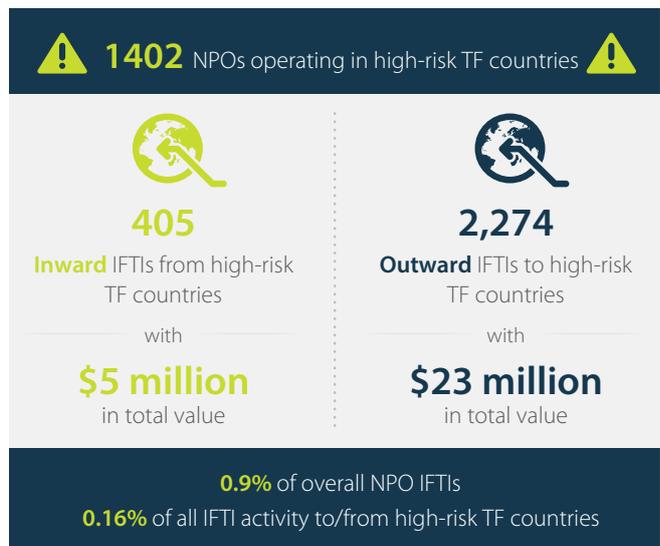
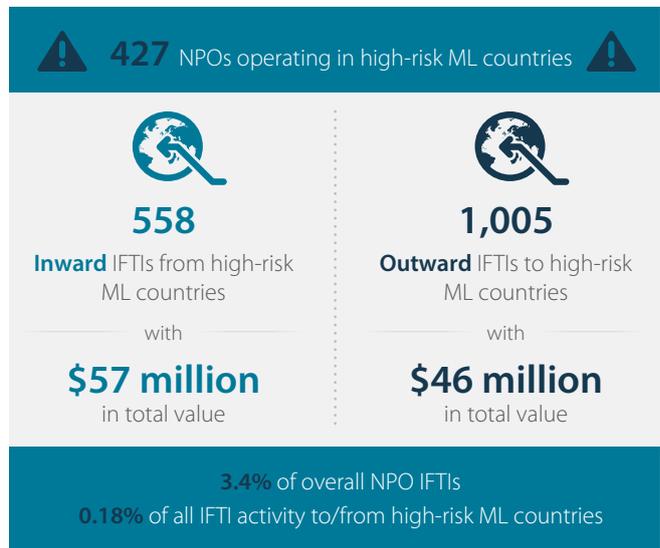
NPO FUNDS FLOWS WITH TAX SECRECY JURISDICTIONS ARE HIGHER THAN EXPECTED AND REQUIRE FURTHER ANALYSIS TO BE UNDERSTOOD.

RATING THIS SECTION

This assessment considers a high-risk country as one that has weak measures to combat money laundering and terrorism financing. For money laundering, this includes known tax secrecy jurisdictions. For terrorism financing, this includes countries that are in conflict and post-conflict situations, as well as known conduit countries for terrorism fund flows.

In rating high-risk countries, **only ACNC-registered charities** were considered. ACNC is the only NPO regulator that systematically captures information regarding an NPO's overseas activities. Visibility of overseas activities of the remaining NPO population varies, but the figure is probably low.

The 'value of funds sent to high-risk countries' risk factor considered funds flows of all NPOs captured under the ATO regulatory scheme (approximately 193,000 NPOs). This analysis helped identify NPOs who may be engaging in some type of overseas activity.



Operations in high-risk terrorism financing countries

Less than three per cent of all registered charities operate in a high-risk terrorism financing country. Even fewer receive government funding to deliver aid in these regions. While this comprises a very small proportion of the NPO sector, these entities face significant terrorism financing risks.

Operations are often in remote areas or in the aftermath of a natural disaster, or are in countries with high crime rates or fragile regions in conflict or post-conflict situations. Effective controls are often not in place to ensure local authorities have adequate oversight of operations.

In recent years, there has been an increase in the number of small, less sophisticated NPOs working in high-risk countries. These entities may not have the expertise and tools necessary to mitigate risks of misuse.

NPOs operating in countries where the following conditions prevail are highly vulnerable to misuse of funds for fraud and corruption:

- widespread use of cash and the absence of a proper banking system
- cultural and political values/customs that view bribery and corruption as routine in transactional relations
- in conflict zones, armed factions including terrorist groups impose 'taxes' or extort money for safe passage and to allow local NPOs to operate
- ineffective policing and court systems.

Communal or family ties to high-risk terrorism financing countries

Less than one per cent of NPOs operate in Australian communities that have strong links to high-risk countries for terrorism financing. Of these, only a very small number are believed to be raising funds from the community and sending money offshore. Further analysis is underway to identify these entities to target appropriate education and outreach to mitigate the risk of exploitation. Possible ways these NPOs could be targeted include:

- Individuals request the NPO raise and/or send funds to affiliates or family located in a high-risk country for legitimate aid. The NPO facilitates the transfer in good faith. Once in-country, the funds are diverted and used to finance terrorist activity.
- Individuals might coerce, extort or mislead the NPO to raise and/or transfer funds to support or finance terrorist activity in the high-risk country.
- The NPO provides support (funds or resources) to an individual who then uses the funds to support or finance terrorist activity or violent extremism.

Value of funds sent to high-risk countries

TERRORISM FINANCING

NPOs send and receive a significant amount of money to countries at high-risk for terrorism financing. In 2016, this figure was approximately \$28 million. Based on the threat assessment earlier in this report, most of these funds are assessed as legitimate.

While this amount is less than one per cent of all Australian fund flows with these countries,¹⁶ in the current terrorism financing context it provides a large amount of funds in which money intended for terrorist purposes can be concealed (for example through commingling). These funds are also vulnerable to diversion or siphoning for terrorism financing once they reach these high-risk environments.

MONEY LAUNDERING

In 2016, \$103 million was transferred between Australian NPOs and tax secrecy jurisdictions. This is less than one per cent of all fund flows to these jurisdictions and is probably consistent with the relatively small number of NPOs who report activities in these countries (427).¹⁷

However, the value of fund flows involving some tax secrecy jurisdictions is disproportionately high and greater than expected. This suggests that either some NPOs are not reporting their overseas activities to ACNC, or a number of tax-exempt NPOs are sending funds to tax havens.

Analysis of the governance structures of NPOs operating in tax secrecy jurisdictions also identified the following concerns:

- 50 claim to be basic religious charities. These entities are exempt from financial reporting to ACNC and are not required to comply with the ACNC governance standards.
- 40 operate with only one or two responsible persons. In these circumstances there is limited to no accountability. This perhaps suggests the charity is being used as a vehicle to conceal wealth or launder illicit funds.

The volume of NPO funds flowing through global financial hubs is significant. Most transactions are almost certainly legitimate, as use of financial hubs is routine business. However, the sheer volume of funds flowing through these centres can create a permissive environment to mask wealth and commingle illicit funds with legitimate business transfers.

OVERSEAS CHARITIES PROJECT

ACNC reviewed 7,673 charities that reported either overseas activities or sending funds overseas in 2014. In collaboration with AUSTRAC, the review aimed to identify anomalies in financial or overseas activity reporting to ACNC. The review identified concerns with 129 charities—many were sending funds to, or operating in, a high-risk country. ACNC undertook targeted outreach to ensure these charities were protecting their funds from misuse once sent offshore. ACNC was satisfied that most of the charities had appropriate mitigation strategies in place; however, 10 charities were subject to further review.

16 This figure does not represent funds sent to high-risk terrorism financing countries via conduit countries or financial hubs, or undeclared cross-border movement of cash. Given anecdotal reporting of both activities by sector representatives, the figure is likely to be slightly higher.

17 The number of NPOs operating in tax secrecy jurisdictions is probably higher. Data of overseas activities is only available for NPOs registered with ACNC.

05

TRANSPARENCY AND ACCOUNTABILITY OF MONEY MOVEMENTS

| Category of vulnerability | Money laundering | Terrorism financing |
|---------------------------|------------------|---------------------|
| Collection of resources | ● | ● |
| Retention of resources | ● | ● |
| Transfer of resources | ● | ● |
| Expenditure of resources | ● | ● |
| Delivery of programs | ● | ● |

THE NATURE OF THE NPO SECTOR MAKES TRANSPARENCY AND ACCOUNTABILITY OF THE END-TO-END FUNDING CYCLE EXTREMELY CHALLENGING, EXPOSING NPOS TO SIGNIFICANT VULNERABILITY.

HOW DO NPOS TRANSFER FUNDS?

Based on IFTI reporting to AUSTRAC, nearly all NPOs use mainstream banking channels to send and receive funds offshore. However, use of other channels may be higher than reflected in AUSTRAC information. According to the national survey, one quarter of respondents report using crowdfunding, online payment platforms or cash couriers as the primary source for transferring funds either domestically or overseas. These channels are considered to be higher risk because they are difficult to monitor, and irregular or illicit transactions are hard to detect.

A number of factors limit visibility of the funding cycle:

- the cash-intensive nature of the sector
- internal controls that cannot accurately account for what resources have been stored and where—the identity of the source of funds can become mixed and lost in a consolidated bank account, which can create opportunities for introducing and commingling illicit funds.
- limited visibility of funds once they leave Australia, especially transfers to high-risk countries or where poor AML/CTF regimes exist
- reliance on local partners to expend resources or deliver programs, particularly in high-risk countries or where poor AML/CTF regimes exist, as they may not have appropriate or robust systems and controls in place to counter corruption, criminal misuse or siphoning of funds to terrorist groups—however, local partners may be the only people who can reach the most vulnerable individuals and communities for whom funds are intended
- limited oversight of in-country program delivery for NPOs operating overseas—this can be exacerbated when there are multiple implementing partners and language or cultural barriers.

A lists of vulnerabilities and ‘red flags’ for potential misuse, as well as suggested mitigation measures at each stage of the funding cycle can be found on page 57.

The depth of transparency and accountability an NPO has over its funding cycle is not necessarily dictated by its size. An NPO's ability to detect financial fraud or misuse is more likely to depend on its understanding of risks associated with its operating environment. For example:

- small NPOs who use tight and trusted networks (onshore and offshore) may have better visibility of their end-to-end funding cycle, but often cannot afford external financial or program audits
- large and established NPOs usually have mature internal accounting and auditing practices, but anomalous or suspicious transfers may be easily masked amid the volume of financial transactions
- international NPOs usually have strong risk frameworks to assess partner integrity, but in high-risk operating environments even the most robust systems cannot mitigate all risk.

USE OF CASH

The NPO sector is inherently cash intensive. In many cases, cash is the main or only resource available at the collection and expenditure stages: for example, getting resources on the ground following a major disaster or failed state.

Anecdotally, bank de-risking of NPOs (where banks have closed down business with an NPO) has also led to some entities carrying cash to legitimate partners or beneficiaries overseas, including into high-risk countries. CBM reporting below, while small in number, shows reasonably significant cash amounts (almost \$40,000 on average) moved out of Australia.

AUSTRAC uses TTR and CBM reporting to analyse trends in the use of cash. TTRs demonstrate domestic money movements, while CBM reports demonstrate cross-border money movements.

The value of TTRs illustrates the cash-intensive nature of the sector. The recent decrease in TTR reporting is largely consistent with the drop in IFTI reporting for 2016—suggesting a decline in the overall sector's financial activity. It may also suggest an increase in the use of other non-cash-related systems; for example, electronic funds transfer, crowdfunding or online payment systems.

Refer to pages 23-24 for financial transaction report figures.

Potential vulnerabilities, red flags and mitigation strategies

| Stage | Potential vulnerabilities and red flags | Mitigation strategies |
|--|---|---|
| Collection  | <ul style="list-style-type: none"> • Cash-intensive processes • Anonymity of donors (e.g. source of funds unknown) • Unusually large cash deposits by NPOs i.e. possible commingling of funds • Use of personal bank accounts to receive donations | <ul style="list-style-type: none"> • Record keeping • Staff training and due diligence • Independent audit of collection practices • SMR reporting of suspicious cash activity |
| Storage  | <ul style="list-style-type: none"> • Storing funds outside mainstream channels, e.g. in private residences or sandoogs (cash boxes) • Commingling of funds • Theft of vehicles, laptops, project materials and other assets • False accounting • False invoices | <ul style="list-style-type: none"> • Record keeping • Routine spot checks • Staff training and due diligence • Independent audit of storage practices |
| Transfer  | <ul style="list-style-type: none"> • Use of high-risk channels, e.g. cash couriers, alternative remittance, hawala • Overseas transfers to high-risk countries/regions for corruption, money laundering, terrorism financing • Commingling of funds • False accounting • False invoices • Unusually large cash withdrawals followed by international travel | <ul style="list-style-type: none"> • Record keeping • Routine spot checks • Staff training and due diligence • Independent audit of transfer practices • Authorisation processes • SMRs of suspicious cash activity |
| Expenditure  | <ul style="list-style-type: none"> • Diversion of funds for misuse • False invoice • False accounting • Alteration of payee and payment amount on cheques | <ul style="list-style-type: none"> • Record keeping • Routine spot checks • Staff training and due diligence • Independent audit of expenditure practices • Best practice procurement and authorisation processes |
| Program delivery  | <ul style="list-style-type: none"> • Diversion of resources for misuse • Program is delivered offshore (e.g. in-country program fraud) • Program is delivered by a third party • Program delivery is controlled by a separate entity | <ul style="list-style-type: none"> • On-site representative to oversee program delivery • Due diligence on third parties and partners • Project planning and review |

“

“...DIMINISHED REVENUE
- THROUGH EITHER
LEGITIMATE BUDGET
REDUCTIONS OR DIVERSION
OF FUNDS - CAN SERIOUSLY
COMPROMISE AN NPO'S
OPERATIONS AND ONGOING
VIABILITY..”

58



CONSEQUENCES

THE MOST SIGNIFICANT CONSEQUENCES OF CRIMINAL MISUSE ARE EXPERIENCED BY NPOs DIRECTLY, AND INTENDED BENEFICIARIES WHO DO NOT RECEIVE FUNDS THAT ARE LOST TO CRIME. THE SECURITY IMPACT IS THE MOST SERIOUS CONSEQUENCE OF TERRORISM FINANCING MISUSE.

Money laundering



The consequences of money laundering in the NPO sector are assessed as **moderate**.

Terrorism financing



The consequences of terrorism financing in the NPO sector are assessed as **major**¹⁸.

| Category of consequence | Money laundering | Terrorism financing |
|--|------------------|---------------------|
| NPOs | ● | ● |
| Individuals (e.g. beneficiaries) | ● | ● |
| Australian economy and community | ● | ● |
| Australian criminal economy | ● | N/A |
| National and international security | ● | ● |
| Australia's global image and bilateral relationships | ● | ● |

¹⁸ Consequence ratings have been largely developed with sector representatives and authorities responsible for monitoring and investigating criminal misuse and terrorism financing in Australia's NPO sector.

NPOs often operate on limited budgets and rely on government funding and/or charitable donations. Diminished revenue—through either legitimate budget reductions or diversion of funds—can seriously compromise an NPO's operations and ongoing viability. This has potentially severe flow-on impacts for intended beneficiaries when vital services are not delivered.

Terrorism financing consequences are higher than money laundering because of the national and international security impacts, and the reputational risks to the sector following a suspected or actual terrorism financing event. The potential harm to the Australian community from terrorism financing is also more significant than the harm from criminal misuse.

Tracing the ultimate use of NPO funds diverted for terrorism financing is challenging, as discussed earlier in this assessment. However, it is reasonable to assess in the current terrorism financing environment that most (if not all) NPO funds that end up in terrorist hands in the main conflict theatres in the Middle East will be used for military and operational purposes. The battlefield pressure that ISIL in particular is under, indicates that external funding from overseas—including diverted NPO funds—will be channelled into arming and sustaining fighters in the field, instead of organisational needs.

FEEDBACK FROM THE SECTOR – RESPONSES TO THE NATIONAL SURVEY

Sector representatives report different levels of impact on the volume of donations received and public support, following adverse media reporting of criminal activity involving an NPO. Smaller NPOs reportedly experience a greater reduction in charitable giving. Larger NPOs reportedly experience a short-term impact, but levels of giving usually resume to normal within six months. Despite this, the impact on beneficiaries during this time can be significant given the scale of donations processed through these NPOs.

NPOs

Consequences could include:

- reputational damage and loss of public trust, confidence and charitable donations, particularly where terrorism financing is involved
- loss of government funding
- regulatory or law enforcement action
- breakdown in the relationship with financial institutions, including potential costs to repair or establish new banking relationships (should an NPO be de-risked) — this can have implications for program delivery at crucial times
- increased costs to combat and deter criminal attacks, particularly IT security costs to build cyber resilience
- increased administrative costs if more onerous requirements are needed to mitigate threats.

Individuals/beneficiaries

Consequences could include:

- loss of funding and assistance to beneficiaries, including the potential flow-on impacts when vital services are not delivered
- personal loss for individuals connected to the NPO, including loss of employment or resources
- personal loss for donors if their donations do not reach intended beneficiaries.

Australian economy and community

Consequences could include:

- diminished tax revenue when used to facilitate tax evasion
- reputational damage and loss of public confidence in businesses, including costs associated with repairing brand image, particularly where terrorism financing is involved
- regulatory action against reporting businesses
- harms to the community associated with criminal or terrorist activity.

Australian criminal economy

Consequences could include:

- increased criminal economy should misuse go undetected, enabling further criminal offending and providing a haven for the proceeds of crime.

National and international security

Consequences could include:

- funds used to facilitate a terrorist attack
- funds used to promote violent extremism or terrorist activity
- damage to key bilateral and multilateral relationships.

Australia's global image and bilateral relationships

Consequences could include:

- Australia's global AML/CTF reputation is damaged
- bilateral and multilateral government relationships are damaged.

“

“...WORKING WITH THE NPO SECTOR, WE WILL CONTINUE TO PROTECT AUSTRALIA'S NPOs FROM THE THREAT OF MONEY LAUNDERING AND TERRORISM FINANCING...”

62





APPENDIXES

APPENDIX 01
MONEY LAUNDERING RISK METHODOLOGY

APPENDIX 02
TERRORISM FINANCING RISK METHODOLOGY

APPENDIX 03
NATIONAL SURVEY

APPENDIX 04
TYPES OF LEGAL STRUCTURES FOR NPOs

APPENDIX 1: MONEY LAUNDERING RISK METHODOLOGY

The money laundering risk methodology covers 25 risk factors across three categories: criminal threat environment, vulnerabilities and consequence. Each risk factor was assessed and scored on a scale of one to nine. Each was given a corresponding rating of low, medium or high (as per the table below). These assessments were based on a range of quantitative and qualitative inputs.

Five risk factors were considered in assessing the criminal threat environment. The average of these five ratings gave an overall rating for 'Threat'.

Fourteen factors were considered in assessing the sector's overall vulnerability to money laundering. These were grouped into five subsections: prevention measures; regulation; national cooperation and coordination; links to high-risk countries; and transparency and accountability of money movements. The average of these 14 ratings gave an overall rating for 'Vulnerabilities'.

Six factors were considered in assessing the consequence of money laundering activity within the sector. The average of these six ratings gave an overall rating for 'Consequence'.

Criminal threat environment

| SCORE | LOW | MEDIUM | HIGH |
|----------------------|---|--|--|
| 6 | Unsophisticated methods are used | Some sophisticated methods are used | Highly sophisticated methods are used |
| 4 | Domestic-based criminal threat | Primarily domestic-based criminal threat, some involvement of foreign entities | Domestic-based criminal threat, significant involvement of foreign entities |
| 4 | Minimal or no targeting by serious organised crime groups (suspected or proven) | Some targeting by serious organised crime groups (suspected or proven) | Substantial and systemic targeting by serious organised crime groups (suspected or proven) |
| 3 | Limited to no instances of ML | A moderate number of instances of ML | A significant number of instances of ML |
| 7 | Minimal exposure to predicate offences for ML | Moderate exposure to predicate offences for ML | Significant exposure to predicate offences for ML |
| AVERAGE SCORE | 4.8 | | |

Vulnerabilities

PREVENTION MEASURES

| SCORE | LOW | MEDIUM | HIGH |
|-------|---|---|--|
| 6 | Most NPOs have a strong understanding of their risks and have appropriate mitigation strategies in place | Some NPOs have a strong understanding of their risks and have appropriate mitigation strategies in place | Few NPOs have a strong understanding of their risks and have appropriate mitigation strategies in place |
| 7 | Most NPOs conduct robust and appropriate probity checks on personnel | Some NPOs conduct robust and appropriate probity checks on personnel | Few NPOs conduct robust and appropriate probity checks on personnel |
| 8 | Most NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates | Some NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates | Few NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates |

REGULATION

| SCORE | LOW | MEDIUM | HIGH |
|-------|--|---|---|
| 6 | The sector operates under a strong and consistent regulatory framework; there is a high level of third-party oversight and supervision | Regulatory frameworks apply to specific parts of the sector or their activities; there is a moderate level of third-party oversight and supervision | Regulatory frameworks are highly variable across the sector; there is only a low level of third-party oversight and supervision |
| 6 | Peak bodies have wide coverage of relevant NPOs and are actively involved in reducing risks in the sector | Peak bodies have some coverage of relevant NPOs and are involved in reducing risks in the sector | Peak bodies have limited coverage of relevant NPOs and are not actively involved in reducing risks in the sector |
| 8 | It is difficult to establish a sham NPO | There are some difficulties in establishing a sham NPO | It is possible to set up a sham NPO |

NATIONAL COOPERATION AND COORDINATION

| SCORE | LOW | MEDIUM | HIGH |
|-------|---|---|--|
| 7 | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is generally effective with few improvements needed | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is moderately effective but improvements should be made | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is inconsistent and not always effective |

LINKS TO HIGH-RISK COUNTRIES

| SCORE | LOW | MEDIUM | HIGH |
|-------|--|---|--|
| 1 | A limited number of NPOs operate in a high-risk country | A moderate number of NPOs operate in a high-risk country | A large number of NPOs operate in a high-risk country |
| 1 | NPOs send small amounts of funds to high-risk ML countries | NPOs send moderate amounts of funds to high-risk ML countries | NPOs send significant amounts of funds to high-risk ML countries |

TRANSPARENCY AND ACCOUNTABILITY IN MONEY MOVEMENTS

| SCORE | LOW | MEDIUM | HIGH |
|----------------------|---|--|---|
| 7 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are often used. |
| 4 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are stored | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are stored | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are stored |
| 5 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are often used. |
| 6 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are often used. |
| 7 | Most organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended | Some organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended | Few organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended |
| AVERAGE SCORE | 5.6 | | |

Consequence

| SCORE | MINOR | MODERATE | MAJOR |
|----------------------|---|--|---|
| 6 | Criminal misuse has minimal impact on an NPO's reputation, financial performance and operations | Criminal misuse has a moderate impact on an NPO's reputation, financial performance and operations | Criminal misuse has a significant impact on an NPO's reputation, financial performance and operations |
| 7 | Criminal misuse has minimal impact on potential beneficiaries and/or individuals connected to the NPO | Criminal misuse has a moderate impact on potential beneficiaries and/or individuals connected to the NPO | Criminal misuse has a significant impact on potential beneficiaries and/or individuals connected to the NPO |
| 3 | Criminal misuse has minimal impact on the Australian economy and community | Criminal misuse has a moderate impact on the Australian economy and community | Criminal misuse has a significant impact on the Australian economy and community |
| 1 | Criminal misuse results in small illicit profits that contribute little to the criminal economy | Criminal misuse results in modest illicit profits that somewhat contribute to the criminal economy | Criminal misuse results in lucrative illicit profits that significantly contribute to the criminal economy |
| 1 | Criminal misuse is not likely to impact national and/or international security | Criminal misuse has the potential to moderately impact national and/or international security | Criminal misuse has the potential to significantly impact on national and/or international security |
| 2 | Criminal misuse causes minimal damage to Australia's global image and bilateral relationships | Criminal misuse causes moderate damage to Australia's global image and bilateral relationships | Criminal misuse causes significant damage to Australia's global image and bilateral relationships |
| AVERAGE SCORE | 3.3 | | |

APPENDIX 2: TERRORISM FINANCING RISK METHODOLOGY

The terrorism financing risk methodology covers 23 risk factors across three categories: terrorism financing threat environment, vulnerabilities and consequence. Each risk factor was assessed and scored on a scale of one to nine. Each was given a corresponding rating of low, medium or high (as per the table below). These assessments were based on a range of quantitative and qualitative inputs.

Three risk factors were considered in assessing the terrorism financing threat environment. The average of these three ratings gave an overall rating for 'Threat'.

Fifteen factors were considered in assessing the sector's overall vulnerability to terrorism financing. These were grouped into five subsections: prevention measures; regulation; national cooperation and coordination; links to high-risk countries; and transparency and accountability of money movements. The average of these 15 ratings gave an overall rating for 'Vulnerabilities'.

Five factors were considered in assessing the consequence of terrorism financing activity within the sector. The average of these five ratings gave an overall rating for 'Consequence'.

Terrorism financing threat environment

| SCORE | LOW | MEDIUM | HIGH |
|----------------------|---|--|---|
| 5 | Unsophisticated methods used | Some sophisticated methods are used | Highly sophisticated methods are used |
| 3 | Limited targeting by terrorist groups, networks, cells or individuals (suspected or proven) | Moderate targeting by terrorist groups, networks, cells or individuals (suspected or proven) | Substantial and systemic targeting by targeting by terrorist groups, networks, cells or individuals (suspected or proven) |
| 4 | No instances of TF (suspected or proven) | A small number of instances of TF (suspected or proven) | A significant number of instances of TF (suspected or proven) |
| AVERAGE SCORE | 4 | | |

Vulnerabilities

PREVENTION MEASURES

| SCORE | LOW | MEDIUM | HIGH |
|-------|---|---|--|
| 6 | Most NPOs have a strong understanding of their risks and have appropriate mitigation strategies in place | Some NPOs have a reasonable understanding of their risks and have appropriate mitigation strategies in place to some extent | Few NPOs have a strong understanding of their risks and have appropriate mitigation strategies in place |
| 7 | Most NPOs conduct robust and appropriate probity checks on personnel | Some NPOs conduct robust and appropriate probity checks on personnel | Few NPOs conduct robust and appropriate probity checks on personnel |
| 8 | Most NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates | Some NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates | Few NPOs have systems and procedures to confirm the legitimacy of partners, beneficiaries and partner associates |

REGULATION

| SCORE | LOW | MEDIUM | HIGH |
|-------|--|---|---|
| 5 | The sector operates under a strong and consistent regulatory framework; there is a high level of third-party oversight and supervision | Regulatory frameworks apply to specific parts of the sector or their activities; there is a moderate level of third-party oversight and supervision | Regulatory frameworks are highly variable across the sector; there is only a low level of third-party oversight and supervision |
| 6 | Peak bodies have wide coverage of relevant NPOs and are actively involved in reducing risks in the sector | Peak bodies have some coverage of relevant NPOs and are involved in reducing risks in the sector | Peak bodies have limited coverage of relevant NPOs and are not actively involved in reducing risks in the sector |
| 8 | It is difficult to establish a sham NPO | There are some difficulties in establishing a sham NPO | It is possible to set up a sham NPO |

NATIONAL COOPERATION AND COORDINATION

| SCORE | LOW | MEDIUM | HIGH |
|-------|---|---|--|
| 6 | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is generally effective with few improvements needed | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is moderately effective but improvements should be made | National cooperation and coordination between AUSTRAC, law enforcement and national security agencies, and NPO regulators is inconsistent and not always effective |

LINKS TO HIGH-RISK COUNTRIES

| SCORE | LOW | MEDIUM | HIGH |
|-------|---|--|---|
| 2 | A limited number of NPOs operate in a high-risk country | A moderate number of NPOs operate in a high-risk country | A large number of NPOs operate in a high-risk country |
| 3 | A limited number of NPOs are based in a community with strong communal or family links to a high-risk country | A moderate number of NPOs are based in a community with strong communal or family links to a high-risk country | A large number of NPOs are based in a community with strong communal or family links to a high-risk country |
| 7 | In TF terms, NPOs send small amounts of funds to high-risk countries | In TF terms, NPOs send moderate amounts of funds to high-risk countries | In TF terms, NPOs send significant amounts of funds to high-risk countries |

TRANSPARENCY AND ACCOUNTABILITY IN MONEY MOVEMENTS

| SCORE | LOW | MEDIUM | HIGH |
|----------------------|---|--|---|
| 7 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are collected. High-risk channels are often used. |
| 4 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are retained. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are retained. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are retained. |
| 5 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are transferred. High-risk channels are often used. |
| 6 | Most organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are rarely used. | Some organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are sometimes used. | Few organisations have strong internal transparency and accountability practices concerning how funds/resources are expended. High-risk channels are often used. |
| 7 | Most organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended. | Some organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended. | Few organisations have strong internal transparency and accountability practices to ensure programs are delivered as intended. |
| AVERAGE SCORE | 5.8 | | |

Consequence

| SCORE | MINOR | MODERATE | MAJOR |
|----------------------|--|---|--|
| 8 | TF has minimal impact on an NPO's reputation, financial performance and operations | TF has a moderate impact on an NPO's reputation, financial performance and operations | TF has a significant impact on an NPO's reputation, financial performance and operations |
| 8 | TF has a minimal impact on potential beneficiaries and/or individuals connected to the NPO | TF has a moderate impact on potential beneficiaries and/or individuals connected to the NPO | TF has a significant impact on potential beneficiaries and/or individuals connected to the NPO |
| 6 | TF has minimal impact on the Australian economy and community | TF has a moderate impact on the Australian economy and community | TF has a significant impact on the Australian economy and community |
| 8 | TF will unlikely impact national and/or international security | TF has the potential to moderately impact national and/or international security | TF has the potential to significantly impact on national and/or international security |
| 3 | TF causes minimal damage to Australia's global image and bilateral relationships | TF causes moderate damage to Australia's global image and bilateral relationships | TF causes significant damage to Australia's global image and bilateral relationships |
| AVERAGE SCORE | 6.6 | | |

APPENDIX 3: NATIONAL SURVEY

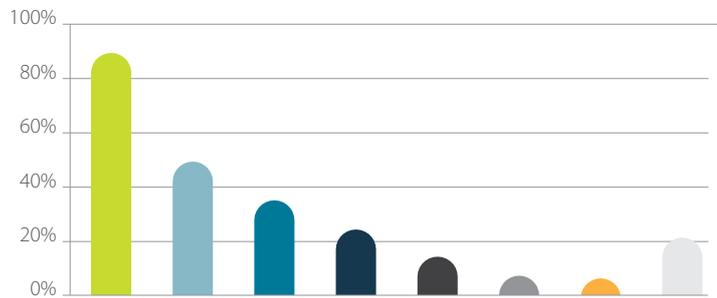
Please contact the ACNC if you would like a copy of the questions used in the national survey.



TOTAL RESPONDENTS: **290**

WHO DOES YOUR NPO REPORT TO?

- 86%** ACNC
- 46%** ATO
- 32%** state incorporated association regulator
- 21%** state fundraising authority
- 11%** state revenue office
- 4%** I don't know
- 3%** we don't submit reports
- 18%** other



WHAT IS YOUR ROLE IN THE NPO?

- 29%** board member
- 17%** CEO
- 18%** finance manager
- 9%** professional services
- 22%** other



WHAT IS THE NPO'S MAIN ACTIVITY? (top 5)

- 16%** religious activities
- 14%** social services and housing
- 13%** education and research
- 11%** health
- 9%** international activities and funding



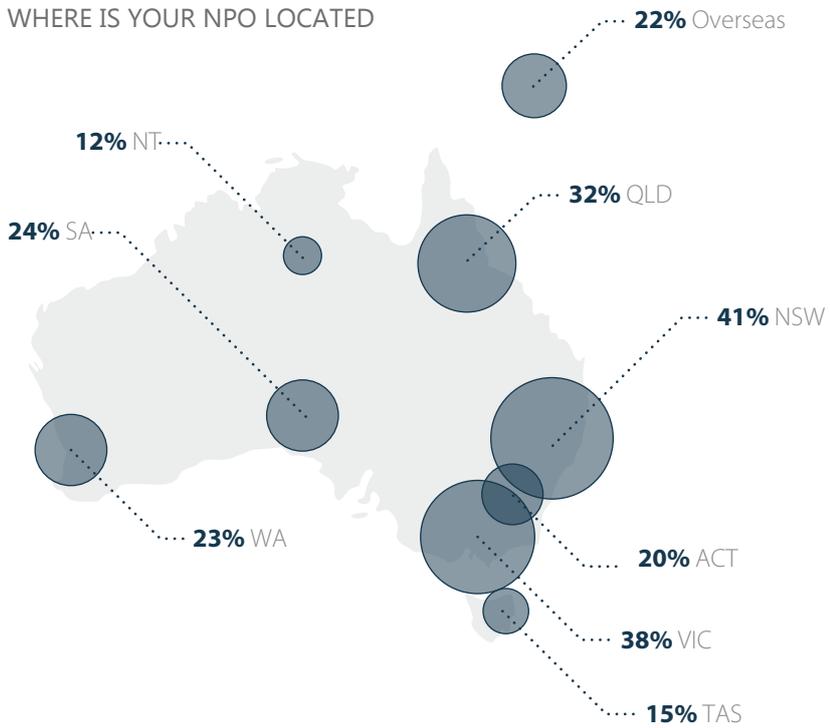
WHAT IS THE LEGAL STRUCTURE OF YOUR NPO?

- 46%** incorporated association
- 37%** company limited by guarantee
- 8%** unincorporated association
- 4%** trust
- 5%** other

WHAT IS THE NPO'S ANNUAL REVENUE

- 18%** \$1 million or more (large)
- 28%** less than \$250,000 (small)
- 13%** between \$250,000 to \$999,999 (medium)

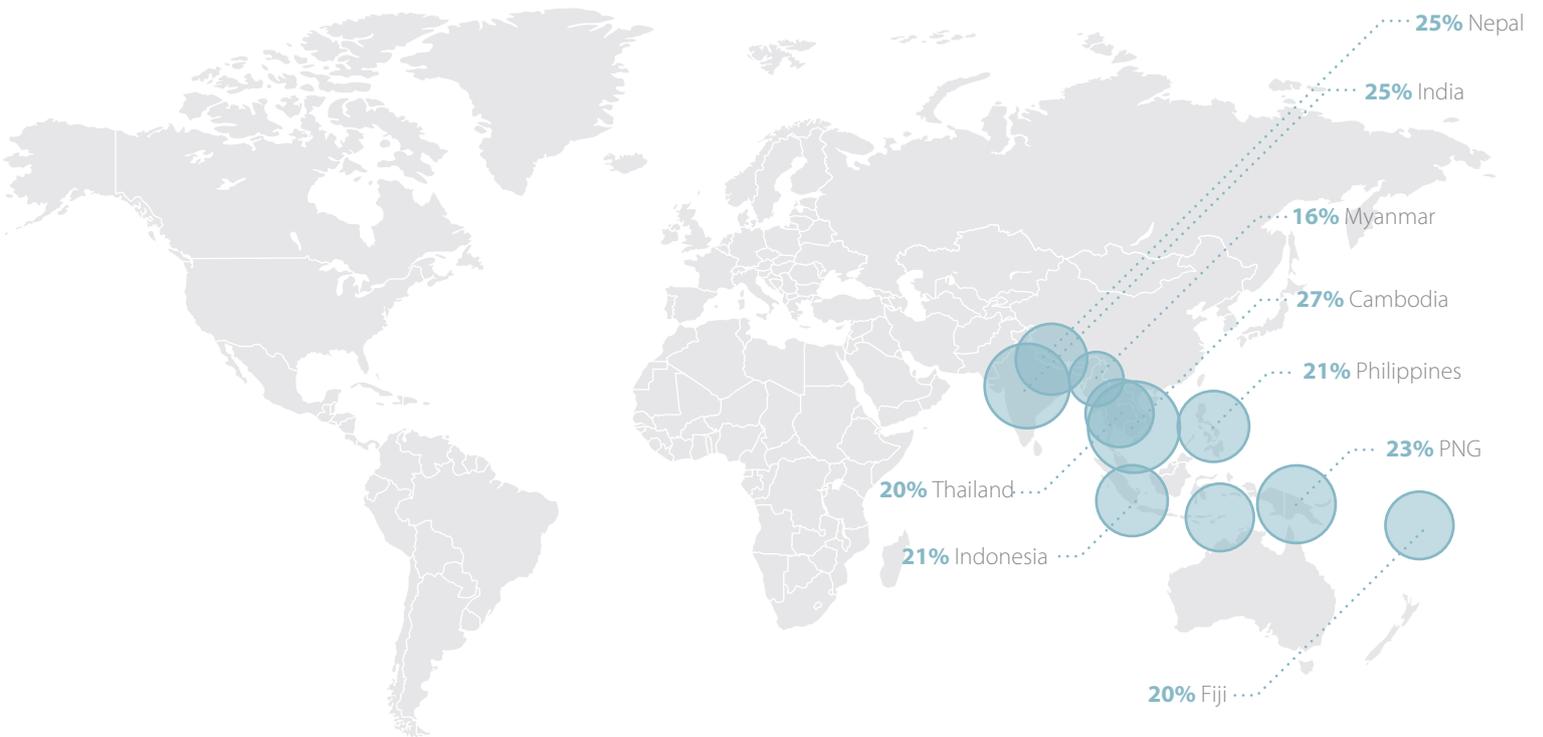
WHERE IS YOUR NPO LOCATED



DOES YOUR NPO SEND FUNDS OVERSEAS?



TOP 10 COUNTRIES WHERE MONEY IS SENT



APPENDIX 4: TYPES OF LEGAL STRUCTURES FOR NPOs

| | |
|--------------------------------------|---|
| Incorporated association | A legal entity separate from its individual members. It must operate as an NPO and is only incorporated under the state or territory legislation in which it operates. |
| Non-distributing co-operative | A 'co-operative' is an entity which exists for the benefit of its members. A 'non-distributing' co-operative has rules to prevent surpluses or profits being distributed to members. |
| Company limited by guarantee | A company whose members are exposed to a defined level of liability should the company be wound up. |
| Indigenous corporation | Controlled by Aboriginal and Torres Strait Islander people. They are registered according to the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> and are regulated by the Office of the Registrar of Indigenous Corporations. |
| Trust | An obligation imposed on a person or other entity (the trustee) to hold assets for the benefit of beneficiaries or for a particular purpose. The trustee must deal with the trust assets in line with the settlor's wishes as set out in the trust deed. |
| Unincorporated association | Not recognised as a separate legal entity to the members associated with it. It is a group of people who agree to act together as an organisation and form an association. The group can remain informal and its members make their own rules on how the group is managed. The rules may also be referred to as a constitution. |

