

**THE CHARITIES ETC. (GUERNSEY AND ALDERNEY) ORDINANCE, 2021  
GUIDANCE FOR CHARITIES AND OTHER NPOS THAT CARRY OUT INTERNATIONAL ACTIVITY  
("THE INTERNATIONAL GUIDANCE")**

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## Introduction

This guidance is for charities and other non-profit organisations ("NPOs") that carry out international activity and should be read in conjunction with the General Guidance.

International activity is paying or receiving money or other assets to/from parties outside the Bailiwick. These additional requirements help protect against money laundering, fraud, bribery, corruption, and terrorist financing purposes.

This guidance is to assist charities/NPOs to understand the requirements that apply to them. It does not replace the legislation and it does not cover all matters addressed in the legislation. It is important that charities/NPOs familiarise themselves with the legislation to ensure that they are fully aware of all their requirements.

## FAQ 27 - What requirements are relevant to mitigating risks?

The following requirements are key:

1. Restricting use of cash (FAQ 14)
2. Identification measures for donors (FAQ 19)
3. Identification measures for beneficiaries (FAQ 20)
4. Conducting internal compliance reviews (FAQ 23)
5. Identification measures and other controls when dealing with non-UK international partners (FAQ 36 & 37)
6. Anti-financial crime policy dealing with terrorist financing, money laundering, fraud and corruption (FAQ 40)

Requirements (1) to (4) are dealt with under the general guidance, 5 and 6 are dealt with in this international guidance.

Identification measures **do not apply** to dealings with organisations that are based in the UK, Jersey or the Isle of Man.

These measures broadly reflect the Guernsey Overseas Aid & Development Commission requirements for funding applications.

## FAQ 28 – How does this guidance relate to existing controls that charities/NPOs may have?

Charities/NPOs with anti-fraud or anti-corruption policies and control procedures are encouraged to assess and record the risks relating to their international partners and activities, in order to review and improve these measures.

Managing officers and volunteers should be made aware and consistently mindful of the charity/NPO's vulnerability to criminal abuse and encouraged to actively consider and address these risks.

## FAQ 29 – What constitutes international activity?

A charity/NPO engages in international activity if, in the routine course of its activities, it **receives** (or expects to receive) money or other assets from parties outside of the Bailiwick or **provides** (or expects to provide) money or other assets to parties outside the Bailiwick.

This will include both:

- Local charities/NPOs that are branches or affiliate members of an organisation based elsewhere if they receive funding from or raise funds for that organisation.
- Charities/NPOs that are established for the specific purpose of aiding other parts of the world.

The following distributing of assets outside the Bailiwick are **NOT international activity**:

- (1) Incidental expenditure, e.g. purchase of equipment from a foreign supplier, or coach hire to transport sports teams whilst abroad, or payments to an affiliated organisation outside the Bailiwick purely for administrative purpose such as a registration fee.
- (2) Charities/NPOs with domestically focused purpose but occasionally distribute physical items such as clothing or equipment overseas for the support of purposes in another country that are linked to its purposes in the Bailiwick (e.g. a local sports club that at the end of the season sends its used kit to a team in a developing country, or a PTA that sends textbooks to a school in a deprived area.) This exemption is on the basis that although such physical items potentially have a high value in certain parts of the world, the volume is likely to be low in contrast to charities/NPOs specifically set up for this purpose and which are required to register.
- (3) Charities/NPOs whose purpose is to fund persons from the Bailiwick receiving services from a provider outside the Bailiwick. This could be payments related to a person's medical treatment or schooling in the UK, or payments to cover the expenses of a friend or family member who is providing support to the person when he or she is outside the Bailiwick.
- (4) Where the payment is in line with the purposes of the charity/NPO but is *de minimis*, or in other words is of a very low amount. An example would be where a charity/NPO exists to provide support for young musicians, if one of its officers is on tour abroad with the members of an orchestra and he or she gives them money to purchase refreshments. As this would technically be in line with the purposes of the charity/NPO it would not be an incidental expense, but the low sums involved mean that it would be considered *de minimis*.

Charities/NPOs whose only international activity comes within these four exceptions do not carry out international activity for the purposes of the additional governance and only have to meet the requirements covered by the general guidance.

### FAQ 30 – What are the risks to charities/NPOs from international activity?

Charities/NPOs should familiarise themselves with the following reports no matter how remote a jurisdiction considers the risks of abuse of its charities/NPOs to be, each jurisdiction must play its part in supporting international efforts in this area.

#### Concerns:

Global bodies such as the Financial Action Task Force ("**FATF**") and the United Nations have raised concerns about legitimate assets of charities or NPOs being abused for criminal purposes in another country. This concern relates to terrorist financing, which includes the financing of acts of terrorism, terrorist recruitment and training.

In addition, there are concerns of charities or NPOs being abused for money laundering, fraud, and corruption. Therefore, the additional mitigating measures required in Part III of the Regulations are not limited to terrorist financing but are also intended to address these other forms of financial crime.<sup>1</sup>

## Reports:

FATF requires each jurisdiction to assess its terrorist financing risks. The Bailiwick authorities have assessed this risk for charities/NPOs as part of its National Risk Assessment ("NRA report") and their report is publicly available.

The States of Guernsey Policy & Resources Committee ("P&R guidance") published guidance on terrorist financing risks in the Bailiwick which includes matters relevant to charities/NPOs.

The NRA report and the P&R guidance have been published on the International Compliance section of the Guernsey Registry website.<sup>2</sup>

<sup>1</sup> Transparency International has issued a handbook of good practices relating to corruption [Preventing corruption in humanitarian operations -... - Transparency.org that may also assist charities/NPOs in addressing their risks of other forms of financial crime, including terrorist financing.](#)

<sup>2</sup> Available here: [International Compliance - Guernsey Registry](#)

## FAQ 31 – What are the particular terrorist financing risks that affect internationally active charities/NPOs?

Terrorist financing is most likely to happen by distributions from Bailiwick charities/NPOs being diverted before or at the point of delivery in another country. This delivery may be direct or, more commonly, through an affiliated organisation or other international partner.

Charities/NPOs are vulnerable to terrorist financing when:

- Their distributions are to or for the benefit of parties in countries that are exposed to terrorism or terrorist financing.
- They make high value distributions of cash or other financial assets.
- They rely on an international partner to carry out checks on the ground and the international partner is a small or unregulated organisation.

The origin of the assets received by a charity/NPO is also relevant, due to the possibility of a Bailiwick charity/NPO unwittingly being used as a vehicle for raising or channelling funds to support terrorism abroad.

## FAQ 32 - What parts of the world are considered to present a terrorist financing risk?

Countries that are likely to be exposed to terrorism or to terrorist financing are referred to in the NRA report and the P & R guidance as **focus countries** (see FAQ 30). These are countries that fall into one or more of the following categories:

- Countries with areas of conflict within their borders.
- Countries that border or have other strong geographical links to countries that have an active terrorism or terrorist financing threat.
- Countries with a section of the population that is targeted by terrorist organisations for support and cover because it may be sympathetic to regional or terrorist acts (whether because of diaspora links or otherwise).

- Countries that are involved in state-sponsored terrorism.
- Countries with a secondary terrorism or terrorist financing threat, i.e. where there may not be an active terrorism or terrorist financing threat but where there is a heightened threat of crimes whose proceeds are typically used by organised criminal groups to fund terrorism (e.g. corruption and drug trafficking).

It is not possible for the Bailiwick authorities to give a list of focus countries, due to the rapidly evolving international situation with regard to terrorism and the danger of any list of countries being treated as exhaustive. However, there are links to information sources in the NRA report and the P & R guidance which charities/NPOs may find useful in assessing whether any jurisdictions with which they have links are focus countries.

In addition to these sources, charities/NPOs should consider other publicly available information to check whether they should treat a particular country as a focus country.

### FAQ 33 - What sort of assets are most likely to be abused for terrorist financing?

The greatest risk is with financial assets rather than physical items. However, it is important to be aware that there are still risks attached to the distribution of physical assets, as these may be sold to raise funds or to provide logistical support for terrorist organisations, particularly in countries where most people do not have bank accounts. This is a particular risk with items such as medical supplies for which there is likely to be a ready market.

### FAQ 34 – What counts as an international partner?

An international partner may be an affiliated organisation or other organisation that is separate from a charity/NPO but has an agreement to collaborate with it. It may also be an individual.

International partners usually operate “on the ground” where distributions are to be made. The risks from dealing with international partners may vary considerably, depending on the profile of the international partner and the areas in which it operates.

## FAQ 35 – How do the Regulations deal with different types of international partners?

There are no additional requirements relating to international partners based in the UK, Jersey, or the Isle of Man (i.e. UK branches of international organisations, e.g. ActionAid).

Charities/NPOs are required to implement risk mitigation measures for international partners which the managing officers consider reasonable in their particular circumstances and in the manner that is best suited to their specific situation.

For example:

The controls that a charity/NPO should have in place if it makes distributions via a small partner organisation in a focus country would be excessive if applied by a charity/NPO making distributions in a country with a very low crime rate via a large well-established organisation.

The measures that are appropriate for a charity/NPO that only distributes physical items abroad are unlikely to be sufficient for a charity/NPO that makes financial distributions.

## FAQ 36 – What identification measures must be taken in relation to international partners?

UK branches are exempt from the identification measures.

The identification measures for international partners are the same as for beneficiaries (General Guidance FAQ 20), except that there is no threshold.

For example:

If an international partner is a household name (i.e. a large scale reputable international organisation such as UNICEF), it is generally sufficient to carry out an internet search to check for anything that undermines their good standing.

In practice identification measures are most likely required for smaller less well-known organisations. More detailed checks need to be carried out, such as online searches concerning the managing officers or members of the international partner and reviewing their governance requirements or other measures that they have in place to prevent abuse.

## FAQ 37 – What controls must be put in place in dealings with international partners?

Arrangements with an international partner should be agreed in writing in advance of any distributions being made, and the agreement should cover, at a minimum, the nature and purposes for which distributions will be made.

In exceptional circumstances where:

- Advance agreement is not practical due to the urgency of the situation (e.g. humanitarian emergency), written arrangements should be obtained as and when possible.
- A written agreement is impossible (e.g. due to literacy), the circumstances and verbal understanding should be recorded.

Subject to this, the general expectation is for written agreements in advance.

Dealings with international partners must be properly reflected in the records of the charity/NPO and consistent with any records kept outside the Bailiwick, including by the international partner.

These measures will usually be sufficient to address the risks of financial crime if the international partner is a large very well-known organisation with a good reputation, or if the distribution takes the form of physical items rather than financial assets. Please also see FAQ 38.

## FAQ 38 – Should a charity/NPO require an international partner to take specific measures?

There are two situations where, in addition to the measures outlined at FAQ 37, a charity/NPO must ensure that the international partner has measures in place to mitigate the risk of terrorist financing or other forms of financial crime:

1. Distributions to or via an international partner operating in a focus country (see FAQ 32).
2. The charity/NPO considers the international partner to be high risk for any other reason (e.g. historical instances of unexplained funds).

Additional measures will depend on the particular circumstances and the profile of the international partner (e.g. more stringent measures for large sums of money than for distributions of physical items).

Additional measures:

1. Policies and procedures to prevent terrorist financing and other financial crime (including, at a minimum, checks on parties to whom distributions will be made).
2. Good governance and financial management measures, such as:-
  - o Proper planning, that clearly defines the scope of activities to be carried out
  - o Monitoring systems for ensuring that funds and services are being used as intended
  - o Preparation of budgets for specific projects
  - o Segregation of duties where possible
  - o Regular bank reconciliation checks
  - o Multiple signatories for all bank account activity
  - o Restricting full access to all areas of the accounting system
  - o Regular review of and spot checks on payroll records to ensure consistency with staff movements
  - o Reconciliation of supplier statements, invoices, and creditor balances
  - o Documented authority thresholds for the approval of and payments to suppliers
  - o Random checks to ensure expenditure below key thresholds is legitimate
  - o Procedures to address any employee/trustee connections with suppliers
  - o Proper controls including a full documentary audit trail, for monitoring expenses.

3. Periodic feedback on its activities to the charity/NPO.

It may also be advisable, depending on the circumstances, to include in the written agreement with the international partner some additional measures such as:

- certification by the international partner that they are in compliance with all applicable laws that prohibit transactions or providing benefit to a terrorist group and will not provide any support or assistance to terrorist supporting persons or entities
- certification that the international partner and its principals are not a debarred, ineligible, voluntarily excluded or suspended party by any department or agency
- A specific clause prohibiting the international partner from providing assistance to or allowing distribution, handling or allocation of assistance by military or combatant groups
- A specific clause that the international partner agrees that, under no circumstances, will any funds be provided to any entity or individual designated under sanctions measures enacted by the United Kingdom, United Nations, or the European Union
- A clause that requires the international partner to report any instances of diversion or interference by any armed group, including any terrorist organisation
- Where possible for the signing of the written agreement to be witnessed by members of the community or other stakeholders, to ensure that those involved are aware of and understand the provisions of the contract, and that the entire community will safeguard its implementation.

### FAQ 39 – What should a charity/NPO do after carrying out identification measures and putting controls in place with regard to international partners?

Make and keep detailed records of the identification information relating to an international partner and of the controls that have been put in place, this may be done in a way that protects confidentiality (e.g. by maintaining confidential records that are available to managing officers but not to the wider membership/volunteers).

Take further actions if identification measures cannot be carried out, or the charity/NPO has concerns that the controls are insufficient to mitigate the risks attached to dealing with an international partner. Further action might be making further enquiries, applying extra conditions or controls to particular assets/activities, or in some cases deciding to exit the relationship with the international partner. Make and keep a record of any additional actions and their outcomes.

### FAQ 40 – What is the scope of the requirement to have an anti-financial crime policy?

All charities/NPOs that carry out international activity must have an anti-financial crime (“AML”) policy. This should be a written document that:

- Summarises the risks of terrorist financing, money laundering, fraud and corruption that arise from the international activity carried out by the charity/NPO; and



- Sets out ways to address those risks.

Where the charity/NPO carries out international activity itself, (i.e. not through an international partner), the measures to address financial crime risks are expected to include the good governance and financial planning measures identified in FAQ 38 and the AML policy will be more detailed.

The charity/NPO must document that it has thought about its risks, how it will deal with them, keep them up to date and carry out reviews to make improvements. Further information about reviews is set out in the general guidance.

7 step plan:

1. Gain an understanding of financial crime risks in general
2. Think about the risks pertinent to the charity/NPO activities/partners/countries
3. Decide how to mitigate those risks and what more you need to know
4. Keep a written record of 1-3
5. Periodically review 2 & 3 and assess how affective the mitigation is and to check that the charity/NPO remains compliant with legislation.
6. Make changes to address any shortcomings
7. Keep a written record of 5-6