WORLD BANK GROUP

ACAMS® Advancing Financial Crime Professionals Worldwide®

Stakeholder Dialogue on De-risking

Supporting Financial Access for Humanitarian Organizations and Charities

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INTRODUCTION

On 11 January, 2017, the World Bank and the Association of Certified Anti-Money Laundering Specialists (ACAMS) organized a second roundtable meeting, as part of the ongoing Stakeholder Dialogue on De-Risking in an effort to address financial exclusion. The objective of the meeting was to promote access of humanitarian organizations to financial services and to discuss practical measures to:

- Foster the relationship between non-profit organizations (NPOs) and financial institutions;
- Improve the regulatory and policy climate for financial access for NPOs; and
- Build coalitions and create opportunities for sharing information and good due diligence practices.

Forty-five representatives from non-governmental organizations (e.g., humanitarian organizations, umbrella organizations, donors, and think tanks), governments (including policy, regulatory and law enforcement authorities), international organizations, financial institutions and academics participated.

This report captures the main themes of the meeting and the subjects that participants recommended for further work. The findings reflect the discussions. They do not necessarily represent the opinions of the World Bank or ACAMS. The meeting reflected that there was a common understanding on many issues, but that there are certain issues where more clarity and joint work would be useful. Three roundtable sessions were held during the meeting. Each concluded with a brief summary of considerations and possibilities for cooperation, which are set out in this report.

THEMES

All participants agreed that it is vital that humanitarian organizations and charities (hereafter: NPOs) maintain timely access to financial services in order to provide much needed humanitarian services, particularly in crisis situations. Often, NPOs are at the forefront of conflict situations, in geographical locations that are considered by financial institutions to pose elevated levels of money laundering or terrorist financing (ML/TF) risks. Factors such as weakened state institutions, diminished rule of law, lack of financial transparency, and the threat of criminal and terrorist groups and activities contribute to such a risk assessment.

Financial Access by Humanitarian Organizations and Charities

Financial Access Difficulties

In order to determine where to introduce measures to ensure more timely financial access for NPOs, it is important to understand the difficulties that NPOs face. Specifically, what constitutes financial access and what problems merit further work? While some parties considered that only a full loss of access to financial services (e.g., closing of bank accounts) constitutes a financial access problem, others raised the importance of the timely and predictable execution of requested financial services, such as cross-border wire transfers. Some NPOs do have difficulties in opening bank accounts, but this problem is less prevalent than delays and increased costs in the transfer of funds. Financial access problems appear to occur predominantly in the jurisdiction where the humanitarian aid needs to be delivered.

Though a delay in the receipt of wire transfers cannot be equated with the loss of/inability to open a bank account, the effects on the operations of NPOs and the people they serve can be significant. There are examples of NPOs using alternative channels to transfer large sums of money, many times in physical (e.g., cash) form. In one instance, an NPO routed USD 3 million through various money transfer providers. NPOs indicate that they would much prefer to send payments via the formal financial system, but, at times, need to resort to these measures in order to achieve more timely pay-outs. The delay in wire transfers is frequently paired with requests for additional information to substantiate the transaction and support compliance requirements (such as OFAC screening or transaction monitoring processes). Financial institutions pointed out that a move to cash by NPOs may itself increase the risk profile of the NPO concerned.

Information requested from NPOs

Variation in information requests by financial institutions

NPOs noted that the variation and repetition in information requests makes it difficult to comply fully with all such requests- particularly for small NPOs. Not only do financial institutions ask for different types of information, they may also use different definitions, since Customer Due Diligence (CDD) policies vary among institutions and not all contain clear definitions. One NPO shared an anecdote of an experiment: a wire transfer for the same destination, with the same transactional purpose, of the same value was offered to two financial institutions. Both financial institutions asked for information on a particular Politically Exposed Person; one financial institution included a clear definition, the other one did not. The same information was provided, based on the definition that was provided. The financial institution that provided the definition processed the wire transfer immediately, whereas the other wire transfer took six months to complete.

Furthermore, the distinction between CDD information requests (on-boarding, periodic refreshers or as a result of a change in the client profile) and information requests as a result of heightened risk associated with a transaction is not always clear to NPOs. During the discussions, the possibility to increase standardized information requests was raised, possibly in a tiered manner.

Moreover, correspondent banks of the originating and receiving financial institution are apparently asking for follow-up information in some cases, even after a US originator bank has sent the wire transfer through. The question was raised whether the correspondents receive all the information on the NPO and the transactions, or whether they apply stricter requirements than the US originator banks. Examples were provided of requests for information concerning the customers/partners of customers, or on the parents of directors of foundations. One of the challenges to be tackled therefore is how to ensure communication/information transfer between an NPO and financial institutions downstream while recognizing that each banking relationship is unique and each transaction is case specific.

Information about NPOs

Just as NPOs may lack knowledge regarding AML/CFT compliance and associated information requests, financial institutions may not always have sufficient understanding of the operations, projects, donors, beneficiaries, geographical areas, third party involvement and internal controls of the NPOs that they provide services to. Participants discussed potential solutions to share such information with financial institutions. The idea of a 'white list' of approved NPOs was discussed, but was broadly deemed unworkable since this could have many unintended consequences (e.g. not being on the list might be interpreted as meaning an NPO was on a black list). Instead, perhaps a Know-Your-Customer Utility could serve to better inform financial institutions proactively and increase transparency on NPOs' operations. Information to support such a utility may already be available among donor and umbrella organizations, which collect similar information for their internal vetting processes. Additionally, financial institutions may be unaware of general NGO operations and controls that may be available to support due diligence efforts, as well as clarification of other available resources and tools financial institutions may be able to leverage as part of their due diligence.

Suggestions: Information requested from NPOs

- Develop (Wolfsberg Group-type) questionnaire for NPOs to serve as a baseline for due diligence requests;
- Develop a KYC database/repository for financial institutions on NPOs;
- Source of data; use institutions that are already collecting data: NPO-umbrella organizations, donors or other bodies (function as a knowledge source on NPOs);
- Achieve clarity on and formulate specific risk mitigation measures and parameters in high-risk corridors;
- Improve mechanisms to communicate, provide assurance/clarity to downstream financial institutions, once originator financial institution has approved client transaction (downstream information).

Regulatory and Policy Landscape

Supervisors and the risk categorization of NPOs

Like financial institutions, bank regulatory examiners responsible for supervising financial institutions might not have sufficiently updated information on how to perform examinations on financial institutions' services to NPOs, which may impact the risk assessments made by financial institutions. A shared understanding and clarity on the specific risk-mitigation measures and parameters in high-risk corridors for NPOs could be helpful. This would include guidance on appropriate mitigation measures. This would also help further differentiate between risks faced by different NPOs in general. Although the FATF changed its recommendation on NPOs – no longer identifying all NPOs as being "particularly vulnerable" to TF –this does not yet seem to have trickled down to risk assessments by the financial institutions and regulators.

Incentives for financial institutions to provide services to NPOs

Financial institutions need to balance costs and benefits. The cost is a function of the need to mitigate legal, compliance, regulatory and reputational risk. These may be triggered by just rumors alone, which spread quickly through social media. On the benefit side, there is little to tip the scales. The profit margin on services to NPOs is relatively low, and no other positive incentives have been created. What 'carrots' could there be for financial institutions to provide financial services to humanitarian organizations? Could there be instruments that benefit the financial institutions' reputation, such as the Fair Finance Guide (an index used in the Netherlands)?

Bearing residual risk

Most NPOs and financial institutions make a concerted effort to fulfill their compliance obligations. In a truly risk-based environment, there will always be a degree of residual risk. In the current system it is unclear who is accountable if that residual risk materializes, leading some financial institutions to a very low risk appetite. For example, although the US government has issued a statement that OFAC recognizes that there are situations in which some humanitarian assistance may unwittingly end up in the hands of members of a designated group, and that such incidents are not the focus for its sanctions enforcement, there is still a fear that a zero-tolerance approach will be adopted and that financial institutions will be on the hook for any misappropriations of funds downstream.

Could something be done to alleviate that fear? For instance, under the UK Bribery Act a company will not be prosecuted for bribery, provided it can show it has made all reasonable efforts (in policy and implementation) to mitigate this risk. Would something similar be feasible here- or would the specifics of the safe harbor be so intricate as to make it unworkable? Could regulatory agencies provide clearer guidance that would serve as a suitable gauge of "reasonable efforts"? How could more comfort be created that incidental misdirection of funds, despite applying appropriate controls will not result in sanctions or other regulatory criticism? Are there other measures that could help expedite financial transactions for NPOs?

Channels for government supported humanitarian aid programs

In the case where NPOs execute government programs for humanitarian aid no such benefit or assurance is provided to financial institutions. While there is a licensing system, the license is not always accepted as a sufficient risk mitigation measure – particularly by foreign correspondents. Could there be a government-financial institutions partnership for the execution of foreign aid programs: a banking channel secured for the project by the government (e.g., a foreign aid department together with the treasury department)? This could be similar to the one devised for Social Security Payments, where the U.S. government sends out a Request for Proposal to financial institutions to match a payment channel to a government program.

Need for international cooperation

Wire transfer delays take place at financial institutions and correspondent banks around the world, meaning that greater engagement and communication with government and private sector stakeholders everywhere is important to help facilitate these transfers. Clear policy guidance and overall engagement by public authorities would be helpful- particularly those that supervise the relevant correspondent banks involved in the payment chain. Such initiatives have already been undertaken, but further international communication and collaboration on these issues is important.

Building coalitions

It was agreed that an ongoing dialogue is welcome to help ensure access to finance NPOs' critical humanitarian and development activities. There are already various coalitions that have shared their experience. In the UK, the British Banking Association (BBA), together with Barclays, chaired a humanitarian licensing roundtable to facilitate humanitarian aid to higher risk jurisdictions that are subject to economic sanctions while respecting the necessary sanctions and compliance controls. The US Treasury has held ongoing multi-stakeholder dialogues with Mexico, and countries from the Middle East/North Africa-, Central American-, Baltic- and Caribbean regions and convened several meetings with key stakeholders over the past two years on banking challenges. These dialogues were initiated to deal with specific issues and have evolved over time to cover broader policy issues. These dialogues have been very successful in strengthening the AML/CFT system and removing legal barriers, e.g. to information exchange.

Many stakeholders shared the view that multiple coalitions can exist in the same space and that the leadership of the World Bank and ACAMS

Suggestions: Regulatory and Policy landscape

- Develop positive incentives ("carrots") for financial institutions to keep banking humanitarian organizations;
- Repackage regulatory information for NPOs to provide them with clear guidance on financial institution expectations;
- Enhance NPO specific language within existing examiners manual or other regulatory tools to better articulate nuances of risk for NPOs;
- Multi-stakeholder developed training/communication training for examiners;
- Risk-sharing arrangement between financial institutions and governmental organizations, especially where an NPO is executing a government program. (E.g. partnering with financial institutions to disburse humanitarian aid funds, alternative corridors);
- Engage with authorities and correspondent banks beyond the US.

in bringing together government, banking and NPO stakeholders is appreciated. The importance of communication in and between the different stakeholder groups was emphasized over the need for a common agenda. It was agreed that time should be spent to identify the relevant stakeholders and invite them to the table, including donors and intelligence agencies. Securing the support of the highest levels of management of these stakeholders and facilitating communication between them should also be a priority.

There are good experiences in starting with a small coalition of active members that work together for a specific objective. At the same time, it was acknowledged that this topic is relevant among a large group of stakeholders that may have difficulties delegating a member due to its size, or may be harder to reach (e.g. when it is based in an area where humanitarian aid is being delivered). Therefore, it is essential to maintain active communication with the broader network of stakeholders. An example of an effective NPO-led coalition that started with a shared goal, is the Global NPO Coalition on the FATF. Within this coalition, a core group is responsible for designing the strategy, outreach and communication to all participants, and engages with relevant stakeholders. The coalition could become a model for NPO engagement on derisking.

NEXT STEPS

The World Bank and ACAMS are grateful to all participants for suggestions made during this meeting, as well as the organizations they represent. Together, we aim to explore the possibilities for collaborative measures to help facilitate more timely financial access for humanitarian organizations and charities. Many of the suggestions raised during the meeting were constructive and will be further elaborated for implementation by the various stakeholders on a voluntary basis, with the support of the World Bank and ACAMS. Based on the suggestions above, different work streams will be established to develop practical initiatives to further discuss and work towards some of the suggestions put forward during this meeting.

Interested in joining this coalition or learning more about this work? Please contact John Byrne at jbyrne@acams.org or Emile van der Does at evanderdoes@worldbank.org .

Suggestions: Building Coalitions

- Start with the suggestions that set out practical and clear objectives to achieve the highest impact, while working under the banner of broad principles;
- Start the coalition small, with specific targets, and grow the coalition from there;
- Make sure the coalition is supported by a broader network of stakeholders and actively communicate with the network;
- The basis for any coalition needs to be trust, communication, collaboration and shared ambition for impact.

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