

# **BOTSWANA RISK ASSESSMENT REPORT FOR NON-PROFIT ORGANISATIONS**

SANITIZED VERSION

June 2020

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## 1. GLOSSARY OF TERMINOLOGY

FATF – Financial Action Task Force, an independent inter-governmental body and a global standard setter and promoter of policies to prevent and combat money laundering, financing of terrorism and proliferation of arms of mass destruction in order to protect the international financial system.

## 2. ACRONYMS

AML/CFT - Anti-Money Laundering/Countering the Financing of Terrorism

BoB - Bank of Botswana

BO - Beneficial Ownership

BOCONGO - Botswana Council of Non-Governmental Organisations

BPS - Botswana Police Service

BURS - Botswana Unified Revenue Service

CIPA - Companies and Intellectual Property Authority

DCEC - Directorate on Corruption and Economic Crimes

DISS - Directorate of Intelligence and Security

DNFBPs – Designated Non-Financial Businesses and Professions

ESAAMLG - Eastern and Southern Africa Anti-Money Laundering Group

FIs - Financial Institutions

FIA - Financial Intelligence Agency

IFSC - International Financial Services Centre.

LSB - Law Society of Botswana

LEAs - Law Enforcement Agencies

MER - Mutual Evaluation Report

ML - Money Laundering

MDJS - Ministry of Defence, Justice and Security

NBIFIRA - Non-Bank Financial Institutions Regulatory Authority

NPO - Non-Profit Organisations

OBRS - Online Business Registration System

TF - Terrorism Financing

The Master - Master of the High Court.

UBO - Ultimate Beneficial Ownership

### 3. EXECUTIVE SUMMARY

This is the first risk assessment by Botswana to conduct a comprehensive ML and TF risk assessment of Non-Profit Organisations (NPOs). The primary focus of the assessment was to identify Money Laundering (ML) exposure of NPOs in general and those NPOs posing higher Terrorism Financing (TF) risks. The results thereof are intended to assist the Registrar of Societies and other competent authorities to target those NPOs identified as posing higher TF risks and to ensure that legitimate work of NPOs is not negatively impacted. The risk assessment used both quantitative and qualitative methods to collect and analyse data by focusing on adequacy of controls in place against threats.

The risk assessment experienced data and information challenges which made the analysis in most areas qualitative and relying on expert judgment. The main areas of focus were pre-and-post registrations conditions, preventative measures, transparency and accountability of transactional records, national coordination and cooperation, international links and exchange of information with foreign counterparts, and high-risk jurisdictions. Threat assessment considered the likelihood of individuals and/or groups with funds derived from proceeds of predicate offences, or legitimate sources diverted for abuse, exploiting the NPOs.

The risk assessment identified that religious organisations, burial societies, community-based and sporting societies hold more than 70 percent of the total number of NPOs in Botswana. In terms of proportion of financial resources and connection to international activities, NPOs engaged in religious activities, business, charitable and cultural activities have significant presence. The findings of analysis of annual returns for 2018 showed that about 70 percent of the resources were concentrated in religious-based NPOs.

The main areas of non-compliance include non-submission of annual returns by NPOs to the Registrar of Societies. While about 40 percent of the total number of NPOs file annual returns, there is a significant number of NPOs with a proportion of distribution of financial resources and coverage of the country which file annual returns. This mitigates the risk of NPOs exposed to higher ML and TF from being exploited. NPOs in Botswana use bank account to raise, store and move funds for operations of NPOs. Generally, benefactors such as donors require a bank account to transfer funds to support social programmes and they also have systems and procedures in place to promote accountability over the use of the funds.

The risk assessment identified fraud, tax evasion, inadequate vetting of foreign nationals holding senior positions in NPOs and cash-intensive nature

of sources of NPO funding as the main threats facing the sector. The threat was rated Medium.

The assessment indicated that:

- Religious organizations, sporting societies, charitable associations and farmers associations have been identified as posing ML risks ranging from medium to high risk rating level;
- Religious organizations, community-based associations, civil society organizations and charitable associations have NPOs posing higher TF risks; and
  - Religious organizations and charitable associations are the two categories of NPOs which pose higher risk for both ML and TF – albeit at varying levels and underlying reasons.

Overall, the assessment identified the level of ML risk to be Medium and TF risk to be Medium-High.

#### **4. INTRODUCTION**

The global importance of the Non-Profit Organisation (NPO) sector for provision of social and humanitarian services is overwhelming and therefore cannot be ignored. However, there has been growing evidence of abuse of the NPO sector for nefarious activities especially in relation to terrorist financing. In response to the 2001 terror attacks in New York, United States of America (USA), the Financial Action Task Force (FATF) introduced Nine Special Recommendations against financing of terrorism. More specifically, the FATF introduced Special Recommendation VIII to address NPO vulnerabilities and threats through targeted regulation and monitoring.

The outcomes of the revision of the FATF Standards in 2012 was that the majority of the Special Recommendations were integrated into the broader 40 FATF Recommendations against Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT). The FATF revised and changed SRVIII to R.8 with a view to strike a balance between the unique nature of the vulnerabilities and threats facing NPOs against the good work they perform.

### Box 1: FATF Recommendations 8: Regulation and Supervision of NPOs

Countries should review the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse, including:

- a. By terrorist organisations posing as legitimate entities;
- b. By exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
- c. By concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

Moreover, R.8 requires countries to develop and apply a risk-based supervision or monitoring of NPOs posing higher vulnerabilities and threats to avoid a "one-size-fits-all approach". This is consistent with the risk-based approach to implementation of the FATF Recommendations embedded in the 2012 revision of the Standards.

### Box 2: Targeted Risk-Based Monitoring of NPOs

Countries should take steps to promote effective supervision or monitoring of NPOs identified as having a higher TF risk exposure to avoid a "one size-fits-all" approach which would be inconsistent with the foundation of a risk-based approach set out in Recommendation 1 of the FATF Standards. The following form cornerstone for effective application of RBA to supervising or monitoring NPOs:

- a. Registration of NPOs and making the information available to competent authorities.
- b. Obtain and maintain information on (i) basis for existence of NPO, (ii) owners, controllers and key persons of the NPO, (iii) issue financial statements with a breakdown of income and expenditures, (iv) accountability of funds used tested against objectives of the NPO, and (v) reasonable steps to identify the true identity of beneficiaries.

Source: Recommendation 8, FATF Standards, 2012 (as amended)

## **4.1 PURPOSE OF NPO RISK ASSESSMENT**

A recent study conducted by the Centre for Global Counter-Terrorism Cooperation and the United Nations Counter-Terrorism Committee Executive Directorate identified in its key findings that the level of understanding of the risks associated with the NPO sector was uneven globally. Furthermore, Botswana obtained a Non-Compliant (NC) rating for Technical Compliance (TC) for R.8 and Low Level of Effectiveness for Immediate Outcome 10 (Core Issue 10.2 focuses on NPOs) in its 2017 AML/CFT mutual evaluation conducted by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). In the main, the Mutual Evaluation Report (MER) found that Botswana had not undertaken risk assessment of NPOs and showed low level of understanding of vulnerabilities and threats facing NPOs. The MER concluded that due to the lack of understanding of NPO risks, there was no targeted risk-based monitoring of those NPOs posing higher TF risks.

It is for this reason that Botswana has undertaken the assessment of the threat and vulnerabilities faced by NPOs to improve its awareness and understanding of the risk posed to the NPO sector by terrorists financing individuals and/or groups, and apply a risk-based monitoring of NPOs posing higher TF risks. This is a significant step by the Government of Botswana to develop a comprehensive understanding of the vulnerabilities and threats prevalent in the country's NPO sector with a view to applying robust monitoring programmes commensurate to the risks identified.

## **4.2 RESEARCH METHODOLOGY**

Botswana established a multi-disciplinary Working Group on NPO risk assessment given the multiplicity of stakeholders and the sources of vulnerabilities and threats at play in the NPO environment in the country. The Members of the Working Group were:

- Ministry of Defence, Justice and Security (MDJS)
- The Master of The High Court (The Master)
- Registrar of Societies
- Bank of Botswana (BoB)
- Deeds Registry
- Companies and Intellectual Property Authority (CIPA)
- Botswana Unified Revenue Service (BURS)
- Directorate on Corruption and Economic Crime (DCEC)
- Law Society of Botswana (LSB)
- Directorate of Intelligence and Security Services (DISS)

- Financial Intelligence Agency (FIA)
- Non-Bank Financial Institutions Regulatory Authority (NBIFIRA)

The Working Group was assisted by Consultants from Botswana Accountancy College (BAC) to conduct the risk assessment focusing on collection, collation and analysis of the data and information obtained. Furthermore, the Working Group and the Consultants conducted focus groups and one-on-one interviews with some members of the civil society, competent authorities and banking sector to elicit practical information and data on how ML/TF risks manifest in the NPOs.

The Working Group employed both quantitative and qualitative methods to collect relevant information from relevant stakeholders. The one-to-one interviews with relevant stakeholders were invaluable in obtaining information to close gaps where information was not available, inaccurate and/or incomplete. The Working Group further administered open and closed-ended questionnaires to various stakeholders within the NPO sector.

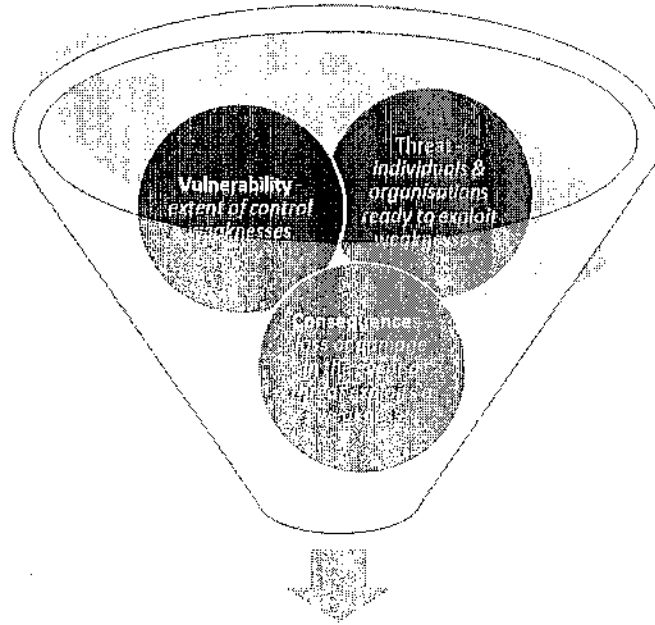
In addition, the Working Group relied on secondary sources of information such as the 2017 Mutual Evaluation Report of Botswana, various FATF and FATF Style Regional Bodies (FSRBs) NPO typologies reports, Botswana ML and TF National Risk Assessment Report (NRA), and the FATF 40 Recommendations and guidance papers.

### **4.3 DEFINITION OF RISK**

For purposes of the NPO risk assessment, risk is defined according to FATF, as follows:

#### **Diagram 1: What is Risk?**





**Risk - both the threat and vulnerability must co-exist to give rise to a consequence.**

The diagram above indicates risk as a function of threat, vulnerability, and consequences. For purposes of the risk assessment, adequacy of controls in place were assessed to determine the extent to which they could withstand individuals and organisations wishing to exploit the NPO sector for Money Laundering and Terrorist Financing (ML and TF). The measures include pre-and-post registrations conditions, preventative measures, transparency and accountability of transactional records, stakeholder coordination and cooperation, international cooperation, and monitoring relationships with high-risk jurisdictions/businesses/individuals.

In respect of threats, the assessment considered the likelihood of individuals and/or groups with funds derived from proceeds of predicate offences, or legitimate sources diverted for abuse, exploiting the NPOs. The assessment considered the likelihood of the risk materialising and the negative impact it may have on the NPOs in particular and the reputation of Botswana in general.

Section 11 of the FI Act, 2019 places an obligation on NPOs as accountable institutions to conduct ML and TF risk assessment by considering, at a minimum, the following:

- The nature, size and complexity of NPO operations;
- The social services or goods it renders;
- The delivery methods;
- The types of beneficiaries;

- The profile of jurisdictions;
- The profile of institutions including benefactors; and
- Any other factor deemed necessary by the NPO.

While risk assessment of the NPOs may take different forms, the Registrar of Societies in Botswana employed the World Bank Risk Assessment Tool for the overall sector assessment. Additionally, the Working Group applied Enterprise-wide Risk Management tool to analyse information and data from specific NPOs obtained through interviews and filing of questionnaires, at a micro-level.

#### **4.4 LIMITATIONS OF THE STUDY**

The Working Group on NPO Risk Assessment faced several challenges relating to unavailability of enough data and information to adequately identify and assess the nature and level of ML and TF risks in the NPO sector of Botswana. A significant challenge related to lack of TF investigation and prosecution as well as intelligence gathering case examples by law enforcement and intelligence services on whether NPOs are being, or have been, used for financing of terrorism and/or criminal activities in general. This could be largely attributed to the fact that the 2017 NRA has identified the TF risk profile of Botswana as low.

The database at the Registrar of Societies is mainly manual and therefore time-consuming to collate and analyse available information. The Working Group identified that there was uneven understanding of the ML and TF risks posed by NPOs amongst the stakeholders. To some extent, these challenges made it difficult for the Working Group to carry out in-depth ML/TF risk assessment of the NPO sector especially at individual NPO level. The Authorities have identified the importance of collecting and maintaining proper statistical information to enable Botswana to adequately identify, assess and understand the ML and TF risk profile of the NPO in general and those posing higher TF risks.

Notwithstanding the information shortcomings, the data and information available to the Working Group was able to produce credible and reasonable ML/TF risks findings in the NPO sector. As the first ML/TF risk assessment of the NPO sector, its results are invaluable for the relevant authorities to implement programmes to prevent and combat abuse of the NPOs for ML and TF purposes.

## 5. NPO LEGAL FRAMEWORK

### ❖ Definition of NPO

NPOs are part of Societies and are registered by the Registrar of Societies under the Societies Act Cap 18:01. The registration is for purposes of promoting of integrity and accountability in the administration of the NPO sector. The Societies Act, in Section 3 **DEFINES** states that:

"Society includes:

- (a) Any association of 150 or more persons, formed for religious purposes, and
- (b) Any club, company, partnership or association of 20 or more persons whatever its nature or objects, but does not include-
  - i. any company as defined by the Companies Act, or any company to which Part VII of that Act applies which has complied with the requirements of section 285 of that Act;
  - ii. any company or association constituted under any written law for the time being in force in Botswana;
  - iii. any trade union, federation of trade unions or employers' organization registered under the Trade Unions and Employers' Organizations Act;
  - iv. any company, association or partnership consisting of not more than 20 persons, formed for the sole purpose of carrying on any lawful business;
  - v. any co-operative society, registered under the Co-operative Societies Act;
  - vi. any board of governors, local education authority, school committee or similar organization established under the Education Act;
  - vii. any building society registered under the Building Societies Act;
  - viii. any political party listed in the Schedule; or
  - ix. Any society or class of society which may be declared not to be a society for the purposes of this Act.

The FATF under Interpretative Note to Recommendation 8 defines NPO as:

*"a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or the carrying out of other types of 'good works.'"*

The scope of definition of an NPO in the Societies Act is consistent with the elements covered by the FATF definition.

❖ Legal and Institutional Framework

The primary legislation underpinning regulation and supervision of NPOs in Botswana is the Societies Act. The Act sets out registration requirements for NPOs. Further, the Act designates the Registrar of Societies as the competent authority for ensuring integrity, accountability and public confidence in the administration and management of the NPO sector in Botswana. The Registrar of Societies is a division under the Ministry of Nationality, Immigration and Gender Affairs.

Tax laws require NPOs to register with Botswana Unified Revenue Services (BURS) to qualify for applicable tax exemptions. BURS, in turn requires a registration certificate issued by the Registrar of Societies before an NPO can apply for and obtain a tax number. The BURS keeps records of all NPOs and their tax affairs, including transactional information on importation of goods and services.

The Banking and AML/CFT laws in Botswana require customers of banks who are legal persons to provide information which will enable the bank to identify and verify the natural person who owns, controls or manages the operations of an NPO before establishing a relationship. The Financial Intelligence Act, No. 11 of 2019 designates NPOs as accountable institutions for compliance with AML/CFT obligations and the Registrar of Societies as the AML/CFT supervisor for NPOs. The banks require registration certificate, tax clearance and identity information of the management of the NPO, beneficial owners and signatories to the bank account as required under Section 16 of the FI Act. Any bank that fails to adequately conduct Customer Due Diligence (CDD) requirements commits an offence and is liable to proportionate and dissuasive sanctions under the FI Act. In terms of the Societies Act, where an NPO has a foreign national in its control, ownership or management structures, such a person must apply for and obtain a permit (or such similar documentation) from the Ministry of Nationality, Immigration and Gender Affairs. This a process of which is intended to establish and verify the true identity of the applicant.

## **6. REGISTRATION OF NPOS**

The Societies Act requires a prospective NPO to lodge an application with the Registrar of Societies. The registration process is as follows:

**Table 1: Registration Process**

| Stages  | Description of process  |
|---|---|
| <b>1: Intention to register</b>                   | <ul style="list-style-type: none"> <li>• the secretary of the interim committee writes a letter of intent to the Registrar of Societies which should have the following attachments:</li> <li>• Minutes of the formation of the Society including list of attendees (minimum 20 attendees are required and 150 in case of a religious society) of the meeting with signatures and certified copies of Identity Documents</li> <li>• 10 suggested names for the Societies.</li> <li>• List of the Society's objectives.</li> </ul> |
| <b>2. NPO Constitution</b>                        | <ul style="list-style-type: none"> <li>• Once the name has been approved, the applicant obtains an application form and guidelines on how to draft a constitution of the proposed society.</li> </ul>   |
| <b>3. Submission of application documentation</b> | <ul style="list-style-type: none"> <li>• Once the constitution has been finalised it is submitted together with the application form signed by two office-bearers.</li> <li>• The constitution will include, amongst others, rules, regulations, objectives of the society as well as procedures for appointment or election of office-bearers, and a prescribed fee.</li> </ul>  |
| <b>4. Processing of application</b>               | <ul style="list-style-type: none"> <li>• Upon receipt of the application form, the office of the Registrar assesses the application for compliance with the Societies Act and other laws.</li> </ul>  |
| <b>5. Issuance of a certificate</b>               | <ul style="list-style-type: none"> <li>• If the Registrar is satisfied with compliance with all applicable laws and processes, a certificate is duly issued.</li> </ul>   |

**Source: Societies Act**

As at October 2019, there were 9 639 NPOs registered with the Registrar of Societies. The table below shows the types and number of NPOs in Botswana. Prior to October 2019, 75 societies were de-registered (73 on account of failure to file annual returns and 2 were dissolved).

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**Table 2: Types and Number of NPOs in Botswana**

| Type of NPO                          | Number of NPOs | % Share of the Total |
|--------------------------------------|----------------|----------------------|
| Religious organisations              | 2451           | 25.42%               |
| Sporting Societies                   | 2256           | 23.40%               |
| Burial Societies                     | 1781           | 18.47%               |
| Community-based Associations         | 1278           | 13.25%               |
| Music and Entertainment Associations | 409            | 4.24%                |
| Professional Associations            | 284            | 2.94%                |
| Youth Organisations                  | 216            | 2.24%                |
| Charitable Organisations             | 174            | 1.80%                |
| Business Associations                | 147            | 1.52%                |
| Farmers Associations                 | 123            | 1.27%                |
| Women Associations                   | 121            | 1.25%                |
| Academic Associations                | 112            | 1.16%                |
| Cultural Associations                | 93             | 0.96%                |
| Social Clubs                         | 83             | 0.86%                |
| Civil Society Organisations          | 53             | 0.54%                |
| Alumni Associations                  | 41             | 0.42%                |
| Cultural Associations                | 14             | 0.14%                |
| Men Associations                     | 3              | 0.12%                |
| <b>Total</b>                         | <b>9639</b>    | <b>100</b>           |

**Source: Registrar of Societies, Ministry of Nationality, Immigration and Gender Affairs**

The table above shows that religious-based and sporting NPOs dominate in terms of number of entities registered with the Registrar of Societies. Once registered, the Societies Act requires NPOs to file annual returns reflecting incomes and expenditures on programmes to the Registrar of Societies. The Registrar of Societies obtains and maintains the financial information to identify NPOs with large portion of financial flows and international links.

## 7. DISTRIBUTION OF FINANCIAL RESOURCES

NPOs funding in Botswana are from different sources. In general, sources of funding to NPOs in Botswana come from members of the NPOs themselves. Other sources which are more programme-based are from international organisations (e.g. United Nations humanitarian agencies and European Union), individual foreign countries (e.g. USAID, Department for International Development (DIFD) and DANIDA) and private or public foundations (e.g. family, corporate, or community). Sources of funding also include the Botswana government.

Below is a representation of the specific categories of NPOs and the estimated ranking based on their financial resources in the sector and the level of international activities. The table guides the risk assessment of NPOs to focus on NPOs which account for: a significant portion of the financial resources under control in the sector; and a substantial share of the sector's international activities.

The determinations were based on financial information gleaned from the 2018 NPOs annual returns.

**Table 3: Level of Distribution of Financial Resources and International Linkage**

| Type of NPO                       | Proportion of financial resources | International activities |
|-----------------------------------|-----------------------------------|--------------------------|
| Burial societies                  | High                              | Low                      |
| Religious societies               | High                              | High                     |
| Sporting societies                | Medium                            | Medium                   |
| Community-based societies         | Medium                            | Low                      |
| Professional associations         | High                              | Medium                   |
| Civil society societies           | Medium                            | Medium                   |
| Music and Entertainment societies | Medium                            | High                     |
| Academic associations             | Low                               | Medium                   |
| Charitable associations           | High                              | High                     |

| Type of NPO           | Proportion of financial resources | International activities |
|-----------------------|-----------------------------------|--------------------------|
| Youth organisations   | Medium                            | Medium                   |
| Business associations | High                              | High                     |
| Farmers associations  | Medium                            | Low                      |
| Cultural associations | High                              | High                     |
| Social clubs          | Medium                            | Medium                   |
| Women associations    | Medium                            | Medium                   |
| Alumni associations   | Low                               | Medium                   |
| Men association       | Medium                            | Medium                   |

The table above shows that:

1. **In respect of proportion of financial resources**, societies engaged in burial, religious, professional, charitable, business and cultural activities have a large share of the financial resources under control in the sector.
2. **In respect of international activities**, societies engaged in religious, cultural, music and entertainment, charitable, and business association and cultural associations have a high linkage with outside world.
3. **Overall**, societies engaged in religious, faith-based, business associations, charitable and cultural activities have significant presence in proportion of financial resources and connection to international activities.

## 7.1 Geographical Location

The Registrar of Societies has information on NPOs from other countries as well as foreign individuals who own, control or manage NPOs in Botswana. While due diligence is conducted on subsidiaries of foreign NPOs before registration, there is less rigour around the vetting and monitoring applied on the natural persons such as church leaders from other countries before and during the course of operations. As at the time of the risk assessment, persons holding senior position in some NPOs were predominantly from South Africa, Israel, Brazil, United Kingdom and Nigeria.

## 7.2 Delivery Channel of Funds and Programmes

NPOs in Botswana use bank accounts to raise, store and move funds for operations of NPOs. Generally, benefactors such as donors require a bank account to transfer funds to support social programmes. They also have systems and procedures in place to promote accountability over the use of the funds.



In general, local personnel are used to deliver the work of the NPOs and any payment is made into a bank account of the beneficiary.

### **7.3 Identity of Beneficiaries**

The Societies Act, tax laws and FI Act create a legal framework for NPOs and the Registrar of Societies to obtain and maintain records in the form of annual returns which should contain information on beneficiaries of programmes. The FI Act requires accountable institutions to obtain and maintain transactional records of how the funds of an NPO have been utilised to deliver on programmes and ensure that all funds are fully accounted for and spent in a manner consistent with the NPO's intended purposes and objectives. The assessment established that the services provided to the beneficiaries are largely in line with the stated objectives of the NPO. The NPOs interviewed indicated that record keeping is enough to enable reconstruction of records by the NPOs and competent authorities on programmes undertaken. However, information obtained from the Registrar of Societies indicates compliance level with the reporting obligation to be around 60 percent.

## **8. ANALYSIS OF ML AND TF RISKS IN THE NPO SECTOR**

This part of the report focuses on the results of the risk assessment of NPOs carried out by the Working Group with a view to identify NPOs exposed to ML and those NPOs posing higher TF risks in the country's NPO sector. In line with international best practice, the Working Group used the following features of NPO risk assessment for guidance when determining the nature and level of ML and TF risks in the NPO sector:

1. Outreach activities;
2. Regulatory and policy framework for promotion of accountability, integrity and public confidence in the administration and management of NPOs;
3. Targeted risk-based monitoring;
4. Domestic coordination and cooperation amongst competent authorities; and
5. International cooperation.

Additionally, the Working Group considered allegations of NPO involvement in predicate proceeds, ML and TF offences; possible links to high-risk jurisdictions, preventative measures, outreach activities, adequacy of

regulation measures, national coordination and cooperation, transparency and accountability for records, international cooperation, monitoring and oversight by the Registrar of Societies working closely with the FIA.

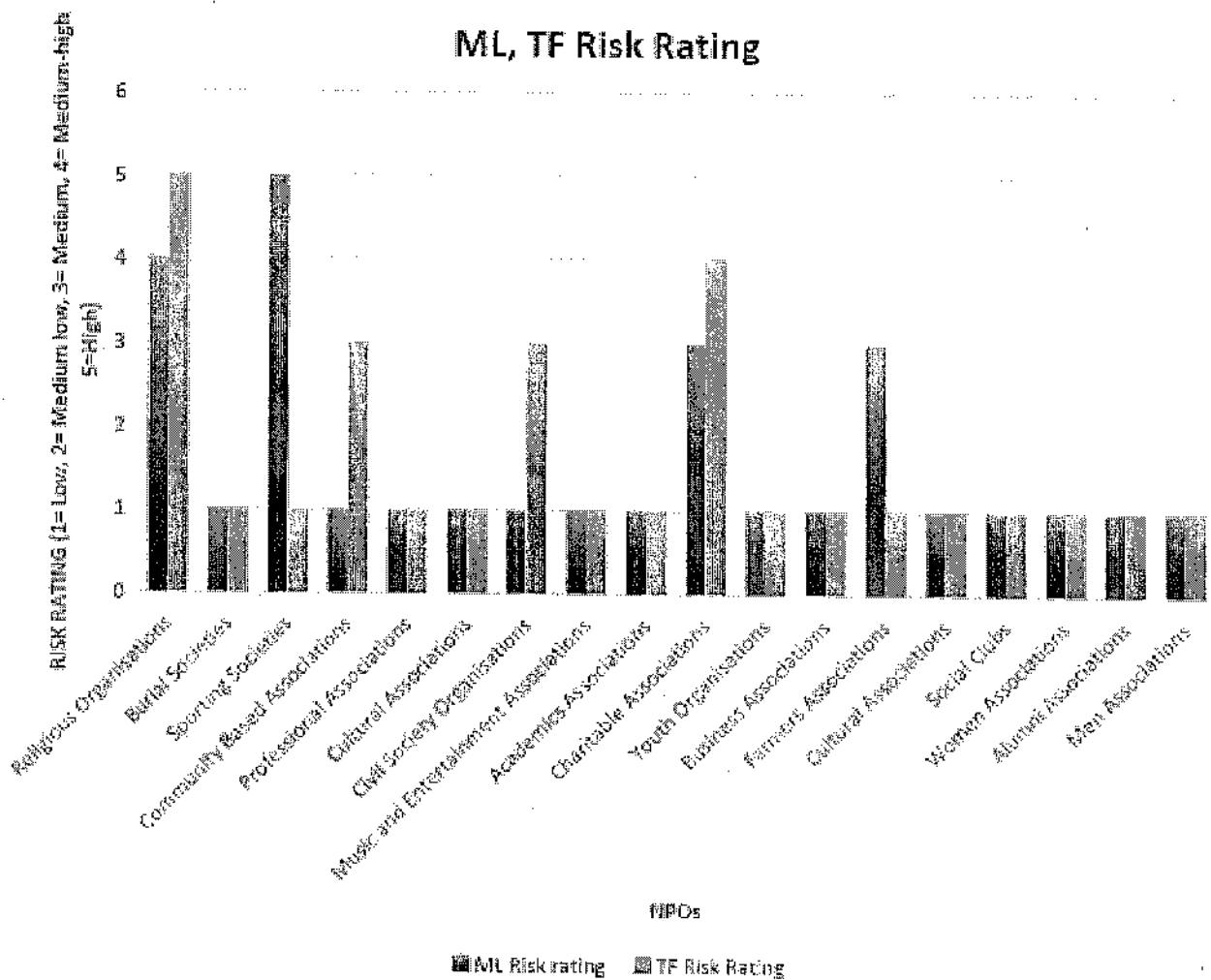
### 8.1 OVERVIEW OF NPO ML/TF RISK PROFILE

The table below provides an overview of the categories of NPOs and the ML/TF risk levels based on aggregated analysis of factors under (a) to (e) above.

Table 4: Risk Profile of NPOs in Botswana

| Type of NPO                             | No. of NPOs | ML Risk rating | TF Risk Rating |
|---|-------------|----------------|----------------|
| 1. Religious Organisations              | 2451        | Medium-High    | High           |
| 2. Burial Societies                     | 1781        | Low            | Low            |
| 3. Sporting Societies                   | 2256        | High           | Low            |
| 4. Community Based Associations         | 1278        | Low            | Medium         |
| 5. Professional Associations            | 284         | Low            | Low            |
| 6. Cultural Associations                | 93          | Low            | Low            |
| 7. Civil Society Organisations          | 53          | Low            | Medium         |
| 8. Music and Entertainment Associations | 409         | Low            | Low            |
| 9. Academics Associations               | 112         | Low            | Low            |
| 10. Charitable Associations             | 174         | Medium         | Medium-high    |
| 11. Youth Organisations                 | 216         | Low            | Low            |
| 12. Business Associations               | 147         | Low            | Low            |
| 13. Farmers Associations                | 123         | Medium         | Low            |

|                           |             |               |               |
|---------------------------|-------------|---------------|---------------|
| 14. Cultural Associations | 14          | Low           | Low           |
| 15. Social Clubs          | 83          | Low           | Low           |
| 16. Women Associations    | 121         | Low           | Low           |
| 17. Alumni Associations   | 41          | Low           | Low           |
| 18. Men Associations      | 3           | Low           | Low           |
| <b>Total</b>              | <b>9639</b> | <b>Medium</b> | <b>Medium</b> |



Overall, the table and bar chart above indicate that:

- i. Religious organizations, sporting societies, charitable associations and farmers associations have been identified as posing ML risks ranging from medium to high risk rating level;

- ii. Religious organizations, community-based associations, civil society organizations and charitable associations have NPOs posing higher TF risks; and
- iii. Religious organizations and charitable associations are the two categories of NPOs which pose higher risk for both ML and TF – albeit at varying levels and underlying reasons.

## 8.2 ML AND TF VULNERABILITY ASSESSMENT

The risk of ML and TF starts at the point of entry into the NPO sector in Botswana. The following table sets out vulnerability of NPOs at registration stage.

Table 5: ML/TF Vulnerability at Registration Stage

| Category  | Description of Vulnerability   | Rating |
|---|--|--------|
| Objectives & purpose                            | Sufficient information contained in the Constitution                                       | Low    |
| Information about members                       | Identification documents of members not verified through independent sources               | Medium |
| Beneficiaries                                   | Often the list of beneficiaries is not yet established except for broad objectives of NPOs | High   |
| Beneficial ownership                            | Vetting of owners, controllers and key persons not robust                                  | High   |
| Access to financial services                    | Identity of signatories or trustees controlling the funds in bank account is available     | Low    |
| Transparency & accountability of money movement | Tracing of funds often difficult especially the origin                                     | Medium |
| Preventive measures                             | NPOs not required to put in place controls at initial operation stage                      | Medium |
| International connection                        | NPOs not required to provide information on  | Medium |

|                                   |  |                    |
|-----------------------------------|--|--------------------|
|                                   | international connections.   |                    |
| Keeping of up-to-date information | Manual record keeping of information relating to application of NPOs | High               |
| <b>Overall</b>                    |  | <b>Medium High</b> |

The table above shows some potential challenges the country faces at entry stage to safeguard the integrity of the NPO sector from ML and TF abuse. The lack of vetting resident foreigners who own, control or manage NPOs potentially poses a high risk for abuse of NPOs.

Although the primary focus of the study is on assessing the vulnerability of the NPOs sector with a view to identifying those NPOs which pose higher TF risks, the Registrar of Societies holds a view that the following AML controls are essential to strengthening the accountability and integrity of the NPO sector against abuse by terrorist financiers.

It is for this reason that the results of the analysis of these controls against the conditions under which the NPOs are operating in Botswana, are relevant to explaining, to a large extent, the nature and level of the TF risk exposure.

Table 6: AML Controls Associated with NPO TF Vulnerability

| <b>AML obligations</b>   | <b>Description of results</b>  | <b>Rating</b> |
|--|--|---------------|
| Risk assessment to identify, assess and understand benefactors/beneficiaries | The FI Act requires NPOs being accountable institutions to understand ML/TF risk exposure. The understanding of potential TF risk exposure by NPOs is less developed.  | High          |
| Records retention  | A majority of NPOs especially large ones obtain and keep useful transactional and members information.   | Medium        |
| Identification and reporting of suspicious transactions                      | The strength of cash management procedures and use of banking sector facilitate scrutiny of some NPOs especially those with large proportion of financial flows and increase chances of identifying suspicious transactions. | Medium        |
| Integrity of key staff   | NPOs tend to use a closed-knit group of members to manage the operations of the entity including accountability of funds and property.   | Medium        |
| Identity of beneficiaries  | NPOs keep records of programmes and services rendered which identify beneficiaries.  | Medium        |
| Identity of benefactors  | Some NPOs require and obtain details of sources of funds.  | Medium High   |
| Training on diligence,   | NPOs have reasonable financial controls but do   | Medium        |

|                                 |  |                    |
|---------------------------------|--|--------------------|
| funding & regulatory compliance | not train staff to identify suspicious transactions.                             | High               |
| High-risk jurisdictions         | NPOs are aware of benefactors and beneficiaries from high-risk conflict regions. | Medium             |
| <b>Overall</b>                  |  | <b>Medium High</b> |

The table above shows that the majority of the AML obligations with relevance to mitigating TF risks are not being complied with by the NPOs and thus increase their TF risk exposure.

## **9. PROMOTING GOOD ADMINISTRATION AND MANAGEMENT OF NPOS**

### **9.1 Transparency and Accountability of Financial Records**

On average, based on the 2018 report, about 40 percent of NPOs filed their annual financial returns with the Registrar of Societies (table 7). The NPOs which file annual returns are those that have a large proportion of financial resources, large programmes or have international links. NPOs in Botswana are aware and understand the obligations to file returns to the Registrar of Societies, but not all NPOs comply especially the medium to small. There are on-going efforts to improve compliance levels in general and religious societies in particular considering that records and annual reports are the bedrock to analysis of emerging threats as they contain information on financial flows and programmes. The Registrar of Societies is of the view that harnessing such information through compliance initiatives will go a long way in the efforts to prevent abuse of the sector and combat TF activities.

The table below illustrates a breakdown of compliance (%) by each selected NPO category calculated as a percentage of total compliance in its own category.

Table: 7 Filing of Financial Returns Compliance, 2018

| Types of NPO  | No. of compliant NPOs | No. of Registered | % of compliance per category |
|---|-----------------------|-------------------|------------------------------|
| Religious Societies   | 1409                  | 2451              | 57%                          |
| Associations (Community based, professional, cultural, music and entertainment, academics, business, farmers, cultural, women, alumni and men associations) | 581                   | 2924              | 20%                          |
| Sporting Club   | 1056                  | 2256              | 47%                          |
| Burial Societies  | 821                   | 1781              | 46%                          |
| Charitable organisations  | 96                    | 227               | 42%                          |
| <b>Total</b>  | <b>3963</b>           | <b>9639</b>       | <b>40%</b>                   |

The Registrar of Societies has taken a number of actions to enforce compliance with the annual returns requirements. In some cases, NPOs are unable to disclose financial information relating to their programmes due to donor confidentiality clauses. The non-compliance level and the donor confidentiality clauses make the NPO sector vulnerable to abuse for ML and TF.

Further, the fact that the Registrar, FIA, and authorities responsible for intelligence/security services do not analyse the annual returns to determine emerging ML and TF risks, makes the sector even more vulnerable as this information is a rich source for identifying and assessing ML and TF risks.

Based on the 2018 annual returns, the total value of financing of NPOs is about P300 million with religious societies occupying a lion's share of the funds at about two-thirds of the income as shown in the table below.

Table 8: Percentage Distribution of Income, 2018

| Types of NPO             | No. of Registered | Income              | Percentage |
|--------------------------|-------------------|---------------------|------------|
| Religious Societies      | 2451              | P216,000,000.00     | 72%        |
| Associations             | 2924              | P33,000,000.00      | 11%        |
| Sporting Club            | 2256              | P23,000,000.00      | 7.6%       |
| Burial Societies         | 1781              | P16,000,000.00      | 5.4%       |
| Charitable organizations | 227               | P12,000,000.00      | 4%         |
| <b>Total</b>             | <b>9639</b>       | <b>P300,000,000</b> | <b>100</b> |

In terms of materiality and the nature of services provided by each category, Religious Societies are rated at high level of TF risks.

## 9.2 Outreach Activities

The Registrar of Societies in collaboration with the FIA conducted some outreach programmes in most parts of the country with a view to increasing understanding and application of AML/CFT obligations set out in the FI Act. The outreach also covered compliance requirements under the Societies Act. The supervisory actions including inspections conducted have not yet yielded the desired outcomes based on the quality of responses to the questionnaires and one-on-one sessions with some NPOs. The low level of impact of outreach activities makes the NPO sector vulnerable to TF and ML abuse.

## 9.3 Preventative Measures

Despite the FI Act requirements to NPOs as accountable institutions to implement preventative measures as set out in the table 6, on AML vulnerabilities, there are insufficient preventative measures in place. Due to the recent nature of the amendments to the FI Act, NPOs are yet to put in place the right systems and controls to



protect themselves against ML and TF abuse. Additional preventative measures include compliance with financial management standards, internal management practices, financial controls, due diligence on donors, beneficiaries and management of NPOs, accountability and governance.

#### **9.4 Adequacy of Regulations**

The FI Act was re-enacted in 2019 to include NPOs as accountable institutions. Therefore, the level of oversight and capacity by the Registrar of Societies is generally at embryonic stage. Notwithstanding, the Registrar of Societies and the FIA have jointly undertaken inspections on a few NPOs and it was found that there was low level of awareness and understanding of the preventative obligations under the Act. This has left the sector vulnerable to abuse against ML and TF. To some extent, it appears that preventative measures under the Societies Act are being followed such as registration and annual returns.

#### **9.5 National Coordination and Cooperation**

Botswana has AML/CFT strategy approved by Cabinet in October 2019. The Strategy seeks to promote robust coordination amongst competent authorities, societies and private sector to proactively detect and disrupt financing of terrorism activities associated with NPOs. Botswana's operational structures are emerging and have not fully optimised domestic information exchange and cooperation for purposes of identifying NPOs posing higher TF risks and adopt a coordinated approach to detect and combat the risk. Inherently, this has left the sector vulnerable to ML and TF abuse.

#### **9.6 High-risk Jurisdictions**

Stakeholders, including commercial banks, relevant competent authorities and NPOs have good understanding of the risks posed by participation of, or conducting of transactions with, foreign nationals. The only concern about high-risk jurisdiction is the lack of

fit and proper vetting procedures for resident foreigners at registration stage necessary to vet key persons who will be in control or manage NPOs.

To a large extent, this situation has left the sector with a low vulnerability level for ML and TF abuse arising from high-risk jurisdictions.

## 9.7 International Cooperation and Exchange of Information

Competent authorities responsible for detection and prevention of terrorism financing in Botswana have a wide-range of legislative powers and mechanisms to request for and provide international cooperation and exchange information with foreign counterparts.

## 9.8 ML and TF Threat Assessment

Globally, the following indicators are used for guidance to test the threat exposure of NPOs in a country. The Working Group applied these indicators on the NPO environment in Botswana to assess the threat exposure for both ML and TF. The NPOs use the banking sector for receipt and disbursement of funds for humanitarian aid.

The table below shows the analysis and level of risks with the banking sector playing a critical role of the receipt and distribution of funds.

Table 9: ML and TF Risk Exposure to Banks, November 2019

| Indicators  | Nature of risk in banks  | Rating Level |        |
|---|--|--------------|--------|
|   |  | ML           | TF     |
| NPO set up for illegal purposes                     | Verification of identity of organisations, controllers, source of funding.                                 | Medium       | Medium |
| Legitimate NPO used as cover for illegal activities | No experience in CDD and transactions screening measures applied, but source of income is readily verified | Medium       | Medium |
| NPOs as victims of                                  | Staff defrauding the society.  | Medium       | Low    |

|  |   |        |        |
|--|---|--------|--------|
| crime  |   |        |        |
| Financial crimes at all levels                       | Internal fraud and misuse of NPO funds, not being able to establish the legitimacy of the source of funds, nature of business and the purpose of establishment of the organization. | Medium | Low    |
| Fundraising abuse                                    | Open media suggest fundraising abuse activities. No list of beneficiaries is available at the bank or Registrar   | High   | Medium |
| Misuse of NPOs for criminal extremism                | No such instances have been noted, not even on adverse media related to banked clients. Prominent Influential Persons (PIPs) and sanctions screening applied.                       | Low    | Low    |
| Criminal abuse of vulnerable societies               | Redirection of NPO funds by principal officers (e.g., board of directors) and/or management and project administrators and supervisors  | Medium | Medium |
| Fostering of extremism                               | Likelihood of funds going to and coming from vulnerable societies minimal.  | Low    | Low    |
| NPOs can be used to raise, move, store and use funds | Free cross-border movement of funds which has the potential to increase the likelihood of ML/FT risk.<br><br>ML rated High as the legitimacy of source of funds may be unknown.     | High   | Medium |
| Illicit fundraising                                  | Funds are in large cash transactions mostly political parties as they guarantee anonymity; limits accurate verification of source of funds.   | High   | Medium |
| Abuse of NPO resources or facilities                 | Fraud and abuse of resources in religious organisations.  | High   | Low    |
| International transfer of funds followed by          | No experience. Notably, NPOs do conduct cross-border funds transfers through fintech  | Low    | Low    |

|                                     |   |      |        |
|-------------------------------------|---|------|--------|
| cash withdrawals                    | platforms.  |      |        |
| Crime disguised as humanitarian aid | No experience.  | Low  | Low    |
| False beneficiaries                 | The banks screen all payment beneficiaries against official sanction lists and as well as internal watch lists. No due diligence is done on the donor of funds. | High | Medium |

The table above indicates that NPOs are more likely to commit ML than TF through banks, cross-border transactions, outdated list of beneficiaries, large cash transactions and illicit fundraising.

### 9.9 TF Threats and Vulnerabilities

The vulnerability of TF associated with NPO sector can be grouped into four overarching areas. This section provides results of assessment of NPOs against the four areas of determining TF vulnerability.

a. Extended logistical networks – refers to vast number of linkages through which NPOs raise, store, move, and use funds to deliver on programmes. This results in challenges relating to governance and control of third party service providers, accountability of funds and delivery of programmes. As a result, NPOs with extended logistical network pose high TF vulnerabilities. In Botswana, societies engaged in religious, cultural and charitable associations fall under this category.

b. Large transitional network - refers to a situation in which an NPO relies on transitional workforce such as volunteers which can make it difficult to vet the integrity of staff and maintain proportionate technical expertise to run the programmes of the NPO. The inherent risk exposure is lack of adequate capacity to conduct due diligence and monitoring. In Botswana, NPOs

engaged in religious, cultural, charitable and youth activities have a high TF vulnerability.

c. Operational capacity – refers to a situation in which an NPO can be vulnerable because of access it has to vast resources which can enable it to operate in high-risk areas, carry out large programmes and easily draw public confidence in its affairs which might lead to less scrutiny of NPO activities. Operational strength may invite terrorist financiers to get a free-ride on the network and operations of the NPO to avoid detection. In Botswana, NPOs engaged in religious, cultural and music and entertainment and charitable activities have high vulnerability to TF.

d. Organisational culture – refers to situations in which an NPO places more focus on certain values which might contribute to poor decision-making and lack of risk management controls. The NPO could blindly have faith and trust on external and international actors on the basis of sharing the similar values thereby exposing the entity to TF abuse.

Overall, the results of the assessment show that the following categories of NPOs pose high TF vulnerabilities:

- Religious societies;
- Charitable societies; and
- Cultural societies.

The underlying factors for the nature and level of ML/TF risks of NPOs relate to international links including cross-border procurement transactions, large sums of cash, tithes and offerings from members and presence of foreign PIPs holding key positions. In addition, supervision and monitoring of the NPOs identified as posing higher TF is yet to take place.

## **10. RECOMMENDATIONS**

The following recommendations should be considered and implemented by the stakeholders to effectively address the ML and TF risks identified in this NPO risk assessment;

### **10.1 FIs and DNFBPs**

FIs and DNFBPs should consider;

- i. The findings of the NPO risk assessment when developing and reviewing their institutional ML and TF risk assessment.
- ii. Accessing NPO information held at the Registrar of Societies to verify the identity of the NPO and its management and understand the purpose of the engagement with the NPO in business relationships or conducting transactions.

## **10.2 Future Risk Assessment of NPOs**

The Authorities should consider undertaking a second risk assessment using the information generated through supervisory activities by the Registrar of Societies once they have built adequate capacity.

## **11. CONCLUSIONS**

Botswana has put in several measures ranging from legal and institutional interventions to mitigate the identified vulnerabilities and threats facing the NPOs. Going forward, the findings of the report is critical to the Registrar of Societies, other competent authorities, NPOs, FIs and DNFBPs to assist them to develop and implement preventative measures such as review of ML and TF risks posed by NPOs, targeted outreach, coordinated national approach, risk-based monitoring and provision of guidance in the form of best practice methods and red flags.

Botswana will use the ML and TF risks assessment of NPOs to conduct periodic thematic trends and typologies to identify and promote understanding of emerging ML and TF risks.

This risk assessment identified the types and features of NPOs operating in the country and their likelihood of being abused by terrorists and terrorist organizations. The assessment identified deficiencies which accentuate the potential ML and TF risks of NPOs largely arising from the cash-intensive nature of the sector, international connections, tax evasion and fraud. To a large extent, there are concerns regarding proper administration and management of NPOs consistent with applicable statutes and this has negatively impacted on the level of transparency and accountability in the NPO sector. The low level of compliance with annuals returns obligations for information on, *inter alia*, beneficiaries and programme activities further denies the Registrar of Societies and other competent authorities

information relevant for analysing of ML/TF risks and application of measures to prevent misuse against ML and TF activities.

**Given the nature of ML and TF risks identified through the risk assessment, the level of ML is rated Medium and TF is rated Medium- High.**

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