NON-PROFIT SECTOR EXPLOITED FOR CRIMINAL GAIN

The non-profit sector may be better known for their benevolent activities but, sometimes their organisational model can be exploited for more insidious activities.

While non-profit organisations (NPOs) can play an integral role in addressing social ills, they can be abused by terrorist organisations, money launderers and other criminals. Their abuse has the potential to erode public trust and confidence in the NPO sector, which could ultimately hamper the sector from providing health, nutritional and other support to indigent and under-resourced communities.

To prevent themselves from being exploited by criminals, NPOs need to be aware of the risks they face from a money laundering and a terrorist financing perspective. So too must third parties who deal with charitable organisations.

In South Africa, NPOs are vulnerable to abuse as they can be established with relative ease and little red tape. Registration of NPOs is voluntary and the founders, members and employees are not subject to rigorous background and criminal checks.

Additionally, the sector is susceptible to criminal exploitation due to its ability to raise funds in cash, from many different sources across the globe. NPOs are also inexpensive and quick and easy to establish while being operated as a business and used as a vehicle to evade paying taxes.

Global money laundering and terrorist financing watchdog, the Financial Action Task Force (FATF), earlier this year issued a research paper on money laundering and terrorist financing threats and vulnerabilities arising from the coronavirus (COVID-19) pandemic. Among the threats the FATF identified was the illegal fundraising for fake charities or NPOs.

“Criminals are taking advantage of the COVID-19 pandemic to carry out financial fraud and exploitation scams, including advertising and trafficking in counterfeit medicines, offering fraudulent investment opportunities, and engaging in phishing schemes that prey on virus-related fears,” the FATF wrote.

“FATF members highlight an increase in fundraising scams. In such cases, criminals posing as international organisations or charities circulate e-mails requesting donations for COVID-19-related fundraising campaigns (purportedly for research, victims and/or products). Recipients of these e-mails are then directed to provide credit card information or make payments through the suspect’s secure digital wallet.”

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Fake NPOs that are not involved in charitable causes could, hypothetically, set up a website and claim to look after the poor and vulnerable in the community. People would make electronic transfers into the organisation's bank accounts but the money flows to a foreign jurisdiction.

The FIC has published Public Compliance Communication 41 at end of 2019 which provides guidance to the NPO sector, NPO regulators and third parties dealing with NPOs regarding measures to help combat money laundering and terrorist financing.

Some modalities cited in PCC 41 allude to NPOs being exploited by:

- Criminals establishing an NPO for criminal gain i.e. laundering the proceeds of crime.
- Criminals 'hijacking' an NPO's name to carry our fraudulent activities without the knowledge of the NPO.
- Certain NPOs registered as an NPO for tax exemptions while operating as a business for profit.

Due to a fragmented regulatory framework governing the sector, gathering and consolidating the number of registered NPOs is difficult. An NPO can register with the Department of Social Development, as a Public Benefit Organisation with the SARS, a Non-Profit Company with the Companies and Intellectual Property Commission or as a trust at the Master of the High Court. As at the end of 2019 more than 350 000 NPOs were registered in South Africa. This does not represent all charitable organisations in the country. Most of these entities – approximately 210 000 – were registered with the Department of Social Development. More than 58 000 were registered with SARS, 47 000 with CIPC and close to 39 000 with the Master of the High Court.

Third parties such as financial service providers that are listed as accountable institutions in terms of the Financial Intelligence Centre Act (FIC Act) must meet their regulatory obligations. This includes record-keeping, appointing a compliance officer, training employees on FIC Act compliance, developing and implementing a risk management and compliance programme, registering with and submitting various reports to the Financial Intelligence Centre (FIC). This will help safeguard these service providers against criminal abuse and help preserve the integrity of the NPO sector and donor community.

NPOs, in turn, can protect the integrity of the sector by remaining vigilant and should contact the FIC should they notice suspicious behaviour or transactions from donors or persons dealing with the organisation.