

Registry General Risk Based Supervision

The Charities Act 2014, the Charities Regulations 2014, the Regulations were implemented to bring Bermuda's charitable sector into compliance with the Recommendations issued by the Financial Action Task Force. The primary Recommendation in relation to charities is Recommendation 8, which was revised in June 2016 to require that supervisory agencies take a targeted, risk based approach to supervision. The revised Recommendation 8 states:-

Countries should review the adequacy of laws and regulations that relate to non-profit organizations 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 organizations to protect them from terrorist financing abuse, including:

- *(a) by terrorist organizations 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 organizations.*

In keeping with the principles of risk based supervision, the Registry General has conducted a review of all of Bermuda's registered charities and assigned a risk profile to each, to reflect whether they are high, medium or low risk of being abused for terrorist financing. The criteria used for assessing charities' risk profiles included:

- Size – whether the charity's asset size or income level represent a significant proportion of the total for the charitable sector
- International activities
 - Whether the charity has foreign sources of funding
 - Whether the charity has foreign beneficiaries
 - Whether the charity has an overseas branch or is itself a branch of an overseas organization
- Geographical and other exposures
 - Whether the charity operates in, or has links to, areas known to have terrorist activity
 - Whether the charity has potential exposure to abuse by extremist groups

High Risk Charities

Charities that are assessed as high risk are subject to compliance visits by the Registry General pursuant to section 25A of the Charities Act 2014, which empowers the Registry General to conduct onsite inspections of charities' facilities and operations. Although it is primarily high risk charities that will be subject to compliance visits, they will also be used for other charities about which the Registry have concerns.

Charities that are selected for compliance visits will be notified at least two weeks in advance of the inspection and provided with a list of items that the inspecting officers will be seeking to verify. The main purpose of the compliance visits is to enable the Registry General to give guidance and feedback to charities on how their AML/ATF systems and controls can be improved.

Low Risk Charities

Following a review of the charitable sector, it was determined that charities having an annual income of \$50,000 or less should be considered low risk for terrorist financing abuse. Accordingly, section 47F of the Charities Act 2014 now exempts charities with a gross annual income of \$50,000 or less from some of the General Duties imposed on charities under regulation 3 of the Regulations. In particular, such charities are no longer required to:

- a) Appoint a compliance officer with approved training
- b) Establish and implement AML/ATF systems and controls
- c) Retain records for the specified period