17 PRESCRIBED NON-PROFIT ORGANISATIONS

Key

The below table is applicable to section 17 of *this Handbook* concerning *Prescribed NPOs* only:

Section	Colour	Obligation explained
Section heading	**Blue**	Relates to *Prescribed NPOs* only.
Subheading	**Grey**	Relates to *Prescribed NPOs* only.
Statutory requirements	**Light blue**	Mandatory for *Prescribed NPOs* only.
Codes of Practice	**Magenta**	Mandatory for *Prescribed NPOs* only.
Guidance notes	**Green**	Guidance for *Prescribed NPOs* only.

17.1 Introduction

~~12.~~1. This section replicates the statutory requirements of the *Prescribed NPO Order* using paraphrased wording.

1. Prescribed Non-Profit Organisations (***Prescribed NPOs***) are *supervised persons* under Article 1 of the *Supervisory Bodies Law*. They are therefore subject to supervision by the *JFSC* for compliance with the *Prescribed NPO Order*.
2. *Prescribed NPOs* is a sub-section of the non-profit sector which has been identified as being at a heightened risk and vulnerability of being abused for *terrorist financing* purposes.
3. Article 1 of the *Prescribed NPO Order* advises that a *NPO* will be considered a *Prescribed NPO* where, during the preceding 12 months it has:
   - raised *NPO Funds* exceeding £1,000 from outside Jersey, Guernsey, the Isle of Man, England and Wales and Scotland, or
   - disbursed *NPO Funds* exceeding £1,000 outside those jurisdictions.
4. The *JFSC* will apply a risk-based approach to determine how a *Prescribed NPO* is supervised for compliance with the *Prescribed NPO Order* and section 17 of the *Handbook.* See the NPO section of our website for more details.
5. *Prescribed NPOs* are required by the *Prescribed NPO Order* to:
   - prepare an annual financial statement, and make it available to the *JFSC* upon request;
   - have appropriate *systems and controls* to ensure that *NPO Funds* are fully accounted for;
   - keep records of *NPO Owners and/or Controllers*;
   - keep records of significant donors; and
   - take reasonable steps to identify, obtain information on, and confirm that its *associate NPOs* and *NPO Beneficiaries* are not assisting, or being used to assist, terrorist activities.
6. Parts of this section headed "*Statutory Requirements*" and "*Codes of Practice*" **are mandatory** and *Prescribed NPOs* are required to comply with them. Parts of this section headed "*Guidance notes*" **are not mandatory** and provide examples of how *Prescribed NPOs* might demonstrate compliance with the requirements of the *Prescribed NPO Order* and *Codes of Practice*.
7. Unless otherwise stated:
   a. the *AML/CFT/CPF Codes of Practice* set out in sections 2-16 of *the Handbook* do not apply to *Prescribed NPOs*.
   b. *Prescribed NPOs* need to apply the requirements of the *Prescribed NPO Order* and section 17 of *the Handbook* to all their relationships with *NPO Beneficiaries* and *associate NPOs*, not just those which are connected to higher risk jurisdictions.
8. Other acceptable methods of complying with the *Prescribed NPO Order* and *Codes of Practice*, outside those described in the *Guidance notes*, may be possible provided they are equally as robust in demonstrating compliance with the mandatory requirements.
9. A *Prescribed NPO* should apply a risk-based approach to determine what kind of measures might be appropriate to demonstrate compliance with the *Prescribed NPO Order* and *Codes of Practice.*

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10. Whether any measure outside those described in the *Guidance notes* is in compliance with the mandatory requirements will be determined on a case-by-case basis. A *Prescribed NPO* will be expected to demonstrate how the measure applied is equally as robust. This may be facilitated, for example, by documenting how the specific measure meets the requirements of the *Prescribed NPO Order* and *NPO Beneficiary*.

17.2 Vulnerabilities of *Prescribed NPOs*

Overview

11. The April 2022 the National Risk Assessment for NPOs (the ***NPO NRA***) identified around 11% of Jersey-based NPOs as being particularly vulnerable to being abused for *terrorist financing purposes.*

12. This sub-sector of *NPOs* may be more vulnerable to terrorist financing abuse due to one or more of the following factors:

- operating in higher-risk jurisdictions, such as conflict zones, failed states and disaster areas, where support such as humanitarian aid and disaster relief is desperately needed, and which equally are areas where terrorists also are known to undertake activities;
- using *associate NPOs*;
- using money remittance methods, such as *Hawala* and cash, which may render the tracing of funds to legitimate *NPO Beneficiaries* more challenging.

13. *Diversion* is the principal way in which *NPOs* may be abused for *terrorist financing*. The Glossary of the *Handbook* defines *Diversion* as "*transactions by NPO Representatives* or external parties such as *associate NPOs* that divert funds away from the *NPO's* legitimately intended purposes to a terrorist, terrorist cell or terrorist organisation for them to benefit from, directly or indirectly".

14. Examples of how *Diversion* may take place include:

- terrorists posing as legitimate *NPO Beneficiaries* to benefit from *NPO* programmes, such as receiving *NPO Funds*;
- terrorists appearing to act as ordinary *associate NPOs*, at the same time as abusing *NPO Resources* by diverting *NPO Funds* to support their activities.

15. *Diversion* risk may increase where a NPO:

- does not properly invest in its terrorist financing risk control framework on grounds of cost;
- is too focused on assisting *NPO Beneficiaries* at the expense of accountability or effective risk management;
- has a high-risk appetite, and a low level of *terrorist financing* risk controls;
- takes the view that if no incidents are reported, or that the diverted value is small, the risk of terrorist financing abuse is negligible. It is worth reflecting that even when utilising small amounts, a bad actor can cause great harm. For example, the cost of assembling a dangerous homemade explosive device can require only a relatively small amount of funds.

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16. *Diversion* risk can also increase where a *NPO* does not adequately manage "*Transfer risk*", i.e., the risk that *Diversion* will take place where funds are transferred to *associate NPOs*. High-quality *associate NPOs* can reduce *terrorist financing risk*, with their local knowledge and relationships providing an additional level of information and control to the *NPO*. However, poor due diligence can increase the *terrorist financing* risk. Some *associate NPOs* may be sympathetic to, infiltrated by, or under the control of, terrorist elements. Alternatively, they may not have strong *terrorist financing* controls and may inadvertently finance terrorist activities.

1. Ceding control of funds does not cede responsibility for their destination. *Associate NPO* selection, due diligence and oversight forms a crucial part of responsible *NPO* activity.

2. The offence of *terrorist financing* is broad in nature and scope. For the purposes of the *Handbook*, it is defined as:

- Conduct which is an offence under any provision of Articles 15, 16 and 16A of the Terrorism (Jersey) Law 2002 (*the Terrorism Law*);
- Conduct outside Jersey which, if occurring in Jersey, would be an offence under Articles 15, 16 and 16A of the *Terrorism Law*;
- Conduct which is an offence under any provision of Article 21 of the *Terrorism Law*;
- Conduct which is an offence under any provision of Parts 3, 4 and 6 of the *Sanctions and Asset-Freezing Law*.

17.3 Risk-based approach

Statutory requirements (paraphrased wording)

3. *Article 6 of the Prescribed NPO Order requires a Prescribed NPO to take reasonable steps to:*

- *identify its associate NPOs and NPO Beneficiaries*
- *obtain information about:*
  - *the activities of each associate NPO and NPO Beneficiary; and*
  - *the nature and purpose of its relationship with each associate NPO and NPO Beneficiary; and*
- *confirm, so far as possible, that its associate NPOs and NPO Beneficiaries are not assisting or being used to assist terrorism or the financing of terrorism.*

4. *In Article 6:*

- *"associate NPO" means an NPO with which the Prescribed NPO collaborates or works jointly in carrying out its activities*
- *"beneficiary" means a person who receives assistance through the activities of the Prescribed NPO.*

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17.3.1 *NPO programme* risk assessment (*NPO PRA*) and associated *activities*

Codes of Practice

1. A *Prescribed NPO* must assess and mitigate the risk of being used to assist terrorism, or the *financing of terrorists*.
2. A *Prescribed NPO* must define and document their approach to *Diversion* risk in a risk appetite statement.
3. A *Prescribed NPO* must have internal *systems and controls* in place to mitigate *Diversion* risks.

Guidance notes

4. *Prescribed NPOs* are expected to apply enhanced controls to demonstrate that they are effectively identifying, assessing, managing, and mitigating *terrorist financing* risks. These risks may include, but are not limited to:
   - operating in jurisdictions with higher *terrorist financing* risks, such as those identified in **Appendix D2** of *this Handbook*, including, for example, conflict zones, failed states, and disaster areas;
   - utilising certain payment remittance methods which fall outside the formal banking system, such as *Hawala*, mobile money, preloaded cards, virtual assets, cash (outside Jersey) etc.;
   - funds being diverted from intended beneficiaries of the *NPO* programme to any other third party with weak *terrorist financing* controls.
5. A risk-based approach is not intended to prevent or obstruct aid from reaching legitimate *NPO Beneficiaries*. It is a way of ensuring it reaches them in the safest way. Transparency is critical for mitigating *Diversion* risk. Without assessing risk in a meaningful way, it is not possible to ascertain if the *systems and controls* in place are effective. Adequate *systems and controls* can also safeguard the non-profit sector, and Jersey, from reputational damage. Robust controls provide confidence to donors, *Financial Institutions*, such as banks, and the regulator. It can also mitigate civil litigation from donors.
6. A risk-based approach can be established through the completion of a *NPO* programme risk assessment (***NPO PRA***). These should be undertaken by the charity governors, board members, trustees, senior officers (or equivalent, whether or not they are remunerated). The *NPO PRA* should be:
   - undertaken as soon as reasonably practicable before the *NPO* commences the programme; and
   - recorded to assist the *NPO* in demonstrating its rationale.
7. Whilst it is the responsibility of each *Prescribed NPO* to identify and define their *NPO* programme(s) of activity, examples may include:
   - the delivery of food parcels to rural communities in X country;
   - providing emergency shelters and supplies to victims of an earthquake and tsunami in Y country;
   - funding of an animal shelter in Z country.

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8. A *Prescribed NPO* may consider it appropriate to conduct a separate risk assessment for each *NPO* programme of activity undertaken. This might be appropriate where only one *NPO* programme of activity is conducted at a time.

1. Where a *Prescribed NPO* undertakes a large number of *NPO* programmes simultaneously, e.g., aid operations in multiple countries, it may be more suitable to conduct one *NPO PRA* for the whole body of work conducted.

2. A *NPO PRA* should be reviewed at any point where there is a perceived change in the risk profile of the *NPO* programme(s) which have been assessed (e.g., if civil unrest develops in the region where the *NPO* programme is taking place)

3. The *NPO PRA* should have regard to all relevant risk factors. These may include, but are not limited to:

- the nature, scale, complexity and the diversity of its operations (including geographical diversity), the volume and size of its transactions, and the degree of risk associated with each area of its operation;
- jurisdictions, territories or areas where it is not uncommon that terrorist organisations may demand that people they direct should be involved in a *NPO* programme, for example where the terrorists may be political actors, or where terrorists otherwise control the area;
- operating in environments where gifts form part of cultural interactions, and where terrorist organisations may exert pressure to comply with such donations;
- operating in environments where taxes and fees are collected by terrorist organisations or their *Sympathisers*, and where this is a known and regular occurrence;
- location remoteness and intensity of local conflict and factions, potentially intensified by legitimate security and policing forces not having a presence;
- carrying out distribution work in jurisdictions, territories or areas that are controlled by terrorist organisations where the *NPO* may be directed or demanded to provide aid to certain parties;
- the characteristics of activities and services the *NPO* offers, and the associated vulnerabilities posed by each activity and service;
- any degree of third party involvement in the *NPO* programme, including, for example, using *associate NPOs*;
- jurisdictions, territories or areas where *NPOs* require the support of local *associate NPOs* to be able to operate safely and where terrorist organisations have political support and influence;
- circumstances where it is difficult to adequately screen a person's background or establish their associates;
- any risk presented by the *Prescribed NPO*'s donors or *NPO Beneficiaries*;
- any risk presented by the technology utilised by the *Prescribed NPO,* including communications channels, fund-raising platforms and payment mechanisms;
- being the target of a cyber-attack, such as through phishing. An example of a cyber-attack might be where an attacker sends an e-mail to the *Prescribed NPO*, pretending to be from one of their suppliers. The e-mail includes an invoice and states that the supplier has changed their bank and requires the *NPO* to amend the account details of where to send payments. The invoice has been doctored and the new account details are those of the

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attacker. The money is then transferred directly to the attacker, potentially for the benefit of terrorists.

4. When conducting a *NPO PRA* care should be taken not to focus too much on any single factor. All aspects of the political, economic, geographical, technological, social and sanction risk environment in the area of the *NPO's* operations should be considered. *Prescribed NPOs* should also take into account any risks identified by a *NPO NRA*, or similar documents.

5. Risk should also be considered on a cumulative basis. The overall exposure from all risks aggregated together may be greater than if they were each considered individually.

6. An example of a *NPO PRA* checklist can be downloaded from our website and modified, as appropriate: draft programme risk assessment checklist. This template is not intended to be rigid or prescriptive. An *NPO* may wish to make amendments to the checklist to account for the specific risks relevant to its activities.

7. To support the assessment of risks presented by a particular *NPO* programme of work, it may be appropriate to prepare a risk appetite statement. This statement sets out what level of *terrorist financing* risk the *Prescribed NPO* is prepared to tolerate. A clear position, set out in writing, can assist a *Prescribed NPO* in deciding whether a *proposed NPO* programme of work creates too much risk exposure to be undertaken.

8. It is our expectation that a risk appetite statement should confirm, at a minimum, that the *Prescribed NPO* will not tolerate *Diversion*, nor parties that enable *Diversion*. It may also consider and discuss:

   - whether there are certain jurisdictions, territories or areas in which the *NPO* is comfortable to operate, such as where it has previous experience and is engaged with known *associate NPOs*. There may be other places where the *NPO* is unwilling to operate;
   - if the *Prescribed NPO* will avoid certain routes or geographical areas, or particular relationships, or the use of certain payment methods (e.g., cash, pre-paid cards, *Hawala*, mobile money, virtual assets etc.);
   - if working alongside certain *associate NPOs* falls outside the *NPO*'s risk appetite;
   - what contractual arrangements and terms it will be prepared to put in place working with an *associate NPO*, for example seeking undertakings of non-tolerance for *Diversion*;
   - what types of donors it will accept funding from;
   - who it will distribute benefits to and where;
   - certain conflict levels which it will not tolerate, such as delivering aid in an active warzone.

9. When preparing the *NPO PRA* and risk appetite statement, it is important to recognise that an *NPO's* risk management capabilities are not always transferrable from one *NPO* programme to another. If adequate safeguards cannot be put in place regarding a particular *NPO* programme, it should be considered whether another *NPO*, with greater capability, ought to carry out the *NPO* programme instead.

10. A *Prescribed NPO* may consider that it is able to establish a risk-based approach through methods other than conducting a *NPO PRA*, and/or risk appetite statement. In these circumstances, the *Prescribed NPO* is expected to demonstrate how its alternative measures achieve the same outcome as those set out above.

11. Where a *Prescribed NPO* is receiving services from a *CD regulated TCSP*, it may be appropriate for the *CD regulated TCSP* to add the output of the *NPO PRA* and risk appetite statement to their own *BRA* (see section 2.3.1 of the *Handbook*).

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12. A *CD regulated TCSP* may also consider it appropriate to integrate any periodic testing of the *Prescribed NPO's systems and controls* into the testing undertaken for their *TCSP business* (see section 2.4.2 of the *Handbook*).

17.3.1.1 ***Prescribed NPOs* solely remitting to charities in *equivalent jurisdictions***

13. For guidance in terms of what is meant by an equivalent jurisdiction, see Appendix B of the *Handbook*.

14. A number of *NPOs* established in Jersey conduct no activity apart from disbursing funds to charities which are operating in equivalent jurisdictions. Examples of this type of operating model include:

- a faith-based *NPO* sending funds to a larger faith-based organisation, based in an equivalent jurisdiction, which conducts mission activities across the world;
- a Jersey branch of a global aid organisation sending funds to its headquarters based in an *equivalent jurisdiction.*

15. When conducting their *NPO PRA* (or equivalent), *Prescribed NPOs* undertaking no activity apart from disbursing funds to charities which are operating in equivalent jurisdictions, should take into account the following factors:

- what jurisdictions does the recipient organisation operate in?
- how has the *Prescribed NPO* concluded that the country in which the recipient organisation operates is an equivalent jurisdiction (see sections 1.8.2, 1.8.3 and **Appendix B** of *the Handbook* for further guidance)?
- will the funds sent by the *Prescribed NPO* be applied for a specific purpose, or does the recipient organisation have the freedom to apply the funds to whatever activities it sees fit?
- what assurances has the recipient organisation given in terms of their *systems and controls* to mitigate the risk of *Diversion*?

16. Set out below is a case study demonstrating how a *Prescribed NPO* acting in this manner might carry out their *NPO PRA* (or equivalent):

- a *Prescribed NPO* has been established to raise funds in Jersey, in order to support a charity based abroad which rescues and rehomes stray dogs from across the world. That charity operates in a number of higher-risk jurisdictions for *terrorist financing* purposes as per **Appendix D2** of *the Handbook*;
- the *Prescribed NPO* sends *NPO Funds* to the charity with no caveats in terms of how it should be applied, and the charity is free to use the money as it chooses;
- the *Prescribed NPO* is aware of the risk that the *NPO Funds* they have donated may be diverted for terrorist financing purposes once they reach the higher-risk jurisdictions. Therefore, they ask the charity to provide details of their *systems and controls* to counter terrorist financing. This may include speaking with the charity's Head of CFT, reviewing their policy manual and finding out who their *associate NPOs* are. The *Prescribed NPO* may also consider the track record of the charity and their *associate NPOs* through a search for adverse news articles on Google or similar search engines. The *Prescribed NPO* may check that the charity remains in good standing with the regulator in the jurisdiction where the charity is supervised;
- after considering the above, the *Governing body* of the *Prescribed NPO* decides they are satisfied that the charity has sufficient controls to mitigate the risk of *Diversion*. The

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Prescribed NPO records their checks, and the rationale for their decision, in their *NPO PRA* and proceed to remit *NPO Funds* to the charity;

› As part of their ongoing risk monitoring, the *Governing body* of the *Prescribed NPO* decides to check for adverse news articles on the charity via Google on an annual basis.

17.3.2 Ongoing risk monitoring

1. Risk monitoring of a *NPO* programme is a dynamic and cyclical process. It ensures that any new risks are addressed as they arise and establishes how previously identified risks may have changed. The below diagram from the *UK* Charities Commission illustrates the risk assessment cycle:

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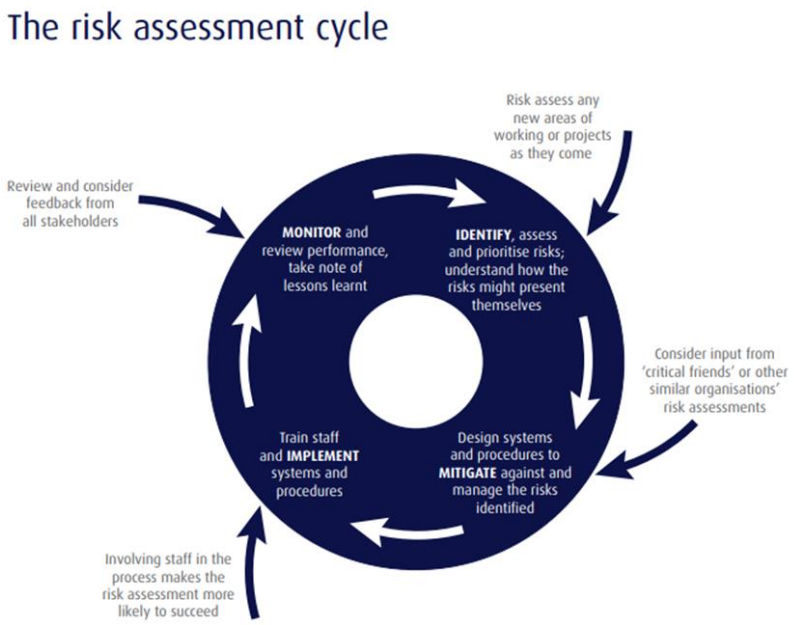

2. A *Prescribed NPO* may demonstrate that terrorist financing risks are being monitored on an on-going basis by:

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› ensuring that the identification, assessment, management and mitigation of risk is linked to the achievement of the *Prescribed NPO*'s operational objectives;

› ensuring that the assessment process reflects the charity governors', board members', trustees', senior officers' (or equivalent, whether or not they are remunerated) view of acceptable risk;

› reviewing and considering the results of risk identification, evaluation and management;

› considering the risks attached to significant new activities or opportunities;

› considering external factors, such as new legislation, sanctions or regulations;

› considering the financial impact of risk as part of budget planning;

- documenting how the charity governor's, board member's, trustee's, senior officers (or equivalent, whether or not they are remunerated) have decided how the identified risks should be treated and managed.

1. A *Prescribed NPO* may demonstrate they are adequately monitoring risk by keeping records of their monitoring activities in a *Diversion* risk register. An example of a *Diversion* risk register can be downloaded from our website: draft *Diversion* risk register template.

2. This template is not intended to be rigid or prescriptive. A *Prescribed NPO* may decide, with reference to its *NPO PRA* and/or risk appetite statement (or equivalents) that it should carry out monitoring on more, less or different risks than those listed in the template *Diversion* risk register.

3. When completing the *Diversion* risk register, a *Prescribed NPO* should refer to their *NPO PRA* and/or risk appetite statement (or equivalents) to help them conclude the risk level of a particular area, and what controls should be put in place. For example:

   - a risk area assessed as low risk may only need minimal controls;
   - a risk area assessed as medium risk may need some additional controls; and
   - a higher risk activity may need significant additional controls. If it is judged that the risk cannot be mitigated by the *Prescribed NPO* to an acceptable level, it would be appropriate to leave this work to another party that can effectively manage the risk.

4. It is recommended that a periodic review of a *NPO's* risks is conducted at least annually. Through the application of a risk-based approach, it can be determined whether certain risks should be monitored more or less frequently. For example:

   - A *Prescribed NPO* whose sole activity is disbursing funds to a reputable charity which only carries out activity in an *equivalent jurisdiction* may only need to review their exposure to higher-risk jurisdictions on an annual basis; for example, by seeking confirmation from the overseas charity that it continues to only act within their home jurisdiction;
   - If a *Prescribed NPO* is supporting displaced persons in a country undergoing civil conflict its activity is potentially exposed to the risk of being extorted for a portion of the *NPO Funds* to gain access to the *NPO Beneficiaries*. In this case it would be more appropriate to monitor the risk of association with a target of financial sanctions related to terrorism on a more regular basis at an interval that is appropriate in the circumstances, e.g., quarterly.

5. In all cases, the outcome of periodic reviews should be documented. A *Prescribed NPO* should be able to explain and justify why it has chosen to conduct its risk monitoring in a certain manner, and at a certain interval.

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17.4 *NPO Beneficiaries, associate NPOs* and donors

17.4.1 *NPO Beneficiaries*

Statutory requirements (paraphrased wording)

6. *Article 6 of the Prescribed NPO Order requires a Prescribed NPO to take reasonable steps to:*

   - *identify its associate NPOs and NPO Beneficiaries*
   - *obtain information about:*

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- *the activities of each associate NPO and NPO Beneficiary; and*
- *the nature and purpose of its relationship with each associate NPO and NPO Beneficiary; and*

› *confirm, so far as possible, that its associate NPOs and NPO Beneficiaries are not assisting or being used to assist terrorism or the financing of terrorism.*

Overview

1. *NPO Beneficiaries* are defined in the Glossary of *this Handbook*. As noted, this term captures natural persons, as well as groups of natural persons.
2. For the purposes of the *Handbook*, a *Prescribed NPO* establishes a relationship with an NPO Beneficiary.
3. To comply with the *Prescribed NPO Order*, a *Prescribed NPO* will need to apply a level of due diligence on its *NPO Beneficiaries*. The due diligence in this respect is not intended to follow that of *financial services businesses*, since this would not be proportionate, nor appropriate. Instead, the *NPO* should identify its *NPO Beneficiaries* by applying a risk-based approach.
4. In the context of *NPO Beneficiaries*, a risk-based approach means applying sufficient measures, having regard to the *NPO PRA* and risk appetite statement (or equivalent documents), to be satisfied that the *NPO Beneficiary* is not involved in terrorism or *terrorist financing*. A higher level of risk may require more stringent measures to be applied, whilst a lower level of risk might require less.
5. Throughout section 17 of the *Handbook*, it may be relevant for a *Prescribed NPO* to refer to other sections of *this Handbook* for additional guidance. When reviewing these sections, a *Prescribed NPO* should consider the term '*customer*' to refer to *NPO Beneficiaries*.
6. Where a *Prescribed NPO* is receiving services from a *CD regulated TCSP* and it is considered appropriate to do so, the *NPO* may choose to apply due diligence measures which are aligned with those set out in sections 3 and 4 of *this Handbook*.

Guidance notes – Identifying *NPO Beneficiaries*

7. Where a *NPO Beneficiary* is a single person, a *Prescribed NPO* may demonstrate that it has taken reasonable measures to identify that person where it obtains the following information:
   - › Name;
   - › Date of birth (if possible);
   - › Country of birth;
   - › Current area of residence.
8. The amount of identity information requested may differ based on the outcome of the *NPO PRA* (or equivalent).
9. Identity information for an individual may be obtained directly from the *NPO Beneficiary*, or their representative.
10. Where a *NPO Beneficiary* is a group of persons, for example refugees from a particular conflict, there is no requirement to identify each individual person.

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11. In these cases, the *Prescribed NPO* may demonstrate that is has taken reasonable measures to identify the group if the characteristics of that group are consistent with the purpose and objectives set out in the *Prescribed NPO's* constitutional documents (or their equivalent).

12. For example, if the *Prescribed NPO's* constitutional documents state that its objective is to provide humanitarian support to victims of conflict, this would be consistent with a group of *NPO Beneficiaries* who are a group of refugees from such conflicts.

13. However, the *Prescribed NPO* should be alive to the fact that different classes of *NPO Beneficiaries* will present different levels of risk from a terrorist financing perspective based on their location and proximity to terrorist organisations etc.

14. Identity information for a group of persons may be obtained from a representative of that group.

Guidance notes – Nature and purpose of relationship with *NPO Beneficiary*

15. As part of its reasonable measures in respect of *NPO Beneficiaries*, a *Prescribed NPO* will need to obtain information on the nature and purpose of their relationship with the *NPO Beneficiary*. It should do this by requesting and documenting the information at the establishment of the relationship.

16. The "nature" of a relationship may include:

- the amount and type of *NPO Funds* which would be applied to the *NPO* Beneficiary/(-ies);
- whether any *associate NPO*s are involved, and their purpose.

17. The "purpose" of a relationship may include:

- what the activity is aiming to achieve, such as building a pump to provide a rural community with access to clean water or distributing food to victims of a drought.

Guidance notes – Confirming *NPO Beneficiaries* are not involved in terrorism

18. Where a *NPO Beneficiary* is a single person, a *Prescribed NPO* may demonstrate that it has taken reasonable measures to confirm that person is not assisting, or being used to assist, terrorism/the *financing of terrorism*, where it takes steps to ascertain whether the person is a legitimate *NPO Beneficiary*. Such steps may include:

- seeking a reference from an independent person to corroborate the information provided by or regarding the *NPO Beneficiary*. For example, if the *NPO Beneficiary* is a child staying in an orphanage, the reference should confirm that the child is in fact staying there;
- visiting the location where the *NPO Funds* will be applied to consider whether the amount(s) to be applied appear reasonable given what is proposed to be done with them;
- considering if the amount(s) to be applied to the *NPO Beneficiary* makes sense when compared to previous relationships with similar characteristics;
- reviewing the correspondence held with the *NPO Beneficiary*, their representatives and relevant *associate NPOs*, then considering if the proposed relationship makes sense based on what they have said.

19. Where a *NPO Beneficiary* is a group of persons, for example refugees from a war zone, there is no requirement to obtain a confirmation for each individual person. The *Prescribed NPO* should still take account of the characteristics of the group of *NPO Beneficiaries* when preparing its *NPO PRA* (or equivalent).

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20. In these cases, the *Prescribed NPO* may demonstrate compliance with the *Prescribed NPO Order* by taking measures to ensure the group of persons are legitimate *NPO Beneficiaries*. This may be achieved by, for example:

- visiting the location where the *NPO Funds* will be applied and by considering whether the amount(s) to be applied appear to be reasonable given what is proposed to be done with them;
- considering if the amount(s) to be applied to the group of *NPO Beneficiaries* makes sense when compared to previous relationships with similar characteristics;
- reviewing the correspondence held with the group of *NPO Beneficiaries*, their representatives and relevant *associate NPOs,* then considering if the proposed *business relationship* or *one-off transaction* makes sense based on what they have said.

21. Based on the assessed risk of the relationship with the *NPO Beneficiaries*, one or more of the above measures may be appropriate.

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17.4.2 *Associate NPOs*

Statutory requirements (paraphrased wording)

22. *Article 6 of the Prescribed NPO Order requires a Prescribed NPO to take reasonable steps to:*

- *identify its associate NPOs and NPO Beneficiaries*
- *obtain information about:*
  - *the activities of each associate NPO and NPO Beneficiary; and*
  - *the nature and purpose of its relationship with each associate NPO and NPO Beneficiary; and*
- *confirm, so far as possible, that its associate NPOs and NPO Beneficiaries are not assisting or being used to assist terrorism or the financing of terrorism.*

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Overview

23. Article 6(2) of the *Prescribed NPO Order* defines an *associate NPO* as "an *NPO* with which the *Prescribed NPO* collaborates or works jointly in carrying out its activities". *Associate NPOs* may sometimes be referred to as "Partners".

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1. An *associate NPO* might be based in Jersey, or they might be based elsewhere.
2. For the purposes of *this Handbook*, a *Prescribed NPO* establishes a relationship with its *associate NPOs*.
3. To comply with the *Prescribed NPO Order*, a *Prescribed NPO* will need to apply a level of due diligence to its *associate NPOs.*
4. *Prescribed NPOs* should refer to their *NPO PRA* (or equivalent) and use their judgement to determine how much identity information needs to be obtained in each case, and how that information should be verified.
5. The *Prescribed NPO* is expected to make this decision by applying a risk-based approach, making reference to its risk appetite statement, documenting its decision-making and keeping it under regular review.

6. Where a *Prescribed NPO* is receiving services from a *CD regulated TCSP* and it is considered appropriate to do so, the *NPO* may choose to apply due diligence measures which are aligned with those set out in sections 3 and 4 of *this Handbook*.

Guidance notes – Identifying an *associate NPO*

7. Where an *associate NPO* is **a natural person**, a *Prescribed NPO* may demonstrate that it has taken reasonable measures to identify that *associate NPO* where it obtains the following information:
   - Name;
   - Date of birth (if possible);
   - Country of birth;
   - Current area of residence;
   - Principal area of operations.
8. Where an *associate NPO* is **a legal person** (such as a company) or **a legal arrangement** (such as a trust), a *Prescribed NPO* should obtain the following information:
   - date of incorporation or establishment;
   - country of incorporation or establishment;
   - principal area of operations;
   - names of the *associate NPO Controllers*, e.g., board members or trustees.
9. Identity information may be obtained directly from the *associate NPO*, or their representative.
10. The amount of identity information obtained may differ through the taking of a risk-based approach, based on the outcome of the *NPO PRA* and the *NPO's* risk appetite statement. For example, where the *NPO PRA* produces a higher risk outcome the *Prescribed NPO* may wish to also obtain the names of the *associate NPO's* owners, e.g., shareholders or partners of a partnership arrangement.

Guidance notes – Nature and purpose of relationship

11. A *Prescribed NPO* may demonstrate that it has obtained information on the nature and purpose of a relationship where it requests and documents this information at the establishment of a relationship.
12. The "nature" of a relationship may include:
    - the type of activity the *associate NPO* will undertake on behalf of the *Prescribed NPO,* e.g., delivering medical supplies to a disaster area;
    - how that activity is intended to be carried out, e.g., the *associate NPO* will utilise its fleet of heavy-duty vehicles.
13. The "purpose" of a relationship may include:
    - the reason the *Prescribed NPO* is engaging with the *associate NPO*, e.g., the *associate NPO* is able to access areas of a country which, for security reasons, the *Prescribed NPO* is otherwise unable to reach.

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Guidance notes – Confirming *associate NPOs* are not involved in terrorism

14. A *Prescribed NPO* may demonstrate that it has taken reasonable measures to confirm an *associate NPO* is not assisting, or being used to assist, terrorism/the *financing of terrorism* where it does so use robust, independent data sources.

15. Based on the outcome of the *NPO PRA*, a greater or lesser level of measures may be necessary to mitigate the risk of the *associate NPO* being involved in *terrorist financing*. However, *Prescribed NPOs* should always include the following checks in their due diligence measures relating to *associate NPOs*:

- screening against the *UK* and Jersey lists of *Proscribed terrorist organisations*;
- screening against the UNSC Consolidated List; and
- the OFSI Consolidated sanctions list and the UK sanctions list.

16. A *Prescribed NPO* may undertake screening in respect of sanctions through several different methods. These should be tailored so they are appropriate to its size and complexity. Examples may include:

- a *Prescribed NPO* which is receiving services from a *CD regulated TCSP* might utilise a screening program developed by a professional due diligence firm to which the service provider already has access;
- if checks which substantively achieve what is set out in paragraphs 90 and 91 above have recently been carried out by the *Prescribed NPO's* service provider in compliance with its requirements under sections 3 of *the Handbook*, it is not necessary for the service provider to repeat them;
- where a *Prescribed NPO* is small and individuals participate on a part-time/voluntary basis, the checks may be carried out by a person directly accessing the above-referenced lists and searching for the required names via the "Find" function of their internet browser.

17. The *Prescribed NPO* needs to be cognisant that when undertaking screening, it is important to remember that the connection to *sanctioned/designated persons* and *proscribed terrorist organisations* is more likely to be hidden, meaning that the person the *NPO* is engaging with is not necessarily directly captured in the lists the *Prescribed NPO* is checking against. Instead, they may be indirectly captured via their associations with terrorists, which may not be immediately apparent, but which can be brought to light through undertaking additional enquiries.

18. The independent data sources used should seek to confirm that the *associate NPO* is a legitimate person or operation. Set out below are some examples of due diligence which may be carried out at different levels of risk. The *Prescribed NPO* should document its decision in each case regarding how much due diligence it has decided to undertake:

- Lower risk:
  - obtaining details of the legal person or arrangement from an online registry;
  - seeking references from other *NPOs* to corroborate the information *the associate NPO* has provided;
  - undertaking an open-source check (e.g., Google) to ascertain if the *associate NPO* has been subject to any adverse media coverage.
- Medium risk

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- review of registration documentation;
- understanding how long an *associate NPO* has been operating, e.g. has it been set up "overnight" to capitalise on a market opportunity?

› Higher risk

- inspecting the *associate NPO's* site of operations to view their activities first-hand (or commissioning a trusted third party to do so);
- inspections of *associate NPO* records and financial statements;
- requesting details of their anti-*Diversion systems and controls* and testing them.

19. There may be circumstances where a *Prescribed NPO* has a long-term relationship with an *associate NPO*. In this scenario, they may consider that additional verification of the *associate NPO's* identity, as set out above, is not required. If the *NPO* takes this decision, they should ensure their rationale for undertaking no further verification is documented. An example is set out below:

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› a *Prescribed NPO* in Jersey provides monetary aid to several rural communities in a foreign country. The *NPO Funds* are sent to their *associate NPO*, where a local faith leader is responsible for ensuring *NPO Funds* are distributed where they are most needed, to legitimate *NPO Beneficiaries.* The *Prescribed NPO* has worked with the *associate NPO* for over a decade and several members of the *Governing body* have met with the local faith leader personally. Through this relationship, they are satisfied that the faith leader is a respectable person of good standing. The *Prescribed NPO* considers that no further verification is required. The *Governing body* records their rationale at the next general meeting.

20. To help mitigate *terrorist financing* risk, a *Prescribed NPO* may wish to consider putting a partnership agreement in place to govern the relationship with the *associate NPO*. This agreement might include certain clauses to ensure a strong *CFT* framework is put together and maintained. Example clauses include:

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› an explanation of what *terrorist financing* and *Diversion* is;

› an undertaking that the *associate NPO* has appropriate measures in place to mitigate the risks of *terrorist financing,* and commits the *associate NPO*, on a best endeavours basis, to preventing it from occurring;

› permitting the *Prescribed NPO* to request whatever information is necessary from the *associate NPO* to satisfy its due diligence requirements;

› agreeing to the *Prescribed NPO* carrying out spot-checks on the activities of the *associate NPO* or its representative. Where a physical visit is not possible due to, for example, safety concerns, other measures of verification may be permitted such as video calls, requesting copies of invoices etc.;

› requiring the *associate NPO* to maintain an audit trail of its activities and provide it to the *Prescribed NPO* upon request (may also extend to formal financial records);

› the *Prescribed NPO* reserving the right to terminate the *business relationship* or *one-off transaction* should the outcome of any checks be unsatisfactory, or if it is identified that *Diversion* has taken place.

21. There may be circumstances where a *Prescribed NPO* concludes that it is not possible, nor necessary, to put a partnership agreement, or one with *CFT* clauses, in place. If this is the case, the *NPO* should be able to explain why they took that decision and how they consider the risk of *Diversion* to be mitigated without a partnership agreement, or *CFT* clauses, being in place.

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17.4.2.1 Exceptional circumstances

Guidance notes

22. There may be exceptional circumstances where a relationship with an *associate NPO* may need to be established or carried out rapidly. An example may be a humanitarian disaster, like a flood or earthquake which cuts off a community from food and water. Such disasters require an urgent response. Undertaking due diligence at the outset of the relationship in the way that would otherwise be expected is likely to be inappropriate.

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23. Of course, this does not mean that *Prescribed NPOs* should undertake a lesser level of due diligence compared to where the need is less urgent. A *Prescribed NPO* which intends to operate in emergency scenarios will need to demonstrate they are prepared and able to implement effective controls when engaging *associate NPOs* for this purpose.

24. A *Prescribed NPO* may therefore demonstrate compliance with Article 6 of the *Prescribed NPO Order* where it:

- establishes and maintains effective procedures governing how it will identify and engage appropriate *associate NPOs* in any given scenario;
- undertakes as much due diligence at the outset as can be done without unduly delaying the establishment of the relationship; and
- undertakes the remaining checks deemed appropriate by the *NPO PRA* as soon as possible following the commencement of the relationship, e.g., whilst the *associate NPO* is operating 'on the ground' in the local area where distributions are carried out.

25. Where the above approach has been taken, a *Prescribed NPO* should clearly document its rationale for applying this exception and set out a timeframe during which the remaining checks will be carried out and such allowances should also be documented in its *NPO* risk appetite statement.

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26. The *Prescribed NPO* should consider including a clause in its partnership agreement whereby it reserves the right to terminate the relationship should the outcome of the checks be unsatisfactory.

27. Equally, a *Prescribed NPO* may consider utilising a "preferred partner"/associate *NPO* which has already been through the due diligence process before the exceptional event occurs.

17.4.3 *NPO* donors

Statutory requirements (paraphrased wording)

28. *Article 5 of the Prescribed NPO Order requires a Prescribed NPO to keep records of donors who, during the preceding 12 months, have donated (as a single donation or cumulatively) –*

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- *£10,000 or above; or*
- *over 50% of total donations made to the Prescribed NPO during that period.*

Overview

1. Donations to *Prescribed NPOs* are diverse. For example, a significant contribution made by a wealthy individual or institution, or a small monthly contribution made by a member of the public.
2. For the purposes of the Handbook, the relationship between a *Prescribed NPO* and its donors is not considered to constitute a *business relationship* or one-off transaction.
3. As noted above, Article 5 of the *Prescribed NPO Order* requires *Prescribed NPOs* to keep a record of "significant donors", i.e., those falling within Article 5(1)(a) and 5(1)(b) of the *Prescribed NPO Order*.
4. To comply with the *Prescribed NPO Order*, a *Prescribed NPO* will need to apply a level of due diligence to its significant donors.
5. *Prescribed NPOs* should refer to their *NPO PRA* and their risk appetite statement (or equivalent documents) and use their judgement to determine how much identity information needs to be obtained in each case to mitigate the risk of *Diversion*.
6. There is no requirement in the *Prescribed NPO Order* to verify the identity information collected for significant donors. However, in some circumstances, such as when the *NPO PRA* (or equivalent) produces a higher-risk outcome, the *Prescribed NPO* may consider it necessary to do so. In these cases, the *NPO* should utilise robust, independent data sources to confirm the significant donor is a legitimate person or operation – see the guidance in section 17.4.2 of *this Handbook*.
7. Where a *Prescribed NPO* is receiving services from a *CD regulated TCSP* and it is considered appropriate to do so, the *NPO* may choose to apply due diligence measures which are aligned with those set out in sections 3 and 4 of *this Handbook*.
8. For the avoidance of doubt, there is no statutory or *Code of Practice* requirement to make the identities of any significant donors public, for example via a *Prescribed NPO's* annual financial statement.

Guidance notes – Identifying significant donors

9. Where a significant donor is a natural person, a *Prescribed NPO* may demonstrate that it has taken reasonable measures to **identify** that person where it obtains the following information:
   - Name;
   - Date of birth;
   - Country of birth;
   - Current residential address.
10. Where a significant donor is a legal person (such as a company) or a legal arrangement (such as a trust), a *Prescribed NPO* should obtain the following information:
    - date of incorporation or establishment;
    - country of incorporation or establishment;
    - registered address;

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- names of the significant donor's controllers, e.g., board members or trustees;
- names of the significant donor's owners, e.g., shareholders or partners of a partnership arrangement.

11. Information collected on significant donors may be kept in a register, list, or similar format.

12. As noted above, it may be considered necessary to obtain additional identity information based on the outcome of the *NPO PRA* and the *NPO's* risk appetite statement (or equivalent documents). For example, a higher-risk rating might mean the *Prescribed NPO* requests further information from their significant donors.

13. Based on the outcome of the *NPO PRA* and the *NPO's* risk appetite statement (or equivalent documents), and where a significant donor is not a natural person, it may be considered necessary to understand the ownership structure of that significant donor and the persons who control it. For example, a *Prescribed NPO* may consider it necessary where a higher-risk rating is produced. In these situations, *Prescribed NPOs* should follow the guidance set out in the relevant sections of the Handbook listed below, in respect of identifying beneficial owners and controllers:

- Trusts – section 4.4.1 of *this Handbook*;
- Limited Partnerships – section 4.4.3 of *this Handbook*;
- Companies – section 4.5.1 of *this Handbook*;
- Foundations – section 4.5.3 of *this Handbook*;
- Partnerships – section 4.5.5 of *this Handbook*.

14. Where a significant donor makes regular payments to a *Prescribed NPO,* it is not necessary to obtain identity information every time a donation is received from that donor. In these cases, *Prescribed NPOs* should seek to re-confirm the donor's identity information at least every two years. The re-confirmation should be undertaken sooner where it is known that there has been a change in the significant donor's information, e.g., a natural person has changed residential address, or the board of a corporate significant donor has changed.

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17.5 Identification, screening and training of relevant volunteers, *relevant employees, Owners and Controllers*

17.5.1 Overview of section

15. *Prescribed NPOs* also have a specific legal requirement to maintain certain information on their *NPO Owners and/or Controllers*. This section sets out the statutory requirements and provides guidance on how *Prescribed NPOs* may demonstrate compliance with those requirements.

1. This section also provides guidance on how a *Prescribed NPO* might carry out due diligence on, and provide training to, certain volunteers and employees.

2. The presence of competent individuals, who are well-trained and have integrity, will assist *Prescribed NPOs* to maintain effective *systems and controls* to counter *terrorist financing*.

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3. This section of the Handbook does not require *Prescribed NPOs* to carry out screening or training through mandatory *Code of Practice* requirements. Nor are there any statutory requirements in the *Prescribed NPO Order* for screening or training. Sections 17.5.3 and 17.5.4 of *this Handbook* are provided as guidance on best practice.

17.5.2 Identifying *NPO Owners and/or Controllers*

Statutory requirements (paraphrased wording)

4. *Article 4 of the Prescribed NPO Order requires a Prescribed NPO to keep records that are sufficient to identify:*

   - *any person who owns the NPO, or controls or directs the NPO's activities, including as appropriate, a senior officer, board member, director or trustee; and*
   - *any other person who exercises, or has the right to exercise, significant influence or control over the activities of the NPO.*

Overview

5. As noted in the Glossary of *this Handbook*, for the purposes of the Handbook "*NPO Owners and/or Controllers*" are those persons set out in Articles 4(1)(a) and 4(1)(b) of the *Prescribed NPO Order.*

6. Examples of *NPO Owners* include, but are not limited to:

   - Shareholders; and
   - Partners of a partnership.

7. Depending on the legal form of a *Prescribed NPO*, it may not have any *NPO Owners*. An example would be a *NPO* established as a trust. *NPOs* established in such a way are not required to comply with that element of Article 4(1)(a) of the *Prescribed NPO Order*, nor apply any of the below measures in respect of *NPO Owners*.

8. *NPO Controllers* will include charity governors, board members, trustees, and senior officers (or equivalent, whether or not they are remunerated).

9. It is important to emphasise that remuneration is irrelevant when considering if a person is an *NPO Controller*. The test is whether that person can exercise control over, or direct, the activities of the *Prescribed NPO*.

10. It is possible for an individual to be considered a *NPO Owner* or *NPO Controller* where they hold their ownership interest or exercise control through indirect means. For example:

    - where a *Prescribed NPO* is established as a company, an individual who holds shares in the *NPO* through an intermediate holding vehicle will be considered a *NPO Owner*;
    - an individual who does not sit on the *Governing body* of the *NPO*, but in accordance with whose directions the *Governing body* are nevertheless accustomed to act will be a *NPO Controller*.

Codes of Practice

11. Where a *Prescribed NPO* is a registered Jersey charity, they must maintain a fit and proper person declaration for each charity governor and declare it has done so to the Jersey Charity Commissioner at each annual return to that body.

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Guidance notes

1. A *Prescribed NPO* may demonstrate compliance with Article 4 of the *Prescribed NPO Order* where it obtains the following information from each *NPO Owner and Controller*:
   - Name;
   - Date of birth;
   - Place of birth;
   - Permanent residential address;
   - The capacity in which they are acting, e.g., a board member, shareholder etc.
2. Where any of the information set out above changes, e.g., the *NPO Owner or Controller* moves to a new permanent residence, the *Prescribed NPO* should update the information held in their records.
3. A *Prescribed NPO* may wish to consider requiring its *NPO Owners and/or Controllers* to make a periodic confirmation that the information held on file remains correct.

17.5.3 Screening of relevant volunteers, *relevant employees* and *NPO Controllers*

Overview

4. As noted in section 17.5.1 of *this Handbook*, this section is provided as guidance on best practice. There are no mandatory *Code of Practice* requirements set out in this section.
5. For the purposes of this section, the term "*relevant employees*" means an individual who is working under a contract of employment and undertakes one or more of the following as part of their role:
   - Acts as a *NPO Controller*; and/or
   - Is responsible for the disbursement, and/or raising, of *NPO Funds* outside of Jersey, Guernsey, the Isle of Man, England and Wales, or Scotland.
6. It includes temporary and contract *employees*, and the *employee* of any external party fulfilling a function in relation to a *Prescribed NPO* under an outsourcing agreement.
7. For the purposes of this section, the term "relevant volunteer" means an individual who carries out their duties for a *Prescribed NPO* on a voluntary, non-remunerated basis, and undertakes one or more of the following as part of their role:
   - Acts as a *NPO Controller*; and/or
   - Is responsible for the disbursement, and/or raising, of *NPO Funds* outside of Jersey, Guernsey, the Isle of Man, England and Wales, or Scotland.
8. Examples of roles where an individual is responsible for the disbursement, and/or raising, of *NPO Funds* may include:
   - researching and recommending regions, or *NPO Beneficiaries,* where *NPO Funds* should be disbursed;
   - approving and/or executing a transaction which disburses *NPO Funds* to outside of Jersey, Guernsey, the Isle of Man, England and Wales, or Scotland, whether electronically or through the handing over of cash in the field.

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9. It is expected that the terms "relevant *employee*" and "relevant volunteer" will, between them, capture all *NPO Controller*s.

1. *NPO Owners* are not subject to the requirements set out below.

Guidance notes

2. A *Prescribed NPO* may wish to screen their *NPO Controllers* against:
   - the *UK* and Jersey lists of *Proscribed terrorist organisations*;
   - screening against the UNSC Consolidated List; and
   - the OFSI Consolidated sanctions list and the UK sanctions list.
3. A *Prescribed NPO* may undertake screening in respect of sanctions through several different methods. These should be tailored so they are appropriate to its size and complexity. Examples may include:
   - a *Prescribed NPO* which is receiving services from a *CD regulated TCSP* might utilise a screening program developed by a professional due diligence firm to which the service provider already has access;
   - if checks which are substantively the same as those described at paragraph 141 above have recently been carried out by the *Prescribed NPO's* service provider in compliance with their requirements at section 9.2 of *this Handbook*, it is not necessary for the service provider to repeat them;
   - where a *Prescribed NPO* is small and individuals participate on a part-time/voluntary basis, the checks may be carried out by a person directly accessing the above-referenced lists and searching for the required names via the "Find" function of their internet browser.
4. In addition to completing the checks listed at paragraph 141 above, a *Prescribed NPO* may demonstrate that its relevant volunteers and *relevant employees* are screened where it does one or more of the following, as appropriate for the nature of the relevant volunteer or *relevant employee*'s role and responsibilities, and on a risk-based approach:
   - obtains and confirms references provided;
   - obtains and confirms employment history and qualifications disclosed;
   - obtains details of any regulatory action taken against the individual (or absence of such action);
   - obtains and confirms details of any criminal convictions (or absence of such convictions).
5. Enquiries into an individual's criminal past are required to be subject to the Rehabilitation of Offenders (Jersey) Law 2001, which prevents *supervised persons* from requesting information from its directors, senior managers and other employees (and prospective directors, senior managers and other employees) about convictions that are "spent", except where provided for by the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002.
6. A *Prescribed NPO* may also wish to consider requiring its *relevant employees*, relevant volunteers and all NPO Controllers to make a signed confirmation that they are not, nor have ever been, members of a *Proscribed terrorist organisation*.
7. It may also be appropriate for any contract or agreement issued to a relevant volunteer, *relevant employee* or *NPO Controller* to include a clause stating that non-compliance with *policies and procedures*, or evidence the person may have been involved in *terrorist financing*, will lead to disciplinary processes.

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17.5.4 Training and awareness of relevant volunteers, *relevant employees* and *NPO Controllers*

17.5.4.1 Promoting awareness and providing training

Guidance notes

1. As noted in section 17.5.1 of *this Handbook*, this section is provided as guidance on best practice. There are no mandatory *Code of Practice* requirements set out in this section.
2. Where a *Prescribed NPO* decides to provide training to its relevant volunteers and *relevant employee*s (which should include all *NPO Controllers*), such training should cover:
   - the specific *terrorist* financing risks to which the *Prescribed NPO* may be exposed; and
   - how it might be abused for *terrorist financing* purposes.
3. The overall objective of the training delivered should be to promote an anti-*Diversion* culture within *the Prescribed NPO*.
4. When designing the training, the *Prescribed NPO* should ensure it is relevant to any *NPO PRA*, *Diversion* risk register and risk appetite statement (or their equivalents) which they have prepared. It should also be tailored so it is specific to the person(s) receiving the training.
5. The training may include guidance on specific red flags and risk indicators which are relevant to the *Prescribed NPO's* programme of activity. They may include, but are not limited to:
   - anomalies in the *NPO* programme delivery, e.g., unusual events, or meetings/ relationships which are not expected;
   - transactions with unexpected parties, where the transactions do not make sense;
   - behaviours that indicate a party may be sympathising with a terrorist organisation or having extremist/radicalised views;
   - high turnover of staff in an *associate NPO* or the *Prescribed NPO* itself;
   - non-compliance with procedures by *NPO* staff, or frequent management overrides;
   - the ability of an *associate NPO* to gain access to an area when other *associate NPOs*/non-governmental organisations cannot do so;
   - failure of *associate NPOs*, *NPO Beneficiaries* or their representatives to comply in a timely manner with reasonable requests for information or documentation;
   - incomplete records of donation delivery by *NPO* staff or *associate NPOs*;
   - *NPO* branded donation items appear in local markets;
   - vague records of expenses without additional specification in accounts and supporting documentation, e.g. references to "logistics", "security", "miscellaneous".
6. The training may also include reference to the *JFSC's* whistleblowing line – see our website for more information.
1. Materials which may be useful in the delivery of training may include:
   - publications by academics and the Government of Jersey, such as the *NPO NRA*;

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- guidance documents regarding *terrorist financing* and sanctions published by *JFSC*;
- Additional information sources attached as Appendices to *the Handbook*.

2. Examples of the different types of training which may be delivered to relevant volunteers and *relevant employee*s include:

- A *Prescribed NPO* is designing training for a relevant volunteer who will travel to a region of a higher-risk jurisdiction with significant levels of local government corruption and lawlessness. The relevant volunteer will be responsible for handing out *NPO Funds* to be used in the local area, in collaboration with some *associate NPOs.* The *NPO* considers that it is important for the training to cover specific warning signs when physically working with *associate NPOs* in the region and what to do if unusual events occur such as meetings or relationships which are not expected;
- A *Prescribed NPO* raises *NPO Funds* in Jersey and disburses them to a small *associate NPOs* which helps disadvantaged young people abroad. The *NPO* considers that it is important for the relevant volunteers and *relevant employee*s to be trained on general warning signs when working with *associate NPOs,* such as incomplete records of donation delivery.

3. It is important for training to be delivered at appropriate frequencies, for example:

- induction training to be delivered within 10 working days of the commencement of employment (or its equivalent) and, if appropriate, where there is a material change in an individual's role and responsibilities;
- refresher training to be delivered on a regular basis. This may be annually, or at some other frequency deemed appropriate based on the *Prescribed NPO's NPO PRA* or equivalent document.

17.5.4.2 Monitoring and maintaining awareness

Overview

4. As noted in section 17.5.1 of *this Handbook*, this section is provided as guidance on best practice. There are no mandatory *Code of Practice* requirements set out in this section.
5. As time passes, the level of awareness of terrorist financing risks can decrease. Having a framework in place to maintain a high level of awareness can keep a *Prescribed NPO's* defences against *Diversion* in good condition.
6. Where a *Prescribed NPO* delivers training to relevant volunteers and *relevant employee*s (see section 17.5.4.1 of *this Handbook*), they should monitor and test their relevant volunteers' and *relevant employee*s' (including all *NPO Controllers'*) level of awareness of *terrorist financing* risks.

Guidance notes

7. A *Prescribed NPO* may demonstrate that it monitors and tests their volunteers', employees' and *NPO Controllers'* level of awareness where it periodically tests the awareness of:

- *terrorist financing* risks;
- the *Prescribed NPO's policies and procedures*; and
- relevant statutory obligations.

8. Where awareness is deemed to be insufficient, the *Prescribed NPO* should take action to remedy the situation as soon as practicable.

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1. When a relevant volunteer's, *relevant employees*, or *NPO Controller's* contract with a *Prescribed NPO* comes to an end, it may be appropriate for the *Prescribed NPO* to conduct an exit interview. The interview could seek feedback on any training and monitoring the person received and how it may be improved.
2. Factors which may influence whether a *Prescribed NPO* considers an exit interview to be necessary may include:
   - the level of risk assessed in the *Prescribed NPO's NPO PRA* (or equivalent), e.g., if the *NPO PRA* generates a higher risk level, it may be appropriate for all relevant volunteers and *relevant employees* involved in that particular *NPO* programme of work to have an exit interview;
   - the level of *terrorist financing* risk which the individual's role involved.

17.6 Accounting for funds

Statutory requirements (paraphrased wording)

3. *Article 2(1) of the Prescribed NPO Order requires a Prescribed NPO to prepare annually a financial statement for a period of not more than 12 months.*
4. *Article 2(2) states that the period referenced above:*
   - *must begin on or before the date the NPO became a Prescribed NPO (e.g., if the NPO became a Prescribed NPO on 15 March 2023, the period must begin on or before 15 March 2023); but*
   - *if the NPO has previously prepared and provided a financial statement under paragraph (1), the period must begin at the end of the period covered by its most recent financial statement.*
5. *Article 2(3) states that the financial statement must be in a form published or approved for the purpose by the JFSC.*
6. *Article 2(4) states that a Prescribed NPO must provide a financial statement prepared under paragraph (1) to the JFSC if required to do so by the JFSC.*
7. *Article 3 of the Prescribed NPO Order requires Prescribed NPOs to have in place appropriate accounting systems and controls to ensure that its funds are fully accounted for.*

Codes of Practice

8. A *Prescribed NPO* must maintain accounting records that are sufficient to show and explain its transactions. The accounting records must:
   - disclose with reasonable accuracy, at any time, the financial position of the *NPO* at that time; and
   - enable the *Prescribed NPO* to verify that funds have been received and spent in a manner consistent with the purpose and objectives of the *Prescribed NPO*.

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Guidance notes

9. A *Prescribed NPO* may demonstrate compliance with the *Code of Practice* set out above by regularly reconciling their transactions. The frequency of reconciliation may be determined by reference to the *NPO PRA* and the *NPO's* risk appetite statement (or equivalent documents). For example, if the assessment outcome is 'higher risk', the accounting records are likely to be reconciled more regularly. If the assessment outcome is 'lower risk', it may be more appropriate to reconcile less regularly.

1. The financial statements' level of complexity will depend on the nature and scale of a *Prescribed NPO's* operations, as well as their type. For example:

   › a small organisation with a relatively simple and low level of activity may consider it sufficient to prepare a statement of income and expenditure;

   › *NPO*s may be subject to other, at times more stringent, requirements depending on their type. For example, *NPO*s may be subject to the requirements of the Companies Law.

2. A *Prescribed NPO* may wish to consider presenting its financial statements for approval by its *Governing body*, e.g., its trustees, board of directors etc. The *Governing body* considers whether the financial statements represent a true and accurate reflection of the *Prescribed NPO's* financial position and record their decision on the same.

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17.7 Record-keeping

17.7.1 Overview and general requirements

Overview

3. This section supplements the statutory provisions of the *Prescribed NPO Order* relevant to record-keeping with additional *Codes of Practice* and *Guidance notes* so that *Prescribed NPOs* may demonstrate compliance with the legal requirements. More general obligations on *Prescribed NPOs* to maintain records (such as those in other Jersey laws) are not addressed in this section. It should be noted, however, that such general obligations may extend the period for which records must be kept.

4. Record-keeping is essential to facilitate effective supervision by the *JFSC* and, where necessary, effective investigation by law enforcement. Good record-keeping helps a *Prescribed NPO* to demonstrate compliance with their statutory and *Code of Practice* requirements, as well as assisting law enforcement in tracing funds which may have been used to finance terrorism through the financial system.

5. Where the financial statements of a *Prescribed NPO* are audited, records also provide context for any opinion which may be issued on the financial statements by the *Prescribed NPO's* auditor.

6. Records can be kept in the following forms:

   › original documents;

   › copies of original documents (certified where appropriate);

   › scanned copies; or

   › computerised/electronic copies.

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7. Where a *Prescribed NPO* is receiving services from a *CD regulated TCSP* it is likely that record-keeping measures will already in place to meet the requirements of section 10 of *this Handbook*. Where these measures substantively meet the requirements set out throughout Section 17.7 of *this Handbook*, it is not necessary for the service provider to duplicate them.

Statutory requirements (paraphrased wording)

1. *Article 4(2) of the Prescribed NPO Order requires Prescribed NPOs to retain records kept under Article 4(1) (owners, controllers etc) for at least 5 years.*
2. *Article 5(3) of the Prescribed NPO Order requires Prescribed NPOs to retain records kept under Article 5(1) (significant donors) for at least 5 years.*

Codes of Practice

3. A *Prescribed NPO* must keep, for a period of at least five years, copies of their annual financial statements and the underlying accounting records.
4. A *Prescribed NPO* must keep, for a period of at least five years, copies of any:
   - *NPO PRAs*;
   - Risk appetite statements; and
   - *Diversion* risk registers;

   or equivalent documents which they have produced.
5. Where a *Prescribed NPO* delivers the training described in section 17.5.4 of *this Handbook* to relevant volunteers and *relevant employee*s, records of said training must be kept for a period of at least five years after the end of the calendar year in which the training was provided. The records must include the following information:
   - the dates on which training was provided;
   - the nature of the training provided;
   - names of relevant volunteers and/or *relevant employee*s who received the training; and
   - records of testing subsequently carried out to measure volunteers and/or employee's understanding of the training provided, including pass rates and details of any action taken in cases of failure.
6. A *Prescribed NPO* must keep, for a period of at least five years, records of due diligence collected for their *NPO Beneficiaries* and *associate NPOs*, to include both **identity information** and **evidence** used to confirm that those persons are not involved in terrorist activities.
7. A *Prescribed NPO* must keep, for a period of at least five years, records of due diligence (i.e., the identity information) collected for their significant donors.
8. A *Prescribed NPO* must keep records of transactions undertaken, whether the transactions are done through the formal banking system or using a non-banking platform/method, for a period of at least five years from the date when the transaction was completed.

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17.7.2 Access and retrieval of records

Codes of Practice

1. A *Prescribed NPO* must keep documents, data or information obtained when establishing a *business relationship* in a way that facilitates on-going monitoring of the *NPO* programme.
2. All records kept by a *Prescribed NPO* must be readily accessible and retrievable by the *Prescribed NPO*. Unless otherwise specified, records relating to a relationship with a *NPO Beneficiary* or *associate NPO* must be accessible and retrievable within five working days (whether kept in or outside of Jersey), or such longer period as agreed with the *JFSC*. Other records must be accessible and retrievable within 10 working days (whether kept in or outside of Jersey), or such longer period as agreed with the *JFSC.*
3. A *Prescribed NPO* must periodically review the condition of paper and electronic records and consider the adequacy of its record-keeping arrangements. The frequency of said reviews must be determined with reference to its *NPO PRA* (or equivalent).
4. A *Prescribed NPO* must periodically test procedures regarding access to and retrieval of its records. The frequency of said testing must be determined with reference to its *NPO PRA* (or equivalent).
5. Records must be maintained in a readable format. Where records are kept other than in readable form, they must be maintained such that they can be produced in readable form at a computer terminal in Jersey.
6. When original documents that would ordinarily have been destroyed are requested for investigation purposes, a *Prescribed NPO* must ascertain whether the documents have in fact been destroyed.
7. All documents (or parts thereof) held under the requirements of the *Prescribed NPO Order* and/or the Codes of Practice in section 17.7 of *this Handbook* must be understandable (i.e., in a language understood by a relevant volunteer or *relevant employee* of the *Prescribed NPO*) and must be translated into English at the request of the *JFSC* or any other authority which by law has the power to request them.

17.7.3 External records

Overview

8. Where records are kept by another person (whether they are part of the *Prescribed NPO's* group or otherwise), or kept outside Jersey, such as under an outsourcing or storage arrangement, this will present additional factors for a *Prescribed NPO* to consider. Regardless of the particular circumstances, the *Prescribed NPO* remains responsible for compliance with all record-keeping requirements.

Codes of Practice

9. A *Prescribed NPO* must not:
   - allow another person (group or otherwise) to keep records; or
   - keep records outside Jersey,

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where access and retrieval of records (by that person, the *JFSC* and/or law enforcement) is likely to be impeded by confidentiality or data protection restrictions.

17.7.4 Reorganisation or termination

Overview

1. Record-keeping requirements persist and are unaffected where a *Prescribed NPO*:

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- merges with another organisation;
- continues as another organisation, e.g., changing from being incorporated under the laws of one jurisdiction to another;
- is taken over by another organisation;
- is subject to internal reorganisation, e.g., the *Prescribed NPO* changes its internal divisions and amends their scope/remit;
- terminates its activities;
- transfers responsibility for a portion of their *NPO Beneficiaries* or donors to another organisation; or
- transfers contracts or arrangements with *associate NPOs* to another organisation.

Codes of Practice

2. A *Prescribed NPO* that undergoes mergers, continuance, takeovers or internal reorganisations, must ensure that records remain readily accessible and retrievable for the required periods stated above. This extends to the rationalising of computer systems and storage arrangements.

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3. Record-keeping arrangements must be agreed with the *JFSC* where a *Prescribed NPO:*

- terminates its activities;
- transfers responsibility for a portion of their *NPO Beneficiaries*, or donors to another organisation; or
- transfers contracts or arrangements with *associate NPOs* to another organisation.
- 17.8 Suspicious Activity Reporting

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Overview

4. In terms of the *Terrorism law*, all NPOs are enjoined to submit Suspicious Activity Reports (SARs) to the FIU. This section provides guidance on the process and production of SARs.

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1. A suspicious activity report (SAR) is the format by which knowledge/belief, suspicion, or reasonable grounds for suspicion of money laundering and terrorist financing are reported.
2. A SAR allows information and intelligence to be formally passed to law enforcement agencies- helping them prevent, detect, investigate, and prosecute crime.
3. A SAR must be filed with the FIU and not the Jersey Financial Services Commission.

Statutory Requirements (paraphrased wording)

4. *Article 39 of the NPO Law states that in its application to NPOs, Article 19 of the Terrorism Law shall have effect as if in Article 19(1)(b) "employment" includesd work undertaken on behalf of an NPO on a voluntary or an unpaid basis.*

5. *If a Prescribed NPO receivesing services from a CD regulated TCSP ~~only:~~ the relevant person (the TCSP) and employees of the relevant person are subject to the obligations to report money laundering Uunder Article 34D(4) of the Proceeds of Crime Law, ~~a relevant person and Employees of that relevant person are required to make a report.~~ See Section 8 of the AML/CFT/CPF Handbook. ~~LINK~~*

Guidance notes

6. A SAR should only be ~~made~~ used to make reports where money laundering, terrorist financing or any property that constitutes or represents proceeds of criminal conduct is suspected or where property is intended to be used in criminal conduct. For other crimes a report should be made to the police.

7. A SAR must be reported via the FIU secure online submission service (PoISAR). A user guide can be found in the Help section on the PoISAR portal once logged in and should be used to review the form prior to submission.

8. A flow chart providing an overview of the SAR process is on the JFSC website.

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