“Counter-terrorist regulation restricts charity banking worldwide…”

UNCHARITABLE BEHAVIOUR

Tom Keatinge

DEMOS

Demos is Britain's leading cross-party think tank. We produce original research, publish innovative thinkers and host thought-provoking events. We have spent 20 years at the centre of the policy debate, with an overarching mission to bring politics closer to people.

Demos is now exploring some of the most persistent frictions within modern politics, especially in those areas where there is a significant gap between the intuitions of the ordinary voter and political leaders. Can a liberal politics also be a popular politics? How can policy address widespread anxieties over social issues such as welfare, diversity and family life? How can a dynamic and open economy also produce good jobs, empower consumers and connect companies to the communities in which they operate?

Our worldview is reflected in the methods we employ: we recognise that the public often have insights that the experts do not. We pride ourselves in working together with the people who are the focus of our research. Alongside quantitative research, Demos pioneers new forms of deliberative work, from citizens' juries and ethnography to social media analysis.

Demos is an independent, educational charity. In keeping with our mission, all our work is available to download for free under an open access licence and all our funders are listed in our yearly accounts.

Find out more at **www.demos.co.uk**.

First published in 2014
© Demos. Some rights reserved
Magdalen House, 136 Tooley Street
London, SE1 2TU, UK

ISBN 978-1-909037-77-9
Series design by Modern Activity
Typeset by Modern Activity

Set in Gotham Rounded
and Baskerville 10

Mixed Sources
Product group from well-managed
forests, controlled sources and
recycled wood or fiber
www.fsc.org Cert no. CU-COC-804101
© 1996 Forest Stewardship Council

UNCHARITABLE BEHAVIOUR

Tom Keatinge

DEMOS

Open access. Some rights reserved.

As the publisher of this work, Demos wants to encourage the circulation of our work as widely as possible while retaining the copyright. We therefore have an open access policy which enables anyone to access our content online without charge.

Anyone can download, save, perform or distribute this work in any format, including translation, without written permission. This is subject to the terms of the Demos licence found at the back of this publication. Its main conditions are:

- Demos and the author(s) are credited
- This summary and the address *www.demos.co.uk* are displayed
- The text is not altered and is used in full
- The work is not resold
- A copy of the work or link to its use online is sent to Demos

You are welcome to ask for permission to use this work for purposes other than those covered by the licence. Demos gratefully acknowledges the work of Creative Commons in inspiring our approach to copyright. To find out more go to *www.creativecommons.org*

Contents

Acknowledgements 11

Executive summary 15

Introduction 23

1 9/11 and FATF: NGOs under the spotlight 29

2 The UK legal and regulatory environment 33

3 Loss and restriction of financial access – the reality 41

4 The business (and risk) of banking 47

5 The role of government and regulators 65

6 NGOs, due diligence, governance, and operating best practice 71

7 Conclusions and recommendations 79

Appendix 89

Notes 95

References 115

Acknowledgements

Venturing out into the real world after 20 years in investment banking is more daunting than one might think. Yet that is what I have done, spurred on by the stimulation of a sabbatical year spent in the King's College London War Studies Department.

The continually mounting burden of anti-money laundering and counter-terror finance regulation which is inexorably binding the activities of banks ever tighter was a source of frustration and Sisyphean bureaucracy when I sat in Canary Wharf. Yet it has proved enlightening to explore this topic and its contribution to international security and to combating terrorist and transnational threats, and the associated consequences (intended, 'convenient' and otherwise) for all that it touched from an academic perspective.

It is with this background in mind that I approached Demos with the suggestion of publishing this report, combining as it does the important and ever-present issue of counter-terrorism proportionality with the equally important issue of the restrictions these measures place on non-governmental organisations (NGOs) with regards to the financial access they need to enable their 'good works'. The bank account closure notices served to several registered charities during the summer of 2014 demonstrate the timeliness of this report and are but the visible tip of an iceberg of financial restriction faced by the sector.

I am thus extremely grateful to Demos for its support in this endeavour, in particular Jonathan Birdwell and Ralph Scott for the expert feedback and editing, and Charlie Cadywould for his research assistance. I am also much indebted to those who agreed to meet me as I researched this issue in recent months, approaching the topic (in general) with a desire to see matters improved rather than to justify the *status quo*. Finally, I must extend sincere thanks to the staff at Joseph Rowntree Charitable Trust for their support, which has allowed me to research and write this report.

Of course, the views expressed in this report are my personal opinions and not necessarily those of the Trust, Demos or any of the other aforementioned individuals. And all mistakes and omissions remain entirely my own.

Tom Keatinge
December 2014

Executive summary

Terrorism in its various and constantly evolving forms is a sad fact of modern-day life. In response, governments around the world have adopted security strategies that endeavour to minimise the risks posed to their citizens, strategies that seemingly move in only one direction, becoming ever-more restrictive. Private companies play a critical role in these efforts. Airlines are required to provide passenger data, estate agents must report suspicious transactions, and banks are expected to act as guardians of the nation's financial borders.

Operating in a globalised economy, banks, more than any other industry sector, are exposed to the shifting sands of geopolitics. Banks enforce government-imposed sanctions and anti-corruption regimes against countries such as Iran, Syria and Russia, and they played an integral role in the recent revolution in Libya by freezing the assets of Libya's Muammar Gaddafi in 2011. Banks are also required to play a frontline role in tackling the panoply of illicit finance, in particular money laundering and terrorist financing.

The measures imposed by banks in meeting these obligations often have far-reaching and unintended consequences. They can impact the innocent and the guilty in equal measure. While the latter often adapt, the former have to learn to live with the extra checks, delays in transaction execution, and general frustration of increased bureaucracy. But in recent years, in combination with a reduction of banks' 'risk appetite' and general banking 'de-risking', the consequences have escalated. Certain users of the banking system deemed to be 'high risk' have found it ever harder to receive, send and store their money. In the worst cases they have had their bank accounts closed, losing financial access.

During summer 2013, Barclays provoked protest when it served account closure notices to over 200 clients operating money service businesses.[1] The Somali community, reliant on this form of money transfer to remit funds from the UK to families in Somalia, felt especially threatened and mobilised an effective political campaign that caught the UK Government off-guard. The Government subsequently commissioned a report to assess the details of this problem,[2] and although one of the affected money service businesses successfully took Barclays to court to keep its account open for a period of time, most accounts were closed.

At the heart of these closures is the desire of banks to 'de-risk': to rid themselves of any business that might possibly expose them to fines and sanctions for contravening the increasingly tough global regulatory stance towards the facilitation (purposeful or otherwise) of illicit finance, in particular in security-related areas such as breaches of sanctions and the financing of terrorism. Banks are spending billions building ever-more extensive risk and compliance departments – KPMG estimates that global annual expenditure is likely to exceed US$10 billion in the next two years.[3]

Money service businesses are not alone in feeling the effects of this de-risking. Of equal, if not far wider, concern are the increasing restrictions being placed on NGOs, many of which are household names or serving particular UK communities, especially Muslim NGOs. Whereas Barclays was cast as the villain of the piece in 2013, in summer 2014 HSBC found itself courting controversy as it served numerous account closure notices to clients, some of whom were longstanding.

It would be wrong to dismiss entirely the risks within the NGO sector. NGOs themselves are well aware of the risks their operations face of abuse by malign actors or the challenges and dilemmas they face delivering aid in regions controlled by designated terrorist organisations that demand access fees.[4] Cases of such abuse do exist and professionalism, governance and due diligence standards vary considerably across the sector. The Financial Action Task Force (FATF), the global

standard setter for anti-money laundering and counter-terror finance regulation, recently published its assessment, *Risk of Terrorist Abuse in Non-Profit Organisations*,[5] which drew on a globally sourced collection of 102 case studies of alleged NGO abuse for terrorist financing purposes. The UK-based Joint Money Laundering Steering Group (JMLSG), made up of the leading UK trade associations in the financial services industry, offers one such case study from the UK on its website.[6] And in Birmingham during Ramadan in 2011, three individuals impersonated Muslim Aid charity workers to collect more than £14,000 to fund their planned bomb attacks.[7]

Yet, according to the Charity Commission, the 'actual instances of abuse have proven very rare' with the number of cases 'very small in comparison to the size of the sector'[8] and would not seem to justify the label applied to NGOs by FATF of being 'particularly vulnerable' to terrorist abuse, a label that leads to increased restrictions on financial access. As Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, has recently noted, 'FATF and other similar regulations [pose] a serious, disproportionate and unfair threat to those who have no connection with terrorism, including civil society organizations.'[9]

To put the risks of this mounting financial access restriction in perspective, the UK has over 160,000 registered charities, with total reported turnover in excess of £63 billion per annum.[10] According to the National Council for Voluntary Organisations (NCVO), the sector contributes £11.7 billion of gross value added to the UK economy each year, comparable to a sector such as agriculture that contributes £8.3 billion.[11] The UK NGO community is a major 'exporter' of both privately donated and governmental humanitarian aid to those in need around the world. Approximately 20 per cent (£740 million) of the government's bilateral assistance funds distributed by the Department for International Development (DfID) are channelled through NGOs.[12] Furthermore, the recent Disasters Emergency Committee appeals[13] for the Philippines Typhoon, Syria and Gaza have raised £95 million, £25 million and £15 million respectively from the generous

British public, money which, if these restrictions continue to tighten, might fail to reach those for whom it is intended and where it is desperately needed.

Methodology and recommendations

This report seeks to shed light on the rationale for these account closures, identifying the sources of banks' decision making, considering how NGOs should manage banking relationships to minimise their risk of falling victim to this de-risking trend, and most importantly recommending how banks, government and NGOs can work together to reverse a damaging trend, which is at best counterproductive and at worst creates, rather than reduces, security risks as money flows through informal channels instead of official ones.

This report draws on the author's three years of research in this field, a review of policy and regulatory literature, and nearly three dozen interviews with a wide range of individuals representing government and regulators, banks and NGOs conducted over the past three months. Given the sensitive nature of the topic, particularly for NGOs whose staff fear that publicly revealing their experiences may lead to stigmatisation with their banking providers, most contributions are anonymous. Despite the complexity of this issue, these contributions were remarkably consistent and surprisingly constructive. The common thread is leadership, a lack of leadership among each stakeholder group, bold enough to step forward and catalyse a constructive debate framed around a desire to improve matters rather than justify or complain about the *status quo*. It is therefore hoped that this report will encourage this much-needed leadership to emerge, leadership that will most certainly be welcomed by all involved.

In summary, this report offers the following recommendations to all stakeholders:

- *All sides need to compromise and improve: dialogue is key.* As David Anderson QC recommends, dialogue between international NGOs and policy makers, including the Home Office and HM Treasury, is needed. And as the UN

has acknowledged, this dialogue will be worthless if the banking community is not also represented at the highest level. The lack of mutual understanding of the challenges faced by NGOs in conducting their operations and banks in their decision making must be addressed.

- *Banks need to look beyond their innate profit motive and consider 'reputational return'*. While banks have a duty to their shareholders, they also have a key and supportive role to play in society. As noted by a number of regulators, exiting client relationships as a means of avoiding risk leads to greater financial exclusion, an entirely unconstructive and backward development. Banks need to engage with NGOs to find a solution to the challenges banks believe they face. Banks need to develop or hire the necessary expertise to understand how NGOs operate, how they are regulated, and thus how to make informed risk decisions.

- *Banks should coordinate productive engagement with NGO umbrella groups, orchestrated by the BBA*. The combating of financial crime is one of the few areas of banking which should not be a competitive arena. Given the costs of time, money and personnel invested by banks in financial crime-related compliance, risk management and monitoring, collaborative approaches are surely preferable to, and more robust than, standalone measures. Partnership in this field should be encouraged and welcomed by the regulatory authorities. Via organisations such as the British Bankers' Association (BBA), banks should work together to ensure that NGOs have the banking services they need so that these relationships are managed within a system that can deal with the demands of banking for the NGO sector.

- *Many NGOs need to improve their professionalism, communication, transparency and awareness of diligence and governance standards.* These standards vary significantly across the NGO sector. While NGOs may be registered with the Charity Commission, banks do not treat this registration as an *imprimatur* of quality assurance. NGOs need to build the trust and confidence

of their bankers, establishing dialogue with key banking partners. NGO umbrella or advisory groups such as the Muslim Charities Forum, NCVO, MANGO[14] and the Charity Finance Group need to help their members with capacity-building and sharing best practice standards in this regard. While small NGOs may believe they are more dynamic and nimble than their larger peers, they often cannot afford to meet these standards. Thus, NGOs may need to combine in order to have the resources to develop necessary capabilities. NGOs need to understand the scrutiny under which banks operate and consider how their diligence and governance looks in the regulatory framework within which the banking industry is expected to operate. They also need to consider money transmission as a critical element when planning programmes and engaging with their banks. Regulatory gap risk is a key concern for banks and thus reducing the gap between NGOs and banks in this regard will greatly facilitate financial access.

- *Government policy makers and regulators need to display greater leadership and take greater ownership.* HM Treasury and the Financial Conduct Authority (FCA) need to conduct outreach to the banking sector, highlighting the importance and benefit of banks providing services to NGOs and clarifying what their regulations are genuinely seeking to restrict. Moreover, regulators need to work in partnership with the Charity Commission, the BBA and the JMLSG, to provide guidance on best practice to NGOs so they fully appreciate the standards they need to meet, and guidance to banks on how to approach NGO banking. Similar guidance has previously been produced by the JMLSG (endorsed by HM Treasury[15]) and HM Revenue & Customs (HMRC) in the context of the money service business bank account closures in 2013. Government needs to recognise that the breadth of UK counter-terrorism legislation breeds significant uncertainty in both the banking and NGO sectors. This must be addressed if NGO financial access is to be protected. Consideration should be given to a form of 'kite marking' that can help banks determine which NGOs meet approved diligence and governance standards.

Greater clarity on the availability and use of licences needs to be provided as, in the view of NGOs, the current system does not appear to work. In addition, the provision of common sense prosecutorial guidance, such as included with the Bribery Act 2010, would help clarify areas of legal uncertainty without materially reducing the onus on banks and NGOs to operate to appropriate governance and due diligence standards.

- *Finally, government must commit to create the space, impetus and leadership to address the issue of counter-terror finance legislation's impact on NGO financial access.* Punitive measures such as those announced via the draft Protection of Charities Bill[16] need to be balanced by a commitment to address the financial access challenges faced by NGOs. It is not right that government simply defers to the 'commercial decisions' of the banking community or hides behind the reach of the US Treasury Department. Government has created, expanded and implemented the counter-terror finance laws and regulations that weigh on banks and has a regular and open dialogue with key members of the US Treasury's Office of Terrorism and Financial Intelligence.[17] Of course, banks choose to interpret these laws as they feel is appropriate, and in some cases these laws are 'convenient' as they further their de-risking ambitions, but the misuse or excessive application of government legislation needs to be addressed by the Government itself.

Introduction

In his July 2014 annual report into the operations of the terrorism acts, David Anderson QC, the independent reviewer of terrorism legislation, made particular reference to the concerns of NGOs about financial access. He noted,

There are acute concerns within the charitable sector regarding banks withdrawing or curtailing services to NGOs, resulting in delays or obstacles to the transfer of funds. The abuse of charitable status for the funding of terrorism is a serious and important issue. But the wider the net of terrorism is cast, the greater the chance that financial impediments will be placed in the way of positive and worthwhile NGO activity.

I recommend that a dialogue be initiated between international NGOs and policy makers, including in the Home Office and Treasury, with a view to exploring how the objectives of anti-terrorism law can be met without unnecessarily prejudicing the ability of NGOs to [operate].[18]

Shortly after this report was published, while reviewing his bank's half-year results, Chairman of HSBC Douglas Flint commented that there is

an observable and growing danger of disproportionate risk aversion creeping into decision-making in our businesses as individuals, facing uncertainty as to what may be criticised with hindsight and perceiving a zero tolerance of error, seek to protect themselves and the firm from future censure.[19]

While the Government's independent reviewer of terrorism legislation and the chairman of a global banking behemoth may seem far removed, they are actually closely related when

it comes to certain decision making undertaken by the banking sector, decisions that are related to terrorism legislation and have a material impact on the way in which the NGO sector operates (or does not operate) in the UK and beyond. Simply put, the blizzard of counter-terrorism legislation that has been produced by governments and multilateral organisations since 9/11, particularly as it regards financing and material support, is leading banks to operate with increasing conservatism. This is restricting financial access for clients deemed 'outside [the] risk appetite'[20] of the banking sector. Many of those excluded from the system are NGOs, primarily those operating internationally and across borders in 'high risk' jurisdictions.

Yet comments from key regulatory figures such as Tracey McDermott, the UK FCA's director of enforcement and financial crime, suggest that this 'de-risking' action is not supported or endorsed by the regulator, noting as she did at a Society for Worldwide Interbank Financial Telecommunication (SWIFT) Business Forum event in April 2014 that '[The regulator] would rarely expect firms to exit business relationships to avoid risks… We don't want to end up in a world where the fear of the consequences… will deny people access to legitimate services.'[21] Furthermore, under questioning at a Treasury Select Committee meeting in September 2014, McDermott's boss, FCA Chief Executive Martin Wheatley, appeared to suggest that the FCA should intervene if it felt that the banking sector was being unreasonable in its de-risking actions and catching those that should not be affected, albeit the FCA would not intervene on individual cases.[22]

Much has been written about the impact of global counter-terror finance on the NGO community and the complications created for the international humanitarian and peace-building work of these organisations.[23] A number of ongoing initiatives seek to engage global standard setter FATF and domestic regulators, such as the US Treasury Department, in adding nuance and understanding to their views of NGOs as 'particularly vulnerable' to terrorist abuse.[24] This report seeks to add to that valuable work, by investigating and illuminating the specific issues of lost and restricted financial access suffered

by NGOs in the UK as a result of the pervasive effects of the global counter-terror finance regime, particularly as interpreted by the banking community as it seeks to protect itself from further fines and censure.

While this would be an important topic to investigate at any time, addressing this matter currently is particularly timely following the actions taken by HSBC during the past summer and in light of the ever-expanding role NGOs are playing distributing both private and governmental aid as conflict engulfs an increasing number of countries. It is also highly relevant as HM Treasury is due to publish its first national risk assessment from money laundering and terrorist financing, aiming to 'identify and assess risks, coordinate action and apply resources to mitigate those risks' by the end of 2014.[25] Furthermore, the UK is expected to undergo its next mutual evaluation at the hands of FATF in 2016 or 2017,[26] the key independent, peer-country-led assessment of the UK's anti-money laundering and counter-terror finance regime. It is safe to assume that unchecked, NGO financial access is likely to continue to be restricted as the outcome of the national risk assessment is digested and the UK prepares for FATF's visit.

Thus, this report aims to illuminate the challenges faced by NGOs in maintaining financial access by considering the regulatory and policy environment in which banks and NGOs operate, supplemented by examples of the loss and restriction of financial access experienced by NGOs. This report also provides a detailed exploration of the business and risk environment in which banks operate and its impact on NGO financial access, together with the contributory role government does (or does not) play in this regard. The report concludes by addressing issues connected with NGO due diligence, governance and best practice associated therewith, before making recommendations to all parties, with the aim of halting and reversing the current negative spiral. Interviews revealed that there is a will among all stakeholders to address this challenge. What is lacking is senior leadership among each stakeholder group, bold enough to step forward and catalyse

a constructive debate framed around a desire to improve matters rather than justify or complain about the *status quo*.

Before progressing, for the sake of clarity it is worth spelling out how the two terms NGO and financial access are used in this report. Given the importance of the role played by FATF in determining the approach taken to NGOs by regulators and banks, it seems appropriate to adopt the global standard setter's definition of NGO, or as FATF refers to such entities 'non-profit organisations' (NPOs). For FATF, the term NPO covers a broad church, and refers to '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'.[27] For NGOs, the term 'financial access' is most often applied in a development context and considers the availability of financial services for 'unbanked' individuals and businesses around the world. However, for the purposes of this report it is defined to cover three banking-related activities key to the uninhibited functioning of an NGO: receiving funds (most often donations) from abroad via the formal, international banking system; distributing funds via the same financial network as a means to advance 'good works'; and maintaining a bank account in the UK for operational or savings purposes.

1 9/11 and FATF: NGOs under the spotlight

9/11 was a defining moment for not just the global effort to counter terrorism in general but also the internationally coordinated effort to counter *the financing* of terrorism in particular. Indeed, the first step of George W Bush's 'War on Terror' was to sign Executive Order 13224, which aimed to launch 'a strike on the financial foundation of the global terror network' in order to 'starve the terrorists of funding'.[28] Swiftly after 9/11, the UN Security Council passed Resolution 1373 urging member states to criminalise terrorist financing, prevent and suppress terrorist financing, and freeze assets associated with terrorist financing.

This global assault was led by FATF, a body originally set up in 1989 to coordinate a global response to the laundering of drug money through the banking system. Adding counter-terror finance to the mandate of FATF seemed logical at the time, and it quickly expanded its original 40 proposals to include nine special recommendations focused on counter-terror finance.[29]

These nine special recommendations were designed to 'set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts'[30] and were quickly adopted by countries around the world with leading financial centres and thus by their respective banking systems. FATF conducts regular evaluations of countries to determine the extent to which they are implementing FATF's recommendations – being adjudged 'deficient' can have serious repercussions. In particular, FATF may warn the international financial system to deploy 'countermeasures' to avoid being negatively affected by the weaknesses of a particular country's anti-money laundering and counter-terror finance regime.

One of FATF's special recommendations drew explicit attention to the NGO sector. In FATF's view,

[NGOs] possess characteristics that make them particularly attractive to terrorists or vulnerable to misuse for terrorist financing. They enjoy the public trust, have access to considerable sources of funds, and their activities are often cash-intensive. Furthermore, some charities have a global presence that provides a framework for national and international operations and financial transactions, often in or near areas most exposed to terrorist activity. Finally, charities are subject to significantly lighter regulatory requirements than financial institutions or publicly-held corporate entities, (for example, for starting capital, professional certification or background checks for staff and trustees at registration, or for ongoing record keeping, reporting and monitoring).[31]

Many internationally operating NGOs would strongly dispute these assertions, believing that while the characterisation of risk presented by FATF may be correct, it is wrong to conflate risk with abuse.[32] The NGO sector felt that this impression was perpetuated by FATF's 2014 typologies report *Risk of Terrorist Abuse in Non-Profit Organisations*.[33] Moreover, when FATF published its updated recommendations in 2012[34] (consolidating the '40+9' to form a new '40') Recommendation 8 and its assertion of NGO vulnerability remained. In his recently published report, UN Special Rapporteur Maina Kiai argued that Recommendation 8 and FATF's assertion of NGO vulnerability posed 'a serious, disproportionate and unfair threat to those who have no connection with terrorism, including civil society organizations'.[35]

The impact of FATF's leadership has been significant. In combination with domestic legislation such as Title III of the USA PATRIOT Act, the EU's soon-to-be-implemented fourth Money Laundering Directive,[36] or the UK's Terrorist Asset-Freezing etc. Act 2010, there is no doubt that the standards and recommendations that FATF has proscribed have immeasurably improved the methods and processes used within the financial system to counter various forms of illicit

finance. The transgressions uncovered at banks such as ING, HSBC, Standard Chartered and BNP Paribas that have led to multimillion and multibillion dollar fines suggest that these systemic improvements were overdue. But the raising of standards has led to a considerable array of unintended and unnecessary consequences of which loss of financial access is one particularly acute example.

Before turning to review the way in which restricted financial access manifests itself, it is first worthwhile reviewing the way in which these global recommendations have been interpreted in the UK by law makers and policy makers.

2 The UK legal and regulatory environment

This chapter provides a brief overview of the key UK legal issues that relate to counter-terrorist financing. It is also important to understand the regulatory environment in which NGOs operate in the UK under the auspices of the Charity Commission, and to consider some of the specific counter-terror finance and anti-money laundering initiatives that are currently being undertaken by the Government. The Immigration Act 2014 is also significant, as although this act is not directly linked to counter-terrorism, it contains concerning requirements that have been referenced by a number of banks during interviews and will inevitably provide further impetus to the current, negative spiral.

A brief review of UK legislation

Historically, terrorist acts have been dealt with via normal criminal law in an ad hoc and temporary manner.[37] As David Anderson QC, the independent reviewer of terrorism legislation, has observed, 'Many advanced countries managed until recently without special terrorism laws of any kind,' noting further that 'the UK has some of the most extensive anti-terrorism laws in the western world,'[38] which have tended, in recent years, to 'creep'.[39] With this in mind, he cautions, 'If these exceptional powers are to command public consent, it is important that they should be confined to their proper purpose.'[40]

The first permanent counter-terrorism law was introduced in 2000. The Terrorism Act 2000 provided a broad definition of terrorism and laid the ground for much of what has followed in the context of successive governments' attempts to counter terrorist threats such as stop-and-search powers, controls at ports, and powers associated with investigating terrorism

(many of which were enacted in the Anti-Terrorism, Crime and Security Act 2001 and Prevention of Terrorism Act 2005).

Following the London transport bombings in 2005, the Terrorism Act 2006 was introduced, which created a number of new terrorist offences including encouragement of terrorism, dissemination of terrorist publications, preparation of terrorist acts, offences relating to terrorist training and offences concerning the making, possession and use of radioactive material and devices.[41] This was also the act that grappled with the issue of the length of pre-charge detention of terrorist suspects, controversially proposing a 90-day period, later reduced to 28 days, still representing a doubling of the existing allowed period. Further amendments to the law were made via the Counter-Terrorism Act 2008.

While financial matters are addressed in a cursory manner in these and various other counter-terrorism laws, it is the Terrorist Asset-Freezing Etc. Act 2010 that focuses most closely and exclusively on matters related to counter-terror finance and the preventative role of asset-freezing. The act is part of the global campaign to starve terrorists of funding stemming from George W Bush's words immediately following 9/11, and given international recognition via UN Security Council Resolution 1373. The act gives HM Treasury the power to freeze the assets of those individuals or groups believed to be involved in terrorism in the UK or abroad, thus cutting off access to their financial resources. The imposition of appropriate asset-freezing and asset-seizure legislation is a key requirement evaluated by FATF, given its focus on preventing and suppressing the financing of terrorist acts. FATF is also required to ensure that a country's legislation is enacted in accordance with requirements to implement targeted financial sanctions, including asset-freezing and other prohibitions, to comply with UN Security Council Resolutions 1267 and 1373, the resolutions aimed at al-Qaeda and other terrorist organisations.[42]

While these restrictions are clearly important in efforts to prevent terrorist attacks, Independent Reviewer David Anderson has raised the important question of 'proportionality'. NGOs, particularly those covered by FATF's Recommendation 8, often

operate in areas of the world that lead to the assumption that terror-finance risks are heightened. Restricting the activities of NGOs on terror-finance grounds may not be proportionate when they are working on notable and life-or-death issues such as famine, natural disaster, education, or health campaigns. Somalia is an instructive case. It is clear that al-Shabaab has received and extorted fees and taxes from NGOs, the UN, and other governmental agencies and has also benefitted from their good work. But nearly all of al-Shabaab's funding is based on import and export trade, and taxation of local people and businesses. Restricting the support they extort from aid agencies will make little difference to their operations and may actually be self-defeating and counterproductive as it gives the group a basis for gaining support as the alternative aid provider.

It is not the place or purpose of this report to dissect UK terrorism legislation, or to comment on the extent to which it does (or does not) operate in an appropriate manner beyond the extent to which it leads to restrictions on NGO financial access. However, even a cursory review of the vast academic, legal, journalistic and advocacy literature covering the topic clearly indicates that while terrorism law in the UK is not necessarily applied broadly and in an indeterminate fashion, the 'creep' referred to by David Anderson QC is clear to see, and the breadth of definition has the potential to catch many more people and acts than is surely intended. In the context of this report, the uncertainty that these laws create via their breadth of definition contributes in no small part to the financial access restrictions experienced by NGOs in the UK.

Box 1

The Immigration Act 2014 – further restrictions likely

The new Immigration Act 2014 is symptomatic of the suspicion that surrounds NGOs. Under Section 40 of this act, banks and building societies are prohibited from opening a bank account for a 'disqualified person' as defined by the secretary of state and (as has been subsequently determined) is listed by the UK's fraud prevention service CIFAS [the Credit Industry Fraud Avoidance Service]. In explaining which forms of account

holder are deemed to fall within the required checks, a clarifying order reveals that checks need to be made on not only natural persons, but also micro-enterprises and charities with an annual income of less than £1 million.[43] *According to the Charity Commission, nearly 90 per cent of the 164,000 registered charities in England and Wales have an annual income of £500,000 or less, thus making an overwhelming majority of NGOs in the UK potentially subject to this act.*[44] *The impact of this legislation remains to be seen, but it can hardly be expected to improve prospects for NGO financial access if additional due diligence checks are needed.*

The Charity Commission

The Charity Commission is the independent government department that registers and regulates charities in England and Wales with the aim of ensuring that the public can support charities with confidence. The Charity Commission has three specific objectives – to ensure that: charities know what they have to do, the public knows what charities do, and charities are held to account.[45]

The Charity Commission's *Compliance Toolkit* includes advice on 'holding, moving and receiving funds safely in the UK and internationally'.[46] This advice from 2011, reiterated following the recent account closures made by HSBC,[47] underlines the importance of financial access to NGOs, noting:

Most countries in the world have formal banking systems in place. Using such systems is a prudent way to ensure that charity funds are safeguarded, and that appropriate audit trails are produced of the sort which trustees must keep for the receipt and use of money.[48]

It goes on to explain 'why charities need to have and use bank accounts' from the perspective of good governance and operating procedures, highlighting that in the context of the legal obligations of trustees to protect a charity's funds, the Charity Commission believes that 'it is difficult to see, where regulated banking services are available, how trustees could

show they discharged this duty if they did not use them in order to ensure the charity's funds were secure'. The toolkit summarises succinctly that 'the benefits and safeguards provided by an established and regulated banking system far outweigh any risk'. The loss or restriction of financial access by an NGO would therefore seem to conflict directly with this advice from the Charity Commission, putting trustees in a position where they may be deemed to have breached their legal obligations.

The Charity Commission underlines the importance of financial access when it cautions,

The Commission would have serious concerns if a charity were not able to operate because of a lack of banking services. If these services are declined or withdrawn from a charity, harm could result to the effective delivery of its charitable work and its ability to operate transparently. It could also have an adverse impact on public trust and confidence in that charity and in charities generally. It may also have a wider impact on the community that the charity works with or represents.[49]

It is thus safe to say that from the perspective of the Charity Commission, financial access is a critical element in the regulation and safeguarding of the UK NGO sector, a factor that should give policy makers pause for consideration when they suggest that the removal of NGO financial access by banks is a 'commercial decision' in which they will not interfere.

National risk assessment

As has been noted earlier, the counter-terror finance and anti-money laundering efforts of individual nations is not simply a matter for the country itself. These efforts are of interest to countries around the globe, all of which, in today's highly interconnected financial system, have direct or indirect financial relationships with each other. With this interdependence in mind, FATF conducts regular so-called 'mutual evaluations', which assess a country's compliance with its 40 recommendations, and puts the world on notice over the level of compliance it

believes each country has achieved. Failure to achieve appropriate standards is highlighted and countries are categorised according to their overall performance.

In 2016 or 2017 (subject to any further delays as FATF assesses the workability of its new methodology) it is expected that the UK will go through its next such evaluation, conducted by FATF in coordination with regional peer countries and participants from multilateral organisations such as the International Monetary Fund. As a leading global financial centre, the UK will need to ensure that it meets the highest possible standards, as assessed by FATF.

As part of the preparation for FATF's visit, in November 2013 HM Treasury announced that 2014 would 'see the publication of the UK's first national risk assessment from money laundering and terrorist financing that will identify and assess risks, coordinate action and apply resources to mitigate those risks'.[50] This is a requirement of FATF's Recommendation 1, which instructs that 'countries should identify, assess, and understand the money laundering and terrorist financing risks for the country'.[51] As underlined in HM Treasury's announcement, the UK is 'facing up to FATF's challenge to demonstrate that our efforts to raise and maintain standards are truly effective in reducing the incidence and impact of money laundering and terrorist financing'.[52] Given FATF's focus on the particular vulnerability of the NGO sector to abuse from terrorist financiers, it seems likely that both the national risk assessment and the run-up to FATF's review will ensure the NGO sector remains closely scrutinised at best, and subject to further financial access restrictions at worst.

Box 2

What is terrorist financing?

On the face of it, terrorist attacks are cheap to conduct. The 2005 London Transport bombings are estimated to have cost just £8,000, the 2004 Madrid train bombings US$10,000, and even 9/11 itself is believed to have cost only US$400,000–500,000.[53] *But these 'direct' costs are only a small part of the financing terrorists require – most of the funding is needed*

to create what FATF describes as the 'enabling environment necessary to sustain activities'.[54] *For example, the Central Intelligence Agency (CIA) estimated that al-Qaeda's annual financing requirement prior to 9/11 was US$30 million, spent mainly on training, education and indoctrination of its members; contributions to host regimes such as the Taliban; and the expense of maintaining its military infrastructure of camps, safe-houses and equipment.*[55]

Money – whether raised via sophisticated, transnational organisations or domestic cells, extorted from diaspora communities, or simply collected by sympathetic groups or individuals – needs to be stored and ultimately transferred to the proposed end user. It is for this reason that banks find themselves scrutinised so closely and countries with poor standards are 'named and shamed' by FATF. In contrast to money laundering, which often involves large sums of money and is driven by a profit motive, terrorist financing is often small and motivated by ideology, not wealth. A money-launderer needs to use the financial system to legitimise and clean ill-gotten funds; terrorist financing rarely needs to employ this stage as the funds are often clean to start with. Thus although the banking industry is held tightly accountable, often terrorist financing can simply be moved around the world via less formal financial networks such as money service businesses, hawala networks, or smuggled by couriers. For the authorities, monitoring money flows outside the formal financial sector managed by the banking community is extremely challenging. Restricting financial access drives money flows out of the formal system into informal networks, decreasing rather than increasing security.

3 Loss and restriction of financial access – the reality

The unintended consequence of the increasingly restrictive counter-terrorism legislation outlined in the previous chapter is the loss of financial access by those organisations, primarily money service businesses and NGOs, operating in 'high risk' jurisdictions. Whereas 2013 was dominated by the loss of financial access suffered by this sector, in 2014 this affliction has affected an increasing number of NGOs. While the number of NGOs that have publicised their challenges is small so far and tend to come primarily from the Muslim sector, interviews suggest that the extent to which financial access is restricted (if not lost entirely) is spreading across a wide spectrum of UK-based, internationally operating NGOs, be they faith-based or secular. Few NGOs are willing to speak out, except *in extremis,* for fear of the associated stigmatisation leading to the imposition of greater financial restrictions.

Restrictions on financial access can be experienced by NGOs in three related ways: restrictions on receiving or transferring funds, or restrictions on, or loss of, the ability to store funds when accounts are frozen or closed, or when requests to open new accounts are declined.

Receiving funds

UK-based NGOs can receive donations from around the world, and the transmission of funds from high risk jurisdictions (such as the Middle East) to bank accounts in the UK can often raise concerns. One secular charity has had funds frozen in a third-party country since 2009 as a result of a donation being blocked, while an extensive list of charities report that overseas donations are often delayed or blocked and returned to the donor – one NGO estimated that it had foregone

£2 million of donations in the last 12 months as a result of funds being blocked. In 2012, Islamic Relief Worldwide discovered that donations that account holders at the Swiss bank UBS had tried to send to the charity had been blocked.[56] And it is not just banks that enforce financial access restrictions on NGOs. Interviews revealed cases of credit card companies, online donation websites and internet payment service companies enforcing similar restrictions in the name of counter-terror finance.

Sending funds

Of course, NGOs do not only receive donations, but also send their money across the world; the UK is a major exporter of international aid, much of which is distributed by NGOs that have partner networks in developing nations or conflict- and disaster-affected countries. The nature of the destination countries often means they are deemed to be 'high risk' by banks and regulators as they are (or have been) associated with sanctions or are home to designated terrorist organisations.

The ability for internationally operating NGOs to send funds to these countries and regions is critical if public generosity or government bilateral assistance funding[57] is to reach those in need. Too often this process is frustrated. Funds frequently need to be routed via one or two third-party countries, incurring additional costs. Additional information or documentation is often required reflecting a lack of understanding on the part of the banks involved. In some instances, activities can be blocked entirely. One interviewee reported a case where an NGO had to return funds to a donor because it was unable to get the funds to the target region. A further example was provided where a medical project collapsed as funds could not get through. Even salaries that are paid to bank accounts of aid workers who live outside the UK can at times be delayed or blocked.

Finally, the use of US dollars attracts extra scrutiny and risk. Interviewees revealed that despite sometimes incurring extra costs, NGOs often transmit funds in euros or sterling

so their bankers avoid the risk of extra-territorial intervention created by transacting with partner banks scrutinised by the US authorities.

Storing funds

Along with sending and receiving funds, NGOs also face challenges storing their funds. In summer 2014, a number of UK-registered charities had their bank accounts closed by UK banks including HSBC, Co-operative Bank and Barclays (see appendix for case details). Affected organisations include advocacy group CAGE UK, Ummah Welfare Trust and the Finsbury Park Mosque. While these widely publicised cases primarily involve Muslim charities, this issue is by no means limited to faith-based charities. NGOs with well-known, household names also revealed that they face significant challenges opening new bank accounts and maintaining existing facilities with escalating demands for information and disclosure on due diligence and risk management procedures, which clearly indicate that banks view such clients as extremely high risk and have little trust in the ability of an NGO to ensure aid is delivered as intended. The checks that are required are not limited to the NGOs themselves but also extend to due diligence on the boards and trustees of partner organisations.

This is likely to get worse as banks continue to review their client lists in light of new regulatory action and geopolitical developments, and key opinion-formers such as the chairman of the UK Charity Commission, William Shawcross, draw attention to 'the risk of donors' money leaking out to support terrorism'.[58] As a result of statements like this and the nature of the destination countries currently focused on by the NGO sector, the affected charities are very often from the Muslim community, fuelling accusations of Islamophobic banking. This report did not find any overt evidence of this charge and indeed a number of Muslim charities themselves volunteered that what one termed 'the Heineken effect' is at play because Muslim NGOs reach parts other NGOs cannot reach and are thus more exposed to 'high-risk country' decisions taken by

banks. Even if discrimination is not intentional, messaging from Government and regulators such as that from William Shawcross could certainly be more constructive.

It is clear that NGOs operate in incredibly complex and fast-moving environments, often in response to unforeseen events and crises. At many points in their operation – particularly those working in vulnerable parts of the world – their activities can be frustrated by efforts to prevent terrorism. As we argue in the next chapter, banks play an increasingly intrusive role in the impact that counter-terror finance measures can have on NGOs.

4 The business (and risk) of banking

In our increasingly globalised world, the bank industry has become more complex than ever. Much of the NGO and press commentary about banks in connection with account restriction or closure decisions reflects an understandable lack of knowledge of the way in which banks operate, in particular the means by which they move money around the globe while managing their perceived risks. This section will begin by illuminating these fundamental issues, before considering how they combine with counter-terror finance legislation to create the restrictions on financial access that are increasingly experienced by NGOs. Ultimately, this chapter challenges the notion that banks are purely commercial organisations that cannot be expected to give regard to issues beyond managing risk and return for their shareholders.

How do banks move money around the world?

It is popular to imagine that money moves from bank to bank and around the world 'at the touch of a button'. While this may appear to be the case, the underlying infrastructure and linkages that make this possible are far from simple and often rely on a range of unseen connections. These mechanisms play a central role in the risks that banks have to contend with and from which they will endeavour to protect themselves.

To move money between any two banks, the two banks need to have either a direct or indirect relationship with each other. In simple terms, these two banks need to have bank accounts with one another. This is relatively straightforward to do within the boundaries of a particular country, where banks generally have accounts with each other, and a central bank will ensure that transactions operate smoothly and according

to uniform rules. But this process becomes far more complicated and 'risky' when funds need to be transferred across borders and time zones to destinations where the sending bank has no operations. Although the same principle applies, it may be necessary to interpose one (or more) banks, so-called 'correspondent banks', into the chain resulting in a string of correspondent banks being used to move money from account to account across the globe.

The banks that form links in the chain seem to be acting purely as conduits but, with due diligence standards and compliance requirements ever-increasing, and regulatory standards varying from country to county, they are generally required to know whose money they are transmitting. Of course they rely on the due diligence and compliance of the banks with which they partner, but in a heightened risk environment, where funds are being transferred to jurisdictions that regulators deem to be 'risky', correspondent banks need to be doubly sure that they are not facilitating the transmission of illicit funds. As some commentators have observed, not only is a bank required to know who its customer is, it also now needs to know who its customer's customer is.[59]

It is for this reason that correspondent banking has become the subject of such intense scrutiny and part of a broader phenomenon known in the banking world as 'de-risking' (discussed in more detail below), with banks cutting back extensively on global linkages. *The Economist* recently reported examples of two banks that were cutting respectively 1,000 and 1,800 banking links, and within the Euro-area alone the European Central Bank reports that over the past ten years the number of banking links has dropped from over 25,000 to below 15,000.[60]

Box 3

A word on SWIFT

Until a few years ago, the Society for Worldwide Interbank Financial Telecommunication (SWIFT) was one of the most important finance-related organisations that most people had never heard of. Based in Belgium, SWIFT operates

a standardised messaging system that allows banks to communicate internationally, issuing and receiving payment instructions. SWIFT does not transfer funds per se *but rather it provides the communication mechanism via which banks inform each other of the debits and credits they are making on behalf of one another. In 2006, SWIFT emerged into the international spotlight when it was revealed that the US Treasury Department and other US security agencies were tapping SWIFT for messaging information on money flows as part of a terrorist finance tracking programme initiated in the context of George W Bush's Global War on Terror. The programme continues to operate, having been reviewed by the Belgian data protection commissioner and the European Commission.*[61]

The three 'Rs' and the management of perceived risks

For banks, three 'Rs' are key to successful operation. Return (or profitability) is obviously important. Without profit, banks, like most private sector entities, cannot function. Reputation is also critical. It is an oft-stated warning in the training classes of new graduates, repeated regularly (if not always observed) as careers progress that reputations are made in a lifetime but lost in a day. A loss of reputation for a bank can be an existential matter, particularly if that loss of reputation leads to a decline in associated confidence in the ability of a bank to do its job and safeguard client funds. Witness the collapse of the UK bank Northern Rock in 2007 – it takes very little to bring down an organisation that is fundamentally built on little more than the confidence that it will still be there tomorrow.

Yet it is the third 'R', risk, that lies at the heart of every bank, linked to both return and reputation. Banks face a plethora of risks, many of which are hard to identify and then manage. Complete prevention is impossible, and, as will be discussed, not always desirable for an industry built on risk taking. Risk and compliance departments have mushroomed over the past 20 years, in particular since 9/11 when government

authorities increasingly turned to banks to act as guardians of the national and international financial borders against breach by terrorist financiers.[62] KPMG estimates that global annual expenditure is likely to exceed US$10 billion in the next two years,[63] as billions more pounds, US dollars and euros are been spent building ever-more extensive risk and compliance departments:

- In September 2013, US behemoth JPMorgan Chase announced that it would need to spend an extra US$1 billion on 'controls'; would provide 750,000 hours of regulatory and control-related training to staff members; and increase the number of staff dedicated to controls by 4,000 employees.[64]

- In August 2014, HSBC revealed that it employs 24,300 risk and compliance staff with annual expenditure on risk and compliance expected to be US$750–800 million.[65]

- Australian investment bank Macquarie said in May 2014 that its direct compliance costs had tripled in three years to AU$320 million.[66]

- Standard Chartered said in July 2014 that regulatory costs were adding around 1–2 per cent (US$100–200 million) to its costs every year. Staff numbers in its financial crime unit had doubled, and the number of legal and compliance staff had increased by 30 per cent in the previous 12 months.[67]

In endeavouring to protect themselves, banks assess risks across a range of categories including financial risk, regulatory risk associated with breaching sanctions and financial crime regulations such as those devised to counter money laundering and terrorist financing. In addition, there is reputational risk brought about by operating with industries that attract public opprobrium or offering products deemed inappropriate (think of payment protection insurance).

The risks one immediately associates with banks are financial risks, risks from losses on investments, loans turning

bad, or market bets going wrong. And while these risks can lead to substantial losses, they may also lead to substantial gains. Banks are, of course, in the business of taking risks, that is primarily how they make money. The more risk they take, the more they expect to be paid (or in banking terms 'compensated'). Consider the rate of interest charged on a mortgage, borrowing secured against a valuable property asset, as compared with the rate of interest charged on an unsecured loan. Banks are thus always considering a so-called 'risk/reward trade-off', that is to say 'what am I being paid and is it worth it?'. And if it is not worth it then the bank will decline the business opportunity or, in the case of a risk it already holds that it has reassessed, it will seek to get rid of the risk via so-called 'de-risking'.

In recent years, new categories of risk have emerged which, in the vernacular of banking, are often viewed as asymmetric. Put simply, you may make a small amount of profit, but the risk that you run making that profit is significantly outweighed by the loss you will incur should things go wrong. These emerging types of risk are often those associated with providing services that might expose banks to regulatory fines or sanction, or damage to their reputations, risks which, unlike financial risks, are unquantifiable. It is in exactly these fields of risk that banks believe providing services to NGOs sits.

The lexicon of risk

Given how critical risk taking and risk judgement are for a bank, it is unsurprising to find that there is an extensive vocabulary applied to the field of risk. Two terms in particular have garnered close attention in recent months: 'risk appetite' and 'de-risking'.

Risk appetite

'Risk appetite' has been used as the primary justification deployed by HSBC in its communications with the account holders it has chosen to jettison.

A search for definitions of risk appetite draws one deep into the corporate world. Professional services firms offer endless screeds advising on 'Understanding and Articulating Risk Appetite' or 'Balancing Risk Appetite', and posing questions such as 'Risk Appetite: How Hungry Are You?' In 2006 HM Treasury published an enticing offering for the benefit of government departments entitled *Thinking About Risk – Managing your risk appetite: a practitioners' guide*.[68] This manual defines risk appetite as 'the amount of risk that an organisation is prepared to accept, tolerate, or be exposed to at any point in time'. It also provides some general risk groupings that, in the context of the recent usage by HSBC, are worth reviewing, in particular those risks associated with reputation, credibility and public perception. While this advice was prepared for government departments, the importance of these categories in banking applies equally. Many banks operate 'reputation risk committees', the job of which is to determine simply, 'What would happen if this business or our dealings with this client were to end up on the front page of the newspaper?' And by extension whether it is worth (in pounds and pence) doing this business or dealing with this client.

Following the global financial crisis, the G20 founded the Financial Stability Board (FSB) 'to coordinate at the international level the work of national financial authorities and international standard setting bodies' – in other words, to oversee the overseers. One issue that the FSB oversees is risk appetite. According to its 'Principles for an effective risk appetite framework',[69] published in November 2013, neither banks nor regulators have widely adopted 'effective, actionable or measurable' risk appetite frameworks. Defining 'risk appetite framework', the FSB directs that a financial institution should give regard not only to material risks to the institution, but also consider risks to its reputation 'vis-à-vis policyholders, depositors, investors, and customers'.

Once again, the concept of 'reputational risk' is cited as a key risk management consideration with the FSB further advising that a financial institution's 'risk appetite statement' should 'include qualitative statements that articulate clearly

the motivations for taking on or avoiding certain types of risk… and establish some form of boundaries or indicators… to enable monitoring of these risks'. In other words, a financial institution needs to be able to state simply what risks it takes and rejects, and why. Or, as HM Treasury recommends to its readers, they should ensure that 'risk judgements are more explicit, transparent and consistent'.[70]

In 2012, HSBC paid a US$1.9 billion fine to the US authorities after admitting it had failed to prevent drug-trafficking proceeds from being processed in its Mexican business and had also facilitated funds transfers from countries subject to sanctions such as Iran.[71] Unsurprisingly, following that incident and the subsequent signing of a five-year deferred prosecution agreement that subjects the bank to even harsher penalties if it breaches its parole, HSBC's risk appetite is markedly lower than it might otherwise have been. Furthermore, all other banks will no doubt be making doubly sure that they avoid the same fate and will be regularly reviewing their business to ensure they are beyond reproach.

The result is that risk appetite is declining across the banking sector and therefore services and facilities that may have been offered in the past are closed or withdrawn. Inevitably, clients operating in jurisdictions declared 'high risk'[72] or deemed to be 'particularly vulnerable' to terrorist abuse[73] by regulators and standard setters such as the UK's FCA or FATF run the risk of falling foul of this conservative operating model.

The Government sees these decisions as the domain of the banks despite the FSB advising that regulators should be discussing what constitutes a 'good risk appetite framework', and many NGOs feel that banking services should be willingly and unquestioningly provided. Knowledge is a critical factor in determining risk appetite and the fear of 'unknown unknowns' sharply diminishes this appetite among banks. A vicious circle exists that will not be broken unless all sides are prepared to engage in transparent dialogue on a basis of compromise. Only then are banks' risk appetites likely to increase.

De-risking

The result of a loss of risk appetite leads to the second, risk-related term that has become popular: 'de-risking', which refers to the decision by banks to reduce the lines of business they operate, shed clients, and limit their willingness to provide loans and credit to companies and facilitate transactions. The NGO community is not alone in feeling the impact of this de-risking process. This process is of concern not just to those who suffer account closures and service disruption, but also to regulators and finance ministers around the world, particularly those struggling with the moribund European economy. De-risking is a matter of public policy as the banks need to lend, expand and thus *increase* risk in order to drive economic growth – but as far as the banks are concerned, it is the regulators and policy makers who are responsible for the de-risking process that has been set in motion.

At the heart of the de-risking activity is the requirement for banks to comply with heightened capital regulations. During the global financial crisis, governments had to bail out and support many banks because they did not have sufficient 'risk-absorbing' capital on their balance sheets to accommodate the losses they suffered as markets collapsed. To paraphrase the legendary financier Warren Buffett, when the financial tide went out we very quickly discovered which banks were swimming naked – nearly all of them. To ensure that banks do not suffer the same fate in future highly stressed market conditions, regulators insisted that banks increase their 'capital adequacy', in other words their ability to absorb losses. However, because capital adequacy is normally measured as a ratio, it can be boosted by either *increasing* the amount of capital that is held by raising additional equity from investors, or the same effect can be achieved by *reducing* the risks on the balance sheet that the capital is meant to support. Most banks chose the latter, often cheaper, approach and de-risked their balance sheets.

The de-risking analysis undertaken by banks considers two main variables: the level of risk, and importantly also the return on risk. Risks that earned insufficient return were cut, and return was measured by the income earned and also the

due diligence, compliance and risk management expense incurred of maintaining the risk on the balance sheet. Services provided to NGOs, particularly those NGOs transacting across borders and operating in regions deemed to be high risk by regulators, are relatively expensive to maintain and offer limited financial return. With these considerations in mind, banks have shed, and will inevitably continue to shed, NGO clients.

In March 2014, the BBA convened a roundtable to study the issue of de-risking,[74] linking it to the work being undertaken via the G20's Global Project on Financial Inclusion.[75] The BBA identified an extensive array of categories affected by bank de-risking, including,

… money service businesses (including remittances), correspondent banking, safe custody, bank notes, cash intensive businesses, embassy accounts, charities/NGOs, segments of retail customers who are seen as higher risk and/or of certain nationalities, politically exposed persons and businesses operating in part icular countries subject to sanctions, terrorist financing or corruption concerns.[76]

All of these categories were believed to 'present specific risk management and regulatory challenges'. Importantly, the roundtable suggested that in certain areas such as the supply of banking services to money service businesses, and the provision of correspondent banking and trade finance, the extent to which de-risking is being applied may actually cause financial stability concerns, particularly in lesser developed economies, and may be holding back global growth and enhancing financial exclusion. Furthermore, if sophisticated financial institutions that have the skills, if not the appetite, to manage these risks reject these businesses and clients, it is likely the risks will end up being taken by smaller or less well equipped banks, with potentially damaging consequences when the tide goes out again.

While events such as the BBA's roundtable focus on the impact of regulation, regulators are quick to point out that it

is banks that interpret the regulations, and regulators cannot be held accountable for this interpretation. This stance can be clearly seen in a letter sent by HM Treasury to advocacy NGO CAGE following its bank account closures in early 2014 in which HM Treasury stated, 'Individual commercial decisions of financial institutions are informed by their own compliance and risk policies and are not ones that the Treasury or the regulator can or should determine.'[77]

Yet the regulatory and policy maker messaging is inconsistent. On the other side of the Atlantic, in early 2014, US Comptroller of the Currency Thomas Curry highlighted the fact that banks believe that 'in the current regulatory environment, there are whole categories of business that are too risky to bank'. Despite what one might expect given the prudential responsibility of a regulator, he encouraged banks to stop treating complete industry segments as unbankable, suggesting that banks were avoiding conducting the due diligence and risk management necessary to provide banking services to certain industries.[78] This is also the view, echoed by her boss Martin Wheatley,[79] expressed by Tracey McDermott the UK FCA's director of enforcement and financial crime, who has suggested that this 'de-risking' action is not supported by the regulator, noting as she did at a SWIFT Business Forum event in April 2014 that the regulator 'would rarely expect firms to exit business relationships to avoid risks… We don't want to end up in a world where the fear of the consequences… will deny people access to legitimate services.'[80]

Within all the discussion about de-risking, it is important to differentiate between de-risking driven by the increased costs of capital inflicted by regulators seeking to strengthen balance sheets and reduce the future need for governments to bail out distressed banks, and de-risking borne of the fear of sanctions and fines inflicted by regulators in the name of counter-terror finance specifically and counter-illicit finance more generally. Banks consider their businesses on a portfolio basis: they look across their business lines and consider the overall risks, rewards and benefits from diversifying the range of clients and services with which they work. Thus, in addition

to their analysis of risk and reward, banks also consider one increasingly dominant influence of their business – the potential for regulatory interventions and fines as a result of the business they do.

Box 4

The Joint Money Laundering Steering Group

One organisation often pointed to as a centre of coordination with regards to money laundering and counter-terror finance guidance for the financial services industry is the Joint Money Laundering Steering Group (JMLSG). This body is made up of the leading UK trade associations in the financial services industry, but appears to exclude most of those entities collected under FATF's umbrella heading 'designated non-financial businesses and professions' such as lawyers, accountants and real estate agents, also deemed to be important alongside banks in applying global anti-money laundering and counter-terror finance standards.

The JMLSG aims 'to promulgate good practice in countering money laundering and to give practical assistance in interpreting the UK money laundering regulations. This is primarily achieved by the publication of industry Guidance.'[81] *In the context of its goal of giving practical assistance, the JMLSG offers guidance on the adoption of a risk-based approach to protecting against money laundering and terrorist financing, which it believes embodies proportionate and cost-effective approaches to managing these risks. This is a role that JMLSG has played in the context of the previously referenced money service business banking issue in the UK, as in July 2014 it published 'Guidance in respect of money service businesses'*[82] *for its members (as approved by HM Treasury). As a forum respected by the banking community, there is certainly a greater role for the JMLSG to play in addressing the current, damaging trend of NGO de-risking across the UK banking industry.*

What does this all mean for NGO financial access?

While some UK banks have capabilities, such as the Barclays Charities and Not-for-Profit Team,[83] which appear to have the appetite and expertise to assist a very limited number of NGOs with their banking requirements, internationally operating NGOs present particular challenges for banks. They typically run cash-based operations, are often lightly regulated (as in the UK) or not at all regulated (as in the majority of countries), and operate across borders in high risk geographies. These characteristics are all warning flags for the banking system. Generally speaking, NGOs are unattractive clients for banks because of the combination of risk perception, fear of fine and censure, and limited relationship profitability. Worse still, developments in the UK as HM Treasury finalises its national risk assessment, and the various agencies of government and the financial services industry prepare for FATF's mutual evaluation in 2016 or 2017, are likely only to strengthen the restrictions on financial access felt by NGOs unless proactive measures are taken.

A commercial reality?

Profitability is, in most forms of business, a prerequisite for success. Without profit, salaries cannot be paid, investment cannot be made, and the good that we expect from our capitalist model would not advance. Yet as we have witnessed in recent years, profit cannot be pursued at all and any cost. Much of the damage wrought by the banking industry on the global economy during the global financial crisis of 2007–2008, the effects of which are still being felt today, was directly attributable to the pursuit of ever-greater profit within banks that paid no heed to the dangerous implications of this objective. Perhaps more so than any other industry, banking is about not only securing profits for shareholders but also providing a service to society and earning a 'reputational return'.

In documents reviewed by Mr Justice Henderson in connection with his handling of Somali money service business Dahabshiil's injunction application against their

account closure by Barclays in 2013, he had sight of a Barclays 'minimum standards' document and noted that 'one of the minimum requirements at the draft stage [of the document] was that the customer should yield actual or potential annual revenue to Barclays of at least £100,000'. While this criterion was removed from the final draft, he observed,

Nevertheless, it remained a consideration to which the review team still had regard, and the view was taken that it would not be commercially viable for Barclays to continue to provide services to any customer representing less than £100,000 in annual revenue.[84]

This approach is not unusual when banks consider whether or not to take on or maintain clients and lines of business. Bankers will understandably argue that if business is not profitable then it would be irresponsible (from a commercial standpoint) to pursue it.

However, there is an important additional perspective to consider. While banks are normally private sector, often shareholder-owned entities and thus arguably within their rights to pick and choose risks as they wish, they cannot escape the fact that they are also social utilities, should play a positive role in society, and are 'licensed by society to serve the needs of society'.[85] Indeed, in the reckless pursuit of profit which culminated in the crisis of 2007 and 2008, most banks were either directly or indirectly supported or 'bailed out' by society, a debt which seems to have been quickly forgotten. Banks may argue that the role they play in providing and maintaining critical financial infrastructure such as the payments system and protecting account holders from fraud is duty enough to society. Yet as noted by the UK Banking Standards Review, it is questionable how well banks are doing at winning back 'public trust',[86] something that will only be achieved if, in the words of the Archbishop of Canterbury Justin Welby, banks 'have values of integration into society, [offering] mutual service to all other parts of society'.[87]

As can be seen from this review of the risks and motivations that shape decision making at banks, left to their own devices,

it seems likely that the pursuit of profit and the shedding of risk will continue to govern their actions. To the extent this is the case, NGOs will certainly see their financial access restricted further. It thus seems axiomatic that if banks are going to invoke government-imposed policies and regulations as the basis on which they feel the need to restrict NGO financial access, considering means by which a reversal of this loss of financial access can be achieved requires a significant review of the government's role.

Lessons from across the Atlantic: the Arab Bank and Interpal cases

The potential legal implications for banks that are deemed to provide services that facilitate terrorist financing are certainly not imagined. Two cases in particular highlight the legal challenges they might face, especially in the US where a bank may be held liable if it is used by a third party to assist terrorism.[88]

Arab Bank case study

The most recent case involves the Jordanian Arab Bank, which was found liable by a US federal jury in September 2014 of knowingly providing financial assistance that helped militants from Hamas conduct attacks that killed or wounded American citizens in Israel. This is the first time a foreign bank has been found liable in a civil terrorist financing case in the US.[89] The plaintiffs – nearly 300 people including family members of some of the victims – alleged that Arab Bank held accounts for senior members of Hamas and transferred funds to organisations controlled by Hamas. The plaintiffs also claimed that Arab Bank funnelled money from charities in Saudi Arabia to the relatives of Hamas suicide bombers and prisoners. In its defence, Arab Bank claimed that it had followed its compliance procedures rigorously. Of particular interest in this case is that Arab Bank believes that the jury's decision

'exposes the banking industry to enormous liability for nothing other than the processing of routine transactions and the provision of

conventional account services even if all governmental requirements are followed and the parties receiving services were in good standing with these governments.'[90]

The relevance of this statement is that while Hamas might have been a designated terrorist organisation in the US at the time of these transactions, it was not designated as such in Jordan. And how far is a bank expected to go in order to understand the activities of its account holders? The implications of this case are far reaching as banks will undoubtedly become even more risk averse if, in their view, they can be found liable in a third-party country for doing something that is technically legal in their jurisdiction of operation. Furthermore, in this specific situation, at a time when a rebuilding programme is under way in Gaza following the recent conflict, banks such as Arab Bank that are active in providing financial support to this programme are likely to reconsider closely their continued involvement. Arab Bank is appealing the verdict.

Interpal case study

Interpal, also known as the Palestinian Relief and Development Fund, is a UK-based charity founded in 1994 that works to help Palestinians in the Palestinian Territories, Lebanon and Jordan. It focuses on four major areas: under-nourishment, poor medical services, shortages in the provision of education, and rehabilitation facilities for the injured and disabled.[91] In 2003, the US Government accused it of funding Hamas terrorist activity in the West Bank.[92] It froze its US accounts and assets, and officially designated it a terrorist organisation (Israel had outlawed Interpal in 1997).[93]

This decision had two immediate consequences in the UK. First, NatWest, with whom Interpal held accounts, sought guidance from the Financial Sanctions Unit of the Bank of England over their relationship with Interpal. They were informed that 'there are presently no plans to list [Interpal] under the Terrorism Order in the UK' and 'there is no need to take any further action'.[94] As a precautionary measure, NatWest began biannual reviews of Interpal's accounts.[95]

In 2005, NatWest reported its own suspicions that Interpal had made a payment to an organisation supporting terrorism.[96]

Second, the Charity Commission decided to freeze Interpal's finances pending an investigation. This was eventually dropped after no evidence was provided by Washington to substantiate the claim. The Charity Commission did find that Interpal had received funds from the Dutch Al-Aqsa Foundation, whose assets had been frozen under UN sanctions for allegedly supporting terrorist activities, but records showed these payments were for humanitarian work already undertaken by the charity. On the closure of the inquiry, the Charity Commission wrote to Interpal advising it to seek independent verification of projects supported by Interpal. Similar allegations had also been made in 1996, but were likewise dismissed owing to lack of evidence.[97]

In 2006, a BBC Panorama episode entitled 'Faith, Hate and Charity' alleged that some of the charity's funding was being sent to organisations which promoted the ideology of Hamas, and were crucial to its support among the Palestinian people. The programme also alleged that key figures in the management of certain partners on the ground were members of Hamas, and that the charity was a member of the Union for Good, whose president appeared to have publicly supported suicide bombings directed at Israeli civilians. The Charity Commission subsequently conducted its own analysis of the Panorama material, and decided a new inquiry was necessary.[98]

The Charity Commission ultimately found that material suggesting that organisations supported by trustees were promoting terrorist ideology or activities could not be verified. While the charity had maintained clear financial audit trails in their delivery of aid, it found that it had failed to adequately monitor or obtain independent verification of the work done by its partners, or to investigate allegations about their activities. It also ordered the charity and its trustees to dissociate themselves from the Union for Good. In June 2012, the Charity Commission published a follow-up report showing that Interpal had complied with the requirements of the 2009 inquiry.[99]

In 2006, 15 families filed claims against NatWest, alleging that they knowingly allowed customers to move funds via

Interpal to a Palestinian group linked to terrorism, and thus the bank bears some responsibility for various terrorist attacks on Israel, including a suicide bombing in Jerusalem in 2003 that killed 13 people and injured more than 130, all of which Hamas has claimed responsibility for.[100] This led NatWest to close Interpal's account in 2007 after the court initially permitted the families to proceed with their claim, prompting Interpal to transfer its accounts to the Islamic Bank of Britain (IBB).[101]

In 2008, it was reported that IBB had been instructed by Lloyds, which provides the bank with clearing services, to close Interpal's accounts.[102] Lloyds cited Interpal's designation as a terrorist organisation in the US, where Lloyds does business. Initially unable to make alternative arrangements, Interpal asked the Bank of England to provide it directly with banking services, a request which was immediately rejected by the Treasury.[103] Eventually, IBB and Interpal found alternative means to transfer funds overseas.[104]

Although the lawsuits were initially dismissed in March 2013, they were revived on appeal in September 2014 in light of the Arab Bank judgment. Judges decided the decision to dismiss had placed too heavy a burden on the plaintiffs by focusing on knowledge within NatWest of Interpal's 'terror financing', rather than financing of a terrorist organisation, regardless of the specific use to which the money was put.[105]

The key dispute here is the relative weight given to UK authorities: the UK Charity Commission, the Bank of England and Special Branch, compared with the Office of Foreign Assets Control within the US Department of the Treasury. The Charity Commission had cleared Interpal of funding terrorist institutions on three occasions, and the Bank of England did not advise NatWest to halt Interpal's financial activities even after the US authorities had designated it a terrorist organisation. While a final decision is yet to be reached, the case has dragged on for a number of years, costing NatWest huge sums in legal fees. It is hardly surprising that many banks wish to avoid similar problems in future.

5 The role of government and regulators

In May 2014, CAGE contacted HM Treasury 'out of great concern about the manner in which [it had] been targeted by the actions of HM Treasury and the banks with which [it] held accounts until very recently'.[106] While CAGE acknowledged the offer of HM Treasury to provide a letter 'confirming that CAGE is not and has never been subjected to financial measures' it also questioned whether HM Treasury had properly thought through the likely impact on its banking operations as a result of its designation action on Moazzam Begg, an authorised signatory on CAGE bank accounts. CAGE further charged that HM Treasury had failed to undertake any due diligence or exercise its powers in a reasonable manner in accordance with a duty of care.

In response, while confirming 'that CAGE is not itself and never has been subject to any financial restrictions under UK law,' HM Treasury also emphasised that 'individual commercial decisions of financial institutions are informed by their own compliance and risk policies and are not ones that the Treasury or the regulator can or should determine'.[107] On the face of it, this would seem to be an open-and-shut case of 'buck passing' by HM Treasury on behalf of the Government and its regulatory authorities despite a bank's compliance and risk policies being a direct function of government-enforced policy and regulation.

Regulation: the big picture

The global financial crisis has led banking regulation around the world to be scrutinised and tightened to ensure, as much as possible, that banks have sufficient capital to absorb future shocks, that risk taking remains proportionate, and that

governments never again have to spend billions bailing out banks that have taken reckless risks against insufficient capital. In the UK, banks are regulated by two primary entities, the Prudential Regulation Authority (PRA) and the FCA. The PRA is an arm of the Bank of England and aims to ensure the safety and soundness of the UK's financial institutions. To achieve this objective, the PRA, in its own words, 'focuses primarily on the harm that firms can cause to the stability of the UK financial system', noting, 'A stable financial system is one in which firms continue to provide critical financial services – a precondition for a healthy and successful economy.'[108] Meanwhile, the FCA, which is a separate organisation and not part of the Bank of England,

is responsible for promoting effective competition, ensuring that relevant markets function well, and for the conduct regulation of all financial services firms. This includes acting to prevent market abuse and ensuring that consumers get a fair deal from financial firms.[109]

Overarching these two organisations is HM Treasury, which is responsible for financial services policy including banking and financial services regulation and financial stability, and which has stated priorities of, among others, creating stronger and safer banks, making it easier for people to access and use financial services, and improving regulation of the financial sector to protect customers and the economy.[110]

Aside from the requirement to ensure UK financial stability, one clear theme that runs through an overview of the responsibilities and priorities of these organisations is customer service, customer access, and ensuring consumers get a fair deal. It would therefore seem entirely contrary to the defined responsibilities of these instruments of government to suggest that the actions of banks are for the banks alone to determine. Furthermore, the FSB, set up in the wake of the global financial crisis to coordinate the work of national supervisors, advises that regulators should be discussing what constitutes a 'good risk appetite framework' and not leaving this entirely to the discretion of banks.

Is government really powerless?

In light of this review of the headline roles and responsibilities of the key regulatory bodies in the UK, it seems appropriate to return to HM Treasury's assertion to CAGE that 'individual commercial decisions of financial institutions… are not ones that the Treasury or the regulator can or should determine'.[111] Is this a reasonable position for HM Treasury to adopt or should the Government and its policy and regulatory bodies be expected to play a more substantial (some might say responsible) role?

As noted earlier in this report, the challenges NGOs face in maintaining financial access bear much similarity with the challenges faced by money service businesses in summer 2013 following the closure of a number of bank accounts by Barclays. The Somali community, supported by MPs, high profile public figures such as Mo Farah, academics and NGOs, mounted an impressive awareness campaign, which while ultimately unsuccessful in maintaining all but one Somali money service business account did encourage the Government to intervene. This campaign helped push the Government into action. In October 2013, then Financial Secretary to the Treasury Sajid Javid announced in a written ministerial statement, 'The Government are acutely aware of the importance of remittances to these countries and to UK residents. The Government are committed to doing the utmost to ensure that remittances continue to flow through secure, legitimate channels.'[112] The Government then convened a roundtable of stakeholders and subsequently announced it would undertake a 12-month process designed to address the loss of financial access with which money service businesses, relied on by a number of communities in the UK, were threatened, a threat imposed by the banking community in the name of counter-terror finance.

While it would be unreasonable to expect, and wholly inappropriate for the government to micro-manage the decision making of individual banks, the ability of policy makers to set 'tone from the top' is an important and lacking contribution. Government must use its convening power and the statutory

'due care' responsibilities of its agencies to consumers and customers of the financial system to establish a dialogue which, if it is to be effective, must also include senior representatives of the banking community. As has been highlighted, banks will avoid any risk they feel is not worth taking related to profit or the time that needs to be spent analysing the particular opportunity unless an attitude and culture shift occurs. Government is best positioned to catalyse such a shift.

While the Government clearly needs to take responsibility for the policies and regulations it imposes, as we will discuss in the next chapter, there is more that NGOs can do about due diligence and risk management to contribute to an improvement in the current situation.

Government guidance: the Bribery Act 2010

In July 2011, the Bribery Act came into force in the UK and was accompanied by guidance aimed at helping organisations understand the legislation. As noted by then Secretary of State for Justice Kenneth Clarke, the tough rules 'are directed at making life difficult for the mavericks responsible for corruption, not unduly burdening the vast majority of decent, law-abiding firms'.[113] The guidance states:

The objective of the Act is not to bring the full force of the criminal law to bear upon well run commercial organisations that experience an isolated incident of bribery on their behalf. So in order to achieve an appropriate balance, section 7 provides a full defence. This is in recognition of the fact that no bribery prevention regime will be capable of preventing bribery at all times. However, the defence is also included in order to encourage commercial organisations to put procedures in place to prevent bribery by persons associated with them.[114]

In supporting the guidance, the document also provides a series of case studies indicating the extent to which prosecution in a case needs to demonstrate that hospitality, or such similar service, is intended to encourage someone to act in a manner contrary to that expected of a person acting in good faith or with impartiality,

as judged by a reasonable person in the UK. Furthermore, the guidance is supplemented by six principles which should inform the procedures put in place to prevent bribery:

- Procedures should be proportionate, clear, practical, accessible, effectively implemented and enforced.
- Top-level management is committed to preventing bribery and foster an appropriate culture.
- The organisation conducts risk assessment which is periodic, informed and documented.
- The organisation applies due diligence procedures, taking a proportionate and risk-based approach.
- Policies and procedures are communicated, embedded and understood within the organisation.
- Monitoring and reviewing are in place with improvement procedures enacted where necessary.

Government guidance: the US Treasury's Office of Foreign Assets Control

In October 2014, the Office of Foreign Assets Control published 'Guidance related to the provision of humanitarian assistance by not-for-profit non-governmental organizations'.[115] While the guidance is informational, not legal, and did not grapple with the most challenging issue, that of payment demanded by a designated terrorist organisation that is necessary in order for humanitarian assistance to be delivered, it does at least provide some clarification on issues such as the unwitting provision of humanitarian assistance to designated organisations. The two-pager is far from perfect, and in the view of some 'would not prevent a repeat of the Somalia catastrophe'[116] when aid deliveries to assist with famine relief were fatally impeded by counter-terror finance concerns, but it is more than has been offered in the UK thus far.

6 NGOs, due diligence, governance and operating best practice

While the challenge of NGO financial access is not a new phenomenon, the humanitarian crises triggered by conflict in Syria and Gaza have brought the challenges posed by counter-terror finance and the NGO sector to the fore. Recognising this issue, in December 2013, the BBA, the Disasters Emergency Committee (DEC) and the law firm Freshfields produced a paper that endeavoured to provide 'background information and practical tips on how banks and humanitarian agencies can work together to ensure aid can reach civilians in need of assistance in and around Syria in compliance with UK, EU, and US sanctions'.[117] These broad geographic considerations point to one particularly key issue, as highlighted by the Arab Bank case, which is the extra-territorial enforcement by federal or civil courts of US sanctions, and the associated fear of fine and censure.

The first important issue that needs to be acknowledged, and which is highlighted by the paper from the BBA et al, is that most large internationally operating NGOs already undertake considerable due diligence on their aid programmes, partners and staff. Communicating the nature of these programmes to banks, which in many instances are unaware of the extent of the measures NGOs employ to protect themselves, is a critical first step.

However, standards of professionalism and transparency are not always as they should be. When considering the ways in which NGOs manage their banking relationships, it is worth calling on the money service business example once again. During research for the DfID-commissioned *Rapid Assessment,*[118] it became abundantly clear that the standards of due diligence undertaken by money service businesses varied significantly.

Some were operating highly sophisticated 'heavy duty' systems that were almost certainly well in excess of the standards demanded by the UK's regulatory authorities; others, genuinely believing that their processes were good and accorded with regulatory requirements, were using procedures that would terrify any bank risk manager who happened to pay a visit. The same can certainly be said for the NGO sector where standards and capabilities, often as a function of available finances and staff, vary dramatically. Individual NGOs and the various sector umbrella groups and fora would benefit significantly from continually reviewing the level of governance and professionalism being applied, and ensure programmes to build governance capacity are deployed.

Although NGOs may feel that undertaking compliance and due diligence incurs costs of time and money that are wasteful, bridging the divide in capabilities is important as any review of procedures by a bank will consider not only the absolute standard of processes, but also the relative standard. Thus sharing of best practice and processes between NGOs is important. Money movement needs to be a key consideration when NGOs plan programmes. Basic questions need to be asked and regular updates provided to banking partners. For example, the guidance from the BBA et al suggests answers to key questions should be provided, including:

- Who are the funds going to and who will they ultimately benefit (directly or indirectly)?
- How are the funds going to reach their target?
- What will the funds ultimately be used for (eg exporting goods)?
- What risk assessments and due diligence has the agency undertaken?

Some NGOs feel that diverting money and time to due diligence from their aid work is a waste of resources. This is misguided. Carrying out this due diligence will not only help NGOs develop their banking relationships, it will also serve as a level of protection in the event breaches are identified. As noted by the European Council in the context of restrictive measures in connection with Syria, there shall be no liability on persons or bodies 'if they did not know, and had no reasonable cause to suspect, that their actions would infringe the prohibitions in question'.[119] Furthermore, the FCA publishes useful guidance for the financial services industry in its *Financial Crime: A guide for firms* on what is required of the industry when considering counter-terror finance, anti-money laundering and sanctions-related due diligence.[120] NGOs should be encouraged to review these relatively short documents and assess themselves against the standards expected of the banking industry. Demonstrating knowledge of and significant compliance with this guidance will give banks comfort that their NGO clients are fully aware of the compliance and risk environment in which they operate, reducing the perceived regulatory gap risk.

Too many NGOs operate their banking relationships as they operate their personal bank accounts, in other words once the account has been opened very limited interaction occurs between the NGO and its bankers – the level of dialogue between most NGOs and their bankers appears woeful. Typically, there is only ever contact when the NGO wants something or when problems arise. Clients who make the most effective use of their banking relationships tend to be those that endeavour to involve their bankers in their business to the greatest extent possible, for example inviting them to events, providing regular briefings on new develop-ments and projects, calling in to the head office when visiting London, alerting the relationship manager to any pending news stories that might require explanation, and most importantly ensuring

that the relationship manager has all necessary information to act as an effective advocate for the business, particularly when they receive questions from their management or risk department in response to news headlines. The key to ensuring smooth, uninterrupted banking operations is managing the relationship on a 'no surprises' basis.

NGO best practice

Due diligence case study

One large UK-based internationally operating NGO explained its due diligence procedures as follows. The NGO has detailed due diligence, monitoring and verification of end-use of charitable funds systems and processes systems. This ensures not only compliance with the Charity Commission's guidance, but is also borne out of the NGO's experience of dealing with charitable funds from different entities across the world, all of which has led to enhanced levels of due diligence being put in place. The vetting process gives a level of assurance and accountability that ensures funds are not sourced from or go to any proscribed organisations.

The NGO takes its obligations very seriously to ensure that funds and resources of the charity are not diverted to funding terrorism and has invested in a comprehensive screening software-based system provided by Thomson Reuters. Arguably the best package on the market, unlike most software packages, which simply screen against a few major lists, the Thomson Reuters package allows screening against over 500+ lists (including three lists from Israel). It is believed very few if any NGOs globally has made an investment in a similar package.

The NGO undertakes what it believes is the widest level of screening carried out by any NGO globally. The NGO believes its peers screen only for senior management and trustees whereas it screens not only all directors and senior management but also:

- every employee globally
- every bank and financial institution who is responsible for the transfer of funds on behalf of the organisation
- every partner, contractor or supplier who provides goods and services to the value of £500 or more
- major donors
- in high risk areas, beneficiaries who are paid cash

The NGO's field presence in over 30 countries enables it to undertake its own humanitarian activities, thus avoiding using implementing partners and thereby ensuring direct control of all funds, activities, procurement and distribution of aid. All funds are sent through the banking system (no cash couriers). All projects are designed by the NGO, extensive audit and evaluation is undertaken, and the annual statutory audits are carried out by external audit firms.

Where partners are required a comprehensive vetting process is carried out before entering into a partnership contract. The NGO started a partner appraisal system in 2002 that assesses its partners' ability to carry out programmes including reviewing their structures, key officers and controls. This process was extended to include screening against lists of proscribed persons and organisations.

Practical operational tips in the context of Syria

A list of practical tips proposed by the BBA, DEC and Freshfields on humanitarian agencies making transfers relating to Syria to reassure banks that the transfers are lawful and appropriately risk mitigated is given below.[121] While these tips were drafted in the context of the Syrian humanitarian crisis, they provide a useful roadmap for NGOs considering the appropriateness of the due diligence standards they currently apply:

- Provide banks with a one-page briefing on proposed programmes in Syria. This should include details of intended beneficiaries, how they are selected, the programme to be delivered, who will deliver the programme (eg the agency itself, or its partner in Syria), and the procurement procedures for purchases to be made in Syria.

- Explain how due diligence on local partners is conducted – including the frequency of screening, the sanctions lists used for screening, and the criteria to be met prior to the commencement of a relationship.

- Consider the currency in which payments are to be effected, as this will have an impact on the applicable sanctions legislation.

- Provide banks with a detailed explanation of the purpose of each transaction and include a contact number of a person at the agency who is familiar with the transaction and can assist in providing additional information if required.

- Also provide the payment amount and currency, the name of the Syrian bank where the account is held, the name the account is held in, the name of the local partner, a description of any links to the Syrian Government or a sanctioned party, and details of any specific or general licence which permits the transaction.

- Engage with regulators to ensure actions are, if necessary, covered by general or specific licences and make reference to any licences in payment instructions. This will assist the bank in ascertaining the legality of the payment and prevent potential delays in processing.

- Take responsibility for determining the legality of the payment. Banks can advise on the applicable legislation and the agency should then consult with its legal team before processing.

7 Conclusions and recommendations

In 2013, an extensive, global, multi-year survey of counter-terrorism issues related to the NGO sector, conducted by the Center on Global Counterterrorism Cooperation, was published by the United Nations. The report highlighted the critical importance of establishing a 'trialogue' to address the issue of NGO financial access. All parties in this three-sided relationship have been affected by counter-terror finance regulations and thus all parties will need to collaborate to reverse and mitigate the current trend. As the report noted,

In handling international financial flows for NPOs, the degree and quality of risk mitigation measures utilized by banks and financial institutions necessarily affects the speed and ease of these movements. Representatives of financial institutions stated that their perception of risk was influenced by the approach taken by global institutions towards NPOs.[122]

Counter-terror finance regulations and recommendations are dramatically reshaping the provision and procedures of financial services for all who use and operate them. Business lines such as correspondent banking are being cut, and high risk countries are being isolated. The actions of banks in recent years, brought into sharp focus by the closure of money service business accounts during summer 2013 and the removal of financial access from a range of NGOs, foundations and associated individuals in 2014, are very tightly associated with the interpretation and implementation of the counter-terror finance regulations and recommendations. The fines banks have incurred for failing to adhere to regulations governing the control of illicit finance have been immense. The lengths to which banks will go to avoid the possibility of facing such

fines again are wide-ranging, combining the employment of ever-greater numbers of staff, the use of ever-more extensive and expensive systems, and the regular review and reduction of client lists and account holders to ensure they are beyond risk and compliance reproach. The result: costs escalate, perceived risk rises, and the required return on a given risk or relationship thus increases, with those clients that do not meet the necessary risk or return threshold being cut. For NGOs, the outlook is bleak.

Yet banks do not simply operate for their shareholders. As a range of commentators have observed, while some might suggest banks already serve society by protecting client funds, tackling money laundering, and providing the financial infrastructure critical to the functioning of the UK economy, banks should be seeking to earn a 'reputational return' and considering not just what is profitable but also what is right. This is especially important in the NGO sector in the UK where the Charity Commission puts particular weight on the use of the formal financial sector when defining appropriate governance.

To some extent, banks do recognise this responsibility and their obligation to treat customers 'fairly and openly'. HSBC has an entire board committee that is charged with aligning its work 'to HSBC's purpose of connecting customers to opportunities, enabling businesses to thrive and economies to prosper, and ultimately helping people to fulfil their hopes and realise their ambitions'.[123] This committee also ensures that HSBC does business with the right customers to ensure HSBC's reputation remains protected. Furthermore, some banks such as Barclays include specialist corporate banking teams for dealing with NGO clients.

The banking community argues that its decision making is informed by the recommendations and policies of regulators and the global standard setter FATF, bodies that appear either to fail to take ownership of the policies and recommendations they promulgate, or offer guidance that is obscured by the overarching message. FATF would probably argue that its warning that NGOs are 'particularly vulnerable' to abuse

for terrorist financing is tempered by its acknowledgement of the vital role played by NGOs, a nuance that makes little difference to a bank's risk manager when client lists and transactions are being scrutinised. Consider too the title of FATF's latest NGO-focused report. *Risk of Terrorist Abuse in Non-Profit Organisations* sets the tone and would appear to leave little room for interpretation despite attempts to present a balanced picture.

If regulators and policy makers want an effective banking system, which drives economic growth, supports the financial needs of customers, and acts in the broad interests of society, there will almost undoubtedly be a level of unwanted risk in the system – this is the nature of 'real world' banking. As things currently stand, banks believe regulators and policy makers require that level of unwanted risk to be zero when it pertains to security-related issues such as money laundering and terrorist finance. The repercussions of this belief can be clearly seen in the rapid balkanisation and insularisation of the financial system.

If the current trend is going to be halted or reversed, government needs to make better use of the tools at its disposal to facilitate the work of NGOs (such as operational licences issued by HM Treasury) and the provision of guidance that clarifies the extent to which the various counter-terrorism laws are meant to prohibit legitimate NGO activity. As FATF makes clear, 'Measures adopted by countries to protect the NPO sector from terrorist abuse should not disrupt or discourage legitimate charitable activities.'[124] As things currently stand, the UK's internationally operating NGOs are clearly disrupted from conducting their activities.

Against a backdrop dominated by geopolitical events such as the conflicts in Syria and Gaza, a regulatory outlook dominated by HM Treasury's national risk assessment, an impending UK FATF mutual evaluation, and banks facing legal cases in the US courts as a result of their involvement with certain NGOs, the current negative trend seems certain to accelerate if proactive measures are not taken by all involved. The importance placed on the use of the formal

banking arrangements by the Charity Commission and the demonstrably negative impact that operating finances outside the formal sector has on the security of NGOs, their staff and partners, and the goals of the Government's CONTEST agenda, in particular the role overseas aid can play within the 'prevent' strand of the strategy,[125] suggests that addressing this negative trend should be a priority.

Thus, by way of conclusion, the following six broad recommendations are offered as means to address the current and increasing loss and restriction of financial access experienced by the internationally operating NGO community in the UK.

Recommendations

Dialogue is key

All sides need to compromise and improve: constructive dialogue is key. Having studied this field for three years, I am clear that while much has been said about this matter, the level of genuine, productive and results-oriented dialogue is limited. Within this dialogue, compromise and improvement will be needed from all sides. As David Anderson QC recommends, dialogue between international NGOs and policy makers, including the Home Office and HM Treasury, is required. And as the UN has acknowledged, this dialogue will be worthless if the banking community is not also represented at the highest level. The lack of mutual understanding of the challenges faced by NGOs in conducting their operations and banks in their decision making must be addressed.

The role of banks in society

Banks need to look beyond their innate profit motive and consider 'reputational return'. In September 2013, Sir Richard Lambert was asked by the chairmen of seven leading UK banks 'to come up with proposals for a new organisation to raise standards in banking'.[126] The Banking Standards Review identified a number of issues, including that 'banking culture

has all too often been characterised by an absence of any sense of duty to the customer'. As highlighted throughout this report, the apparent lack of desire to earn a 'reputational return' via the overt and demonstrable recognition of the societal role the banking community must play is a continuing and key failing.

With this in mind banks should acknowledge that while they have a duty to their shareholders, they also have a key and supportive role to play in society and thus need, at times, to look beyond their innate profit motive. A number of banks pride themselves on their contribution to the national and international drive to enhance financial inclusion.[127] A similarly committed approach to banking NGOs needs to be deployed, engaging with NGOs to find a solution to the challenges banks believe they face. As noted by a number of regulators, exiting client relationships as a means of avoiding risk leads to greater financial exclusion, an entirely unconstructive and backward development. Banks need to develop or hire the necessary expertise to understand how NGOs operate, how they are regulated, and thus how to make informed risk decisions.

Banking sector partnership

Banks should coordinate productive engagement with NGO umbrella groups, orchestrated by the BBA. The combating of financial crime is one of the few areas of banking which should not be a competitive arena. Given the costs of time, money and personnel invested by banks in financial crime-related compliance, risk management and monitoring, collaborative approaches are surely preferable to, and more robust than, standalone measures. Partnership in this field should be encouraged and welcomed by the regulatory authorities as a joint, cross-banking sector approach ensures that a united front is maintained. Thus, via organisations such as the BBA, banks should work together to ensure that NGOs have the banking services they need so that these relationships are managed within a system that can deal with the demands of banking in the NGO sector, rather than the responsibility

being passed down to banks less able to identify the associated risks or, worse still, being taken entirely outside the formal financial sector.

Building NGO capacity

Many NGOs need to improve their professionalism, communication, transparency and awareness of diligence and governance standards. Standards vary significantly across the NGO sector. While NGOs may be registered with the Charity Commission, no banks treat this registration as an *imprimatur* of quality assurance. NGOs need to build the trust and confidence of their bankers. Thus NGOs should be willing to work harder to develop relationships with their bankers – at present, dialogue appears generally woeful. Too many NGOs operate their bank accounts as they perhaps operate their bank accounts as individuals. They open the account and then think of it as little more than a utility. Successful banking is built on a foundation of relationship. NGOs need to build dialogue with key banking partners, seeking to involve their bankers in their business, inviting them to events, sharing with them the work they are doing. If a banker only ever hears from a client when there is a problem or complaint, the basis of the relationship will always be weak and the ability of the banker to advocate on behalf of his or her client within their bank will be limited at best. NGO umbrella or advisory groups such as the Muslim Charities Forum, NCVO, MANGO and the Charity Finance Group need to help their members with capacity-building and sharing best practice standards in this regard. While small NGOs may believe they are more dynamic and more nimble than their larger peers, they often cannot afford to meet these standards. Thus NGOs may need to combine in order to have the resources to develop necessary capabilities. According to the chairman of the Charity Commission, William Shawcross, some 200 charities operating in Syria have been registered since the start of the conflict in 2011[128] – it is doubtful whether they all have the capacity to operate to the governance and due diligence standards required of them. NGOs should understand the scrutiny under which banks operate and

consider how their diligence and governance looks in the regulatory framework within which the banking industry is expected to operate, and to consider money transmission as a critical element when planning programmes and engaging with their banks. Regulatory gap risk is a key concern for banks and thus reducing the gap between NGOs and banks in this regard will greatly facilitate financial access.

Greater government leadership…

Government policy makers and regulators need to display greater leadership and take greater ownership. Via HM Treasury and the FCA, the Government needs to conduct outreach to the banking sector, highlighting the importance and benefit of banks providing services to NGOs and clarifying what their regulations are genuinely seeking to restrict, and via the Charity Commission in partnership with the BBA and JMLSG, providing guidance on best practice to NGOs so they fully appreciate the standards required to meet and for banks on how to approach NGO banking. Similar guidance has previously been produced by the JMLSG (endorsed by HM Treasury) and HMRC in the context of 2013's money service business bank account closures. Government must recognise that the breadth of UK counter-terrorism legislation breeds significant uncertainty in both the banking and NGO sectors. This must be addressed if NGO financial access is to be protected. Consideration should be given to a form of 'kite marking' that can help banks determine which NGOs meet approved diligence and governance standards. Greater clarity on the availability and use of licences needs to be provided as, in the view of NGOs, the current system does not appear to work. In addition, the provision of commonsense prosecutorial guidance, such as included with the Bribery Act 2010, would help clarify areas of legal uncertainty without materially reducing the onus on banks and NGOs to operate to appropriate governance and due diligence standards.

… and ownership

Finally, government must commit to create the space, impetus and leadership to address the issue of counter-terror finance legislation's impact on NGO financial access. Punitive measures such as those announced via the draft Protection of Charities Bill[129] need to be balanced by a commitment to address the financial access challenges faced by NGOs. It is not right that government simply defers to the 'commercial decisions' of the banking community or hides behind the reach of the US Treasury Department. Government has created, expanded and implemented the counter-terror finance laws and regulations that weigh on banks and has a regular and open dialogue with key members of US Treasury's Office of Terrorism and Financial Intelligence.[130] Of course, banks choose to interpret these laws as they feel is appropriate, but the misuse or excessive application of government legislation needs to be addressed by the Government itself. The Government took a lead in addressing the issues faced by the money service business community in 2013, it must do so again.

A final word

In 2013, following a relentless campaign by a highly vocal section of the UK population that relies heavily on the money service business sector to remit funds to family in countries such as Somalia, the UK Government showed that it can get involved in the commercial decisions of banks to create the space for constructive dialogue. It should not require petitions, lobbying, and media campaigns for the matter at hand to be addressed. Government needs to demonstrate leadership by convening the right stakeholders; the banking sector needs to recognise its role in and responsibilities to society; and the NGO community needs to be willing to adapt to agreed best practice.

Providing financial access to the NGO sector should be rewarding for the banking community and beneficial to government. The current path benefits no one.

Appendix: summer 2014 account closure cases

Case study 1: Finsbury Park Mosque

The historical controversy surrounding Finsbury Park Mosque is well known. In 1997, Abu Hamza took over as Imam, and the mosque quickly became a centre of radicalism in the UK. By the time Abu Hamza was jailed for soliciting murder and inciting racial hatred in 2006, the Muslim Association of Britain (MAB) had taken over, and began a concerted effort to change the mosque's image.[131] As a charity, its activities include daily prayers, a youth club, open tours, a weekly Islamic supplementary school, fatwa services for the Muslim community, and workshops on subjects such as the environment, drugs, crime and education.[132]

On 22 July 2014, HSBC wrote to the mosque explaining that its bank account would be closed in two months. The only reason given was that providing the service fell outside their 'risk appetite'.[133] While individuals previously involved with the MAB are reported to have made pro-Hamas statements or been linked directly with the group,[134] many left in 2007 to form the British Muslim Initiative, which has a more political approach than the MAB, which has focused on community activities.[135] The MAB itself, which enjoys government funding, opened an account with HSBC in early 2014, only to have it closed three days later. The organisation is best known for its opposition to the UK's involvement in wars in Afghanistan and Iraq.

Finsbury Park Mosque's chairman, Mohammed Kozbar, claims that it is a charity operating entirely within the UK, with no money flowing into or out of the country. The mosque is supported financially by the local council, and local MP Jeremy Corbyn has called it a 'superb example… supporting local people and providing facilities for all faiths if they need it'.[136]

The account closure has caused anger and distrust among the local community, with around 300 people staging a protest at HSBC's decision outside the mosque in August 2014. Mr Corbyn says he is 'shocked and appalled' at HSBC's decision. The bank refused to comment on the factors it used to make risk assessments.[137]

The mosque has since found an alternative bank, although no further details have been disclosed.[138]

Case study 2: Cordoba Foundation

The Cordoba Foundation was another organisation told that its HSBC account would close on 22 September. The only reason given was that the provision of service fell outside the bank's 'risk appetite'.[139] The Cordoba Foundation is a think tank set up to address the relationship between Europe and the Middle East, and has received government funding through the Government's Prevent scheme, which was established to combat extremism.[140] The Cordoba Foundation's chief executive, Anas Al-Tikriti, also had his personal HSBC account closed, along with those of his wife and sons aged 16 and 12, having been an HSBC customer for almost 30 years. Mr Tikriti says no prior concerns were raised by the bank, and that he was 'confronted with a wall of silence' when he asked them to explain their decision.[141] He is also concerned that the closure of accounts will create a 'black mark' against those concerned, finding alternative banking services may be difficult, and the reputation of the organisation may be damaged.[142] Mr Tikriti served as president of the MAB in the mid-2000s.[143]

A UAE-based publication claims the group has been linked to the Muslim Brotherhood and attempts to undermine Arabian Gulf monarchies.[144] As leader of the opposition in 2008, David Cameron called the Cordoba Foundation a 'front for the Muslim Brotherhood'. Mr Tikriti denies these allegations.[145]

Case study 3: Ummah Welfare Trust

The Ummah Welfare Trust (UWT) was another of the group of NGOs that was told by HSBC that its account would close on 22 September 2014. The trust works in 20 countries worldwide, including Afghanistan and Pakistan, and has been involved in Gaza projects for ten years. It is now urging Muslims to boycott HSBC.[146]

The UWT, which is based in Bolton, had its Barclays account closed back in 2008. Trustee Muhammad Ahmad says that the last time its account was closed also came at a time of heightened conflict in Gaza, and claims this cannot be a coincidence.[147] The UWT was previously accused of having links to terrorism after it gave money to Interpal between 2004 and 2008. Interpal is a UK-based Palestinian charity, which was designated by the US Treasury as a supporter of Hamas. Mr Ahmad claims the UWT no longer deals with Interpal, which in any case was cleared of any wrongdoing by the Charity Commission.[148]

Case Study 4: Helping Households Under Great Stress

Helping Households Under Great Stress (HHUGS) was set up in 2004 to provide financial, practical and emotional support to the families of Muslim prisoners accused of terrorism offences. It aims to empower women through driving lessons, English language classes, educational and vocational training, and financial management courses. It also facilitates visits by children to their incarcerated fathers.[149] In 2007 its HSBC account was closed; in 2012 its Lloyds TSB account was closed; and in July 2014 Barclays froze its account with immediate effect.

While Lloyds and Barclays have failed to provide any justification for the closures, HSBC stated that the closure was because 'the ethical and moral values held by the charity did not coincide with HSBC's own values'.[150] Standing orders have been lost, with only a small fraction reinstated. HHUGS claims its treatment is an example of discrimination, as other prisoner support groups have never had any problems with their accounts.

Case study 5: CAGE

CAGE is an advocacy organisation, which campaigns against the War on Terror. It works with survivors of abuse and mistreatment, and documents the abuse of due process and the erosion of the rule of law in the context of the War on Terror. Its accounts with both Barclays and the Co-operative Bank were shut down after its director, Moazzam Begg, was charged with terrorism offences in March 2014.

Mr Begg, who was cleared of terrorism charges on 1 October 2014, is a British Pakistani citizen who was held at Guantanamo Bay between 2002 and 2005.[151] He sued the British Government for complicity in his alleged abuse and torture, reaching a settlement in 2010.[152]

No notification was given of the account closures, and all direct debits were cancelled and standing orders returned. Requests to open accounts have been refused by around ten banks. The Co-operative Bank claims it received a letter from one of the group's signatories requesting account closure, although CAGE denies any knowledge of such a letter and no evidence has been produced to support the claim. [153]

The account of CAGE's treasurer, who had banked with Barclays for over 18 years, has also been closed, along with that of a senior CAGE volunteer. The organisation's research director, Asim Qureshi, believes Islamophobia is driving these account closures, that there is a deliberate attempt to 'cripple organisations at the heart of the Muslim community', and that organisations are being targeted for their support for the Palestinian cause.[154]

No explanation was given for the closures, although after a request from CAGE, HM Treasury has confirmed that it is not and has never been subject to any financial restrictions under UK law.[155] However, the Charity Commission has opened monitoring cases into two of its most important donors, the Joseph Rowntree Charitable Trust and the Roddick Foundation, over the funding they give to CAGE. This was prompted by a complaint that CAGE is a 'jihadi front that promotes bigotry and hatred'.[156]

Notes

1. M Tran, 'Somalis fear Barclays closure of remittance accounts will cut lifeline', *Guardian*, 24 Jun 2013, www.theguardian.com/global-development/2013/jun/24/somalis-barclays-remittance (accessed 24 Nov 2014).

2. Beechwood International, *Safer Corridors Rapid Assessment: Case study – Somalia and UK banking*, Sep 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283826/SAFER_CORRIDORS_RAPID_ASSESSMENT__2013__SOMALIA___UK_BANKING.PDF (accessed 24 Nov 2014). It should be noted that the author of this report was the banking contributor to the DfID-commissioned rapid assessment.

3. KPMG, *Global Anti-Money Laundering Survey 2014*, 2014, www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/global-anti-money-laundering-survey/Documents/global-anti-money-laundering-survey-v5.pdf (accessed 24 Nov 2014).

4. The question of 'payment for access' has been drawn into sharp focus by humanitarian crises in a range of countries where designated groups such as Islamic State and Al-Shabaab are active. For a detailed analysis of the latter case in the context of the 2011 famine in Somalia, see A Jackson and A Aynte, *Talking to the Other Side: Humanitarian negotiations with Al-Shabaab in Somalia*, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8744.pdf (accessed 24 Nov 2014).

5 FATF, *Risk of Terrorist Abuse in Non-Profit Organisations*, Financial Action Task Force, 2014, www.fatf-gafi.org/media/fatf/documents/reports/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf (accessed 24 Nov 2014).

6 For further details see JMLSG, 'Charity used to finance terrorism', Joint Money Laundering Steering Group, nd, www.jmlsg.org.uk/other-helpful-material/article/charity-used-to-finance-terrorism (accessed 24 Nov 2014).

7 BBC News, 'Terror trial: "public duped into funding bomb plotters"', 23 Oct 2012, www.bbc.co.uk/news/uk-20040835 (accessed 24 Nov 2014).

8 Charity Commission, 'Counter-terrorism strategy', revised version, 2012, https://apps.charitycommission.gov.uk/library/ctstext.pdf (accessed 24 Nov 2014).

9 UN General Assembly, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, A69/365, 2014, http://freeassembly.net/wp-content/uploads/2014/10/Multilaterals-report-ENG.pdf (accessed 24 Nov 2014).

10 Charity Commission, *Recent Charity Register Statistics: Charity Commission*, 2014, https://www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission (accessed 24 Nov 2014).

11 See NCVO, 'How big is the voluntary sector compared to the rest of the economy?', National Council of Voluntary Organisations, 2012, http://data.ncvo.org.uk/a/almanac12/how-big-is-the-voluntary-sector-compared-to-the-rest-of-the-economy/ (accessed 24 Nov 2014).

12 DfID, *Statistics on International Development 2007/08–2011/12*, Dept for International Development 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67317/SID-2012.pdf (accessed 24 Nov 2014).

13 Disasters Emergency Committee, 'Appeals', nd, www.dec.org.uk/appeals (accessed 24 Nov 2014).

14 See www.mango.org.uk/aboutus (accessed 8 Dec 2014).

15 Endorsement by HM Treasury is key as it gives guidance on statutory force, so regulators and courts will consider whether such guidance has been followed when assessing regulatory compliance failures.

16 Draft Protection of Charities Bill, Cm 8954, Oct 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365710/43820_Cm_8954_web_accessible_Draft_protection_of_charities_bill.pdf (accessed 24 Nov 2014).

17 See for example comments of DL Glaser, 'US Treasury's work to support money transmitters', Somali Current, Oct 2014, www.somalicurrent.com/2014/10/09/us-treasurys-work-to-support-money-transmitters/ (accessed 24 Nov 2014).

18 D Anderson, *The Terrorism Acts in 2013: Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, 2014, paras 9.31(b) and 9.33, https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2014/07/Independent-Review-of-Terrorism-Report-2014-print2.pdf (accessed 24 Nov 2014).

19 D Flint, 'HSBC chairman Douglas Flint warns of "danger" in staff becoming risk-averse', *Financial Times*, 4 Aug 2014, www.ft.com/cms/s/0/5160331a-1bb9-11e4-adc7-00144feabdc0.html?siteedition=uk#axzz3AjvhroEs (accessed 24 Nov 2014).

20 See for example the HSBC letter to trustees of Ummah Welfare Trust, 22 Jul 2014, www.uwt.org/site/upload/HSBCClosureLetter.pdf (accessed 24 Nov 2014).

21 T McDermott, reported comments at SWIFT Business Forum, 29 Apr 2014.

22 M Wheatley, Financial Conduct Authority Hearings 2014–15, 9 Sep 2014, www.parliamentlive.tv/Main/Player.aspx?meetingId=15971 (accessed 24 Nov 2014).

23 See for example B Hayes, *Counter-Terrorism, 'Policy Laundering' and the FATF: Legalising surveillance, regulating civil society*, Transnational Institute and Statewatch, 2012, www.statewatch.org/analyses/no-171-fafp-report.pdf (accessed 24 Nov 2014).

24 See for example, the work of the Charity & Security Network and partner organisations via the Transnational Civil Society Working Group, which monitors and responds to developments concerning civil society related to the activities of FATF: Charity & Security Network, 'Transnational Civil Society Working Group on FATF', 2013, www.charityandsecurity.org/node/1005 (accessed 24 Nov 2014).

25 HM Treasury, *Anti-money Laundering and Counter Terrorist Finance Supervision Report 2012–13*, 2013, https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports/anti-money-laundering-and-counter-terrorist-finance-supervision-report-2012–13 (accessed 24 Nov 2014).

26 This mutual evaluation was originally due to take place in 2016, but the lessons learned from the process undertaken to evaluate the first wave of countries using the new methodology have raised considerable feasibility concerns, which may result in a one year delay to the UK evaluation.

27 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF recommendations*, Financial Action Task Force, 2012, www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf (accessed 24 Nov 2014).

28 US Dept of the Treasury, *Contributions by the Department of the Treasury to the Financial War on Terrorism: Fact sheet*, 2001, www.treasury.gov/press-center/press-releases/Documents/2002910184556291211.pdf (accessed 24 Nov 2014).

29 FATF and GAFI, *FATF IX Special Recommendations*, Financial Action Task Force and Groupe d'action financière, 2001, www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Standards%20-%20IX%20Special%20Recommendations%20and%20IN%20rc.pdf (accessed 24 Nov 2014).

30 Ibid.

31 FATF and GAFI, *Terrorist Financing*, Financial Action Task Force and Groupe d'action financière, 2008, www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Terrorist%20Financing%20Typologies%20Report.pdf (accessed 24 Nov 2014).

32 Charity & Security Network, 'Transnational Civil Society Working Group on FATF'.

33 FATF, *Risk of Terrorist Abuse in Non-Profit Organisations*.

34 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

35 UN General Assembly, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*.

36 European Commission, *Proposal for a Directive of the European Parliament and of the Council on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing*, COM 2013(45), 2013, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0045&from=EN (accessed 24 Nov 2014).

37 A balanced and 'plain English' exposition of the UK's range of terrorism laws can be found on the website of the Independent Reviewer of Terrorism Legislation, David Anderson QC, at https://terrorismlegislationreviewer.independent.gov.uk/ (accessed 24 Nov 2014).

38 Anderson, *The Terrorism Acts in 2013*.

39 Ibid.

40 Press release accompanying release of Anderson, *The Terrorism Acts in 2013*.

41 Anderson, *Report on the Operation in 2010 of the Terrorism Act 2000 and of Part 1 of the Terrorism Act 2006*, 2011.

42 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

43 See Immigration Act 2014 (Bank Accounts) (Prohibition on Opening Current Accounts for Disqualified Persons) Order 2014, www.legislation.gov.uk/ukdsi/2014/9780111119112/pdfs/ukdsi_9780111119112_en.pdf (accessed 24 Nov 2014).

44 Charity Commission, *Recent Charity Register Statistics*.

45 For further details see Charity Commission, 'About us', nd, www.charitycommission.gov.uk/about-the-commission/ (accessed 24 Nov 2014).

46 Charity Commission, *Compliance Toolkit: Protecting charities from harm*, 2011, chapter 4, https://www.gov.uk/government/collections/protecting-charities-from-harm-compliance-toolkit (accessed 26 Nov 2014.

47 Charity Commission statement provided to the author.

48 Charity Commission, *Compliance Toolkit*, chapter 4.

49 Ibid.

50 HM Treasury, *Anti-Money Laundering and Counter Terrorist Finance Supervision Report 2012–13*.

51 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

52 Ibid.

53 FATF and GAFI, *Terrorist Financing*.

54 Ibid.

55 J Roth, D Greenburg and S Wille, *Monograph on Terrorist Financing*, Washington DC: National Commission on Terrorist Attacks upon the United States, 2004.

56 NM Young, 'Banking sector nerves blocking international relief, says Islamic Relief FD', Civil Society Media, 8 Nov 2012, www.civilsociety.co.uk/finance/news/content/13757/banking_sector_nerves_blocking_international_relief_says_islamic_relief_finance_director (accessed 24 Nov 2014).

57 DfID distributes approximately 20 per cent of its bilateral assistance via the NGO sector. See DfID, *Statistics on International Development 2007/08–2011/12*.

58 C Hope, 'Terrorist infiltration is one of the "greatest threats" to Britain's charities, says William Shawcross', *Daily Telegraph*, 10 Oct 2013, www.telegraph.co.uk/news/worldnews/middleeast/syria/10367377/Terrorist-infiltration-is-one-of-the-greatest-threats-to-Britains-charities-says-William-Shawcross.html (accessed 24 Nov 2014).

59 ‘Poor correspondents: big banks are cutting off customers and retreating from markets for fear of offending regulators’, *Economist*, 14 Jun 2014, www.economist.com/news/finance-and-economics/21604183-big-banks-are-cutting-customers-and-retreating-markets-fear (accessed 24 Nov 2014).

60 Ibid.

61 SWIFT, ‘Terrorist Finance Tracking Program’, Society for Worldwide Interbank Financial Telecommunications, nd, www.swift.com/about_swift/legal/terrorist_finance_tracking_program# (accessed 24 Nov 2014).

62 See for example J Zarate, *Treasury’s War: The unleashing of a new era of financial warfare*, New York: Public Affairs, 2013.

63 KPMG, *Global Anti-Money Laundering Survey 2014*.

64 J Mont, ‘JPMorgan details $1.5 billion budget boost for internal controls’, *Compliance Week*, 17 Sep 2013, www.complianceweek.com/blogs/the-filing-cabinet/jpmorgan-details-15-billion-budget-boost-for-internal-controls#.U_S5ffldWSp (accessed 24 Nov 2014).

65 M Arnold, ‘HSBC wrestles with soaring costs of compliance’, *Financial Times*, 4 Aug 2014, www.ft.com/cms/s/0/0e3f0760-1bef-11e4-9666-00144feabdc0.html (accessed 24 Nov 2014).

66 M Arnold and J Hughes, ‘Strategies shift as regulators renew scrutiny of bank compliance’, *Financial Times*, 21 Aug 2014, www.ft.com/cms/s/0/5279ef02-289d-11e4-8bda-00144feabdc0.html#axzz3EzTbrFbx (accessed 24 Nov 2014).

67 Ibid.

68 HM Treasury, *Thinking About Risk: Managing your risk appetite – a practitioner's guide*, 2006, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/191520/Managing_your_risk_appetite_a_practitioner's_guide.pdf (accessed 24 Nov 2014).

69 Financial Stability Board, 'Principles for an effective risk appetite framework', 2013, www.financialstabilityboard.org/publications/r_131118.pdf (accessed 24 Nov 2014).

70 HM Treasury, *Thinking About Risk*.

71 Flint, 'HSBC chairman Douglas Flint warns of "danger" in staff becoming risk-averse'.

72 In mid-2014, the FCA published a list of over 90 countries it deemed to be 'high risk'. A number of included countries complained vocally. The list has now been taken down.

73 FATF, *Risk of Terrorist Abuse in Non-Profit Organisations*.

74 BBA, 'BBA Roundtable on Financial Exclusion/Stability Arising from Financial Crime Related De-risking', British Bankers' Association, 2014, http://tinyurl.com/psaeurw (accessed 24 Nov 2014).

75 G20 Global Partnership for Financial Inclusion, *Global Standard-Setting Bodies and Financial Inclusion for the Poor: Toward Proportionate Standards and Guidance*, 2011, www.gpfi.org/sites/default/files/documents/White-Paper-Global-Standard-Setting-Bodies-Oct-2011.pdf (accessed 24 Nov 2014).

76 BBA, 'BBA Roundtable on Financial Exclusion/Stability Arising from Financial Crime Related De-risking'.

77 CAGE, 'CAGE banking saga: Her Majesty's Treasury writes to CAGE', 4 Aug 2014, www.cageuk.org/article/cage-banking-saga-her-majestys-treasury-writes-cage (accessed 24 Nov 2014).

78 T Curry, 'Remarks before the Association of Certified Anti-Money Laundering Specialists', 2014, www.occ.gov/news-issuances/speeches/2014/pub-speech-2014-39.pdf (accessed 24 Nov 2014).

79 Wheatley, Financial Conduct Authority Hearings 2014–15.

80 T McDermott, reported comments at SWIFT Business Forum, 29 Apr 2014.

81 For further details see JMLSG, 'What is JMLSG?', Joint Money Laundering Steering Group, nd, www.jmlsg.org.uk/what-is-jmlsg (accessed 24 Nov 2014).

82 JMLSG, 'Guidance in respect of money service businesses', Joint Money Laundering Steering Group, 2 Jul 2014, www.jmlsg.org.uk/download/9752 (accessed 24 Nov 2014).

83 For further details see Barclays, 'Not-for-profit/charities', nd, www.barclayscorporate.com/sector-expertise/public-sector/not-for-profit-charities.html (accessed 24 Nov 2014).

84 *Judgment Between Dahabshiil Transfer Services Limited and Barclays Bank plc*, Oct 2013, www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Ch/2013/3379.html&query=Dahabshiil&method=boolean (accessed 24 Nov 2014).

85 Group of Thirty, *Toward Effective Governance of Financial Institutions*, 2012, www.group30.org/images/PDF/Corporate%20Governance%20050913.pdf (accessed 24 Nov 2014).

86 Banking Standards Review, *Consultation Paper*, 2014, www.bankingstandardsreview.org.uk/assets/docs/consultation-paper.pdf (accessed 24 Nov 2014).

87 J Welby, 'Archbishop Justin on good banks', 12 Jun 2013, www.archbishopofcanterbury.org/articles.php/5075/listen-archbishop-justin-on-good-banks (accessed 24 Nov 2014).

88 See Title III of the USA PATRIOT Act of 2001.

89 C Hall, 'Arab Bank Found Liable for Terror Financing', *Financial Times*, 23 Sep 2014, www.ft.com/cms/s/0/d5565316-429c-11e4-9818-00144feabdc0.html?siteedition=uk#axzz3EDyawT7Q (accessed 24 Nov 2014).

90 Ibid.

91 Interpal, 'About us', nd, http://interpal.org/content.aspx?pageID=11 (accessed 24 Nov 2014).

92 It is worth noting that all wings of Hamas are designated as terrorist by the EU and US; in the UK only the armed wing is listed as a Proscribed Terrorist Organisation, rather than the group as a whole.

93 Charity Commission, *Palestinians' Relief and Development Fund (Interpal): Inquiry report*, 2009, http://offlinehbpl.hbpl.co.uk/NewsAttachments/NST/interpal09.pdf (accessed 26 Nov 2014); Ossen LLC, 'Weiss v National Westminster Bank, Plc, Sep 2014, www.osenlaw.com/case/natwest-case (accessed 26 Nov 2014).

94 FindLaw, 'Weiss v. National Westminster Bank plc, Sep 2014, http://caselaw.findlaw.com/us-2nd-circuit/1678660.html (accessed 26 Nov 2014).

95 Ibid.

96 M Hamblett, 'Terror aid claims reinstated against UK bank', *New York Law Journal*, 23 Sep 2014, www.newyorklawjournal.com/this-weeks-news/id=1202670967302/Terror-Aid-Claims-Reinstated-Against-UK-Bank?mcode=1202615038803&curindex=58&slreturn=20140902061458 (accessed 26 Nov 2014).

97 D Casciani, 'Islamic charity cleared of Hamas link', BBC News, 24 Sep 2003, http://news.bbc.co.uk/1/hi/uk/3135392.stm (accessed 26 Nov 2014).

98 Charity Commission, *Palestinians' Relief and Development Fund (Interpal).*

99 B Smith, 'Interpal', House of Commons Library, standard note SNIA/6778, www.parliament.uk/briefing-papers/sn06778.pdf (accessed 26 Nov 2014).

100 P Woodifield, 'Royal Bank of Scotland, Credit Agricole fight US terror suits', Bloomberg, 6 Jan 2006, www.bloomberg.com/apps/news?pid=newsarchive&sid=a7LxGSWhBhOc (accessed 26 Nov 2014).

101 I Allsop, 'NatWest closes Interpal's bank accounts', Civil Society, 1 May, 2007, www.civilsociety.co.uk/finance/news/content/2687/natwest_closes_interpals_bank_accounts (accessed 26 Nov 2014).

102 T Mason, 'Lloyds TSB forces closure of Interpal's bank account', Civil Society, 19 Nov 2008, www.civilsociety.co.uk/finance/news/content/3631/lloyds_tsb_forces_closure_of_interpals_bank_account (accessed 26 Nov 2014).

103 A precedent for this was set when the Bank provided services to Huntingdon Life Sciences after commercial banks refused to work with the organisation due to threats to staff from animal rights extremists.

104 V Mair, 'Interpal meets Treasury, while another Islamic charity account is closed', Civil Society, 14 Jan 2009, www.civilsociety.co.uk/finance/news/content/3678/interpal_meets_treasury_while_another_islamic_charity_account_is_closed (accessed 26 Nov 2014).

105 J Stempel, 'US court revives case accusing RBS' NatWest of aiding Hamas', Reuters, 22 Sep 2014, http://uk.reuters.com/article/2014/09/22/uk-royal-bank-scot-natwest-hamas-idUKKCN0HH29I20140922 (accessed 26 Nov 2014).

106 CAGE, 'CAGE writes back: letter to Her Majesty's Treasury', 5 Aug 2014, www.cageuk.org/article/cage-writes-back-letter-her-majestys-treasury (accessed 26 Nov 2014).

107 CAGE, 'CAGE banking saga'.

108 Bank of England, 'Prudential Regulation Authority', nd, www.bankofengland.co.uk/pra/pages/default.aspx (accessed 26 Nov 2014).

109 Ibid.

110 HM Treasury, 'About us', 2014, https://www.gov.uk/government/organisations/hm-treasury/about (accessed 26 Nov 2014).

111 CAGE, 'CAGE banking saga'.

112 Ministerial written statement on money service businesses; see *Hansard*, 10 Oct 2013, col 29WS www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131010/wmstext/131010m0001.htm#13101058000003 (accessed 26 Nov 2014).

113 Ministry of Justice, *The Bribery Act 2010: Guidance about procedures which relevant commercial organisations can put into place to prevent persons associated with them from bribing*, 2011, www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf (accessed 26 Nov 2014).

114 Ibid.

115 US Dept of the Treasury, Office of Foreign Assets Control, 'Guidance related to the provision of humanitarian assistance by not-for-profit non-governmental organizations', 2014, www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/20141017_humanitarian.pdf (accessed 26 Nov 2014).

116 Inter Action letter in response to OFAC Guidance, 20 Oct 2014, www.interaction.org/document/interaction-letter-new-treasury-department-guidance-licensing-humanitarian-aid (accessed 26 Nov 2014).

117 BBA, DEC and Freshfields, 'Getting aid to Syria: sanctions issues for banks and humanitarian agencies', British Bankers' Association, Disasters Emergency Committee and Freshfields Bruckhaus Deringer LLP, Dec 2013, www.dec.org.uk/sites/default/files/files/Evaluations/Syria/Getting_aid_to_Syria.pdf (accessed 26 Nov 2014).

118 Beechwood International, *Safer Corridors Rapid Assessment*.

119 Council Regulation (EU) 36/2012, Article 28, 18 Jan 2012, www.sipri.org/databases/embargoes/eu_arms_embargoes/syria_LAS/EU%20Council%20Regulation%20No%2036.pdf (accessed 26 Nov 2014).

120 FCA, *Financial Crime: A Guide for Firms*, Financial Conduct Authority, 2014, http://fshandbook.info/FS/html/handbook/FC/link/PDF (accessed 26 Nov 2014).

121 'Getting aid to Syria'.

122 CGCC et al, *To Protect and Prevent: Outcomes of a global dialogue to counter terrorist abuse of the nonprofit sector*, Center on Global Counterterrorism Cooperation et al, 2013, http://globalcenter.org/wp-content/uploads/2013/06/CGCC_Prevent-Protect-Report_pgs.pdf (accessed 26 Nov 2014).

123 HSBC Holdings Plc, Conduct & Values Committee, 'Terms of Reference', 1 Aug 2014, www.hsbc.com/~/media/HSBC-com/InvestorRelationsAssets/governance/140801-conduct-values-committee-en.pdf (accessed 26 Nov 2014).

124 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

125 HM Government, *Contest: The United Kingdom's Strategy for Countering Terrorism*, 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97995/strategy-contest.pdf (accessed 26 Nov 2014).

126 Banking Standards Review, *Consultation Paper*.

127 See for example Lloyds Banking Group's Financial Inclusion Steering Group and broad commitment to financial inclusion: Lloyds Banking Group, 'Gateway to inclusion', nd, www.lloydsbankinggroup.com/Our-Purpose/helping-households/financial-inclusion/ (accessed 26 Nov 2014).

128 W Shawcross, 'William Shawcross speech: Voluntary Action Leeds AGM', 25 Sep 2014, https://www.gov.uk/government/speeches/william-shawcross-speech-voluntary-action-leeds-agm (accessed 26 Nov 2014).

129 Draft Protection of Charities Bill.

130 See for example DL Glaser, 'US Treasury's work to support money transmitters'.

131 D Casciani and S Sakr, 'The battle for the mosque', BBC News, 7 Feb 2006, http://news.bbc.co.uk/1/hi/uk/4639074.stm (accessed 26 Nov 2014).

132 Charity Commission, 'Finsbury Park Mosque accounts', 24 Apr 2014, http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/CharityWithoutPartB.aspx?RegisteredCharityNumber=1136945&SubsidiaryNumber=0 (accessed 26 Nov 2014).

133 S Birkwood, 'Finsbury Park Mosque worshippers demonstrate outside HSBC bank over account', 8 Aug 2014, www.finsburyparkmosque.org/news/finsbury-park-mosque-worshippers-demonstrate-outside-hsbc-bank-over-account-closure/ (accessed 26 Nov 2014).

134 S Westrop, 'UK: HSBC shuts down Islamist bank accounts', Gatestone Institute, 2 Aug 2014, www.gatestoneinstitute.org/4566/islamist-hsbc-banking (accessed 26 Nov 2014).

135 Global Muslim Brotherhood Daily Watch, 'Muslim Association of Britain', nd, www.globalmbwatch.com/muslim-association-of-britain/ (accessed 26 Nov 2014).

136 D Laurie, 'HSBC closes some Muslim groups' accounts', 30 Jul 2014, www.bbc.co.uk/news/business-28553921 (accessed 26 Nov 2014).

137 '"Anti-Muslim discrimination": HSBC shuts down only account of UK Islamic charity', 22 Sep 2014, http://rt.com/uk/189544-hsbc-finsbury-park-close/ (accessed 26 Nov 2014).

138 Ibid.

139 Cordoba Foundation, 'Response to HSBC closure of the Cordoba Foundation bank account', press release, 4 Aug 2014, www.thecordobafoundation.com/news.php?id=1&art=173 (accessed 26 Nov 2014).

140 Laurie, 'HSBC closes some Muslim groups' accounts'.

141 '"Anti-Muslim discrimination"'.

142 Cordoba Foundation, 'Response to HSBC closure of the Cordoba Foundation bank account'.

143 'Anas Altikriti profile', *Guardian*, 3 Jun 2007, www.theguardian.com/global/2007/jun/03/resource2 (accessed 26 Nov 2014).

144 C Randall, 'HSBC shuts down accounts of UK Muslim groups', *National*, 30 Jul 2014, www.thenational.ae/hsbc-shuts-down-accounts-of-uk-muslim-groups (accessed 26 Nov 2014).

145 Ibid.

146 Ibid.

147 H Siddique, 'HSBC shuts accounts of Muslim organisations, including Finsbury Park mosque', *Guardian*, 30 Jul 2014, www.theguardian.com/world/2014/jul/30/hsbc-shuts-accounts-muslim-organisations-finsbury-park-mosque (accessed 26 Nov 2014).

148 Ibid.

149 F Ansari, 'Courage in a time of fear', Islam21C, 13 Jul 2014, www.islam21c.com/politics/courage-in-a-time-of-fear/ (accessed 26 Nov 2014).

150 F Ansari, 'The war on terror and criminalisation of charity', Crescent International, Feb 2013, www.crescent-online.net/2013/02/the-war-on-terror-and-criminalisation-of-charity-fahad-ansari-3603-articles.html (accessed 26 Nov 2014).

151 D Casciani, 'Moazzam Begg released after terror charges dropped', BBC News, 1 Oct 2014, www.bbc.co.uk/news/uk-29442623 (accessed 26 Nov 2014).

152 V Dodd, 'Ex-Guantánamo detainee Moazzam Begg held in Birmingham terror raids', *Guardian*, 25 Feb 2014, www.theguardian.com/uk-news/2014/feb/25/four-arrested-birmingham-suspicion-syria-terror-offences (accessed 26 Nov 2014).

153 P Oborne, 'If Cage has broken the law, let it be prosecuted; this reeks of the police state', *Telegraph*, 14 Jul 2014, http://blogs.telegraph.co.uk/news/peteroborne/100279865/if-cage-has-broken-the-law-let-it-be-prosecuted-this-reeks-of-the-police-state/ (accessed 26 Nov 2014).

154 'Muslim charities targeted as part of Gaza blockade', *Muslim News*, 29 Aug 2014, www.muslimnews.co.uk/newspaper/editorials/muslim-charities-targeted-part-gaza-blockade/ (accessed 26 Nov 2014).

155 Oborne, 'If Cage has broken the law, let it be prosecuted'.

156 Ibid.

References

'"Anti-Muslim discrimination": HSBC shuts down only account of UK Islamic charity', 22 Sep 2014, http://rt.com/uk/189544-hsbc-finsbury-park-close/ (accessed 26 Nov 2014).

'Anas Altikriti profile', *Guardian*, 3 Jun 2007, www.theguardian.com/global/2007/jun/03/resource2 (accessed 26 Nov 2014).

'Muslim charities targeted as part of Gaza blockade', *Muslim News*, 29 Aug 2014, www.muslimnews.co.uk/newspaper/editorials/muslim-charities-targeted-part-gaza-blockade/ (accessed 26 Nov 2014).

'Poor correspondents: big banks are cutting off customers and retreating from markets for fear of offending regulators', *Economist*, 14 Jun 2014, www.economist.com/news/finance-and-economics/21604183-big-banks-are-cutting-customers-and-retreating-markets-fear (accessed 24 Nov 2014).

Allsop I, 'NatWest closes Interpal's bank accounts', Civil Society, 1 May, 2007, www.civilsociety.co.uk/finance/news/content/2687/natwest_closes_interpals_bank_accounts (accessed 26 Nov 2014).

Anderson D, *The Terrorism Acts in 2013: Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, 2014, paras 9.31(b) and 9.33, https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2014/07/Independent-Review-of-Terrorism-Report-2014-print2.pdf (accessed 24 Nov 2014).

Ansari F, 'Courage in a time of fear', Islam21C, 13 Jul 2014, www.islam21c.com/politics/courage-in-a-time-of-fear/ (accessed 26 Nov 2014).

Ansari F, 'The war on terror and criminalisation of charity', Crescent International, Feb 2013, www.crescent-online.net/2013/02/the-war-on-terror-and-criminalisation-of-charity-fahad-ansari-3603-articles.html (accessed 26 Nov 2014).

Arnold M and Hughes J, 'Strategies shift as regulators renew scrutiny of bank compliance', *Financial Times*, 21 Aug 2014, www.ft.com/cms/s/0/5279ef02-289d-11e4-8bda-00144feabdc0.html#axzz3EzTbrFbx (accessed 24 Nov 2014).

Arnold M, 'HSBC wrestles with soaring costs of compliance', *Financial Times*, 4 Aug 2014, www.ft.com/cms/s/0/0e3f0760-1bef-11e4-9666-00144feabdc0.html (accessed 24 Nov 2014).

Bank of England, 'Prudential Regulation Authority', nd, www.bankofengland.co.uk/pra/pages/default.aspx (accessed 26 Nov 2014).

Banking Standards Review, *Consultation Paper*, 2014, www.bankingstandardsreview.org.uk/assets/docs/consultation-paper.pdf (accessed 26 Nov 2014).

Barclays, 'Not-for-profit/charities', nd, www.barclayscorporate.com/sector-expertise/public-sector/not-for-profit-charities.html (accessed 24 Nov 2014).

BBA, 'BBA Roundtable on Financial Exclusion/Stability Arising from Financial Crime Related De-risking', British Bankers' Association, 2014, http://tinyurl.com/psaeurw. (accessed 24 Nov 2014).

BBA, DEC and Freshfields, 'Getting aid to Syria: sanctions issues for banks and humanitarian agencies', British Bankers' Association, Disasters Emergency Committee and Freshfields Bruckhaus Deringer LLP, Dec 2013, www.dec.org.uk/sites/default/files/files/Evaluations/Syria/Getting_aid_to_Syria.pdf (accessed 26 Nov 2014).

BBC News, 'Terror trial: "public duped into funding bomb plotters"', 23 Oct 2012, www.bbc.co.uk/news/uk-20040835 (accessed 24 Nov 2014).

Beechwood International, *Safer Corridors Rapid Assessment: Case study – Somalia and UK banking*, Sep 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283826/SAFER_CORRIDORS_RAPID_ASSESSMENT__2013__SOMALIA___UK_BANKING.PDF (accessed 24 Nov 2014). It should be noted that the author of this report was the banking contributor to the DfID-commissioned rapid assessment.

Birkwood S, 'Finsbury Park Mosque worshippers demonstrate outside HSBC bank over account', 8 Aug 2014, www.finsburyparkmosque.org/news/finsbury-park-mosque-worshippers-demonstrate-outside-hsbc-bank-over-account-closure/ (accessed 26 Nov 2014).

CAGE, 'CAGE banking saga: Her Majesty's Treasury writes to CAGE', 4 Aug 2014, www.cageuk.org/article/cage-banking-saga-her-majestys-treasury-writes-cage (accessed 24 Nov 2014).

CAGE, 'CAGE writes back: letter to Her Majesty's Treasury', 5 Aug 2014, www.cageuk.org/article/cage-writes-back-letter-her-majestys-treasury (accessed 26 Nov 2014).

Casciani D, 'Islamic charity cleared of Hamas link', BBC News, 24 Sep 2003, http://news.bbc.co.uk/1/hi/uk/3135392.stm (accessed 26 Nov 2014).

Casciani D, 'Moazzam Begg released after terror charges dropped', BBC News, 1 Oct 2014, www.bbc.co.uk/news/uk-29442623 (accessed 26 Nov 2014).

Casciani D and Sakr S, 'The battle for the mosque', BBC News, 7 Feb 2006, http://news.bbc.co.uk/1/hi/uk/4639074.stm (accessed 26 Nov 2014).

CGCC et al, *To Protect and Prevent: Outcomes of a global dialogue to counter terrorist abuse of the nonprofit sector*, Center on Global Counterterrorism Cooperation et al, 2013, http://globalcenter.org/wp-content/uploads/2013/06/CGCC_Prevent-Protect-Report_pgs.pdf (accessed 26 Nov 2014).

Charity & Security Network, 'Transnational Civil Society Working Group on FATF', 2013, www.charityandsecurity.org/node/1005 (accessed 24 Nov 2014).

Charity Commission, 'About us', nd, www.charitycommission.gov.uk/about-the-commission/ (accessed 24 Nov 2014).

Charity Commission, *Compliance Toolkit: Protecting charities from harm*, 2011, chapter 4, https://www.gov.uk/government/collections/protecting-charities-from-harm-compliance-toolkit (accessed 26 Nov 2014.

Charity Commission, 'Counter-terrorism strategy', revised version, 2012, https://apps.charitycommission.gov.uk/library/ctstext.pdf (accessed 24 Nov 2014).

Charity Commission, 'Finsbury Park Mosque accounts', 24 Apr 2014, http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/CharityWithoutPartB.aspx?RegisteredCharityNumber=1136945&SubsidiaryNumber=0 (accessed 26 Nov 2014).

Charity Commission, *Palestinians' Relief and Development Fund (Interpal): Inquiry report*, 2009, http://offlinehbpl.hbpl.co.uk/NewsAttachments/NST/interpal09.pdf
(accessed 26 Nov 2014).

Charity Commission, *Recent Charity Register Statistics: Charity Commission*, 2014, https://www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission (accessed 24 Nov 2014).

Cordoba Foundation, 'Response to HSBC closure of the Cordoba Foundation bank account', press release, 4 Aug 2014, www.thecordobafoundation.com/news.php?id=1&art=173
(accessed 26 Nov 2014).

Curry T, 'Remarks before the Association of Certified Anti-Money Laundering Specialists', 2014, www.occ.gov/news-issuances/speeches/2014/pub-speech-2014-39.pdf
(accessed 24 Nov 2014).

DfID, *Statistics on International Development 2007/08–2011/12*, Dept for International Development 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67317/SID-2012.pdf (accessed 24 Nov 2014).

Disasters Emergency Committee, 'Appeals', nd, www.dec.org.uk/appeals (accessed 24 Nov 2014).

Dodd V, 'Ex-Guantánamo detainee Moazzam Begg held in Birmingham terror raids', *Guardian*, 25 Feb 2014, www.theguardian.com/uk-news/2014/feb/25/four-arrested-birmingham-suspicion-syria-terror-offences
(accessed 26 Nov 2014).

European Commission, *Proposal for a Directive of the European Parliament and of the Council on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing*, COM 2013(45), 2013, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0045&from=EN (accessed 24 Nov 2014).

FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF recommendations*, Financial Action Task Force, 2012, www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf (accessed 24 Nov 2014).

FATF, *Risk of Terrorist Abuse in Non-Profit Organisations*, Financial Action Task Force, 2014, www.fatf-gafi.org/media/fatf/documents/reports/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf (accessed 24 Nov 2014).

FATF and GAFI, *FATF IX Special Recommendations*, Financial Action Task Force and Groupe d'action financière, 2001, www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Standards%20-%20IX%20Special%20Recommendations%20and%20IN%20rc.pdf (accessed 24 Nov 2014).

FATF and GAFI, *Terrorist Financing*, Financial Action Task Force and Groupe d'action financière, 2008, www.fatf-gafi.org/media/fatf/documents/reports/FATF%20Terrorist%20Financing%20Typologies%20Report.pdf (accessed 24 Nov 2014).

FCA, *Financial Crime: A Guide for Firms*, Financial Conduct Authority, 2014, http://fshandbook.info/FS/html/handbook/FC/link/PDF (accessed 26 Nov 2014).

Financial Stability Board, 'Principles for an effective risk appetite framework', 2013, www.financialstabilityboard.org/publications/r_131118.pdf (accessed 24 Nov 2014).

FindLaw, 'Weiss v. National Westminster Bank plc, Sep 2014, http://caselaw.findlaw.com/us-2nd-circuit/1678660.html (accessed 26 Nov 2014).

Flint D, 'HSBC chairman Douglas Flint warns of "danger" in staff becoming risk-averse', *Financial Times*, 4 Aug 2014, www.ft.com/cms/s/0/5160331a-1bb9-11e4-adc7-00144feabdc0.html?siteedition=uk#axzz3AjvhroEs (accessed 24 Nov 2014).

G20 Global Partnership for Financial Inclusion, *Global Standard-Setting Bodies and Financial Inclusion for the Poor: Toward Proportionate Standards and Guidance*, 2011, www.gpfi.org/sites/default/files/documents/White-Paper-Global-Standard-Setting-Bodies-Oct-2011.pdf (accessed 24 Nov 2014).

Glaser DL, 'US Treasury's work to support money transmitters', Somali Current, Oct 2014, www.somalicurrent.com/2014/10/09/us-treasurys-work-to-support-money-transmitters/ (accessed 24 Nov 2014).

Global Muslim Brotherhood Daily Watch, 'Muslim Association of Britain', nd, www.globalmbwatch.com/muslim-association-of-britain/ (accessed 26 Nov 2014).

Group of Thirty, *Toward Effective Governance of Financial Institutions*, 2012, www.group30.org/images/PDF/Corporate%20Governance%20050913.pdf (accessed 24 Nov 2014).

Hall C, 'Arab Bank Found Liable for Terror Financing', *Financial Times*, 23 Sep 2014, www.ft.com/cms/s/0/d5565316-429c-11e4-9818 0144feabdc0.html?siteedition=uk#axzz3EDyawT7Q (accessed 24 Nov 2014).

Hamblett M, 'Terror aid claims reinstated against UK bank', *New York Law Journal*, 23 Sep 2014, www.newyorklawjournal.com/this-weeks-news/id=1202670967302/Terror-Aid-Claims-Reinstated-Against-UK-Bank?mcode=1202615038803&curindex=58&slreturn=20140902061458 (accessed 26 Nov 2014).

Hayes B, *Counter-Terrorism, 'Policy Laundering' and the FATF: Legalising surveillance, regulating civil society*, Transnational Institute and Statewatch, 2012, www.statewatch.org/analyses/no-171-fafp-report.pdf (accessed 24 Nov 2014).

HM Government, *Contest: The United Kingdom's Strategy for Countering Terrorism*, 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97995/strategy-contest.pdf (accessed 26 Nov 2014).

HM Treasury, 'About us', 2014, https://www.gov.uk/government/organisations/hm-treasury/about (accessed 26 Nov 2014).

HM Treasury, *Anti-money Laundering and Counter Terrorist Finance Supervision Report 2012–13*, 2013, https://www.gov.uk/government/publications/anti-money-laundering-and-counter-terrorist-finance-supervision-reports/anti-money-laundering-and-counter-terrorist-finance-supervision-report-2012–13 (accessed 24 Nov 2014).

HM Treasury, *Thinking About Risk: Managing your risk appetite – a practitioner's guide*, 2006, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/191520/Managing_your_risk_appetite_a_practitioners_guide.pdf (accessed 24 Nov 2014).

Hope C, ‘Terrorist infiltration is one of the “greatest threats” to Britain’s charities, says William Shawcross’, *Daily Telegraph*, 10 Oct 2013, www.telegraph.co.uk/news/worldnews/middleeast/syria/10367377/Terrorist-infiltration-is-one-of-the-greatest-threats-to-Britains-charities-says-William-Shawcross.html (accessed 24 Nov 2014).

HSBC Holdings Plc, Conduct & Values Committee, ‘Terms of Reference’, 1 Aug 2014, www.hsbc.com/~/media/HSBC-com/InvestorRelationsAssets/governance/140801-conduct-values-committee-en.pdf (accessed 26 Nov 2014).

Interpal, ‘About us’, nd, http://interpal.org/content.aspx?pageID=11 (accessed 24 Nov 2014).

Jackson A and Aynt A, *Talking to the Other Side: Humanitarian negotiations with Al-Shabaab in Somalia*, Overseas Development Institute, www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8744.pdf (accessed 24 Nov 2014).

JMLSG, ‘Charity used to finance terrorism’, Joint Money Laundering Steering Group, nd, www.jmlsg.org.uk/other-helpful-material/article/charity-used-to-finance-terrorism (accessed 24 Nov 2014).

JMLSG, ‘Guidance in respect of money service businesses’, Joint Money Laundering Steering Group, 2 Jul 2014, www.jmlsg.org.uk/download/9752 (accessed 24 Nov 2014).

JMLSG, ‘What is JMLSG?’, Joint Money Laundering Steering Group, nd, www.jmlsg.org.uk/what-is-jmlsg (accessed 24 Nov 2014).

Judgment Between Dahabshiil Transfer Services Limited and Barclays Bank plc, Oct 2013, www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Ch/2013/3379.html&query=Dahabshiil&method=boolean (accessed 24 Nov 2014).

KPMG, *Global Anti-Money Laundering Survey 2014*, 2014, www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/global-anti-money-laundering-survey/Documents/global-anti-money-laundering-survey-v5.pdf (accessed 24 Nov 2014).

Laurie D, 'HSBC closes some Muslim groups' accounts', 30 Jul 2014, www.bbc.co.uk/news/business-28553921 (accessed 26 Nov 2014).

Lloyds Banking Group's Financial Inclusion Steering Group and broad commitment to financial inclusion: Lloyds Banking Group, 'Gateway to inclusion', nd, www.lloydsbankinggroup.com/Our-Purpose/helping-households/financial-inclusion/ (accessed 26 Nov 2014).

Mair V, 'Interpal meets Treasury, while another Islamic charity account is closed', Civil Society, 14 Jan 2009, www.civilsociety.co.uk/finance/news/content/3678/interpal_meets_treasury_while_another_islamic_charity_account_is_closed (accessed 26 Nov 2014).

Mason T, 'Lloyds TSB forces closure of Interpal's bank account', Civil Society, 19 Nov 2008, www.civilsociety.co.uk/finance/news/content/3631/lloyds_tsb_forces_closure_of_interpals_bank_account (accessed 26 Nov 2014).

Ministry of Justice, *The Bribery Act 2010: Guidance about procedures which relevant commercial organisations can put into place to prevent persons associated with them from bribing*, 2011, www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf (accessed 26 Nov 2014).

Mont J, 'JPMorgan details $1.5 billion budget boost for internal controls', *Compliance Week*, 17 Sep 2013, www.complianceweek.com/blogs/the-filing-cabinet/jpmorgan-details-15-billion-budget-boost-for-internal-controls#.U_S5ffldWSp (accessed 24 Nov 2014).

NCVO, 'How big is the voluntary sector compared to the rest of the economy?', National Council of Voluntary Organisations, 2012, http://data.ncvo.org.uk/a/almanac12/how-big-is-the-voluntary-sector-compared-to-the-rest-of-the-economy/ (accessed 24 Nov 2014).

Oborne P, 'If Cage has broken the law, let it be prosecuted; this reeks of the police state', *Telegraph*, 14 Jul 2014, http://blogs.telegraph.co.uk/news/peteroborne/100279865/if-cage-has-broken-the-law-let-it-be-prosecuted-this-reeks-of-the-police-state/ (accessed 26 Nov 2014).

Ossen LLC, 'Weiss v National Westminster Bank, Plc, Sep 2014, www.osenlaw.com/case/natwest-case (accessed 26 Nov 2014).

Randall C, 'HSBC shuts down accounts of UK Muslim groups', *National*, 30 Jul 2014, www.thenational.ae/hsbc-shuts-down-accounts-of-uk-muslim-groups (accessed 26 Nov 2014).

Roth J, Greenburg D and Wille S, *Monograph on Terrorist Financing*, Washington DC: National Commission on Terrorist Attacks upon the United States, 2004.

Shawcross W, 'William Shawcross speech: Voluntary Action Leeds AGM', 25 Sep 2014, https://www.gov.uk/government/speeches/william-shawcross-speech-voluntary-action-leeds-agm (accessed 26 Nov 2014).

Siddique H, 'HSBC shuts accounts of Muslim organisations, including Finsbury Park mosque', *Guardian*, 30 Jul 2014, www.theguardian.com/world/2014/jul/30/hsbc-shuts-accounts-muslim-organisations-finsbury-park-mosque (accessed 26 Nov 2014).

Smith, 'Interpal', House of Commons Library, standard note SNIA/6778, www.parliament.uk/briefing-papers/sn06778.pdf (accessed 26 Nov 2014).

Stempel J, 'US court revives case accusing RBS' NatWest of aiding Hamas', Reuters, 22 Sep 2014, http://uk.reuters.com/article/2014/09/22/uk-royal-bank-scot-natwest-hamas-idUKKCN0HH29I20140922 (accessed 26 Nov 2014).

SWIFT, 'Terrorist Finance Tracking Program', Society for Worldwide Interbank Financial Telecommunications, nd, www.swift.com/about_swift/legal/terrorist_finance_tracking_program# (accessed 24 Nov 2014).

Tran M, 'Somalis fear Barclays closure of remittance accounts will cut lifeline', *Guardian*, 24 Jun 2013, www.theguardian.com/global-development/2013/jun/24/somalis-barclays-remittance (accessed 24 Nov 2014).

UN General Assembly, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, A69/365, 2014, http://freeassembly.net/wp-content/uploads/2014/10/Multilaterals-report-ENG.pdf (accessed 24 Nov 2014).

US Dept of the Treasury, *Contributions by the Department of the Treasury to the Financial War on Terrorism: Fact sheet*, 2001, www.treasury.gov/press-center/press-releases/Documents/2002910184556291211.pdf (accessed 24 Nov 2014).

US Dept of the Treasury, Office of Foreign Assets Control, 'Guidance related to the provision of humanitarian assistance by not-for-profit non-governmental organizations', 2014, www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/20141017_humanitarian.pdf (accessed 26 Nov 2014).

Welby J, 'Archbishop Justin on good banks', 12 Jun 2013, www.archbishopofcanterbury.org/articles.php/5075/listen-archbishop-justin-on-good-banks (accessed 24 Nov 2014).

Westrop S, 'UK: HSBC shuts down Islamist bank accounts', Gatestone Institute, 2 Aug 2014, www.gatestoneinstitute.org/4566/islamist-hsbc-banking (accessed 26 Nov 2014).

Wheatley M, Financial Conduct Authority Hearings 2014–15, 9 Sep 2014, www.parliamentlive.tv/Main/Player.aspx?meetingId=15971 (accessed 24 Nov 2014).

Woodifield P, 'Royal Bank of Scotland, Credit Agricole fight US terror suits', Bloomberg, 6 Jan 2006, www.bloomberg.com/apps/news?pid=newsarchive&sid=a7LxGSWhBhOc (accessed 26 Nov 2014).

Young NM, 'Banking sector nerves blocking international relief, says Islamic Relief FD', Civil Society Media, 8 Nov 2012, www.civilsociety.co.uk/finance/news/content/13757/banking_sector_nerves_blocking_international_relief_says_islamic_relief_finance_director (accessed 24 Nov 2014).

Zarate J, *Treasury's War: The unleashing of a new era of financial warfare*, New York: Public Affairs, 2013.

Demos – Licence to Publish

The work (as defined below) is provided under the terms of this licence ('licence'). The work is protected by copyright and/or other applicable law. Any use of the work other than as authorized under this licence is prohibited. By exercising any rights to the work provided here, you accept and agree to be bound by the terms of this licence. Demos grants you the rights contained here in consideration of your acceptance of such terms and conditions.

1 Definitions

A **'Collective Work'** means a work, such as a periodical issue, anthology or encyclopedia, in which the Work in its entirety in unmodified form, along with a number of other contributions, constituting separate and independent works in themselves, are assembled into a collective whole. A work that constitutes a Collective Work will not be considered a Derivative Work (as defined below) for the purposes of this Licence.

B **'Derivative Work'** means a work based upon the Work or upon the Work and other pre-existing works, such as a musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which the Work may be recast, transformed, or adapted, except that a work that constitutes a Collective Work or a translation from English into another language will not be considered a Derivative Work for the purpose of this Licence.

C **'Licensor'** means the individual or entity that offers the Work under the terms of this Licence.

D **'Original Author'** means the individual or entity who created the Work.

E **'Work'** means the copyrightable work of authorship offered under the terms of this Licence.

F **'You'** means an individual or entity exercising rights under this Licence who has not previously violated the terms of this Licence with respect to the Work,or who has received express permission from Demos to exercise rights under this Licence despite a previous violation.

2 Fair Use Rights

Nothing in this licence is intended to reduce, limit, or restrict any rights arising from fair use, first sale or other limitations on the exclusive rights of the copyright owner under copyright law or other applicable laws.

3 Licence Grant

Subject to the terms and conditions of this Licence, Licensor hereby grants You a worldwide, royalty-free, non-exclusive,perpetual (for the duration of the applicable copyright) licence to exercise the rights in the Work as stated below:

A to reproduce the Work, to incorporate the Work into one or more Collective Works, and to reproduce the Work as incorporated in the Collective Works;

B to distribute copies or phonorecords of, display publicly,perform publicly, and perform publicly by means of a digital audio transmission the Work including as incorporated in Collective Works; The above rights may be exercised in all media and formats whether now known or hereafter devised.The above rights include the right to make such modifications as are technically necessary to exercise the rights in other media and formats. All rights not expressly granted by Licensor are hereby reserved.

4 Restrictions

The licence granted in Section 3 above is expressly made subject to and limited by the following restrictions:

A You may distribute,publicly display, publicly perform, or publicly digitally perform the Work only under the terms of this Licence, and You must include a copy of, or the Uniform Resource Identifier for, this Licence with every copy or phonorecord of the Work You distribute, publicly display,publicly perform, or publicly digitally perform.You may not offer or impose any terms on the Work that alter or restrict the terms of this Licence or the recipients' exercise of the rights granted hereunder.You may not sublicence the Work.You must keep intact all notices that refer to this Licence and to the disclaimer of warranties. You may not distribute, publicly display, publicly perform, or publicly digitally perform the Work with any technological measures that control access or use of the Work in a manner inconsistent with the terms of this Licence Agreement.The above applies to the Work as incorporated in a Collective Work, but this does not require the Collective Work apart from the Work itself to be made subject to the terms of this Licence. If You create a Collective Work, upon notice from any Licencor You must, to the extent practicable, remove from the Collective Work any reference to such Licensor or the Original Author, as requested.

B You may not exercise any of the rights granted to You in Section 3 above in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation.The exchange of the Work for other copyrighted works by means of digital

filesharing or otherwise shall not be considered to be intended for or directed toward commercial advantage or private monetary compensation, provided there is no payment of any monetary compensation in connection with the exchange of copyrighted works.

C If you distribute, publicly display, publicly perform, or publicly digitally perform the Work or any Collective Works,You must keep intact all copyright notices for the Work and give the Original Author credit reasonable to the medium or means You are utilizing by conveying the name (or pseudonym if applicable) of the Original Author if supplied; the title of the Work if supplied. Such credit may be implemented in any reasonable manner; provided, however, that in the case of a Collective Work, at a minimum such credit will appear where any other comparable authorship credit appears and in a manner at least as prominent as such other comparable authorship credit.

5 Representations, Warranties and Disclaimer

A By offering the Work for public release under this Licence, Licensor represents and warrants that, to the best of Licensor’s knowledge after reasonable inquiry:

i Licensor has secured all rights in the Work necessary to grant the licence rights hereunder and to permit the lawful exercise of the rights granted hereunder without You having any obligation to pay any royalties, compulsory licence fees, residuals or any other payments;

ii The Work does not infringe the copyright, trademark, publicity rights, common law rights or any other right of any third party or constitute defamation, invasion of privacy or other tortious injury to any third party.

B except as expressly stated in this licence or otherwise agreed in writing or required by applicable law,the work is licenced on an 'as is'basis,without warranties of any kind, either express or implied including,without limitation,any warranties regarding the contents or accuracy of the work.

6 Limitation on Liability

Except to the extent required by applicable law, and except for damages arising from liability to a third party resulting from breach of the warranties in section 5, in no event will licensor be liable to you on any legal theory for any special, incidental,consequential, punitive or exemplary damages arising out of this licence or the use of the work, even if licensor has been advised of the possibility of such damages.

7 Termination

A This Licence and the rights granted hereunder will terminate automatically upon any breach by You of the terms of this Licence. Individuals or entities who have received Collective Works from You under this Licence,however, will not have their licences terminated provided such individuals or entities remain in full compliance with those licences. Sections 1, 2, 5, 6, 7, and 8 will survive any termination of this Licence.

B Subject to the above terms and conditions, the licence granted here is perpetual (for the duration of the applicable copyright in the Work). Notwithstanding the above, Licensor reserves the right to release the Work under different licence terms or to stop distributing the Work at any time; provided, however that any such election will not serve to withdraw this Licence (or any other licence that has been, or is required to be, granted under the terms of this Licence), and this Licence will continue in full force and effect unless terminated as stated above.

8 Miscellaneous

A Each time You distribute or publicly digitally perform the Work or a Collective Work, Demos offers to the recipient a licence to the Work on the same terms and conditions as the licence granted to You under this Licence.

B If any provision of this Licence is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this Licence, and without further action by the parties to this agreement, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.

C No term or provision of this Licence shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing and signed by the party to be charged with such waiver or consent.

D This Licence constitutes the entire agreement between the parties with respect to the Work licensed here.There are no understandings, agreements or representations with respect to the Work not specified here. Licensor shall not be bound by any additional provisions that may appear in any communication from You.This Licence may not be modified without the mutual written agreement of Demos and You.

Despite billions of pounds spent on counter-terror efforts, terrorism remains a fact of modern-day life. Private companies play a critical role in our efforts to prevent terrorism. Banks are required to identify, track and tackle illicit finance, including money laundering and terrorist financing. Yet often, the measures imposed by banks in meeting these obligations can have unintended consequences, and they can impact on the innocent as much as on the guilty.

Following in the wake of accusations of charities being used to channel funds to Islamic State and other military groups, users of the banking system deemed to be 'high risk' have found it ever harder to receive, send and store their money. In the worst cases, charities have had their bank accounts closed, losing financial access, without evidence of wrongdoing. At the heart of these closures is the desire of banks to 'de-risk': to rid themselves of business that might expose them to sanctions in relation to the financing of terrorism. These decisions take place behind closed doors, and the possible negative consequences of this de-risking have so far been left unexplored.

Based on the author's three years of research in this field, including three dozen interviews with banks, government officials and NGOs, this report sheds light on the rationale for account closures that have taken place recently and identifies the sources of banks' decision making. The report recommends how each of these actors can work together to reverse a damaging trend, which is at best counterproductive and at worst creates, rather than reduces, security risks as money flows through informal channels instead of official ones. The report argues that banks need to look beyond their innate profit motive and take into consideration the 'reputational return' from working with NGOs to find solutions to these challenges.

Tom Keatinge is Director of the Centre for Financial Crime & Security Studies at The Royal United Services Institute (RUSI).

ISBN 978-1-909037-77-9 £10
© Demos