

# SECTOR INDUSTRY BASELINE

Not-for-Profit Organisations (NPO)

## Introduction

The NVB acknowledges that Not-for-Profit Organisations (NPOs) play a vital role in the global society and in many national economies and social systems. Next to the government institutions and business sectors, they are a vital pillar for communities around the world, providing essential services, comfort and hope to those in need and contribute to causes that serve the public good.

Financial institutions such as banks, payment service providers and life insurers have an important role as gatekeepers to the financial system. The *Wet ter voorkoming van Witwassen en Financiering van Terrorisme (Wwft)* describes the responsibilities and legal obligations of gatekeepers to prevent misuse of the financial system for money laundering (ML) and terrorism financing (TF). These encompass client due diligence, ongoing monitoring and reporting unusual transactions.

International reputable sources, including FATF, indicate that the NPO sector carries increased ML/TF risks. Various examples have been acknowledged where entities with legal forms like foundations or associations have been used to obscure money flows and networks that are linked to ML or TF. However, ML/TF risks, as well as the awareness of these risks, vary highly among different NPOs and also depend on their operations, activities, funding, leadership,

and affiliations. To ensure a proportionate and risk relevant approach, banks need to distinguish between risks associated with the NPO sector as a whole and the risks of an individual NPO. For client due diligence purposes (CDD), it is necessary to assess the risks of each individual NPO.

Wwft article 8 sub 1 requires banks to apply enhanced due diligence (EDD) measures when a business relationship or transaction poses a higher ML/TF risk. Performing these EDD measures can for example often and repeatedly lead to requests for information and documentation towards the client. Blocked transactions or even restricted access to financial services are also possible consequences. It is essential that the risk assessment of the client is applied proportionate to the identified risks and taking into account the specific circumstances of the business relationship or transaction.

The intrinsically motivated efforts of banks to avoid abuse of the financial system, together with efforts to comply with the Wwft as regulated by supervising institutions such as the DNB and an increasing societal pressure to address ML/TF challenges, may lead to undesired interpretations of the regulatory framework in some instances referred to as de-risking. The risk-based approach allows banks to adjust the extent and depth of CDD on a risk-sensitive basis. Obtaining additional information or evidence is only needed if it can be used to mitigate

perceived risks. Thus striking an effective balance between managing and mitigating ML/TF risks while ensuring financial inclusion.

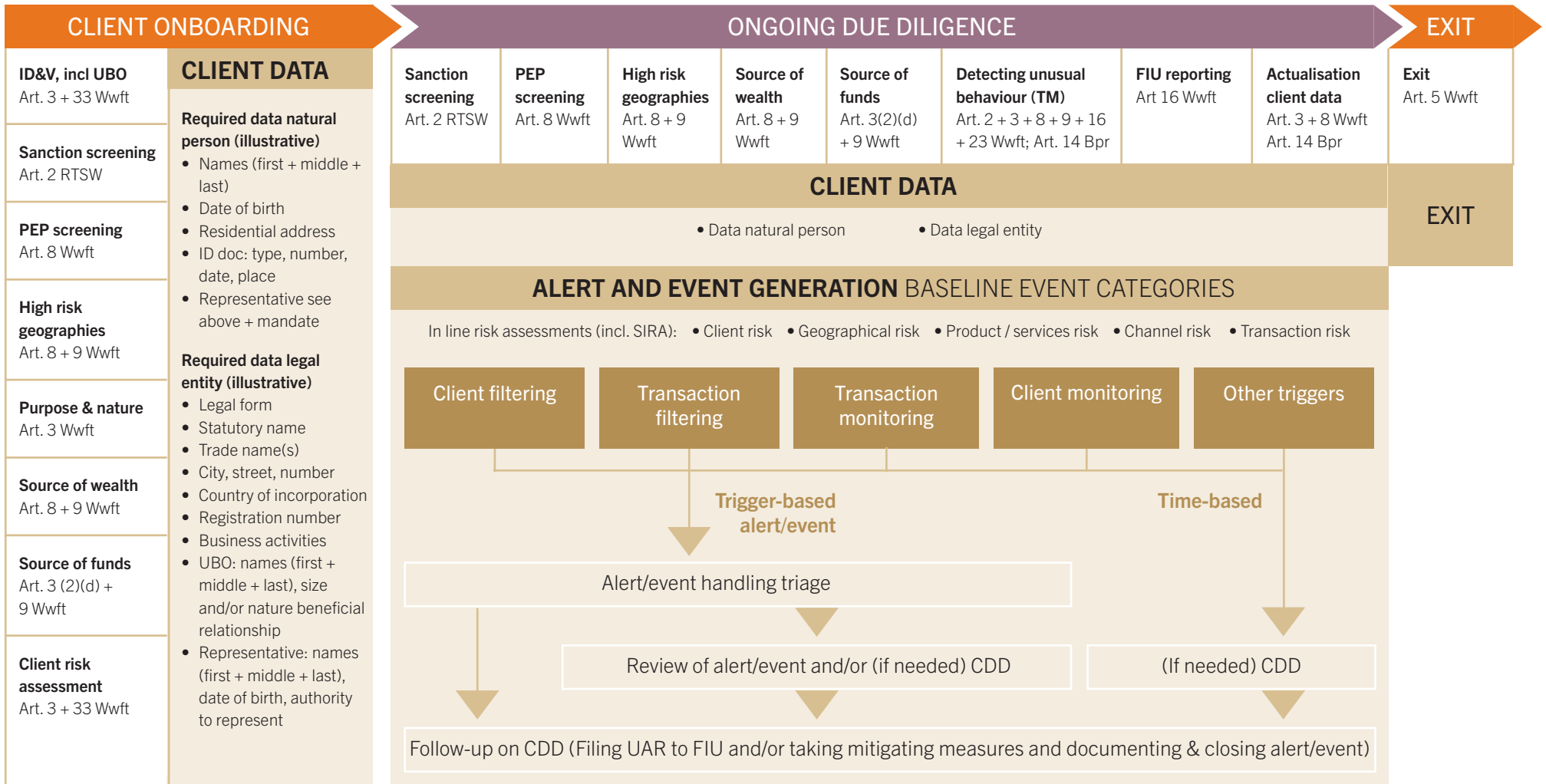
The NVB Industry Baseline describes the risk-based Dutch banking practice to implement the CDD requirements regarding NPOs for various risk factors. The risk factors should be assessed case specific and interpreted in the full context of the client.

## Positioning within the Financial Crime Framework

The risk assessment of an NPO is part of the CDD processes. Only when a business relationship or transaction poses higher ML/TF risks, EDD measures need to be applied to mitigate the risks of the individual client. With this Sector Baseline, clear guidance has been drawn up for a targeted and proportionate execution of the Wwft by banks. By carrying out customer investigations in a more risk-based, sector specific manner, it contributes to 'more if necessary and less if possible'.

# FINANCIAL CRIME FRAMEWORK

## RISK-BASED



Regulatory requirement  
 Risk detection mechanism



## 1 Industry Baseline

For both banks and the NPO sector, it is important that risks are assessed and controlled where necessary. Proportionate risk-awareness on both sides is a crucial starting point. This means that where a risk is detected, the mitigating measures should focus on that specific risk bearing the purpose of the legislation in mind within the context of the sector.

Wwft article 8 requires banks to conduct EDD in case a transaction or business relationship by its nature poses a higher risk of money laundering or terrorist financing. When assessing the risks of a (prospective) client that is an NPO, banks should ensure that they obtain a good understanding of the NPO's governance, how it is funded, its activities, where it operates and who its beneficiaries are.

### 1.1 Risk factors

The following table provides information on characteristics and client behaviour that banks can take into account as risk reducing or risk increasing factors for the risk assessment of a client that is an NPO. This information also provides NPOs with more clarity on the risk factors and contribute to further awareness on possible risk mitigation.

These risk reducing and risk increasing factors are to be assessed in the full context of the client. Therefore, the presence of one risk factor should not solely determine the risk classification of the client. Clients always have the opportunity to provide relevant information and documentation to elaborate on the context of specific characteristics or behaviour. It is therefore the responsibility of the client to remain capable of sustaining the relationship with the bank and to provide the bank with timely answers to any questions posed by the bank with regards to any of the elements mentioned in the table below. Additionally the risk classification of the client is dependent on the individual bank's policies, risk appetite and integrity risk assessment.

Risk factors	Risk reducing	Risk increasing
<b>Governance</b>	<ul style="list-style-type: none"> <li>• Legal form: religious organisation or an association, such as housing association, student association, sports club, hobby association, political association, industry association</li> <li>• Legal form: foundation, only if: <ul style="list-style-type: none"> <li>– statutes containing relevant standardised elements like transparency in ownership and executive control; and</li> <li>– transparent governance structures; and</li> <li>– pursuing philanthropic ends</li> </ul> </li> <li>• UBOs/senior managing officials residing in NL</li> <li>• No (family) ties between board members other than business</li> <li>• Clear governance and established management capabilities</li> <li>• Demonstrated adherence to compliance policies, procedures and controls</li> </ul>	<ul style="list-style-type: none"> <li>• Legal form: foundation (including STAK), such as: <ul style="list-style-type: none"> <li>– complex and non-standardised statutes, or</li> <li>– non-transparent governance structures</li> </ul> </li> <li>• Limited or no binding with NL (e.g. composition of the board, purpose and nature of relationship with NL)</li> <li>• Absence of adequate internal compliance policies, procedures or controls</li> </ul>
<b>Transparency</b>	<ul style="list-style-type: none"> <li>• Disclosure of financial statements</li> <li>• Transparency of financial flows</li> <li>• Publication of annual report</li> <li>• Independent audit report</li> </ul>	<ul style="list-style-type: none"> <li>• No clarity on or insight into the origin and destination of financial flows</li> <li>• No administration or financial reporting</li> </ul>
<b>Reputation</b>	<ul style="list-style-type: none"> <li>• Positive track record</li> <li>• No adverse media related to Financial Economic Crime or sanctioned activities</li> </ul>	<ul style="list-style-type: none"> <li>• Linked to extremism, extremist propaganda or terrorist sympathies and activities</li> <li>• Involvement in misconduct or criminal activities, particular related to Financial Economic Crime</li> </ul>
<b>Funding</b>	<ul style="list-style-type: none"> <li>• NL and EU governments and supranational bodies</li> <li>• Membership fees</li> <li>• Sponsoring</li> </ul>	<ul style="list-style-type: none"> <li>• Cash deposits and/or high denominations</li> <li>• Donations substantially deviating from expected transaction behaviour</li> </ul>
<b>Geographies</b>	<ul style="list-style-type: none"> <li>• EU</li> <li>• Equivalent low risk geographies with an effective AML/CFT framework</li> </ul>	<ul style="list-style-type: none"> <li>• Countries with sanctions (unless formal exemptions apply for humanitarian assistance/ basic human needs)</li> <li>• Countries on the FATF grey and black lists</li> <li>• EC high risk third countries</li> </ul>
<b>Transactions</b>	<ul style="list-style-type: none"> <li>• Transactions with established parties</li> <li>• Proven track record</li> <li>• Limited turnover in the account (e.g. annual &lt;€50k or &lt;€100k)</li> <li>• Transactions aimed at immediate emergency relief in humanitarian crisis situations under formal exemption (unless controlled by sanctioned persons/ entities)</li> </ul>	<ul style="list-style-type: none"> <li>• Complex structured transactions (without logical explanation)</li> <li>• Unusual or excessive cash withdrawals</li> <li>• Transactions via unrelated third parties</li> </ul>
<b>Objectives</b>	<ul style="list-style-type: none"> <li>• Limited to domestic activities</li> <li>• Clear mission statement corresponding the non-profit principles</li> <li>• Limited to supplying goods or services</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of clarity on the purpose and nature of the NPO</li> <li>• Inconsistency between the purpose and actual activities.</li> </ul>
<b>Industry association</b>	<ul style="list-style-type: none"> <li>• Member of sector association</li> <li>• Adherence to self-regulation standards</li> <li>• ANBI status</li> <li>• CBF seal</li> </ul>	<ul style="list-style-type: none"> <li>• No sector association membership</li> <li>• No applicable self-regulation standards</li> </ul>

## 1.2 Information and documentation

The following information and documentation contributes to an adequate risk assessment when establishing a business relationship with an existing NPO and substantiates effective mitigating measures. It is important to note that this list is non-exhaustive. Some of this information and documentation may not yet be available when establishing a business relationship with a new NPO. When such information and documentation become available, it can be used for the risk assessment of the NPO.

- Incorporation and registration:
  - ANBI-status and/or CBF-seal;
  - recipient of state or EU sponsored subsidies;
  - audits by reliable third parties (e.g. accountant, Stichting CIO, FIN, etc).
- Governance and organizational structure, including UBOs/senior managing officials, organisational charts, explanations of the organisational structure, number of employees, compliance policies, procedures and controls.
- Purpose and objectives, including mission statement, list of its programmes and associated budgets, activities, and services delivered.
- Geographical location of activities and operations.
- Categories of beneficiaries benefiting from the activities and criteria for disbursement of funds.
- Expected transaction behaviour, including for in and outflow, type, size, frequency, geographies, currencies, counterparties, etc.
- Financial accountability and transparency, including financial statements, funding sources,

contributors, fundraising methods, audit reports, etc.

- Participation in and adherence to self-regulation standards.

## 1.3 Risk assessment

The abovementioned risk reducing and risk increasing factors should be considered by the banks when conducting CDD. These risk factors should be assessed in the full context of the client. Thus ensuring effective mitigation of ML/TF risks while safeguarding access to financial services. The risk assessment results in a risk profile of the client based on the interaction of different risk factors.

Some criteria to consider when conducting CDD on an NPO and assessing the obtained information:

- Clear link between the NPO's mission statement and its actual activities.
- Set-up, clarity and balance of the governance and decision-making.
- Evidence of the activities as reflected in the annual report, project reports, media, online presence, etc.
- Binding with NL.
- Efforts made to ensure the reliability of the (foreign) partners.
- Origin and destination of the funds matching the NPO's objectives and activities.
- Type and quantity of the beneficiaries.
- Willingness to submit to scrutiny by reliable third parties, which are acknowledged by the bank and National Competent Authority (NCA).

- Participation in acknowledged self-regulatory structures offered by specialized and independent third parties such as the CBF and Stichting CIO. Audits performed by these institutions offer specialized and detailed insights in the affiliated NPOs.
- Stipulation in statutes or charter that any funds remaining after a dissolution will benefit an NPO with a similar purpose.
- Compliance policies, procedures and controls to prevent funding originating from illegal sources or being used for illegal purposes.
- Situations of immediate emergency relief in geographical areas struck by e.g. war or natural disaster.
- The reception of state or EU sponsored subsidies. Authorities granting these funds perform thorough investigations into the applicants as part of their due diligence.
- Encouraged in part by Dutch authorities granting subsidies, there is a growing tendency for local residents to join the board of Dutch NGOs. Allowing local residents as a board member creates a better bond with the local population that the NGO is focused on and stimulates involvement and thus a solid future-proof solution.

## 2 Impact

For most NPOs, client outreach by banks will be needed to obtain the necessary information and documentation. However, by focusing on relevant risk factors, the outreach can be proportionate to the level of potential ML/TF risks. Moreover, a focused risk-based approach is crucial to avoid unnecessary client outreach and improving access to financial services. Also, the use of information retrieved from open sources and observed existing client and transaction behaviour limit the administrative burden.

Overcompliance for and de-risking of the NPO sector should be avoided. The outlined risk factors in this Industry Baseline, can be implemented by banks in their policies, processes and controls. This enables effective management of relevant ML/TF risks while ensuring that conducting CDD does not result in the blanket refusal or termination of business relationships with an entire category of clients.

## 3 Use cases

Please note that the use cases below are examples to illustrate a practical application of this Industry Baseline and not intended to be exhaustive.

### INTERNATIONAL NPO

#### Example

A well-known international NPO with offices in many countries that is globally active to support refugees.

#### Industry Baseline

- Positive track record is considered a risk reducing factor.
- High degree of transparency with public publications of annual reports, updates and governance is a risk reducing factor.
- Open sources and internally available information on the client and transactions are consulted before client outreach is undertaken.
- Client outreach is focused on risk relevant information that is not publicly available.

### EU NPO

#### Example

An EU NPO commissions vessels to rescue people endangered when attempting to migrate across the Mediterranean Sea. There are unconfirmed allegations of cooperation with migrant smugglers.

#### Industry Baseline

- Open sources and internally available information on the client and transactions are consulted before client outreach is undertaken.
- Assessment of adverse media.

- Funding from government/supranational governing organs is taken into consideration when assessing risk as this is a risk reducing factor.
- Client outreach is focused on risk relevant information including explanation on the adverse media, internal compliance policies, procedures and controls.

### RELIGIOUS ORGANIZATION

#### Example

A local religious community weekly collects money during Sunday's service. It deposits the collected funds to their bank account. All gifts are donated by members of the religious organization.

#### Industry Baseline

- A religious community that is a CIO member (one statute for all parts of that denomination) is a risk reducing factor.
- All CIO members enjoy an ANBI status, and are subject of stricter controls imposed by the tax authorities.
- The local religious community is supervised by Stichting CIO ANBI (under supervision of the Dutch Tax Authorities).
- The local religious community does not possess any real estate, therefore no additional questions are being asked regarding the Wwft obligations on real estate (risk increasing).
- An organization collecting funds from their members is a risk reducing factor.

- A locally active organization, with members from a local community is a risk reducing factor.
- The offertory is known to be a commonplace activity during religious services and does incorporate cash.
- The bank is aware of the religious calendar and adjusts its expected transactions alongside those events.

### SMALL LOCAL NPO

#### Example

A person has set-up a foundation. The foundation is funded with modest contributions from the local community. The purpose of the foundation is to send (second-hand) medical equipment to some countries in Northern Africa.

#### Industry Baseline

- Client outreach for required CDD information, including among others the objectives of the NPO, the source of funds and senior management.
- A foundation managed by a single individual is considered to contain higher risk.
- ANBI-status and/or independent audit are considered risk reducing factors.
- Obtaining and assessing information on types and number of beneficiaries.
- Continuous monitoring of transactions based on the expected transaction behaviour.
- Supplying goods rather than funds is a risk reducing factor.

### PRIVATE FOUNDATION NPO

#### Example

A high-net worth individual has set-up and funded a foundation with an ANBI-status. The purpose of the foundation is to promote children's education in NL.

#### Industry Baseline

- Activities solely limited to the Netherlands are a risk reducing factor.
- Client outreach for required CDD information, including among others the objectives of the NPO and the source of funds.
- ANBI-status and/or independent audit are considered risk reducing factors.
- Continuous monitoring of transactions based on the expected transaction behaviour.

### ANONYMOUS GIFT

#### Example

An NPO receives an anonymous gift from a Dutch philanthropist, but does not know the source of these funds.

#### Industry Baseline

- If activities and transactions are in line with risk profile or expected transaction behaviour, no additional measures need to be performed.
- If activity and transactions not in line with risk profile or expected transaction behaviour, client outreach for information on source of funds.



## Regulatory framework

The regulatory context for this topic is described in relevant parts of applicable laws, regulations and guidelines from various authorities, such as: FATF, EBA, Ministry of Finance and DNB. Below an overview of the current regulatory framework with reference to NPOs.

- **FATF NPO definition**

“NPO 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 for the carrying out of other types of ‘good works’.”

- **FATF Recommendation 8**

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

- a by terrorist organisations posing as legitimate entities;
- b by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and

- c by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.”

- **FATF Interpretive Note to Recommendation 8**

“The objective of Recommendation 8 is to ensure that NPOs are not misused by terrorist organisations:

- i to pose as legitimate entities;
- ii to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or
- iii to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes.”

“... since not all NPOs are inherently high risk (and some may represent little or no risk at all), countries should identify which subset of organisations fall within the FATF definition of NPO. In undertaking this exercise, countries should use all relevant sources of information in order to identify features and types of NPOs, which, by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. It is also crucial to identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs. Countries should review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support in order to be able to take proportionate and effective actions to address the risks identified.”

- **EBA NPO definition**

“A not-for-profit organisation is a legal person or arrangement or an organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes.”

- **EBA Risk Factor Guidelines, paragraph 2.7(d)**

“Where the customer is a not-for-profit organisation (NPO), the firms should apply the criteria set out in the annex.”

- **EBA Guidelines on policies and controls for the effective management of ML/TF risks when providing access to financial services**

The annex of these guidelines describes the criteria to be applied where the client is an NPO and taking into account that not all NPOs are exposed in a similar way to ML/TF risk, and banks should take risk-sensitive measures.

- **Wwft article 8(1)**

“An institution shall, in addition to Article 3(2) to (4), conduct enhanced customer due diligence in at least the following cases:

- a. if the business relationship or transaction by its nature poses a higher risk of money laundering or terrorist financing.”

- **UN Security Council Resolution 2664 (2022)**

“Decides that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions

Committees, the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs ... are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees;”

- **EC humanitarian aid guidance note (220630)**

“Humanitarian exemptions mean that a restriction does not apply when the underlying action has a humanitarian purpose. In that case, Humanitarian Operators can carry out the action in question without any delay and without the need to inform or obtain an authorisation from an NCA. Importantly, exemptions do not amount to blank cheques. Humanitarian derogation means that an action that would be otherwise prohibited by the sanctions can be carried out for humanitarian purposes only after the NCA has granted an authorisation to do so, in accordance with the relevant Council Regulation. Humanitarian operators have to apply for derogation from the relevant NCA.”

## Alignment between ‘DNB Good Practices’ and ‘NVB Sector Industry Baseline’

DNB aims to illustrate its supervisory practices to the benefit of supervised entities by, for example, providing an interpretation of regulatory requirements (Q&As) and examples on how regulatory requirements can be met (Good Practices). It is important to note that neither the DNB Q&As nor Good Practices are legally binding.

The NVB Industry Baseline describes the application and execution of the risk-based approach for NPOs in more detail. It is a result of an extensive collaboration between banks and the sector in an effort to increase the efficiency of the regulatory frameworks by utilising space within the several frameworks for improvement of existing mechanisms. Additionally it provides more practical examples with risk factors and mitigating measures for various scenarios.

The NPO sector is actively using and promoting self-regulation. Several branch organisations have been providing guidance and self-regulation standards to enhance controls and transparency within the sector. Audited certification dedicated to specific NPO (sub)sectors is considered as a risk mitigating measure.



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