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Jennifer Fowler, Deputy Assistant Secretary  
Terrorist Financial & Financial Crimes  
U.S. Department of the Treasury

Andrew N. Keller, Deputy Assistant Secretary  
Bureau of Economic and Business Affairs  
U.S. Department of State

Dear Ms. Fowler and Mr. Keller,

Thank you for your letter of May 13, 2016 responding to our February joint letter regarding the need for action to address increasing problems many nonprofit organizations face with access to adequate financial services for their international operations. In our letter we asked that:

- 1) a high-ranking official at the Department of Treasury issue a proactive, public statement that NPOs are not by definition high-risk and that under U.S. law, banks are not required to “know the customer of their NPO customer”; and
- 2) the Departments of Treasury and State convene a multi-stakeholder dialogue as part of a broader effort to ensure that registered, law-abiding NPOs are able to access the global financial system.

We are writing to express our appreciation for your statements that charities are not by definition high-risk banking customers, which noted “the Treasury Department’s view [is] that the charitable sector as a whole does not present a uniform or unacceptably high risk of money laundering, terrorist financing or sanctions violations.” We were glad to see this statement repeated publicly in the April 28 blog posted on Treasury’s website.

Your letter emphasizes that banks should take a risk-based approach to conducting due diligence on nonprofit customers. Importantly, it notes that “Treasury expects banks to apply their due diligence obligations reasonably – *not that they be infallible in doing so...*” (emphasis added). As government, the private sector and nonprofit organizations adjust to the risk-based framework, it is crucial that Treasury convey the message that a risk-based approach is not a zero tolerance approach.

We also wish to express our disappointment in your response to our second request that you convene a dialogue on this issue among key stakeholders. While we appreciate the informational meetings Treasury has sponsored on this topic to date, they were not designed to move the dialogue toward solutions and have not done so. It is our hope that going forward, a solution-oriented stakeholder discussion will emerge and that both the Treasury and State Departments will participate wholeheartedly.

Going forward, there are two opportunities for your agencies and the nonprofit sector to take action that will help address the financial access problem. These are:

**1.) Update the Bank Examiners Manual section on nonprofit organizations**

Your letter provides some important clarification for banks. However, it also references the Bank Examiners Manual as guidance for how banks should approach due diligence for nonprofit customers. The Bank Examiners Manual has outdated language referring to the entire nonprofit sector as high-risk, presumably drawn from the old version of the Financial Action Task Force's Recommendation 8. In late June, FATF made important revisions to R8, removing the incorrect statement that nonprofits are "particularly vulnerable" to terrorist abuse and replacing it with language that says that countries should "apply focused and proportionate measures, in line with a risk-based approach" to nonprofits identified as being vulnerable to terrorist financing abuse. The Treasury Department now needs to bring the Bank Examiners Manual into alignment with the risk-based approach in order to provide clear guidance to banks on how to conduct due diligence in this relatively new framework.

In our meetings with Treasury we have asked that the Bank Examiners Manual be revised to provide clarification on how its requirements are applied. For example, what is meant by the statement that banks should understand basic beneficiary information? It is both unreasonable and unrealistic to expect banks to ask for and nonprofits to provide basic information on individual program beneficiaries. However, the vagueness in the Manual has led to situations where that occurs. Banks do not need to know the names of all the people in a refugee camp in order to determine whether a nonprofit is a legitimate customer that has its own risk management systems in place.

**2.) Treasury and State participation in a multi-stakeholder dialog aimed at solving the financial access problem.**

Earlier this year we briefed your agencies on a research project the Charity & Security Network has commissioned that will examine the nature and extent of the nonprofit financial access problem; assess the impacts; and identify potential solutions for NPOs, government and the financial sector to explore. The research is being conducted by Sue E. Eckert, Senior Fellow at the Watson Institute for International Studies at Brown University. The random sample survey portion of this research is supervised by Prof. Stefan Toepllar, Director of the Center for Nonprofit Management, Philanthropy and Policy at George Mason University.

The findings from this research will be published in the fall of this year, providing all stakeholders with empirical data and the in-depth information on barriers to adequate financial services that is needed in order to develop appropriate and effective solutions to the problems. At that point it is crucial that Treasury and State participate in a multi-stakeholder dialogue aimed at identifying such solutions.

While our letter sought leadership from your agencies on this process (we still prefer this approach), if leadership must come from other stakeholders, the participation of Treasury and State is necessary for the successful resolution of the financial access issue.

We will contact you when the research report becomes available in order to brief you on its findings and discuss possible next steps.

Yours truly,

A handwritten signature in black ink that reads "Kay Guinane". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kay Guinane, Director

PS: Please note our mailing address. Your reply to our letter went to an old address and we did not receive it until nearly a month after it was sent.