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Dear Ms. Guinane,

Thank you for your recent letter to Secretary Lew and Secretary Kerry regarding access to financial services for charities. We appreciate your efforts to convey important issues affecting the charitable sector and your participation in the U.S. Government's regular engagement with the sector for many years. We want to emphasize that the Treasury and State Departments recognize and strongly support the critical role charities play in improving the lives of individuals in the United States and globally, especially in conflict regions. We take seriously recent concerns from the charitable sector about delayed transactions to intended recipients and claims of indiscriminate bank account closures.

The Treasury and State Departments also recognize that financial services, including transfer of funds and access to bank accounts, are an important element in enabling charitable assistance to reach the intended beneficiaries. At the same time, some charities operating in areas of need, which are often conflict zones or territories controlled by terrorist groups, have been knowingly or unknowingly exploited by terrorist organizations and their support networks.

It is important that charities and the federal government build upon our efforts over the last 15 years to promote charitable giving, while protecting the domestic and international financial system from abuse. Protecting the charitable sector from terrorist abuse and promoting charities' access to financial services are goals that we all share.

An important aspect of the U.S. Government's efforts to protect charities from terrorist abuse is working through the Financial Action Task Force (FATF). The United States has led efforts over the past several years to increase FATF engagement with charities, including the most recent annual consultation that took place in April, and to encourage the direct input of the charitable sector into relevant FATF documents, including a typology report of terrorist abuse in the charitable sector (June 2014) and a Best Practices Paper on preventing terrorist abuse while respecting charities' legitimate activities (June 2015). Indeed, the guidance reflected in these documents benefited from valuable contributions from the charitable sector, including many of the signatories of your letter. Further, these documents assisted governments, charities, and banks in countering the practical risks that make charities vulnerable to terrorist finance abuse. As you know, the United States continues to support efforts within FATF to engage the charitable sector and incorporate their views as FATF revises the interpretative note to the international standard on protecting charities from terrorist abuse.

In addition, the U.S. Government has engaged in sustained domestic outreach to the U.S. charitable sector about the terrorist threat, risk mitigation measures, and issues of concern to the sector. On the specific issues of availability and timeliness of financial services, Treasury has organized several meetings with the U.S. charitable sector over the last 18 months. At these sessions, Treasury brought together the relevant stakeholders, including representatives from U.S. financial institutions, financial regulators, and other government officials to discuss banking challenges, including delays in processing transactions, particularly those transactions related to high-risk jurisdictions such as Syria. Treasury also invites dozens of U.S. charities and representatives from the charitable sector to participate in quarterly meetings on a range of topics related to counter terrorism finance. Treasury has hosted eight charities working group meetings in the last three years to discuss a variety of topics of interest to the sector including the work in the FATF, sanctions and licensing, and access to financial services.

The banking challenges faced by charities arise in part from the complex nature of the work that charities carry out — raising, moving, and using or distributing funds, often to many grantees, sub-contractors or implementing partners and routinely in conflict, high-risk regions. In addition to complying with counter-terrorist financing and sanctions laws, banks should apply the risk-based approach in order to identify and manage the risks associated with a charity's transactions or accounts, just as they would for any customer. Treasury has conveyed the importance of the risk-based approach to effective implementation of controls to combat money laundering and terrorist financing. In other words, it is critical that countries, government authorities and financial institutions understand the terrorist financing risks to which they are exposed and take appropriate risk mitigation measures to address them. This approach is consistent with FATF standards and is the cornerstone of U.S. policy for combatting illicit finance. The flexibility provided through the risk-based approach enables both the government and banks to focus their efforts on those organizations most at risk of terrorist abuse.

In assessing the risk of charity accounts, U.S. banks are expected to conduct adequate due diligence on each of their charity customers and understand the nature and purpose of the charities' activities, including the donor and volunteer base, geographic locations served, and funding and disbursement procedures. Banks are not expected to know the identity of each individual donor for most charities; however, they are expected to conduct enhanced due diligence for accounts the bank considers high risk, to include evaluating large contributors or grantors in those instances. Banks are also expected to understand the funding and disbursement criteria (including basic beneficiary information) for their charity accounts, as called for in the Bank Secrecy Act Anti-Money Laundering Examination Manual, which is used by bank examiners in their review of banks' internal controls and procedures. It is also good practice for charities to have sufficient internal controls in place to account for their funding to those with whom they do business, including banks and donors.

It is important to emphasize the Treasury Department's view that the charitable sector as a whole does not present a uniform or unacceptably high risk of money laundering, terrorist financing or sanctions violations. As we have noted before, the Treasury Department expects banks to apply their due diligence obligations reasonably – not that they be infallible in doing so – and Treasury believes that banks that establish and maintain appropriate risk-based anti-money laundering and counter terrorist financing controls and compliance programs will be well-positioned to manage their accounts appropriately, detect illicit transactions, and avoid enforcement actions.

We appreciate the longstanding dialogue with you and other members of the charitable sector and we look forward to continued engagement on this important topic.

Sincerely,

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