



1. Title of Policy

MITGF Control of Funds and Counter-Terrorism Policy.

2. Introduction

MIT Group Foundation Ltd (MITGF) is a not-for-profit, non-governmental organisation and a registered Australian Charity with the Australian Charities and Not-for-profits Commission (ACNC). MITGF undertakes activities that fall within the scope of its objects including relief and development activities in developing countries.

3. Statement on commitment to control of funds and counter-terrorism and purpose of policy

MITGF is committed to handling donor funds with integrity and transparency and to maintaining internal financial control procedures and risk management mechanisms that minimise the risk of any misuse of funds and resources, including fraud, corruption, bribery, terrorism financing and money laundering.

MITGF condemns all forms of terrorism and shall use its best endeavours to ensure that its resources and relief and development activities are not used to support terrorist and criminal activity.

This Policy sets out the principles and procedures which MIT shall adopt to ensure that donor funds and resources are properly managed and disbursed and that its activities are not associated with any terrorist or criminal individual or organisation and that its resources are not used to support any terrorist or criminal activity.

4. Definitions

Best Practice Principles: the principles to safeguard against terrorism financing published by the Australian Government in its guide titled *Safeguarding your organisation against terrorism financing. A guidance for non-profit organisations*, which are set out in Schedule 1.

Bribery: the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages

Consolidated List: list of terrorist individuals and entities subject to targeted financial sanctions under the United Nations Security Council's Resolutions 1267 and 1373 and maintained by DFAT.

Corruption: the abuse of entrusted power for private gain.

Criminal Code: *Criminal Code Act 1995 (Cth)* as amended.

DFAT: Australian Department of Foreign Affairs and Trade.

Financial Wrongdoing: behaviour that is illegal or immoral with regards to financial transactions. Includes bribery, corruption, fraud, money-laundering, terrorism financing and violation of sanctions imposed by the Australian government.

Fraud: Dishonestly obtaining a benefit, or causing a loss, by deception or other means.

List of Terrorist Organisations: list of organisations proscribed as terrorist organisations under the Criminal Code and available on the National Security Australia website.

Money Laundering: the process of concealing the origin, ownership or destination of illegally or dishonestly obtained money and hiding it within legitimate economic activities to make them appear legal.

Standard of Overseas Aid Fundraising Practice: the standards published by the Fundraising Institute Australia for conducting overseas aid fundraising activities within an ethical framework.

UN Charter Act: *Charter of United Nations Act 1945 (Cth)* as amended.

Partner Organisation: any organisation or person that MITGF works with, or is involved with, in connection with any relief or development programs or projects.

Partner Due Diligence Checklist means the checklist set out in Schedule 2.

Personnel: Personnel are employed by MITGF, whether full-time, part-time, casual or on a voluntary basis.

Terrorism Financing: intentionally providing or collecting funds and being reckless as to whether those funds would be used to facilitate or engage in a terrorist activity

5. Counter-terrorism and money laundering laws

MITGF is obliged to adhere to Australian laws, and international laws to combat terrorism and money laundering.

The Australian Government has enacted legislation to combat terrorism and money laundering and to give effect to Australia's international obligations to combat terrorism. In particular, the following legislation:

- Part 5.3 of the Criminal Code;
- Part 4 of the UN Charter Act; and

- Part 10.2 of the Criminal Code (money laundering offences).

Under the Criminal Code, there are a range of offences relating to terrorism financing, including receiving funds from or making available funds to a terrorist organisation and providing support or resources to a terrorist organisation. The list of organisations proscribed by the Australian Government as terrorist organisations under the Criminal Code is available on the National Security Australia website at:

<http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>

The Australian government has also enacted legislation under the UN Charter Act to meet its international obligations under the United Nations Security Council Resolutions 1267 and 1373 to freeze the assets of terrorists. The UN Charter Act makes it an offence to directly or indirectly make any asset available to a proscribed terrorist individual or organisation. The consolidated list of proscribed terrorist individuals and organisations subjected to the asset freezing regime is maintained by DFAT and available for DFAT's website at:

<http://dfat.gov.au/international-relations/security/sanctions/pages/consolidated-list.aspx>

The Australian government's National Security Hotline for reporting any suspected terrorism related activity is:

1800 1234 00

Failure to comply with Australian Government requirements could make MITGF liable to significant penalties, as well as severely affect the reputation of MITGF.

6. Scope of the Policy

This Policy applies to all MITGF's personnel and Partner Organisation's personnel and in connection with any relief or development activities undertaken by MITGF.

7. Financial control under MITGF Constitution

In accordance with the Constitution of MITGF:

- (1) MITGF shall maintain a fund to be known as the MITGF Overseas Gift Fund to be used for the objects of MITGF. A separate bank account is opened and maintained for the Fund and the assets of the Fund must not be used for any purpose other than for the objects of MITGF. MITGF must keep written financial records which:
 - (a) correctly record and explain its transactions in relation to the Fund;
 - (b) accurately record all receipts and outgoings in relation to the Fund; and
 - (c) would enable true and fair financial statements of the Fund to be prepared and audited.

- (2) A Funds Committee is established to manage the Fund, which is made up of a majority of persons who have a degree of responsibility to the general community by reason of their tenure of some public office or their occupation or their standing in the community.

8. Procedures and processes

MITGF shall ensure that it has appropriate financial control and risk management mechanisms for the management and disbursements of donated funds to ensure that funds are properly accounted for and used for the specific purposes for which they have been given, and to prevent any financial wrongdoing.

MITGF shall take all reasonable practicable efforts to ensure that any funding provided by MITGF are not used to support terrorist or criminal activity.

MITGF acknowledges and adopts the Best Practice Principles to safeguard against terrorism financing.

MITGF shall adopt the following processes and procedures for the management and distribution of donated funds to ensure that funds are used for the purpose intended, to prevent financial wrongdoing, and to ensure that it avoids dealing with individuals and organisations associated with terrorism.

- (1) Ensure that MITGF's personnel are aware of this Policy and the Best Practice Principles through appropriate induction and training.
- (2) Ensure that MITGF's personnel are aware MITGF's obligations under Australian law relating to terrorist financing and money laundering and of the level of risk that MITGF may be exposed to in respect of terrorist financing and financial wrongdoing.
- (3) Should MITGF engage in any fundraising campaign, it shall use its best endeavours to follow the standards articulated in the Standard of Overseas Aid Fundraising Practice.
- (4) Carry out proper due diligence on all partner organisations including:
 - Verifying their identity;
 - Knowing what their business is, their track record, credentials and reputation in the sector;
 - Assessing their capacity to undertake the specific project with MITGF; and
 - Assessing whether they have adequate internal financial control measures for the management and disbursement of funds and to minimise misuse of funds and resources and prevent financial wrongdoing.

In carrying out the due diligence on partner organisation, consider the issues and questions set out in the Partner Due Diligence Checklist.

- (5) In all partnership agreements include:

- (a) an expressed acknowledgement and undertaking by partner organisations to disburse funds received solely for the intended purpose of the project and for no other purpose, not engage in any financial wrongdoing and a right for MITGF to terminate the agreement should the partner organisation fail to do so;
 - (b) an obligation on partner organisations to keep separate financial records for the project funds received, keep accurate, and up to date financial records of all financial transactions concerning project funds which substantiate all expenditure, and make them available for inspection by MITGF; and
 - (c) a requirement on partner organisations to cooperate fully in any audit of funds provided by MITGF for the project.
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- (6) Take all reasonable measures to establish the identity, credentials and good standing of its partner organisation and beneficiaries where there is a reasonable risk of terrorist financing. In particular, checking the Consolidated List and List of Terrorist Organisations to ensure that partner organisations and intended beneficiaries are not on the lists.
 - (7) Have in place proper internal controls to ensure that all funds are fully accounted for, and are spent in a legitimate manner that is consistent with MITGF's stated objects under its Constitution and consistent with the purpose and objectives of the particular program or project and to mitigate the occurrence of financial wrongdoing.
 - (8) Wherever possible, only conduct financial transactions through formal channels, using reputable banks and other regulated financial institutions.
 - (9) Keep proper records of all financial transactions.
 - (10) Monitor and verify end use of funds to partner organisations and beneficiaries.
 - (11) Report to the Australian Federal Police or the National Security Hotline any suspicious activity or if any link is discovered between funds provided by MITGF and a terrorist organisation or terrorist individual.
 - (12) Immediately withdraw all support, including any funding, if MITGF discovers that any partner organisation or any beneficiary of MITGF funds is on, or is subsequently added to, the Consolidated List or List of Terrorist Organisations, or has engaged in financial wrongdoing.
 - (13) Make all partner organisations aware of MITGF's obligations under Australian law in respect of terrorist financing and money laundering and the need for partner organisations to adopt similar measures to ensure that the funds they receive from MIT do not go towards supporting any terrorist or criminal organisations or individuals.
 - (14) In any partnership agreement with a partner organisation, include appropriate provisions requiring that the partner organisation use its best endeavours to ensure that any funding provided by MIT are not used to support any organisations or individuals associated with terrorism or criminal activities.

- (15) Require partner organisations to provide accounting reports to show how MITGF funds have been spent and distributed.

9. Reporting and Investigation of Financial Wrongdoing

Any person who suspects a financial wrongdoing incident related to the operations of MITGF should report it to MITGF as soon as possible. They should follow the reporting procedures set out in the **MITGF Whistleblower Policy**. Any person who reports suspected financial wrongdoing in good faith will not be penalised for raising a concern of this nature.

All personnel have a duty to report any suspected financial wrongdoing as soon as reasonably practicable following the procedures set out in the **MITGF Whistleblower Policy**.

Investigation into a reported incident of financial wrongdoing shall follow the procedures set out in the **MITGF Whistleblower Policy**.

The findings of the investigation will be provided to the Board of Directors of MITGF to consider and to take appropriate action, including, but not limited to the following:

- (1) Reporting to relevant authorities, including local police, Australian Federal Police, or National Security Hotline as appropriate;
- (2) Where the financial wrongdoing is committed by a MITGF personnel, disciplinary action, including termination of employment or termination of an individual's right to work as a contractor or volunteer.

10. Policy review

MITGF's Control of Funds and Counter-Terrorism Policy will be reviewed on an annual basis, or as otherwise determined by the Board of Directors of MITGF.

Acknowledgements:

- *Safeguarding your organisation against terrorism financing: A guidance for non-profit organisation, Australian Government, 2009*
- *Compliance Toolkit: Protecting Charities from Harm, Tool 8: Know your Partner, Charity Commission, UK, 2011*
- *ACFID Guidance on How to Develop a Financial Wrongdoing Policy*

Schedule 1

Best Practice Principles

Overarching principle

1. NPOs must make all reasonable efforts to ensure that funds are not being directed to terrorist activities.

Legal obligations

2. NPOs operating in Australia must comply with Commonwealth, State and Territory laws.
3. Australian NPOs should comply with the laws of any foreign countries that they operate in.

Risk awareness

4. NPOs should understand the level of risk that their organisation may be exposed to in relation to terrorism financing, and where risk is evident, take necessary precautions.
5. NPOs should ensure that management, staff and volunteers are aware of the level of risk that their organisation may be exposed to in relation to terrorism financing and, where risk is evident ensure that precautions are in place.

Due diligence

6. NPOs should know their beneficiaries.
7. NPOs should know the third parties they work with.
8. NPOs should regularly check that beneficiaries and third parties are not listed individuals or organisations.

Transparency and accountability

9. NPOs should conduct financial transactions where possible through regulated financial institutions, such as banks or building societies.
10. NPOs should conduct background checks of management, staff and volunteers.
11. NPOs should keep records of what assistance has been provided, who has received it, and the details of any third parties involved.
12. NPOs should conduct follow-up checks where possible to make sure that the assistance was delivered as intended.
13. NPOs should report suspicious activity to the Australian Federal Police.

Using Third Parties

Where funds are provided to a third party:

14. the NPO should make all reasonable efforts to ensure the third party is aware of, and seek assurance that the third party will comply with, all applicable laws, and the NPO should make all reasonable efforts to ensure the third party is aware of, and seek assurance that the third party will comply with these Best Practice Principles.

Schedule 2

Partner Due Diligence Checklist

'Know Your Partner'- key issues to think about

Key Partner Details	<p>Are you satisfied with the partner's status and governance? Consider checking:</p> <ul style="list-style-type: none">• It's governing document• Its business/company registration• The Consolidated List• List of Terrorist Organisations <p>Carry out internet searches and review local media to identify if, for example, the organisation has any links with political activity.</p>
Representatives and structures	<p>Who are the key senior personnel? Have you checked that they do not appear on the Consolidated List?</p> <p>Is the organization's size, management and operational structure fit for purpose?</p> <p>Can you be reasonably sure the organisation is able to deliver the services required?</p> <p>How easy is it to contact the organisation's senior representatives and other key staff?</p>
Practical working relationship	<p>What do you know about the partner? Have you worked with them before?</p> <p>Does your experience of working with the partner in the past raise any concerns?</p> <p>Are its aims and values compatible with those of MITGF?</p> <p>Are there likely to be any language, communication or cultural problems? How can these be overcome?</p> <p>Is the partner already working with other organisations? Will this present any problems?</p> <p>Are there arrangements in place to enable you to monitor the charitable services provided? Are you confident about any third parties involved in monitoring and feedback?</p>

<p>Accounting and internal financial controls</p>	<p>Are the partner's financial controls generally adequate and reliable?</p> <p>Are its financial policies and procedures documented?</p> <p>What recording and audit systems are in place, and are these suitable for the type of work being undertaken and the scale of funding involved?</p> <p>Will MITGF be able to inspect the partner's financial records?</p> <p>Are there any concerns about banking local arrangements and the movement of funds? If so have these been addressed satisfactorily?</p> <p>Does the partner have adequately trained and qualified staff to manage funds, maintain accounts and report back to MITGF?</p> <p>How closely do the partner's senior staff monitor its more junior staff?</p>
<p>External risk factors</p>	<p>What special risk factors apply to the area in which the partner organisation will operate? Will the MITGF be able to deal with these? For example:</p> <ul style="list-style-type: none"> • What is the political, economic and social environment? • Is there any potential or actual instability, unrest or conflict? • Are there health and safety concerns for MITGF representatives? • Would external factors affect your ability to monitor the partner effectively?