

Registration of Non-Profit Organisations

Compliance with the Non-Profit Organisations Act,
2019 (as amended)



Frequently Asked Questions and Answers



Office of the
Attorney-
General &
Ministry of
Legal Affairs

COMPLIANCE
UNIT

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Compliance with the Non-Profit Organisations Act, 2019

**Frequently Asked Questions
and Answers**

#	QUESTION	ANSWER
GENERAL		
1.1	When did the Non-Profit Organisations Act come into force?	Non-Profit Organisations Act, 2019 came into force on 30 th August, 2019. The Non-Profit (Amendment) Act came into force on 30 th August, 2019. (Collectively, “the NPO Act”)
1.2	Why do Non-Profit Organisations have to register?	The NPO Act was enacted to provide for the supervision and monitoring of the non-profit organisations (NPO) sector in compliance with the requirements of Financial Action Task Force (FATF) Recommendation 8 and to ensure that NPOs are operating in a transparent manner and are not engaged in activities which constitute an identified risk ¹ . FATF Recommendation 8 requires that the laws and regulations that govern non-profit organisations be reviewed so that these organisations cannot be abused for the financing of terrorism
1.3	What is the effect of registration?	Registration of NPO brings this sector under The Bahamas’ anti-money laundering, countering financing of terrorism and counter proliferation (“AML/CFT/CFP”) and target financial sanctions (“TFS”) regime to address risks associated with these activities and protect NPOs from terrorist financing abuse.
DEFINITION OF NPO		
1.4	Who is considered an NPO?	Section 2 of the NPO Act defines a NPO as “a body of persons whether incorporated or unincorporated, formed and established for the purpose of promoting public policies or objects that are religious, charitable, educational, scientific, environmental, historical, cultural, fraternal, literary, sporting, artistic, athletic or promoting health, and whose gross annual income or any part thereof, if any, and other income are applied to the promotion of those objects, and there is a prohibition of any dividend or refund of contributions to its members, but excludes a religious or charitably founded school registered with the Ministry of

¹ Section 2 of the Proceeds of Crime Act, 2018 defines identified

		Education, and any organisation with political objectives”; FATF DEFINITION OF NPO 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”.
1.5	Further clarification on the definition of an NPO is needed in light of the regulator raising concerns about FIs erroneously freezing accounts and there appears to be some confusion esp. around associations, lodges, PTAs, Alumni accounts, etc. Recommend consideration be given to amending the NPO Act so that the definition and exclusions are clear or issuing Guidance Notes.	See response above at 1.4.
EXCLUSIONS		
1.6	Are there any exemptions from registration?	ORGANISATIONS excluded from the Definition of an NPO For the purposes of section 2 of the NPO Act, the following bodies are excluded from the definition of an NPO under Section 2:- <ul style="list-style-type: none"> ➤ Religious or charitably founded schools registered with the Ministry of Education; ➤ PTAs of religious or charitably founded schools registered with the Ministry of education; ➤ School boards; and ➤ Any political party or group which was allocated a Symbol for the use of its nominated candidates in the last general elections, by the Parliamentary Commissioner, pursuant to Clause 3(1) of the Parliamentary Elections (Symbols and Time Off) regulations.
Organisations/Associations not required to register		
1.7	Which organisations are not required to register?	For the time being, the following NPOs do not have to register: <ul style="list-style-type: none"> (i) <i>Social Clubs;</i> (ii) <i>Family Reunion Associations;</i> (iii) <i>Condominium/Home Owners Associations;</i> (iv) <i>Private Clubs;</i>

		<p>(v) <i>All Societies, inclusive of Burial Societies, regulated by the Friendly Societies Act (Chap. 313);</i></p> <p>(vi) <i>Bahamas Christian Council;</i></p> <p>(vii) <i>Bahamas National Trust (BNT);</i></p> <p>(viii) <i>Community Associations;</i></p> <p>(ix) <i>Alumni Associations;</i></p> <p>(x) <i>Trades Unions regulated by the Industrial Relations Act (Chap. 321);</i></p> <p>(xi) <i>Co-operatives regulated by the Co-operatives Societies Act (Chap. 314);</i></p> <p>(xii) <i>Sporting Clubs;</i></p> <p>(xiii) <i>Junkanoo Groups; and</i></p> <p>(xiv) <i>all professional industry or trade associations practicing in The Bahamas.</i></p> <p>The list is not conclusive and is subject to the results of the risk assessment of the NPO sector.</p>
1.8	Will a letter be issued to an NPO that is excluded or not required to register?	The Registrar General will issue a letter indicating that the NPO is excluded or not required to register.
INCORPORATED NPOs AND UNINCORPORATED ASSOCIATIONS		
1.9	Is incorporation the same as registration?	No. Incorporation and Registration are not the same. An NPO can be incorporated under section 14 of the Companies Act. An incorporated NPO obtains a license from the Minister and a Certificate of Incorporation from the Registrar General. An NPO is registered under section 7 of the NPO Act. A registered NPO receives a certificate of registration.
2.0	Are incorporated NPOs required to be registered?	Yes. Incorporated as well as unincorporated NPOs are required to be registered once they do not fall within the categories excluded or not required to register above at 1.6 and 1.7 respectively.
2.1	Is an unincorporated association required to become incorporated in order to be registered?	No. An NPO is not required to be incorporated in order to be registered.
2.2	Does an NPO have to obtain a business license in order to be registered?-	No. A business license is not required in order for an organisation or association to be registered as an NPO.
2.3	Where can NPOs obtain an application form for registration?	Application forms for Registration of an NPO can be downloaded from the Registrar General Department's website at http://www.bahamas.gov.bs/rgd or the Office of the Attorney-General's website at http://www.bahamas.gov.bs/attorneygeneral

2.4	Can a CAC be converted to an NPO?	A Companies Act Company incorporated pursuant to section 14 is a licensed NPO which must register under the NPO Act. Other companies incorporated under the Companies Act can be converted into a non-profit organisation if its declared purposes and activities fall within the scope of the NPO Act. Organisational Documents (Memorandum and Articles of Association) should also be amended to align with that of a non-profit as opposed to a company for profit.
UMBRELLA ORGANISATIONS		
2.5	What is an umbrella organisation?	<p>Umbrella Organisation</p> <p>An umbrella organisation is defined under Section 26A of the NPO Act as a civic, social, fraternal or religious non-profit organisation that governs and regulates its constituent units, for example, an arch-diocese, a diocese, national convention, national assembly, council or a grand or district grand lodge or chapter, local society or club district or local organisation, and any entity which is internationally recognised or accredited</p>
2.6	<p>Incorporated and non-incorporated NPOs are at times difficult to determine at what level of the structure the Certificate of Registration needs to be presented. Below are some of the structures that have been presented to Banks for consideration.</p> <ul style="list-style-type: none"> • A group of churches that report into or are the responsibility of a Head/Administrative office. Rather than requesting a Certificate of Registration from all of the churches in the group, Banks should be allowed to request a Certificate of Registration from the Head/Administrative Office along with a letter from the Head/Administrative Office confirming the churches under its care. <p>In some churches, there are multiple ministries/committees (Finance, Women, Men, Sports ...etc.) that have an account with a Bank. Therefore, could consideration be given that once a Certificate of Registration is presented for the Church, along with a letter</p>	<p>A church which is the umbrella organisation will be issued a certificate of registration by the Registrar General. The constituent units of that church will be issued a letter to this effect by the Registrar General.</p> <p>Please see responses at 2.5, 2.7 and 2.8 that relate to an umbrella organisation and a constituent unit respectively.</p>

	indicating the ministries/committees, that are permitted to open their own account, this should be sufficient to meet the registration requirement rather than having each ministry/committee having to produce a Certificate of Registration.	An umbrella organisation must list all of its constituent units or organisations for which it has responsibility. This includes ministries/committees/clubs etc.
CONSTITUENT UNITS		
2.7	What is a constituent unit?	<p>Constituent Unit</p> <p>A constituent unit or entity is defined under Section 26A of the NPO Act as a subsidiary, branch, affiliate or any other such unit of an umbrella organization.</p> <p>Further, a constituent unit or entity must be governed and regulated by the umbrella organisation and the umbrella organization must vote on the constituent unit or entity's financial records at its annual general meeting.</p>
2.8	What documents are required for constituent units?	Each constituent unit is required to be listed on the NPO registration form submitted by the umbrella organization. The name and address of each constituent unit should be provided. There are no additional requirements for constituent units. Should the Registrar General require information additional information on a constituent unit, the umbrella organization is responsible for providing such information.
STANDARD DOCUMENTS		
2.9	What documents are required for registration as an NPO?	<p>In Accordance with section 7 of the NPO Act, the following documents are required in support of an application for registration as an NPO:</p> <ul style="list-style-type: none"> ➤ Declaration of purposes of the NPO <i>A document which states the purpose and activities of the NPO.</i> ➤ Proof of the identity of the Controller and Board members or other officers of the NPO <i>Copies of 2 valid government issued IDs for each individual listed.</i> ➤ Proof of address of the Controller and other officers of the NPO <i>A utility bill not older than 3 months; or</i>

		<p>A voter's card which can serve as a proof of identification as well as proof of address. If a voter's card is used, then only one additional identification is needed. No utility bill is needed with a valid voter's card.</p> <ul style="list-style-type: none"> ➤ Copies of particulars of the organisational documents ➤ Evidence of Board structure <p>For incorporated NPOs:</p> <p><i>Memorandum and Articles of Association; or Other organisational documents</i></p> <p>For unincorporated associations:</p> <ul style="list-style-type: none"> ➤ <i>Byelaws; or</i> ➤ <i>Constitution; or</i> ➤ <i>Charter; and</i> ➤ <i>Evidence of the board structure.</i>
3.0	Must an NPO provide documents already filed with the Registry?	No. There is no requirement to produce documents already filed with the Registrar General's Department.
VALIDITY OF CERTIFICATE OF REGISTRATION		
3.1	How long does a certificate of registration remain valid?	An NPO Certificate of Registration is valid for two (2) years from the date of issue.
3.2	As Certificates are only valid for 2 years, will the Registrar General post on its website the NPOs who have not been granted a renewal or have failed to renew their Certificates after the 2 year period?	It is responsibility of the NPO to produce a valid Certificate of Registration at all times. A list of NPOs that are registered in compliance with the NPO Act is published on the Registrar General's website.
FEES		
3.3	What is the cost for registration?	In accordance with the Third Schedule of the NPO Act: 1. Application for registration (a) for newly formed organisations\$100.00 (b) for existing organisationsNIL 2. Application for renewal of registration.....\$50 3. Certificate of good standing\$50
3.4	What is the timeframe for freezing accounts where the Certificate of Registration is not provided by the imposed deadlines?	Where an NPO has made application for registration, Fls may rely on proof of the submission of application by the NPO (an automatic acknowledgement of receipt email); or a communication from the Registrar General's Department or the Compliance Unit of the Office of the Attorney-General providing proof of submission of the application and confirming status of the same.

RISK BASED APPROACH

<p>3.5</p>	<p>NPOs are deemed high risk. There were some recent discussions i.e. during the AG’s training sessions regarding categorizing NPOs into risk rating categories i.e. high, medium, low. Will this be documented in Guidelines/Guidance notes? What impact will this have on CDD requirements? Will there be an amendment to CBoB guidelines (last revised in 2018) to include updates to the NPO requirements?</p>	<p>Not all NPOs are high risk, and some may represent little or no risk at all.</p> <p>Risks posed by NPOs must be assessed when applying measures to mitigate the risks that have been identified within the NPO sector. While this does not preclude the conduct of assessments by FIs and DNFPBs it should inform the same.</p> <p>A risk assessment of the NPO sector will be conducted, the results of which will inform mitigating controls and measures. NPOs will be assigned a risk profile.</p> <p>Additionally, Guidelines will be published which will be informed by the results of the risk assessment. The Guideline will be updated as appropriate.</p>
<p>3.6</p>	<p>Has consideration been given to a risk-based approach as it relates to the roll out of the NPO Act.</p> <ul style="list-style-type: none"> • Rather than all NPOs, who have not registered with the Registrar General, being blocked by 8 October, 2020, would consideration be given to asking Banks to only block these accounts if the balance on these accounts are B\$15,000 or more. This amount is in keeping with section 3 of the FTRR 2018. This will eliminate a large number of accounts that do not appear to pose a substantial money laundering or terrorism risk. • If the actual risk that The Bahamas is trying to manage is the Bahamas' exposure to international money laundering and terrorism risk, a heightened monitoring of 	<p>See response above at 3.5.</p>

	accounts opened in non Bahamian \$ should be considered. This risk based approach, based on currency, will allow the Bahamas to monitor local and international risk differently.	
Miscellaneous		
3.7	What additional consideration will be given to Abaco and Freeport NPOs in light of the current situation (Hurricane Dorian recovery/rebuilding efforts, loss of documents, etc.)?	NPOs from Abaco and Grand Bahama who do not have identification or proof of address documents may apply to the government agency that issued the documents for certified copies. Where there is no address, a letter providing details of the new address should be provided.
3.8	What is length of time it is supposed to take from the date of submission of the documents to the time the Certificate of Registration is received? Are Registration Certificates being issued within a guaranteed timeline?	Once an application meets the requirements of the NPO Act and there is no need for additional documents, a Certificate of Registration will be issued within a reasonable time frame. There is no guaranteed timeline for issuance of registration certificate.
3.9	Is the Registrar General providing an acknowledgement by email of receipt of the customer's application? If not, can they implement even just a generic acknowledgement?	An automatic receipt is generated once the application is submitted to the following email address: "We acknowledge receipt of your application for registration as a Non-Profit Organisation. A representative of the Registrar General's Department will be in contact with you within 24 hours of receipt of this email".
4.0	For customers who have submitted their documentation, but are waiting for the Registrar General to provide the Certificate, will the Registrar General provide another extension of time as the customers shouldn't be penalized because the Certificate of Registration is not in hand?	Applicants that have submitted their applications and are awaiting processing can rely on the email acknowledgement of receipt or a communication from the Compliance Unit or the Registrar General as confirmation of having applied. Financial Institutions will rely on one or both email and communication as proof of application.
4.1	Can the Bank maintain the customer's account until the customer either receives the Certificate or receives a refusal from the Registrar General since there seems to be a backlog of applications?	See response above at 4.0.
4.2	Section 7 of the NPO Act sets up the obligation of NPOs to be	See response above at 4.0.

	<p>registered. However, it is not practical for all of the NPOs to be registered and have a proof of registration before the 8th October. As a result there is a backlog at the Registrar General’s Department and it seems that this will continue for the coming weeks/months. What happens in the absence of the actual Certificate of Registration?</p> <p>Should banks be allowed to proceed with the opening and operating of NPOs accounts if the NPO provides a copy of their receipt of registration as proof that they have submitted their documentation to the Registrar General?</p>	
ONSITE VISITS/INSPECTIONS		
4.3	Will NPOs be contacted before onsite visits or will there be pop up visits?	In most cases, NPOs will be contacted by the Compliance Unit before an onsite examination. However, the Registrar General reserves the right not to notify an NPO before an onsite.
PUBLICATION OF DOCUMENTS AND NOTICES		
4.4	Will a gazetted list of registered NPOs be published in the newspapers to highlight compliance of NPOs with the NPO Act?	A list of registered NPOs can be found on the Registrar General’s website at: http://www.bahamas.gov.bs/rgd .
4.5	Can the Registrar General issue/publish a list of registered NPOs (including category as per the NPO definition in the NPO Act) by end of year (once the forbearance period has passed and considering the backlog with them has cleared) and yearly thereafter?	See response above at 4.4.