

Summary

National Risk Assessment on Terrorist Financing

Background

Dutch policy to prevent and combat terrorist financing is based on the recommendations of the Financial Action Task Force (FATF) and EU directives and regulations. The FATF – an intergovernmental body set up by the G7 in 1989 – focuses on global prevention of money laundering, terrorist financing and other related threats to the integrity of the international financial system. Members of the FATF, including the Netherlands, have committed themselves to implement the forty FATF recommendations to prevent and combat money laundering, terrorist financing and the financing of proliferation and measures to improve national legal and regulatory systems and international cooperation in this field. The recommendations also include obligations pertaining to adjust criminal law instruments in order to combat terrorist financing. The majority of the FATF's recommendations has been adopted into the fourth EU Anti-Money Laundering Directive, applicable to all EU member states. In short, Article 7 of this directive obliges EU member states to implement a risk-based policy against money laundering and terrorist financing and to establish a *National Risk Assessment (NRA)*.

The Ministry of Finance and the Ministry of Security and Justice¹³² have commissioned the Research and Documentation Centre (WODC) to carry out the first NRA. The goal of this NRA is to identify the ten most significant risks relating to terrorist financing in terms of their potential impact and to assess the 'resilience' of the policy instruments designed to prevent and combat terrorist financing. Resilience entails the functioning of policy instruments (including legislation), whereby the following is applicable: the greater the resilience, the more the risks are combatted. This initial NRA also describes a number of lessons learned that could be taken into account in the process of subsequent NRAs.

The WODC also conducted a NRA on money laundering at the same time as this NRA. For this purpose, the same research methodology was used and largely the same expert organisations were consulted.

What is terrorist financing?

Article 421 of the *Dutch Penal Code* defines terrorist financing. It states that a person has committed a criminal offence if he financially supports the perpetration of a terrorist crime or an offence involving the preparation or facilitation of a terrorist crime. The article refers to other articles in the *Dutch Penal Code* in which more detailed explanations of various types of (terrorist) crimes are given.

¹³² Since the Rutte III cabinet took office, on 26 October 2017, the Ministry of Security and Justice has been renamed Ministry of Justice and Security. Because the NRA was completed before the installation of the new cabinet, we refer to this ministry with the old name.

Terrorist financing can involve funding of terrorist activities in the Netherlands (either from the Netherlands or abroad) or funding of terrorist activities abroad from or via the Netherlands.

The financial resources used for terrorist financing may well originate from criminal activities, e.g. proceeds from drug-related crime, arms smuggling, fraud or human trafficking. Terrorism can also be funded by cash that was obtained legally, such as donations or income from legitimate businesses. Terrorists may also use their own money (e.g. wages) in order to carry out terrorist attacks.¹³³

Research methodology

The research methodology used for this initial NRA is qualitative in nature and predominantly based on experts' opinions and estimates. In short, the research methodology involves the following:

- A context analysis that depicts specific circumstances in the Netherlands that are believed to be of influence in regard to the prevalence of terrorist financing. For the purposes of this context analysis, a literature study was conducted.
- In order to identify threats relating to terrorist financing, the following activities were conducted:
 - An extensive literature study (examining six foreign NRAs, the European Supranational Risk Assessment and other relevant reports).
 - An e-mail questionnaire was sent to representatives of supervisory, investigative and law enforcement authorities in the area of terrorist financing, as well as umbrella or sector organisations of entities that are obliged to report unusual transactions. In this report, such organisations are referred to as 'expert organisations'¹³⁴.
 - Interviews were held with academics and representatives of expert organisations.
- An initial expert meeting was conducted in which representatives of expert organisations identified the terrorist financing risks which they perceive as having the most significant potential impact. They also estimated the potential impact of these risks.
- After the expert meeting, an e-mail questionnaire was sent to the participants to inquire which data reflect the prevalence of the ten identified risks. In the questionnaire, the experts were also asked if these data were available to third parties and which other – now unavailable – data exist that reflect the prevalence of the ten identified risks.
- In a second expert meeting, representatives of expert organisations assessed the resilience of the available policy instruments designed to prevent or combat the ten risks.
- In the final stage of the research, a series of validation interviews were conducted with key experts with the primary purpose of examining to what extent they recognise the identified risks and whether any significant risks have been overlooked.

¹³³ FATF (2015). *Emerging Terrorist Financing Risks*.

¹³⁴ These include a substantial number of organisations such as the Public Prosecution Service, the National Police, the Financial Intelligence Unit - the Netherlands, The Dutch Central Bank and the Dutch Authority for the Financial Markets.

What makes the Netherlands vulnerable to terrorist financing?

For the purposes of this initial NRA, a context analysis was conducted that examined circumstances in the Netherlands that are believed to be of influence in regard to the prevalence of terrorist financing. In this context analysis, earlier studies were taken into account which indicate factors that may make the Netherlands vulnerable to terrorist financing. As far as we are aware, no research has been done in recent years on the situation relating to terrorist financing in the Netherlands. However, the results of De Goede's 2007 study on terrorist financing in the Netherlands have largely been confirmed by a recent study conducted at European level. Terrorism is funded by both legal sources of income and criminal funds obtained via drug-related crime, fraud and other illicit activities. According to recent European research, examples of legally obtained financial resources that are currently used to fund terrorism include wages, loans, donations and misuse of charitable foundations. The Netherlands' open economy, internationally oriented financial sector and the scale of criminal income from fraud and drug-related crime could make it vulnerable to terrorist financing.

Risks relating to terrorist financing

The representatives of expert organisations selected the ten most significant risks in terms of potential impact from a longlist of threats related to terrorist financing. This longlist has been whittled down by experts using a two-step process resulting in the ten risks in terms of the most significant potential impact. They then estimated the potential impact of these risks over two rounds by means of a multi-criteria analysis.

Table S.1 The ten main risks relating to terrorist financing according to the experts

Risk	Potential risk level (on a scale of 0-100)
Funds from domestic/international foundations or (non-profit) organisations	66-70
Financing via licensed banks	
Misuse of state funds	56-65
Financing via licensed payment-service providers	
Financing via unlicensed payment-service providers	
Financing via underground/hawala banking	
Financing via virtual currencies	
Financing via prepaid cards, debit cards, telephone cards, etc	41-45
Loans/gifts from family members/friends	
Own funds	

The estimated potential impact of the ten most significant risks related to terrorist financing are displayed as a range (see Table S.1). A range was used as the maximum and the minimum risk levels of the risks were not substantially far apart, a number of risk levels were relatively close to one another and not all estimates by the experts were or could be entirely substantiated. Terrorist financing via funds from domestic/international foundations or (non-profit) organisations was deemed to pose the greatest threat. The experts said they expected non-profit organisations that do not have Public Benefit Organisation (ANBI) status would be more frequently involved in terrorist financing than those with this status. According to the experts, it is not certain that international organisations are more frequently involved in ter-

terrorist financing than domestic organisations or that religious organisations are more frequently involved than non-religious organisations.

During the expert meeting, the attention focused on terrorist-financing risks that the participants believe to exist *at this current moment*. During both the expert meeting and the in-depth interviews, only limited information was obtained regarding possible 'future risks'. One of the ten risks identified during the expert meetings – terrorist financing via virtual currencies – is 'future-oriented' in nature. As the experts have as yet barely encountered this risk in their everyday professional practice, the substantiation of this risk leaves something to be desired. Virtual currencies were identified as a possible future risk mainly because of the attention generated by its sharp increase in value and the (as yet) limited resilience of the instruments to mitigate the risks.

Resilience of policy instruments

The available policy instruments targeting the prevention and/or combat of terrorist financing include the relevant instruments stemming from local, national and international legislation, sector-oriented regulations, and regulations within organisations. The intention of this NRA was not to create a complete list of these policy instruments: the research focused on the policy instruments mentioned by the representatives of the expert organisations during the second expert meeting.

With regard to national legislation, the *Money Laundering and Terrorist Financing Prevention Act* is an important instrument in preventing terrorist financing. The act imposes a number of obligations on financial institutions and designated non-financial businesses and professions (the DNFBPs) such as obligations to undertake customer due diligence measures (obligatory identification of the customer and the ultimate beneficial owner) that need to be enhanced if there are higher risks of terrorist financing, and to report unusual transactions of customers to the Financial Intelligence Unit – the Netherlands. Other national laws and regulations that play a role in the prevention of and/or fight against terrorist financing include the *Sanctions Act 1977*, the *Act on financial supervision* (which governs supervision of the financial sector in the Netherlands), the *Dutch Penal Code*, *Dutch tax law* and *social legislation*.

There is also specific European legislation designed to prevent and combat terrorist financing. Primarily, there is the fourth *EU Anti-Money Laundering Directive*, which is currently being implemented into national law. There is also the *EC Regulation on controls of cash entering or leaving the Community*, which obliges all natural persons who enter or leave the EU in possession of EUR 10,000 or more in cash to report this to the authorities. Furthermore, the revised *Wire Transfer Regulation* obliges all payment-service providers and intermediary payment-service providers to record information not only about the sender, but also the recipient.

The sector also has a number of self-regulatory measures to prevent and combat terrorist financing, such as the general banking terms and conditions that describe the rules of conduct between banks and their customers. Furthermore, banks affiliated with the Dutch Banking Association and the Dutch Finance Houses' Association can record the names of clients who committed money laundering in their collective fraud-prevention system (the *External Referral Application*).

The experts who were consulted during this study indicated that in principle, they are positive about the instruments at their disposal. According to them no important elements are missing. However, this does not mean that they believe the available policy instruments can entirely eliminate the risks relating to terrorist financing. During a second expert meeting, the experts were invited to consider to what degree the risks would be eliminated by the application of the policy instruments. They estimated that the instruments would reduce the terrorist financing risks identified in this NRA on average by around one-sixth (see Table S.2).

Table S.2 Average resilience of the entire range of policy instruments per risk

	Type of risk	Estimated resilience (on a scale of 0-100%)
Financing via licensed banks	Financing channel	31-40%
Financing via licensed payment-service providers	Financing channel	
Misuse of state funds	Financing source	21-30%
Funds from domestic/international foundations or (non-profit) organisations	Financing source	
Loans/gifts from family members/friends	Financing source	11-20%
Own funds	Financing source	10% or less
Financing via prepaid cards, debit cards, telephone cards, etc.	Financing method	
Financing via unlicensed payment-service providers	Financing channel	
Financing via underground/hawala banking	Financing channel	
Financing via virtual currencies	Financing method	
Average		17%

The resilience of the policy instruments is relatively highest for the risk of 'financing via licensed banks' and 'financing via licensed payment-service providers' since these sectors are regulated, and (prohibited) anonymous transactions, according to experts, are addressed effectively in the Netherlands. The policy instruments were found to be least resilient to financing channels and methods that are unregulated and can be used relatively anonymously. The resilience is also relatively low for terrorist financing via personal financial means, such as savings, loans or gifts from family or friends.

In conclusion

The initial NRA gave insight in the ten risks that experts believe to have the most significant potential impact and in the resilience of the policy instruments available for the prevention and/or combat of terrorist financing. As mentioned earlier, the research methodology used for this initial NRA is qualitative in nature and is predominantly based on experts' opinions and estimates. During subsequent NRAs, efforts could be made to ensure the research methodology is more data-oriented, as this will reduce dependency on possibly subjective expert opinions and mitigate the risks involved in this. Quantitative data could be incorporated into expert meetings as much as possible in order to help 'synchronise' the experts' frames of reference. Also, the longlist of threats should – to the greatest extent possible – be based on available data that indicate the prevalence and potential impact of these threats. Finally, greater substantiation could be given for the identification of the ten risks, preferably backed up with data.

During the expert meetings for this first NRA, there was not sufficient time to substantiate all expert opinions or to elaborate case studies. As a result, certain parts of this NRA are more general in nature. In the next NRA, attention could be paid to deepen the insight in the risks relating to terrorist financing and the resilience of the policy instruments.