

CLAN Overseas Transactions and Transfers Policy

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1. Purpose

The purpose of this policy is to ensure proper financial management in relation to overseas transactions and transfers. This policy seeks to prevent CLAN's participation in illegal and negligent activities resulting from financial mismanagement. In supporting associated charities and NGOs overseas, CLAN must be aware of all risks, costs and consequences associated with overseas transactions and transfers. This policy seeks to protect CLAN's financial position, ensure CLAN meets its procedural and reporting requirements, ensure individuals involved in conducting overseas transactions and transfers are aware of and understand their obligations and to further protect the organisations at the receiving end of the transactions and transfers.

2. Definitions

Money laundering	The concealment of the origins of illegally obtained money, typically by means of transfers involving foreign banks or legitimate businesses.
Terrorism financing	The provision of funds or providing financial support to individual terrorists or non-state actors.
Terrorist organisation	An organisation that is directly or indirectly engaged in preparing, planning, assisting or fostering the doing of a terrorist act.

3. Legislation

ss 45 and 46 [Anti-Money Laundering and Counter-Terrorism Financing Act 2006](#) (Cth)

Chapter 16 (items 1 and 2 in s 46) [Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 \(No. 1\)](#) (Cth) – for reportable details for international funds transfer instructions

Chapter 17 (items 3 and 4 in s 46) [Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 \(No. 1\)](#) (Cth) – for reportable details for international funds transfer instructions under a designated remittance arrangement

Australian Charities and Not-for-profits Commission Act 2012 (Cth)

4. Responsibilities

Comprehensive and effective guidelines for overseas transactions and transfers is vital. CLAN must, to the best of its ability, ensure any and all overseas transactions and transfers are transferred for a legitimate purpose, are receipted by a legitimate organisation not involved in money-laundering or terrorist activities and ensure the best financial outcome is achieved for both the sending and receiving parties. CLAN must furthermore comply with all legal obligations, namely reporting requirements, and strive to maintain a transparent and efficient process.

4.1 Compliance with the External Conduct Standards

Charities that operate outside Australia are required to comply with the Australian Charities and Not-for-profits Commission's (**ACNC's**) External Conduct Standards (**ECS**). A charity does not have to be conducting major programs or projects to be considered operating outside of Australia.

There are four ECSs:

1. Activities and control of resources (including funds);
2. Annual review of overseas activities and record-keeping;
3. Anti-fraud and anti-corruption; and
4. Protection of vulnerable individuals.

4.1.1 Activities and control of resources

This ECS requires a charity to:

- take reasonable steps to ensure its activities outside Australia are consistent with its purpose and character as a not-for-profit;
- maintain reasonable internal control procedures to ensure that funds, equipment, supplies and other resources are used outside Australia in a way that is consistent with the charity's not-for-profit purpose and character; and
- take reasonable steps to ensure that funds, equipment, supplies and other resources provided to third parties outside Australia (or within Australia for use outside Australia) are applied:
 - in accordance with the charity's not-for-profit purpose and character, and
 - with reasonable controls and risk management processes in place.

Furthermore, this ECS requires charities to comply with Australian laws in the following areas while operating overseas:

- money laundering
- financing of terrorism
- sexual offences against children
- slavery and slavery-like conditions
- trafficking in individuals and debt bondage
- people smuggling
- international sanctions
- taxation, and
- bribery.

CLAN is required to maintain reasonable internal control procedures to ensure compliance with these laws.

4.1.2 Annual review of overseas activities and record-keeping

This ECS requires a charity to obtain and keep records for its operations outside Australia. These records must include information necessary for a charity to be able to prepare a summary for its activities and related expenditure outside Australia on a country-by-country basis.

The records must be kept for each financial year in which a charity:

- operates outside of Australia; or
- gives funds or other resources to third parties for use outside Australia.

4.1.3 Anti-fraud and anti-corruption

This ECS requires a charity to take reasonable steps to:

- minimise any risk of corruption, fraud, bribery or other financial impropriety by its Responsible Persons, employees, volunteers and third parties outside Australia; and
- identify and document any perceived or actual material conflicts of interest for its employees, volunteers, third parties and Responsible Persons outside Australia.

4.1.4 Protection of vulnerable individuals

This ECS requires charities to take reasonable steps to ensure the safety of vulnerable individuals overseas. ECS 4 applies where individuals are:

- being provided with services or accessing benefits under programs provided by the charity (whether directly or through collaboration with a third party); or
- engaged by the charity, or a third party in collaboration with the charity, to provide services or benefits on behalf of the charity or third party.

“Vulnerable individuals” are defined as people under the age of 18, or those who may be either unable to take care of themselves – due to their age, an illness, trauma, disability, or some other disadvantage – or unable to protect themselves against harm or exploitation.

4.2 Compliance with the Australian Council for International Development Code of Conduct

Members of the Australian Council for International Development Code of Conduct (ACFID) must comply with the ACFID Code of Conduct. As CLAN is such a member, it must comply with these standards.

The ACFID Code of Conduct is informed by the following principles:

- proportionality – recognising the diversity of ACFID's members and their approach to development;
- certainty – complementing other regulatory regimes and providing consistency and transparency in implementation;
- flexibility – recognising diverse and innovative approaches to implanting Code principles and obligations
- responsiveness – changing in response to emerging good practice and changes in the sector
- transparency and accountability – working in collaboration to develop and change the Code and ensuring governing groups are accountable to ACFID's members
- capable regulators – ensuring effective people and systems to operate an effective and efficient regulatory regime; and
- continuous improvement – improving processes in response to clear evidence and lessons learned and encouraging innovation.

5. Procedures

5.1 Sending Foreign Money

Before sending money in a foreign currency, it is important to undertake the procedures and analyses stipulated in the Foreign Exchange Policy, particularly with regards to selecting a provider for the transfer or transaction.

6. Risk Management

Overseas transactions and transfers will always present some level of risk, particularly as the not-for-profit sector has been identified as vulnerable to the risk of misuse for the purpose of terrorism financing. To mitigate these risks, CLAN must, in addition to exercising due diligence and good governance:

- ensure the organisation on the receiving end of the transaction or transfer is not connected to illicit activity; and
- verify details using trusted contact details.

The ACNC recommends that for charities sending money overseas, the charity must take reasonable steps to ensure that:

- their activities outside Australia are carried out in a way that is consistent with their purpose and character as a charity; and
- the resources (including funds) given to third parties outside Australia are applied in accordance with their purpose and character as a charity and with proper controls and risk management processes in place.

In circumstances where Risk Management is required, the following generic process should be followed (Commonwealth Foreign Exchange Risk Management Procedures, 2000):

1. Establish the context
2. Identify the risks
3. Analyse, assess and prioritise the risks
4. Treat the risks

Further risk management strategies in relation to the transfer of money can be found in the Foreign Exchange Policy.

7. Reporting

7.1 ACNC Reporting Obligations

Under the *Australian Charities and Not-for-profits Act 2012* (Cth), CLAN is obligated to report in its Annual Information Statement basic financial details, relevantly the total funds spent on grants and donations made for use in and outside Australia. As CLAN is a small charity for the purposes of charity legislation, an annual financial report containing further detail on any grants or donations is not required to be submitted to the ACNC.

8. Training Requirements

Individuals involved in overseas transactions and transfers for CLAN must be aware of all risk management activities, the standards, codes and legislation that must be complied with and the reporting requirements to all relevant agencies.

9. Associated Policies

Foreign Exchange Policy
Procurement Policy
Financial Impropriety Risk Management Policy
Financial Management Policy
Project Design, Monitoring and Evaluation Policy
Staff Training and Development Policy
Risk Management Policy

10. Sources

Australian Transaction Reports and Analysis Centre, 2021 –
ACNC – <https://www.acnc.gov.au/tools/factsheets/overseas-aid-and-development-charities>

Australian Competition and Consumer Commission – <https://www.accc.gov.au/consumers/health-home-travel/buying-sending-foreign-money>

Australian Council for International Development – <https://acfid.asn.au/content/about-code>