



Non-Governmental Organizations and Financial Crimes

**Terrorist Financing
Money Laundering,
Tax Evasion**

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Objectives



To give an overview
of money
laundering and
Terrorism Financing
risks to NGOs



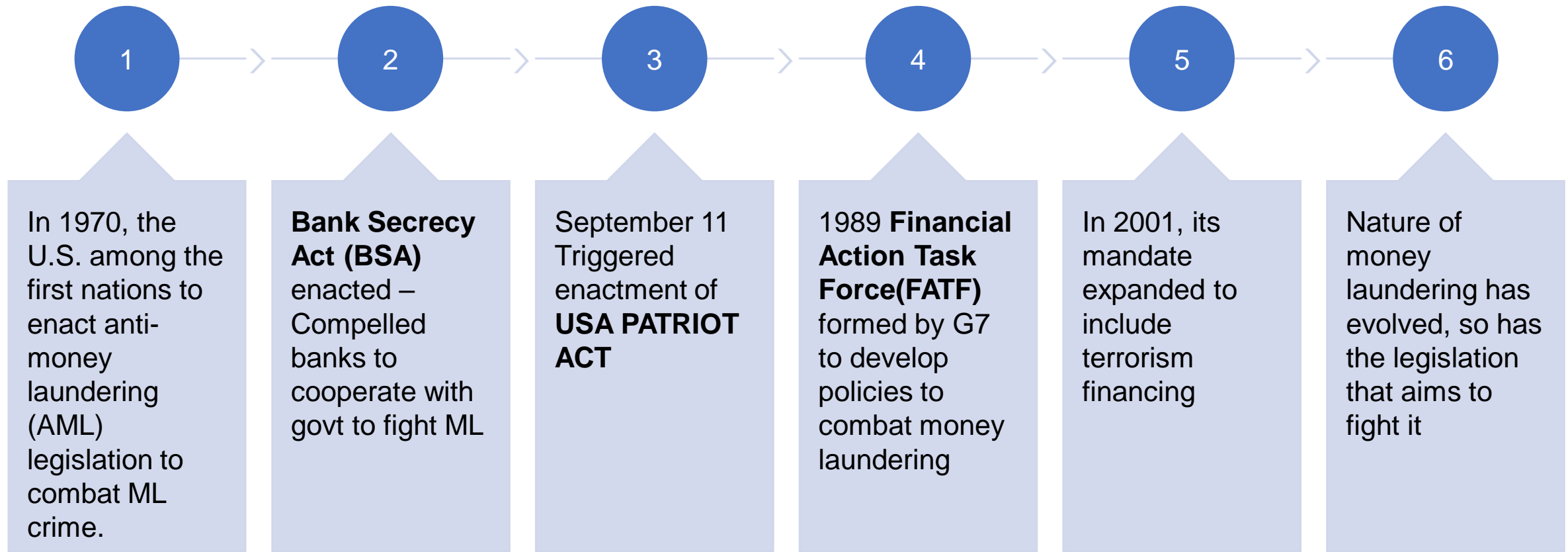
To explain Kenya's
Anti-Money
Laundering Legal /
Regulatory
Framework



To discuss how
NGOs develop
programs to help
them comply with
AML Legislations

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History of AML / CFT

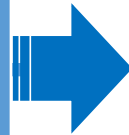


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What is Money Laundering and Terrorism Financing?



Definition: Money Laundering



The process of concealing the proceeds of crime to conceal their illicit origins and legitimize their future use. *World Bank*. Estimated at some \$590 billion to \$1.5 trillion (U.S.) worldwide each year.

Techniques:



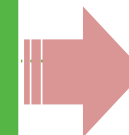
They can be simple, diverse, complex, but secret

Objective:



To conceal true ownership and origin of the proceeds, a desire to maintain control, a need to change the form of the proceeds

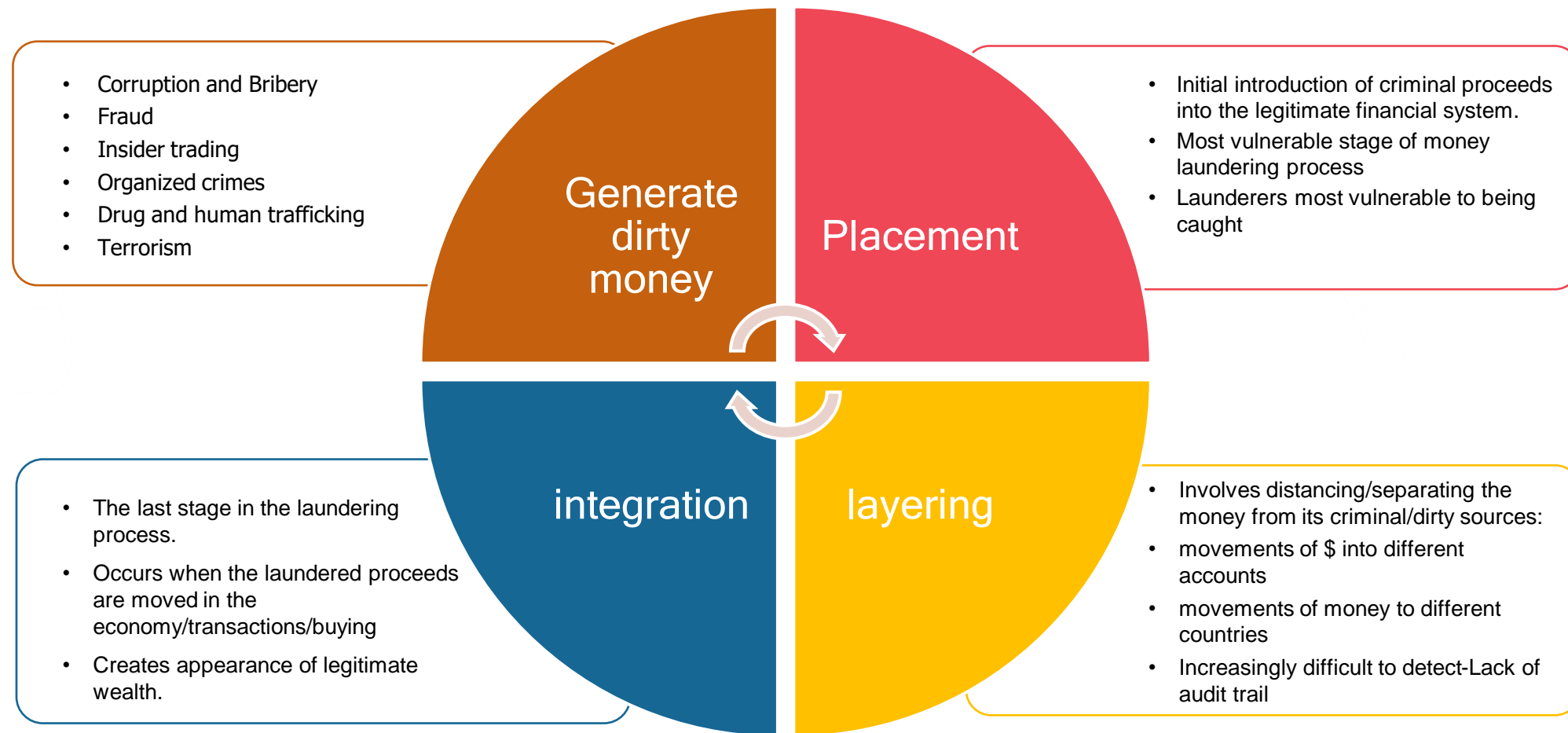
Terrorism Financing:



The financing of terrorism involves providing finance or financial support to individual terrorists or non-state actors.

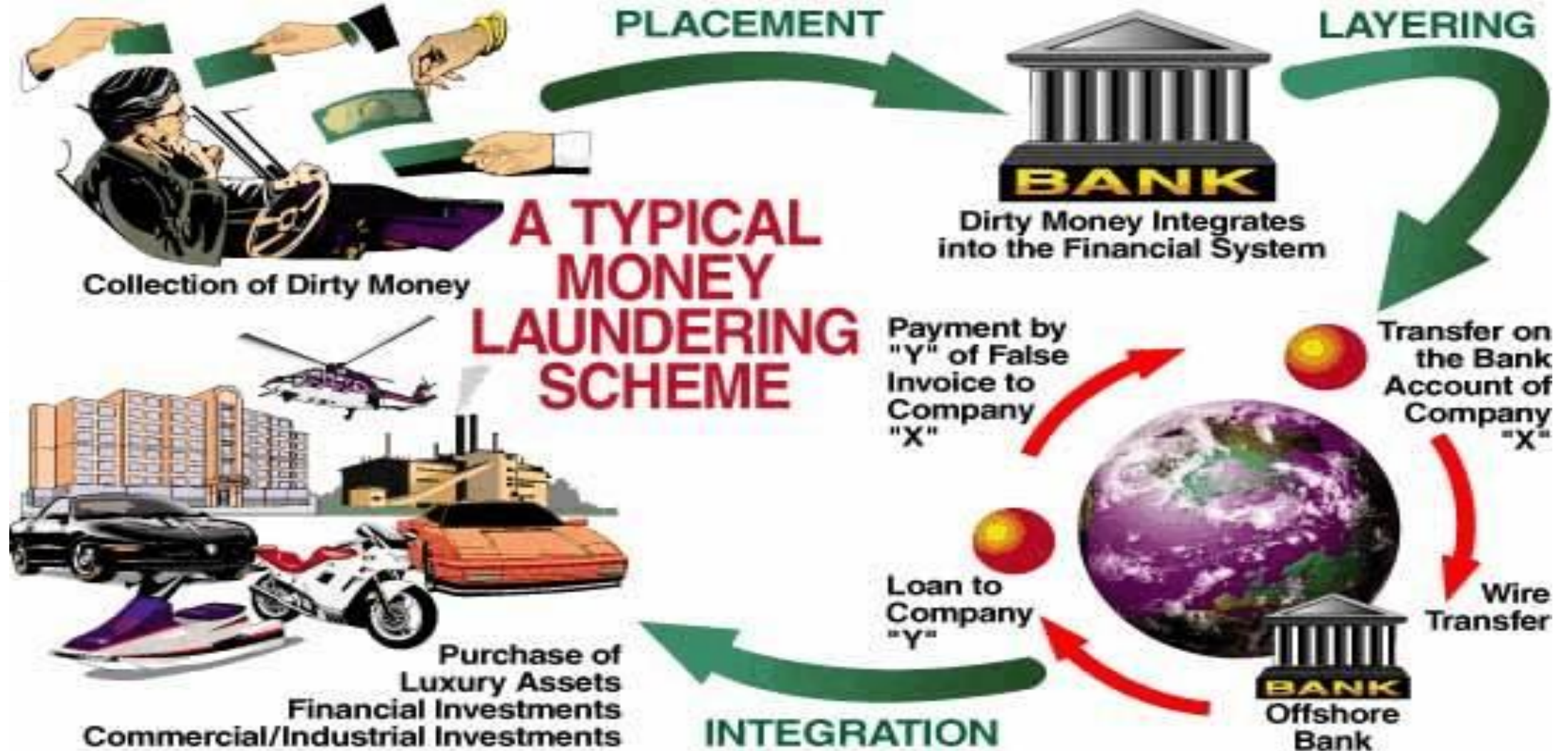
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Money Laundering cycle



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Money Laundering cycle



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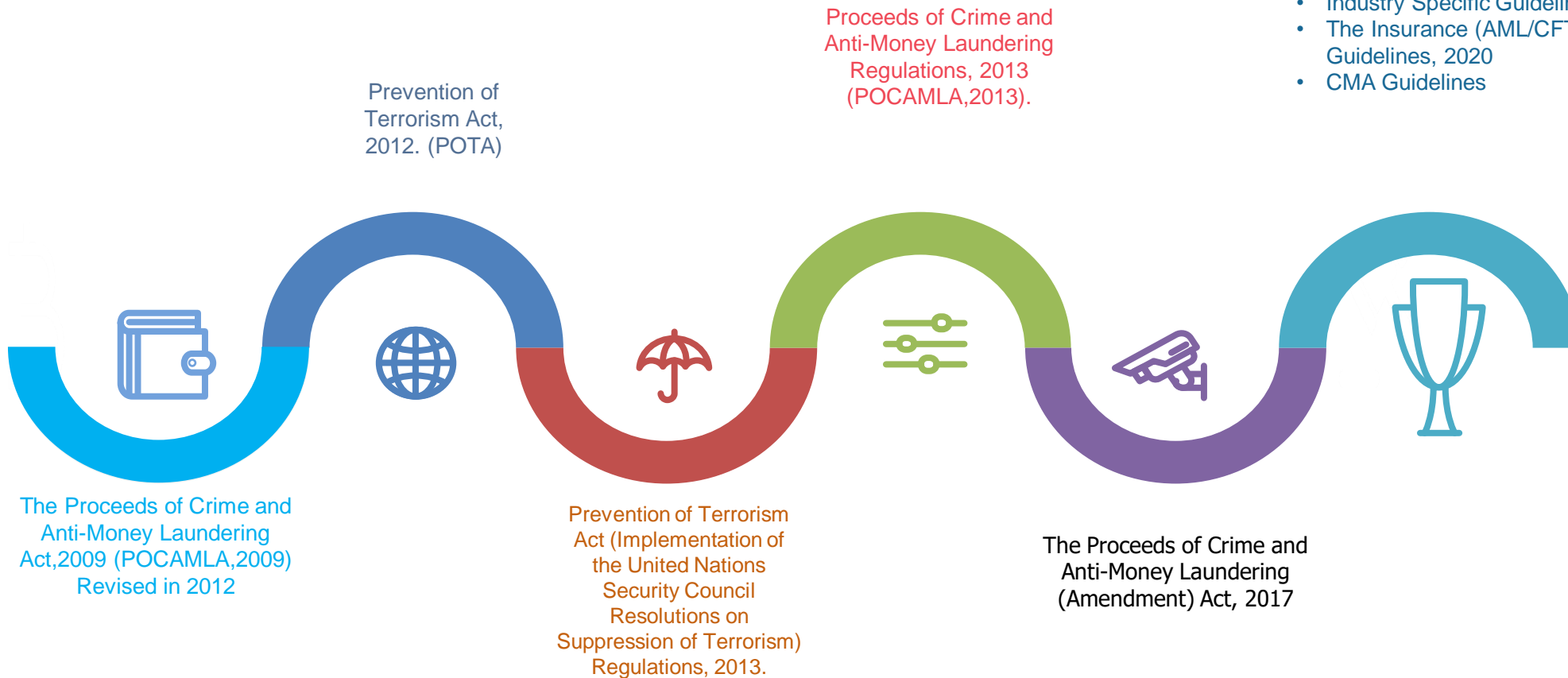
Kenya's and Global AML/CFT
Regulatory Compliance

Framework

Kenya Anti-money Laundering Regulatory Framework -Acts



- Industry Specific Guidelines
- The Insurance (AML/CFT) Guidelines, 2020
- CMA Guidelines



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Reporting institutions under the POCAMLA



Broad categories

Financial Institutions

Central Bank of Kenya

- Commercial Banks and Mortgage Finance Institutions
- Microfinance Institutions
- Foreign Exchange Bureaus
- Money Remittance Service Providers

Capital Markets Authority

- Approved Institutions
- Stockbrokers
- Investment Banks
- Fund Managers
- Investment Advisors

Insurance Regulatory Authority

- Insurance Brokers
- Insurance Providers
- Insurance Agents

Retirement Benefits Authority

Administrators
Fund Managers
Custodians

Designated Non-Financial Businesses and Professions (DNFBPs)

Betting Control and Licensing Board

- Casinos (including Internet Casinos)

NGO Coordination Board

- Non-Governmental Organizations

Estate Agents Registration Board

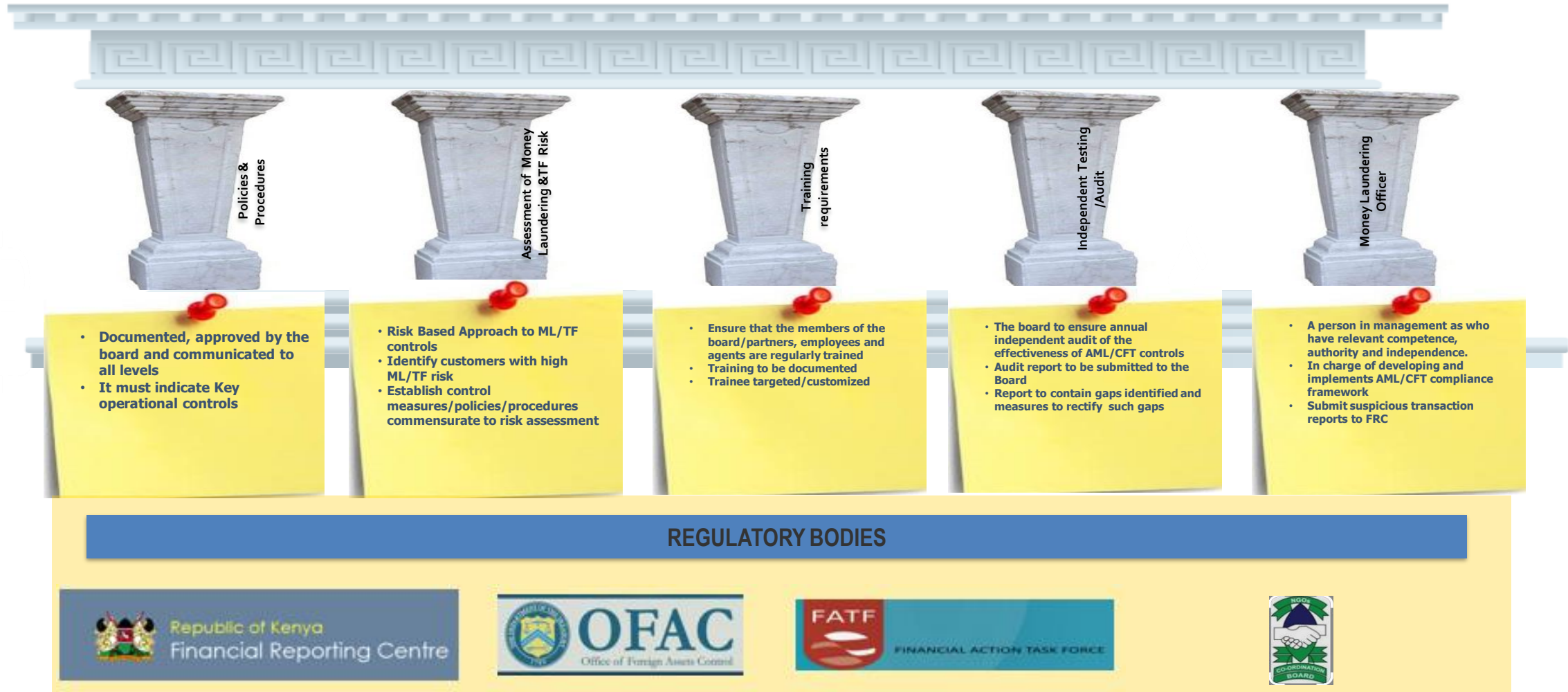
- Estate Agents

ICPAK

- Accountants (sole practitioners or partners in professional firms)

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Mandatory Regulatory Compliance Framework

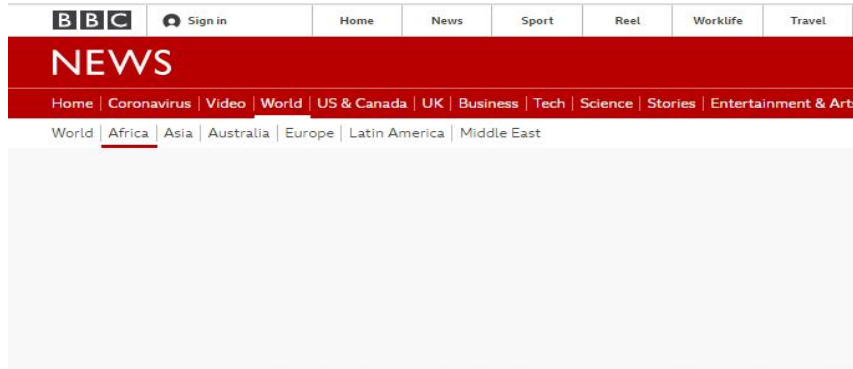


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An abstract geometric composition featuring a dark blue cube with a blue sphere resting on its top surface. The background is a gradient of blue, and the text is in a bold, yellow font.

Vulnerabilities of NGOs to ML / TF

Sample cases



Kenya 'deregisters' NGOs in anti-terror clampdown

© 16 December 2014



Kenya has tightened security following deadly attacks by militants

<https://www.bbc.com/news/world-africa-30494259>

Charities directorate flags suspected terrorist financing cases for senators



Six groups had charitable status stripped over concerns about terrorist financing

[Jim Bronskill](#) · The Canadian Press · Posted: Apr 12, 2016 10:58 AM ET | Last Updated: April 12, 2016



<https://www.cbc.ca/news/politics/charities-revenue-agency-terrorist-1.3531632>

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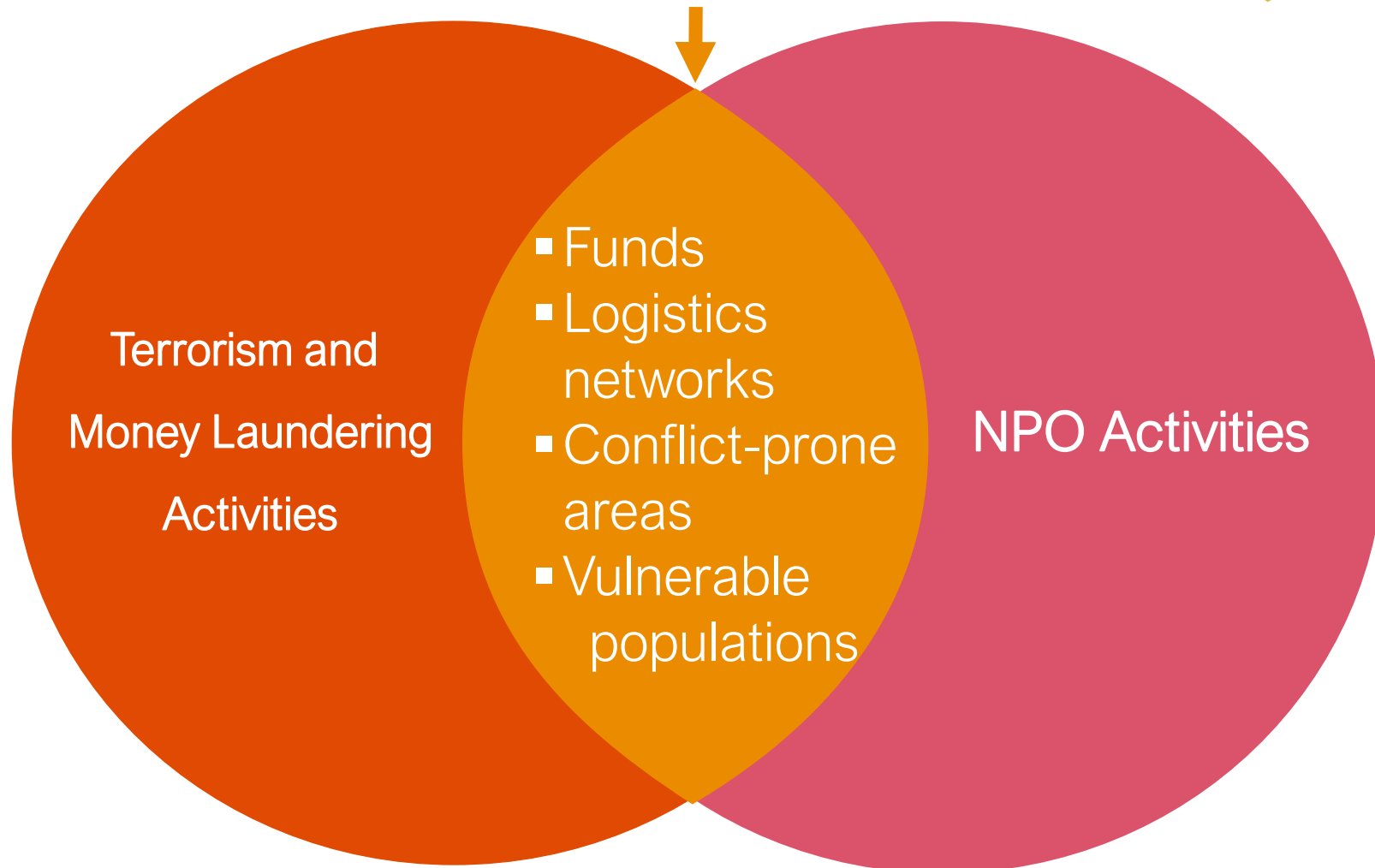
Sample cases:

1998 Nairobi and Dar es Salaam Terror Attacks



- Terrorists operated under the cover of Kenya based NGOs such as “Help Africa People” and others
- Key masterminds of the attacks were Directors, employees or were involved in the charity activities that the NGOs were undertaking e.g. Fazul Abdullah Mohammed and Wadih El-Hage.
- NGOs provided the terrorists with employment identity cards to conceal their real activities.
- Some of the NGOs facilitated or were abused by the terrorists to smuggle weapons, false documents and passports etc

The Convergence of Interests



Vulnerabilities of NGOs to Money Laundering and Terrorism Financing



Diversion of Funds by Internal or External actors to NGOs

Foreign partners, were responsible for the diversion

Affiliation with a Terrorist Entity

NGO knowingly or unknowingly abused for multiple purposes, including general logistical support to the terrorist entity

Abuse of Programming

Flow of resources was legitimate, but NGO programs were abused at the point of delivery.

Support for Recruitment

False representation

Terrorist entities started 'sham' NGOs or falsely represented themselves as the agents of 'good works' in order to deceive donors into providing support.



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Risk Indicators



Use of cash couriers to transfer NGO funds into areas with known terrorist activity.

NGO transactions are structured to avoid transaction reporting. Requests to transfer NPO funds are accompanied by vague justifications.

NGO uses a shell organization as a funding conduit.

NGO representatives fail to declare large currency amounts at international borders.

NGO funds are transferred to other entities believed to be engaged in, or supporting, terrorist activities.

NGO receives funds from entities believed to support terrorist activities.

NGO funds are comingled with personal or private business funds.

Bank accounts related to some programs or activities are concealed.

NGO funds are transferred to entities not associated with declared programs or activities.



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Tax Evasion by NPOs

**How NPOs are used to
evade tax**



Tax Evasion and Tax Fraud



- **Tax evasion and tax fraud** through the abuse of charities is a serious and increasing risk in many countries
- Some countries estimate that the abuse of charities costs their treasury many hundreds of millions of dollars
- Tax evasion is **using illegal means to avoid paying taxes.**
- Typically, tax evasion schemes involve an individual or corporation misrepresenting their income to the tax authorities
- Tax fraud involves **tax evasion** which is a deliberate attempt to illegally obtain a tax benefit.



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Tax Evasion and Tax Fraud



- Tax authorities (KRA) have the statutory responsibility for ensuring compliance with the eligibility requirements for the tax relief provided to taxpayers for donations, or tax benefits that accrue to certain organizations within the NPO sector
- The tax authority role is to ensure that the tax relief and tax benefits are appropriately claimed.
- KRA ensures benefits provided are not abused and that obligations associated with these tax benefits or tax relief, such as registration, reporting of activities, the provision of statements of assets and liabilities, or other administrative requirements, are complied with.



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Common methods and schemes used to commit tax evasion and money laundering involving the abuse of charities



- It is evident that the abuse of charities for tax evasion and money-laundering purposes is organised in many cases by both individuals and unscrupulous tax return preparers.
- Once the tax crime is perpetrated, money-laundering techniques are used to hide the proceeds of the tax crime



Common methods and schemes used to commit tax evasion and money laundering involving the abuse of charities



- a) An organization poses as a registered charitable organization to perpetrate a tax fraud;
- b) A registered charity wilfully participates in a tax evasion scheme for the personal benefit of its organisers or directors;
- c) A registered charity is involved wilfully in a tax evasion scheme to benefit the organization and the donors, without the assistance of an intermediary;
- d) A registered charity is involved wilfully in a tax evasion scheme to benefit the organization and donors with the assistance of an intermediary;
- e) A charity is abused unknowingly by a taxpayer or a third party, such as unscrupulous tax return preparer who prepared and presented false charitable receipts;
- f) Tax sheltered donations as part of a tax evasion scheme;
- g) Salaried employees concealed as volunteer workers;

Common methods and schemes used to commit tax evasion and money laundering involving the abuse of charities



- h) An organization registered as exempted from the VAT that is performing taxed activities;
- i) The issuance of receipts for payments that are not true donations;
- j) The issuance of receipts to individuals working for the beneficiary organization;
- k) Criminals use names of legitimate organizations to collect money;
- l) Terrorism financing scheme using charities to raise or transfer funds to support terrorist organizations;
- m) Misuse of charity funds by charities; and
- n) Manipulation of the values of donated assets.