

The Adaptation Fund

AFB/B.4/6
December 02, 2008

Adaptation Fund Board
Fourth Meeting
Bonn, December 15-17, 2008

Agenda Item 6

OPERATIONALIZATION OF ACCESS TO THE ADAPTATION FUND

BACKGROUND

1. At its Third meeting held in September 2008, the Adaptation Fund Board discussed Document AFB/B.3/6/Rev.1 on legal issues pertaining to the operationalization of the Adaptation Fund. After a discussion of the various issues, particularly the issue of direct access by Parties to the resources of the Fund, the Board agreed, in principle, that endowing the Fund with legal status of some kind deserved further consideration and decided to commission a feasibility study in that regard (Decision D/AFB/B.3/3).

2. The Board recognized that the above approach was likely to take considerable time. In the meantime, the Board considered an alternative approach which would provide fiduciary risk management oversight through a legal entity established and/or existing at the national level to enable direct access to resources by Parties. For that purpose, the Board decided to develop criteria and guidelines for the accreditation by the Board of such legal entities that would enable similar international fiduciary standards to be applied to the execution of adaptation programmes and projects approved by the Board. The Fourth Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol was requested to take note of the approach presented above (Decision D/AFB/B.3/4).

3. This document suggests for discussion by the Board: (i) elements of a feasibility study to assess the proposal to endow the Adaptation Fund with legal status; and (ii) criteria and guidelines for accreditation by the Board of implementing entities.

ACCESS TO THE RESOURCES OF THE ADAPTATION FUND

4. Parties, represented by legal entities of their choice,¹ shall submit requests directly to the Board for funding for concrete adaptation projects/programmes. These legal entities will either be “*implementing entities*” or “*executing entities*.”

5. Implementing entities are those legal entities recognized *ex-ante* by the Board as meeting minimum international fiduciary and other standards established by the Board and assessed by an independent review body.²

6. Executing entities are entities that are not *ex-ante* recognized by the Board, and therefore, either will be subject to performance management and supervisory systems and standards established by the Board,³ or may choose to work through implementing entities and will be subject to due diligence procedures of the implementing entities.

¹ Legal entities can be in-country, national, regional or multilateral institutions.

² See proposed standards in Annex 2.

³ For example, at the Global Fund to Fight AIDS, Malaria and Tuberculosis, Local Fund Agents, located in countries or in the region, selected through a competitive bidding process, provide to the Fund a range of independent program performance and supervisory services to monitor grant recipients. These include: (i) upstream review to assess the potential grant recipient’s capacity to implement the grant; (ii) site visits to monitor

7. In the proposed Adaptation Fund project cycle, project proponents can propose projects following three modalities:

- a) If the project proponent is a legal entity and accredited *ex-ante* by the Board as an “implementing entity”⁴ of the Fund, it may submit proposals directly to the Fund through the Adaptation Fund Secretariat; or
- b) If the project proponent is a legal entity but not accredited *ex-ante* by the Board, it may take on the role of executing entity and submit proposals directly to the Fund through the Adaptation Fund Secretariat, and be subject to the performance management and supervisory system established by the Fund for executing entities;
- c) Whether a project proponent is a legal entity or not, it may choose to work with an accredited implementing entity and be subject to due-diligence procedures of the implementing entity and submit proposals to the Fund through the implementing entity.

ELEMENTS OF A FEASIBILITY STUDY TO ENDOW THE ADAPTATION FUND WITH LEGAL STATUS

8. For the purpose of subjecting executing entities to the performance management and supervisory system established by the Fund for executing entities, it is necessary to identify an entity that can assume legal and contractual responsibility for fiduciary oversight of AF operations. Reviewing each of the AF-related entities (the AF, the AF Board, the AF Secretariat and the AF Trustee), capacity to contract currently resides only in the AF Trustee (the World Bank) and the individuals serving on the AF Board.
9. At its third meeting, the AF Board decided that “endowing the [Adaptation] Fund with legal status of some kind” to allow the Fund to assume the legal and contractual responsibility for fiduciary oversight of AF operations “deserved further consideration and decided to commission a feasibility study in that regard” (see Decision D/AFB/B.3/3).
10. Annex 1 of this document sets forth possible terms of reference for such a feasibility study.

implementation performance and verify results; (iii) inputs for decisions regarding continuation of grant; (iv) review at grant closure; and (v) ad-hoc assignments, including investigations related to suspected misuse of funds.

⁴ Implementing entities accredited by the Adaptation Fund Board are those entities that are assessed by the Board as meeting the minimum fiduciary standards established by the Board. They could be (i) entities invited by the Board to submit their qualifications, including demonstration of capacity to meet minimum fiduciary standards, for assessment and accreditation by the Board; or (ii) entities, nominated by Parties, to submit their qualifications, including demonstration of capacity to meet minimum fiduciary standards, for assessment and accreditation by the Board.

CRITERIA AND GUIDELINES FOR ACCREDITATION OF IMPLEMENTING ENTITIES

11. For the purpose of identifying implementing entities, the Board will invite entities to submit their qualifications for functioning as implementing entities of the Fund to an impartial reviewing body selected by the Board for this purpose. The impartial reviewing body will assess whether such entities adhere to the international fiduciary and other standards established by the Board. The Board shall, from time to time, through the impartial reviewing body, review again the performance and qualifications of implementing entities.⁵

12. Only an entity that is determined by the impartial reviewing body as able to meet the standards of qualification for implementing entities as established by the Board, may be designated by the Board as implementing entities with direct accountability to the Board.

13. In addition to the international fiduciary standards, other standards the Board will ask the reviewing body to consider when assessing the qualifications of potential implementing entities will include, but not limited to:

- (a) Dedicated staff with knowledge and expertise in climate change adaptation;
- (b) Operational procedures for project/programme design and implementation, including procedures for result-based management that adhere to the principles of transparency, competitiveness and accountability, as well as for result-based reporting, M&E and financial auditing; and
- (c) Capacity to operate and deliver a project/programme in close partnership and cooperation with national stakeholders (governmental and non-governmental organizations).

Minimum Fiduciary Standards

14. Whether the project is submitted directly by a Party or through an executing or an implementing entity, minimum fiduciary standards must be met to allow a project to be financed under the Fund. Implementing entities are directly accountable to the Board in meeting such standards, while executing entities are held accountable either through the performance management and supervisory system or through an implementing entity.

15. The Board may wish to develop minimum fiduciary standards with the following core principles:

- a) Professional standards. Fiduciary management functions (for all categories) are undertaken in accordance with published guidelines and/or standards based, where available, on internationally recognized professional standards;

⁵ See AFB/B.2/12 “Roles and Responsibilities of Implementing and Executing Entities”

- b) Independence. Fiduciary review functions are appropriately independent and objective in the execution of their respective duties;
- c) Transparency. To ensure both accountability and remedial action, the results of reviews are disclosed to the fullest extent possible, taking into account confidentiality and other concerns as appropriate;
- d) Monitoring and response. Procedures are in place that establish periodic monitoring and ensure that issues raised in reviews are dealt with effectively.
- e) Value-for-money provisions. Procedures focus, as appropriate, on ensuring that the maximum benefit, for the resources expended, has been obtained from goods and services acquired or provided.

16. In addition, minimum fiduciary standards comprise overarching auditing, financial management and controls areas, including external financial audit, financial management and control frameworks, financial disclosure, code of ethics, and internal audit.

17. With respect to the project cycle, standards include project appraisal standards, including safeguards, procurement processes, project monitoring and project-at-risk systems, and evaluation. There is also an investigation function, including hotline and whistleblower protection.

18. Annex 2 contains Minimum International Fiduciary Standards that were prescribed by the Trustee for the GEF Agencies and are considered to reflect international best practice.

ELEMENTS OF TERMS OF REFERENCE FOR AN EVALUATION OF THE PROS AND CONS AND STEPS FOR ESTABLISHING AN INDEPENDENT LEGAL STATUS FOR THE ADAPTATION FUND

BACKGROUND

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) adopted an innovative approach to financing when it decided that eligible Parties, as well as implementing or executing entities chosen by the governments of the eligible Parties, may submit project proposals directly to the Adaptation Fund (AF) Board (see Decision 1/CMP.3, paragraph 29). To access funding from the AF, however, the eligible Parties and the implementing or executing entities need to meet the criteria adopted by the AF Board “based on principles and modalities listed in decision 5/CMP.2 to ensure that the implementing and executing entities have the capacity to implement the administrative and financial management guidelines of the Adaptation Fund” (see Decision 1/CMP.3, paragraphs 5(c) and 30).

These principles and modalities include accountability in management, operation and use of the funds, competency in adaptation and financial management, sound financial management, including the use of international fiduciary standards, clearly defined responsibilities for quality assurance, management and implementation and independent monitoring, evaluation and financial audits (see Decision 5/CMP.2, paragraphs 1 and 2).

A challenge arises when looking for an entity that can assume legal and contractual responsibility for fiduciary oversight of AF operations. Reviewing each of the AF-related entities (the AF, the AF Board, the AF Secretariat and the AF Trustee), capacity to contract currently resides only in the AF Trustee (the World Bank) and the individuals serving on the AF Board.

The AF Board decided at its second meeting (see Decision AFB/B.2/6) to request the Secretariat of the AF, the Secretariat of the United Nations Framework Convention on Climate Change (the UNFCCC Secretariat) and the International Bank for Reconstruction and Development (the World Bank), as the invited Trustee (the AF Trustee) to work with the Chair in consultation with the Vice-Chair and prepare, for consideration by the AF Board at its Third meeting, a background document laying out the advantages and disadvantages of the AF being given legal personality.

Having considered the background document and discussed the issue at length, the options as understood by the AF Board to overcome the legal and risk management challenges to operationalizing direct access were either to:

- 1) assume legal and contractual responsibility for fiduciary oversight of AF operations, thereby assuming individual liability for their project and program activities;
- 2) work through the World Bank, which would utilize acceptable implementing entities to assume legal and contractual responsibility for fiduciary oversight of AF operations; or
- 3) endow the Adaptation Fund with legal status sufficient to allow the Fund to assume legal and contractual responsibility for fiduciary oversight of AF operations and then to set up a system for fiduciary oversight of AF programmes and projects funded directly to Parties or executing entities. The only existing model for this kind of a system is the one used by the Global Fund to fight AIDS, Tuberculosis and Malaria.

Given those options, the Board decided that “endowing the [Adaptation] Fund with legal status of some kind deserved further consideration and decided to commission a feasibility study in that regard” (see Decision D/AFB/B.3/3).

This document sets forth possible terms of reference for such a feasibility study.

OBJECTIVES

The objectives of this study are: (i) to evaluate whether it is necessary to establish an independent legal status for the Adaptation Fund in order to facilitate direct access to Adaptation Fund resources; (ii) to articulate the pros and cons of establishing an independent legal status for the Adaptation Fund as a necessary component of a direct access mechanism; and (iii) to identify necessary steps to be taken to establish an independent legal status for the Fund, should the Board elect to pursue this option.

OUTPUTS

More specifically, this study will:

- Provide an assessment of the capacities of the institutions associated with the Adaptation Fund, including:
 - the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,
 - the Adaptation Fund’
 - the Adaptation Fund Board,
 - the Adaptation Fund Secretariat,
 - the Adaptation Fund Trusteeto assert legal and contractual responsibility for fiduciary oversight of AF operations through legal agreements with Parties or executing entities receiving AF funds (to include, *inter alia*, contracting for the oversight, reporting and evaluation of recipients and project implementation, including the ability to enforce any required legal recourse)
- Articulate the potential legal liabilities of each of these entities to assert legal and contractual responsibility for fiduciary oversight of AF operations through legal agreements with Parties or executing entities receiving AF funds and identify available legal protections against those potential liabilities.
- Assess the pros and cons, including the costs and benefits of establishing a legal status for the Adaptation Fund in order to confer upon it the legal and contractual responsibility for fiduciary oversight of AF operations through legal agreements with Parties or executing entities receiving AF funds.
- Articulate the steps that would have to be taken to establish a legal status for the Adaptation Fund.

TIMING

As the analysis required by this contract is complex and implicates unsettled questions of international law, it is important to provide adequate time for the consultant to confer with multiple stakeholders and experts that might provide competing perspectives on the answers to some of the questions posed. The study should be completed along the following timeline:

- February 2009: identification of consultant, discussion of TOR's and work-plan and setting up contract;
- April 2009: presentation of first draft to Secretariat/Board or Board/Secretariat/Trustee Committee by email for comments;
- May 2009: presentation of final draft to be posted as a working document for the June Board meeting.

BACKGROUND DOCUMENTATION AND EXPERT CONSULTATION ARRANGEMENTS

The consultant, in developing this paper will consult extensively with the World Bank legal offices in the co-financing unit (LEGCF) and in the environmental and international unit (LEGEN), the Adaptation Fund Secretariat, the United Nations Office of Legal Affairs (UNOLA), and the Legal Affairs Programme of the UNFCCC Secretariat, as well as other experts in international institutional law as appropriate.

Documentation will include all relevant CMP decisions, all relevant AF Board documents and working papers for its Board meetings.

The consultant will report to the AF Secretariat or Manager.

GEF MINIMUM FIDUCIARY STANDARDS

1. In August 2005, the GEF Council requested the GEF Trustee to develop, in consultation with the GEF Agencies, minimum fiduciary standards consistent with international best practice. The Trustee engaged a major international public accounting firm to assist in developing a set of fiduciary management standards and practices. The firm conducted research and helped develop standardized review tools, templates and guidance for use in consultations with the GEF Agencies and in the development of the standards.⁶

2. This Annex reproduces the recommended minimum fiduciary standards developed by the GEF Trustee. The first subsection comprises overarching audit, financial management and controls areas: (1) external financial audit, (2) financial management and control frameworks, (3) financial disclosure, (4) code of ethics, and (5) internal audit. The second subsection covers the project/activity cycle: (1) project appraisal standards, including safeguards, (2) procurement processes, (3) project monitoring and project-at-risk systems, and (4) evaluation. The final subsection comprises the investigation function, including hotline and whistleblower protection.

A. Audit, Financial Management and Control Framework

(1) External Financial Audit

3. The external financial audit function ensures an independent (as defined by the International Federation of Accountants (IFAC)) review of financial statements and internal controls.

- (a) The entity has appointed an independent external audit firm or organization.
- (b) The work of the external audit firm or organization is consistent with recognized international auditing standards such as International Standards on Auditing (ISA).
- (c) Financial statements are prepared in accordance with recognized accounting standards such as International Financial Reporting Standards (IFRS), International Public Sector Accounting Standards or Generally Accepted Accounting Principles (GAAP) that are accepted in major capital markets for listed companies.
- (d) The internal controls over financial reporting cover the use of Adaptation Fund resources, and management asserts to the entity governing body that these internal controls are adequate.

⁶ The Trustee's *Recommended Minimum Fiduciary Standards for GEF Implementing and Executing Agencies* can be found in GEF document GEF/C.31/6.

- (e) An annual audit opinion on the financial statements, and/or, as appropriate, on all Adaptation Fund resources received from the Trustee and administered by the entity, is issued by the external auditor and made public.
- (f) An independent audit committee, or comparable body, is appointed and oversees the work of the external audit firm or organization as it relates to the audit of the financial statements. The audit committee or comparable body has written terms of reference that address its membership requirements, duties, authority, accountability and regularity of meetings.
- (g) The external auditor makes regular reports of observations with respect to accounting systems, internal financial controls, and administration and management of the organization. Auditor and management progress reports are reviewed by the audit committee or comparable body annually.

(2) Financial Management and Control Frameworks

4. An internal control framework, as defined by internationally recognized frameworks such as COSO, Cadbury and CoCo, is a risk-based process designed to provide reasonable assurance and feedback to management regarding the achievement of objectives in the following categories:

- *Effectiveness and efficiency of operations*
 - *Reliability of financial reporting and financial management frameworks*
 - *Compliance with applicable policies and procedures.*
- (a) A control framework has been adopted that is documented and includes clearly defined roles for management, internal auditors, the board of directors or comparable body, and other personnel.
 - (b) The control framework covers the control environment (“tone at the top”), risk assessment, internal control activities, monitoring, and procedures for information sharing.
 - (c) The control framework has defined roles and responsibilities pertaining to accountability of fiscal agents and fiduciary trustees.
 - (d) At the institutional level, risk-assessment processes are in place to identify, assess, analyze and provide a basis for proactive risk responses in each of the financial management areas. Risks are assessed at multiple levels, and plans of action are in place for addressing risks that are deemed significant or frequent.
 - (e) The control framework guides the financial management framework.

- (f) Procedures are in place for identifying internal controls and assessing controls details annually in core financial management areas, including:
- Budgeting;
 - Accounting;
 - Internal control;
 - Funds flow (including disbursements, cash management, unused fund closeout);
 - Financial reporting; and
 - Auditing arrangements.
- (g) Duties are segregated where incompatible. Related duties are subject to a regular review by management; response is required when discrepancies and exceptions are noted; and segregation of duties is maintained between: settlement processing; procurement processing; risk management/reconciliations; and accounting.

(3) Financial Disclosure

5. The financial disclosure policy delineates the process surrounding mandatory financial disclosures of possible or apparent conflicts of interest by identified parties.

- (a) A documented financial disclosure policy covering identified parties defines conflicts of interest arising from personal financial interests that require disclosure, including actual, perceived and potential conflicts.
- (b) The policy specifies prohibited personal financial interests.
- (c) The policy describes the principles under which conflicts of interests are reviewed and resolved by the entity. It describes sanction measures for parties that do not self disclose where a conflict of interest is identified.
- (d) Parties covered by the policy are provided a way to disclose personal financial interests annually to an administrative function within the entity.
- (e) The policy establishes processes for the administration and review of financial disclosure interests of the defined parties, as well as resolution of identified conflicts of interests, under an independent monitoring/administration function.

(4) Code of Ethics

6. A code of ethics for entity staff promotes responsible governance and ethical behavior.

- (a) A documented code of ethics defines ethical standards to be upheld, including protecting entity and trust fund assets. The code lists parties required to adhere to the standards including employees, consultants, and independent experts. It describes disciplinary and enforcement actions for violations, and provides for appropriate flexibility in application and implementation in local environments.

- (b) An ethics or related function provides administrative support for the code, including distributing the code, monitoring compliance, and authority to refer alleged violations to the entity's investigation function.
- (c) Multiple avenues for confidentially reporting compliance and/or other business conduct concerns such as a hotline and contact information for functional/department options (e.g. human resources and internal audit) are readily available (e.g. on the entity's intranet and external websites).

(5) Internal Audit

7. Internal auditing is an independent, objective activity designed to add value and improve an organization's operations. It helps an organization to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

- (a) Internal audit activity is carried out in accordance with internationally recognized standards such as those prescribed by the Institute of Internal Auditors (IIA).
- (b) Auditors and entities that provide internal auditing services adhere to ethical principles of integrity, objectivity, confidentiality and competency.
- (c) The internal audit entity is functionally independent and objective in the execution of its respective duties. There is an officer designated to head the internal audit function. The chief audit officer reports to a level of the organization that allows the internal audit activity to fulfill its responsibilities objectively.
- (d) The internal audit function has a documented terms of reference/charter that outlines its purpose, authorized functions, and accountability.
- (e) The internal audit function has a documented description of the annual audit planning process, including a risk-based methodology for preparing an audit plan. The audit plan outlines the priorities of the function and is consistent with the entity's goals.
- (f) The chief audit officer shares information and coordinates activities with relevant internal and external parties (including external financial statement auditors) to ensure proper coverage and minimize duplication of efforts.
- (g) The internal audit function disseminates its findings to the corresponding senior and business management units, who are responsible for acting on and/or responding to recommendations.

- (h) The internal audit function has a process in place to monitor the response to its recommendations.
- (i) A process is in place to monitor and assess the overall effectiveness of the internal audit functions including periodic internal and external quality assessments.

B. Project/Activity Processes and Oversight

(1) Project Appraisal Standards

8. Project appraisal functions include the establishment of standards and appropriate safeguards that are used to determine whether projects and activities will meet their stated goals before funds are disbursed.

- (a) A project and/or activity appraisal process is in place with the purpose of examining whether proposed projects and/or activities meet appropriate technical, economic, financial, fiduciary, environmental, social, institutional and/or other relevant criteria, including Adaptation Fund -mandated criteria, and whether they are reasonably likely to meet stated objectives and outcomes.
- (b) The appraisal process provides institutional checks and balances at the stage of project design:
 - Policies and risk-assessment procedures are in place specifying the criteria and circumstances under which environmental, social, institutional and/or fiduciary assessments must be conducted to incorporate environmental, social or other relevant considerations into a proposed project or activity.
 - Guidelines or policies are in place that provide for evaluation by technical advisors, who assess whether or not a proposed project or activity is eligible for Adaptation Fund financing, based on the Adaptation Fund -mandated criteria; is likely to achieve Adaptation Fund goals; and is aligned with scientifically sound principles.
- (c) Project and/or activity development objectives and outcomes are clearly stated and key performance indicators with baseline and targets are incorporated into the project/activity design.
- (d) Appropriate fiduciary oversight procedures are in place to guide the appraisal process and ensure its quality and monitoring of follow-up actions during implementation.

(2) Procurement Processes and Guidelines

9. Entity procurement processes covering both internal/administrative procurement and procurement by recipients of funds include written standards based on widely recognized processes and an internal control framework to protect against fraudulent and corrupt practices (using widely recognized definitions such as those agreed by the International Financial Institutions Anti-Corruption Task Force⁷) and waste.

- (a) Specific entity directives promote economy and efficiency in procurement through written standards and procedures that specify procurement requirements, accountability, and authority to take procurement actions.
- (b) Specific procurement guidelines are in place with respect to different types of procurement managed by the entity, such as consultants, contractors and service providers.
- (c) Specific procedures, guidelines and methodologies of assessing the procurement procedures of beneficiary institutions are in place.
- (d) Procurement performance in implemented projects is monitored at periodic intervals, and there are processes in place requiring a response when issues are identified.
- (e) Procurement records are easily accessible to procurement staff, and procurement policies and awards are publicly disclosed.

(3) Monitoring and Project-at-Risk Systems

10. From a fiduciary perspective, the monitoring function detects, assesses, and provides management information about risks related to projects and/or activities, particularly those deemed to be at risk.

- (a) Monitoring functions, policies and procedures consistent with the requirements of the Adaptation Fund monitoring and evaluation policy have been established.
- (b) The roles and responsibilities of the monitoring function are clearly articulated at both the project/activity and entity/portfolio levels. The monitoring function at the entity/portfolio level is separated from the project and/or activity origination and supervision functions.
- (c) Monitoring reports at the project/activity level are provided to project/activity manager as well as to an appropriately higher level of managerial oversight within

⁷ Definitions of fraudulent and corrupt practices were agreed in September 2006. The Task Force members are: The African Development Bank Group, the Asian Development Bank, The European Bank for Reconstruction and Development, the European Investment Bank Group, the International Monetary Fund, the Inter-American Development Bank Group, and the World Bank Group.

the organization so that mid-course corrections can be made, if necessary. Monitoring reports at the entity/portfolio level are provided to both project/activity managers and to an appropriately higher level of managerial oversight within the organization so that broader portfolio trends are identified, and corresponding policy changes can be considered.

- (d) A process or system, such as a project-at-risk system, is in place to flag when a project has developed problems that may interfere with the achievement of its objectives, and to respond accordingly to redress the problems.
- (e) Adequate fiduciary oversight procedures are in place to guide the project risk assessment process and to ensure its quality and monitoring of follow-up actions during implementation. This process or system is subject to independent managerial oversight

(4) Evaluation Function

11. The evaluation function assesses the extent to which projects, programs, strategies, policies, sectors, focal areas, or other activities achieve their objectives. The goals of evaluation are to provide an objective basis for assessing results, to provide accountability in the achievement of entity objectives, and to learn from experience.

- (a) Independent evaluations are undertaken by an established body or function as part of a systematic program of assessing results, consistent with the requirements of the Adaptation Fund monitoring and evaluation policy.
- (b) The evaluation function follows impartial, widely recognized, documented and professional standards and methods.
- (c) The evaluations body or function is structured to have the maximum independence possible from the organization's operations, consistent with the structure of the entity, ideally reporting directly to the board of directors or comparable body. If its structural independence is limited, the evaluations body or function has transparent reporting to senior management.
- (d) An evaluation disclosure policy is in place. Evaluation reports are disseminated as widely as possible, and at a minimum to all parties directly or indirectly involved with the project. To enhance transparency, to the extent possible, reports are available to the public.

C. Investigations

(1) Investigation Function

12. The investigation function provides for independent, objective investigation of allegations of fraudulent and corrupt practices (using widely recognized definitions such as those agreed by the International Financial Institutions Anti-Corruption Task Force) in entity operations, and of allegations of possible entity staff misconduct.

- (a) The investigations function has publicly available terms of reference that outline the purpose, authority, and accountability of the function.
- (b) To ensure functional independence, the investigations function is headed by an officer who reports to a level of the organization that allows the investigation function to fulfill its responsibilities objectively.
- (c) The investigations function has published guidelines for processing cases, including standardized procedures for handling complaints received by the function and managing cases before, during and after the investigation process.
- (d) The investigations function has a defined process for periodically reporting case trends. To enhance accountability and transparency, to the extent possible, case trend reports and other information are made available to senior management and relevant business functions.

(2) Hotline & Whistleblower Protection

13. Entity policies provide avenues for reporting suspected ethics violations and protections for individuals reporting such violations.

- (a) A hotline or comparable mechanism is in place to ensure the capacity to take in reports of suspected unethical, corrupt, fraudulent or similar activity as defined by entity policy.
- (b) An intake function coordinates the reporting of hotline information, compliance and/or other business concerns from internal and external sources. The intake function maintains an appropriate level of autonomy from the investigations function.
- (c) A whistleblower protection policy specifies who is protected and defines protected disclosures, including violations of law, rule or regulation, abuse of authority, gross waste of funds, gross mismanagement or a substantial and specific danger to public health and safety. The policy defines the standard of protection from retaliation, including placing the burden on the entity to provide evidence that alleged acts of retaliation would have taken place absent the protected disclosure.

- (d) Policies are in place to ensure due process, confidentiality and/or anonymity, as requested, of whistleblowers, informants and witnesses, such as by using appropriate hotline technology and preserving anonymity in reporting processes).
- (e) Procedures are in place for the periodic review of hotline, whistleblower and other reported information to determine whether it is handled effectively and whether processes for protecting whistleblowers and witnesses are consistent with best international practice.