

Preventing and Managing Conflicts of Interest in the Public Sector

GOOD PRACTICES GUIDE

Prepared at the request of the G20 Anticorruption
Working Group by the World Bank, OECD and UNODC



About this Guide

This Guide was prepared at the request of the G20 Anticorruption Working Group (ACWG) under the G20 Presidency of Argentina in 2018. The Guide has benefited from input and examples, and the review and discussion of drafts at the G20 ACWG plenaries, co-chaired by Argentina and France in 2018, and Japan and Mexico in 2019.

This Guide is intended as a resource for policymakers, practitioners and civil society in strengthening conflict of interest regulations and systems. It illustrates experiences and good practices in managing and preventing conflicts of interest from countries in the G20 and beyond, drawing on the experience and expertise of the World Bank, the OECD and the UNODC.

This Guide supplements the G20 High-Level Principles for Preventing and Managing Conflicts of Interest in the Public Sector, adopted by the G20 Anticorruption Working Group in 2018. Each chapter in this Guide begins by identifying the relevant High-Level Principles addressed in each section. The complete list of High-Level Principles can be found in Annex 1. An inventory of supplemental examples of G20 country practices in preventing and managing conflicts of interest is provided in Annex 3. This list was current in December 2019 and not intended to be comprehensive.

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Abbreviations and Acronyms

ANAC	Autorità Nazionale Anticorruzione (Italy)
APIP	Government Internal Auditor (Indonesia)
APS	Australian Public Service
AR&BR	Corruption Prevention and Eradication Act of 2012 and Ministerial Regulation of Minister of Administrative Reform and Bureaucratic Reform (Indonesia)
BIOS	National Integrity Office (Netherlands)
BPKP	Finance and Development Supervisory Agency (Indonesia)
CCOIN	Canadian Conflict of Interest Network
CSPL	Committee on Standards in Public Life (UK)
COI	Conflict of Interest
DAEO	Designated Agency Ethics Official (USA)
DPTI	Department of Planning, Transport and Infrastructure (Government of South Australia)
GI	Government Inspectorate (Vietnam)
HLP	High Level Principles
HRM	Human Resource Management
INVE	Interdepartmental Network of Values and Ethics (Canada)
KPK	Corruption Eradication Commission (Indonesia)
LAN	State Administration Agency (Indonesia)
NAZAHA	National Anticorruption Commission (Saudi Arabia)
OECD	Organisation for Economic Co-Operation and Development
OGE	Office of Government Ethics (USA)
PPP	Public-Private Partnership
PRC	People's Republic of China
SAMA	Saudi Arabian Monetary Authority
SOE	State-Owned Enterprise
SPIP	Government Regulation on Government Internal Control System (Indonesia)
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime

1. Conflict of interest standards - Defining and applying the approach

Principle 1	G20 countries should establish specific, coherent and operational standards of conduct for public officials. These standards should provide a clear and realistic description of what circumstances and relationships can lead to a conflict-of-interest situation. These standards should further advance public officials' understanding and commitment to a) serving the public interest, and b) preventing any undue influence of private interests that could compromise, or appear to compromise, official decisions in which they officially participate.
Principle 2	G20 countries should further consider the need for additional standards of conduct for those public officials working in high-risk areas, reflecting the specific nature of these positions, exposure to conflict of interest risks, and public expectation.
Principle 3	G20 countries should put into place clear means for developing, implementing and updating conflict-of-interest policies at the appropriate level in the public sector. The implementation, effectiveness, and relevance of conflict-of-interest policies should be periodically reviewed using an evidence-based approach. G20 countries should also consider consulting relevant stakeholders, including the private sector and civil society, when developing and reviewing their conflict-of-interest policies. Consideration could be given to the designation of one or more special bodies to oversee systems for preventing and managing conflict of interest.

Corruption and conflicts of interest: International standards

Corruption is directly linked to the effectiveness of government institutions and has the potential to destroy the trust of the public in the institutions of the state. The dangers posed by corruption have been recognized by the international community, which reacted with the adoption of several regional and global anticorruption legal instruments. The United Nations Convention against Corruption¹ is the universal legal instrument, addressing the prevention and criminalization of corruption as well as international cooperation in anticorruption matters and asset recovery. Article 7(4) of the United Nations Convention against Corruption calls upon the States' parties to endeavor to adopt, maintain, and strengthen systems that promote transparency and prevent conflicts of interest.² The G20 Anticorruption Working Group has adopted High-Level Principles on the Prevention of Conflicts of Interest. This Good Practice Guide is an accompaniment to the High-Level Principles.

¹ Adopted by the United Nations General Assembly on 31 October 2003 by Resolution 58/4. Opened for signature in Mérida, Mexico, from 9–11 December 2003, in force since December 14, 2005. As of June 2020, UNCAC has 187 parties.

² Article 8(5) requires States parties to endeavor to establish measures and systems requiring public officials to submit declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials; and Article 12(2) to impose "restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure." UNODC (2004).

In addition to the UNCAC, several other organizations have developed standards related to the management of conflicts of interest and the risks posed by them. Notable examples include the Council of Europe, the 2003 OECD Recommendation on Guidelines for Managing Conflict of Interest in the Public Service, and the European Union regulation on conflicts of interest in procurement in the Directive 2014/24/EU³.

Guiding Principle 10 of the Council of Europe's Twenty Guiding Principles for the Fight Against Corruption⁴ (1997) recommends that States promote further specification of the behavior expected from public officials by appropriate means, such as codes of conduct. The Council of Europe further addressed conflict of interest by adopting the Model Code of Conduct for Public Officials, in Recommendation Rec (2000) 10, adopted by the Committee of Ministers of the Council of Europe on 11 May 2000 and explanatory memorandum⁵.

Article 8 of the Model Code of Conduct for Public Officials requires that the public official should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.

Article 13 of the Model Code provides for its own definition of conflict of interest and formulates the obligations of the public officials related to conflict of interest management. Article 15 requires that a public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official and should seek prior approval for any external activities.

Defining conflicts of interest

Jurisdictions define conflict of interest differently, but the following elements are usually present:

- **Public Official:** Covered individuals qualify as public officials under the domestic law of the country;
- **Official action:** The covered individual takes an action in his or her official activity including making decisions or otherwise participating substantially in the official process of deliberation, action or recommendation to act, where the public official plays a role;
- **Private Interest:** The covered official, or other persons—including legal entities—linked to the official has a private interest, usually of pecuniary nature, that may be affected by the official action.

Optional elements of the definition sometimes include public duty, public trust or the requirement for specific norms in the legislation to be violated as a result of the conflict of interest.

Conflicts of interest may arise in all environments and sometimes irrespectively of the will of the public official. Every person has private interests; civil servants, however, have a duty to serve the public interest and to make decisions using objective criteria, in an impartial manner.

³ EU (2014).

⁴ EU (1997).

⁵ EU (2000).

The OECD Guidelines for Managing Conflict of Interest in the Public Service⁶ provide the following definition: a conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests, which could improperly influence the performance of their official duties and responsibilities.

Such a conflict of interest, bearing in mind the natural propensity of the human beings to do what is good for oneself and one's family, may at times lead the official act in his or her self-interest—instead of serving the public.

If not managed appropriately and left unresolved, a conflict of interest can lead to corruption. As seen from the definition above, in situations of conflict of interest, the private-capacity interests of the public officials may improperly influence the decision-making process.

Conflicts of interest can easily lead to improper and corrupt conduct such as abuse of functions: "...performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity"⁷.

Another definition of conflict of interest is offered by article 13 of the Council of Europe Model Code: a situation in which the public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties. The public official's private interest includes any advantage to himself or herself, to his or her family, close relatives, friends and persons or organizations with whom he or she has or has had business or political relations. It includes also any liability, whether financial or civil, relating thereto.

Managing conflicts of interest: Methods and tools

Conflicts of interest are usually regulated by:

- General civil service legislation, and/or
- Codes of conduct/ethics, and/or
- Criminal legislation, and/or
- Specialized anticorruption legislation.

No matter which specific legal act(s) contains the conflict of interest norms, it is important that it should be clear and not subject to different interpretations and supported by guiding material (see Chapter 7).

Some countries adopt specific conflict of interest laws that contain definitions, procedures for preventing, disclosing and managing the conflicts of interest, as well as procedures for investigating and imposing disciplinary, administrative, or criminal sanctions.

The general standards of conduct for public officials are usually contained in the rules for the public sector, which are mandatory for all civil servants. They are normally a part of the civil service legislation and of the general codes of conduct for the civil service.

⁶ OECD (2003).

⁷ UNODC (2004), art. 19.

In addition, specific standards of conduct such as tailored rules for judiciary, parliament, specific government agencies, or for specific groups of public officials (e.g. political appointees) are contained in sectoral legislation, the organizational disciplinary rules or codes of conduct for that group of officials.

Often, countries, in recognition of the fact that certain positions, professions or sectors are more vulnerable to corruption risks, enforce individual standards of conduct and disclosure requirements for officials involved in procurement, licensing procedures or working in the customs or law enforcement (see Chapter 4).

Dealing with apparent, potential, and actual conflicts of interest

Conflict of interest as a situation

All public officials have private-capacity interests, such as outside financial holdings, family relationships and friendships, and relationships with past employers and clients. Over time, these interests appear and disappear, change and evolve. In general, the mere existence of these loyalties, commitments, and financial interests are not problematic in-and-of-themselves. When a public official is called to participate in an official action that could affect these private interests, however, an actual conflict of interest situation arises which may undermine the credibility of government actions and programs. Prior to that time, conflicts of interest are merely potential.

Fully understanding that conflicts of interest occur in specific situations in which official activities intersect with private interests enables countries to anticipate the circumstances in which potential conflicts of interest are likely to become actual conflicts of interest and address them before that occurs. This approach calls on countries and public officials to consider how to proactively address and manage conflicts of interest in a way that best promotes the public interest.

Often, to achieve this end, a duty is imposed on officials to disclose any conflicts of interest and, if directed to do so by their superior or by the relevant public sector body, to apply a management strategy such as recusal, removal, or even the resignation from duties to mitigate the risk of corruption or loss of trust. In many cases, countries may also be called on to institute processes and mechanisms to help public officials avoid conflicts of interest. Countries should also have mechanisms to consider the potential effect of an actual or apparent conflict of interest in any particular situation and consider whether authorizing an employee to participate is appropriate, notwithstanding the conflict of interest.

Prevention vs. deterrence

Defining a conflict of interest as a situation requiring management to ensure that the conflict of interest does not turn into corruption requires a focus on prevention, typically involving the mandatory disclosure of potential conflicts of interest by public officials and the implementation of conflict of interest management policies and procedures.⁸

⁸ For more details and examples of practices see background paper prepared by the UNCAC Secretariat for the Working Group on Prevention: CAC/COSP/WG.4/2018/2 Preventing and managing conflicts of interest (article 7, paragraph 4, of the United Nations Convention against Corruption). https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2018-September-6-7/V1804122_E.pdf

This approach is usually complemented by specific restrictions, such as a prohibition or restrictions on the acceptance of gifts and hospitality, on political activity, and on participation in non-profit organizations or business activities outside of the public function, also known as “incompatibilities.

In jurisdictions where the focus is on detecting, investigating and sanctioning actual conflicts of interest as a disciplinary, administrative, or criminal offence the offence of conflict of interest is more similar to other corruption offences such as abuse of functions. The complexity and range of situations that may give rise to a conflict of interest, and the administrative burdens associated with enforcing anticorruption measures, point to the importance of preventive policies and procedures as a way of making public officials aware of their responsibilities and of providing opportunities for resolving conflicts before they occur.

Scope of application of COI regulations

The UN Convention against Corruption provides in its Article 2 (b) the following definition of a public official:

- (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority;
- (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;
- (iii) any other person defined as a “public official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party⁹.

The G20 High Level Principles use the term public official generically, allowing each country to define the term and apply it in line with their national laws and public sector context, bearing in mind the UNCAC definition of public officials.

The focus of regulation on conflict of interest is usually on civil servants in the public administration, while allowing also for special regulation of the conduct of the elected officials.

There are notable differences in the national practices for defining the quality of a civil servant and for differentiating civil servants as a special category of public officials from staff employed under the general employment rules or from politically appointed staff. Often, civil servants are differentiated from the staff employed under other forms of contracts by the fact that civil servants hold career positions, have been appointed following a special procedure and have special status with specific rights and obligations.

Other officials in the public administration, not covered by the civil service legislation, may be regulated by general conflict of interest rules or by special codes of conduct with requirements like the civil service requirements.

⁹ UNODC (2004).

Elected officials such as members of parliament, political advisers, ministers as well as judges and prosecutors are often covered by separate procedures and asset and interest disclosure requirements. In addition, elected officials are usually subject to substantially more stringent accountability requirements than regular civil servants.

The immediate family of public officials may also be subject to COI regulations. The general approach to defining the immediate family includes the spouse of the public official as well as the public official's children, usually when they live with the official or are below a certain legally defined age.

Some countries, depending on the context and legal traditions, extend the scope of regulation further, including other dependents, domestic partners who are not legally married or people otherwise related to or associated with the official.

Strategies for evaluating the implementation, functioning, and relevance of conflict of interest policies

There are very few examples of countries in which the implementation of conflict-of-interest policies is subject to evaluation or monitoring. Usually, the monitoring of the conflict-of-interest regime is carried out as part of the regular reporting practices of the bodies with responsibility in managing conflicts of interest of public officials or, where conflict-of-interest policies are mainstreamed in the day-to-day operational practices of public sector organizations, as a part of the regular processes of each organization.

Evaluation of conflict-of-interest regimes may be carried out in the context of the implementation of national anticorruption strategies where such strategies have been adopted. While it is generally recommended that regular reviews of the implementation of codes of conduct for public officials are conducted to ensure that they stay relevant and are implemented by staff, this is rarely followed in practice.

2. Types of conflict of interest - Understanding country priorities

Principle 2	G20 countries should further consider the need for additional standards of conduct for those public officials working in high-risk areas, reflecting the specific nature of these positions, exposure to conflict of interest risks and public expectation.
Principle 4	G20 countries should identify “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.
Principle 6	G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision making in order to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision-making as appropriate, the use of ethics agreements and other arrangements, such as reviewing interest declarations, recusal statements and orders, to mitigate potential conflicts of interest.
Principle 7	G20 countries should establish guidance and mechanisms, such as disclosure of interests, for members of boards, advisory committees and expert groups, in order to prevent unduly influencing the public decision-making processes.

Categories of conflicts of interest

While legal systems vary, all typologies of conflicts of interest can be defined as belonging to two categories: they are either financial or non-financial conflicts of interest.

- **Financial conflicts of interest:** a conflict of interest involving a pecuniary interest. The public official, a member of his or her family, or close associates may gain financially or may avoid financial loss.
- **Non-financial conflicts of interest:** a conflict of interest where the competing private capacity interest is non-pecuniary in nature. The interest may arise in connection with personal relationships, affiliations or ties, or other sorts of involvement that could compromise the objective decision-making of the official.

Another common type classification is helpful in determining whether the conflict of interest is an actual, potential or apparent conflict of interest.

- An actual conflict of interest involves a situation where the official’s private-capacity interest is already in conflict with his or her duty to perform in the public interest.
- A potential conflict of interest involves a situation where the official’s private-capacity interest does not yet come into conflict with his or her duty to perform in the public interest but may do so in the future. The probability that a potential conflict of interest may become an actual conflict of interest is dependent on the types of duties the public official performs and the type of private interest involved.
- An apparent conflict of interest involves a situation, where the official’s private-capacity interest looks as if it is in conflict with his or her duty to perform in the public interest, although that is not the case. Most COI management systems require that the perception of conflicts of interest be avoided, given that they erode public trust just as much as an actual conflict of interest.

A conflict of interest can be classified according to both of the above categories, and thus may be, for example, an actual financial conflict of interest or a potential non-financial conflict of interest.

Identifying high-risk functions and behaviors: the starting point for addressing conflicts of Interest

The purpose of the High-Level Principles is to help countries focus on fundamental elements to be addressed when defining standards and developing systems for preventing and managing conflicts of interest (COI). These are basic principles: a country’s approach is most effective when tailored to specific risks for COI. Once those risks are identified, a country can establish its priorities for addressing them and design appropriate COI management systems. This chapter sets out factors that are typically considered or should be considered when identifying government functions and processes that are high risk for conflicts of interest (COI). This chapter also briefly reviews different types of conflicts of interest, defined as financial or non-financial interests, activities, and relationships of public officials that might create actual or apparent conflicts with their official positions or duties.¹⁰

Effective systems designed for COI prevention and management need to adhere to the country’s domestic legal principles and governance structures and take into consideration elements of the local context. Processes that may be of very serious risk of conflicts of interest in one country (or sub jurisdiction within a country) may be less so in another.

High-Risk Government Processes

There are processes, procedures, and decisions that create a higher risk for situations of conflict interest to arise, or where a conflict of interest on the part of a public official will generate a higher risk of damage to the public interest. High-risk areas are generally common across countries. They typically involve opportunities for the exercise of discretion in decisions where there is significant public spending—responsibility for the allocation of public resources, including the issuance of permits or licenses, or in the context of law enforcement and the justice sector more generally. Many countries also face a fundamental challenge in managing conflicts of interest in the hiring and selection of public officials and government employees.

¹⁰ It is important to note that high risks areas and behaviors are context specific and identifying them might require a diagnostic of local COI behaviors and issues and their prevalence in a given context. This can be done through baseline surveys, for e.g., or a review of COI cases. (See Ch. 10).

After identifying areas of risk, establishing priorities in addressing those risks is important. Not all risk areas require the same policies for preventing or managing COI nor even within the areas of risk is it always necessary to use the same techniques for managing COI. There are certain actions or types of conduct that, while not desirable, will not have serious or long-lasting consequences and hence might not require as much formal regulation or enforcement as other areas of higher risk.

As a general matter, governmental processes that are high risk for COI include public procurement, the awarding of licenses or permits, regulation, the appointment and hiring of public officials, and the justice sector.

Public procurement

A public procurement process typically involves substantial discretion at several stages: when deciding on what and where to spend public funds, when establishing certain specifications for the contract, when conducting the tendering process, when awarding the contract, when overseeing implementation of the contract, and when conducting a final accounting. While impartiality throughout the entire procurement process is important, the processes of bid evaluation and award tend to be the most vulnerable stages for COI. A clear example of a financial COI would be a procurement officer with a personal ownership interest in one of the bidders deciding who will be awarded the contract. An example of a non-financial COI that has the possibility to influence a procurement official improperly would be a situation where a relative or close friend owns a company that is among the bidders. In some jurisdictions, a conflict of interest would exist if that same public official is also offered an employment position in one of the companies bidding and continues to participate in the process (Chapter 4).

Transparency, or the lack of it, in the bidding process plays an important role in properly preventing/managing COI. Publicizing the selection and evaluation criteria, as well as the justification for awarding the contract is a good practice that allows competitors a better opportunity to properly participate in a procurement procedure and civil society and the media to engage in public oversight of procurement decisions.¹¹

Establishing and reinforcing a requirement for *ad hoc* disclosure and immediate recusal for a potential COI for all officials involved in any stage of a procurement process is also a good practice that will help protect the procurement process from COI as it proceeds. Early reporting and recusal will also allow another official to make a timely determination of the best way to manage the conflict of interest going forward.

In addition to recusal and *ad hoc* disclosures, a good practice for preventing COI in public procurement is to have a register or declaration of interests held by officials with influence over decisions. Another useful practice is to establish certain rules that focus on the composition of the evaluation committee for specific procurements.¹² Assigning the tasks of bid evaluation and award to different public officials may also be helpful in avoiding COI. The simple fact of publicizing the names of officials in charge of awarding contracts can also contribute to the transparency of the process and help in preventing and managing COI.¹³ The use of e-procurement systems has expanded the opportunities both for transparency and for crosschecking information in ways that are useful

¹¹ OECD (2016).

¹² Argentina implemented such a rule tailored to preventing potential conflicts of interest in the purchase of school books. Members of the committee responsible for acquiring school books were required to present a declaration disclosing their research and academic history, any employment experience as teachers, positions held in public and private entities, publications, relationships with publishing companies (employment, ownership etc.), and the sources of any copyright royalties. This information was made public, and members of the committee who were found to have possible conflicts of interest were excluded from the procurement process.

¹³ This is a practice in Mexico, for example, where the name of the public official awarding the contract is disclosed.

for preventing and detecting potential conflicts of interest. (See chapter 8 for further examples). In addition to oversight mechanisms, behavioral studies have shown that it is helpful for decision points in government processes to be accompanied by choice architecture tools to help influence decision making and limit the potential for conflicts of interest to occur.¹⁴

State-owned Enterprises (SOEs) and public-private partnerships (PPPs)

State-owned Enterprises (SOEs) and public-private partnerships (PPPs), which are not usually subject to the same regulations as other public contracts, present different and additional risks for potential COI. In consequence, when identifying areas of high-risk for COI it is important to review the regulations, the institutional arrangement, and the contracting practices of SOEs and in PPPs, to identify the COI typologies to be addressed by COI prevention and management tools.

Box 1. Public procurement poses high risk for COI which can be addressed through restrictions on the activities of certain public officials and data-driven risk detection systems

Romania: To prevent COI in public procurement, the Romanian government has developed an integrated IT system, which creates red flags that warn the head of the contracting authority of potential COI before a contract is awarded. The system draws on e-procurement information and automatically detects whether participants in the bid are relatives or are otherwise connected to officials in the contracting authority. The system produces a risk rating for each tender. These predictions are based on information in the asset declarations of public officials in the contracting authority, and on data about the bidders. (See Chapter 9.)

Spain: The Spanish law that regulates COI (Law 3/2015) focuses, amongst other things, on public procurement. It prohibits members of Government and high-ranking officials, including those involved in procurement, from acquiring or holding any other position during their time in office, with only very limited exceptions. The law also requires that a high-ranking official abstain from participating in contract procedures related to any company with which he or she, or family members and close friends have personal interests. This law is complemented by the Public Sector Contracts Law (Law 9/2017), which bans procurement officials from intervening in any procurement process when they have a direct or indirect financial, economic, or personal interest. It also forbids companies from contracting with the administration if any high-ranking public official or member of government has an ownership interest of 10% or more in the company.

Indonesia: Indonesia's Presidential Regulation No. 54 of 2010 contains a number of provisions mandating ethical conduct and integrity in the procurement process. The provisions cover government officials involved in procurement as well as persons seeking to provide goods and services. To avoid conflicts of interest, each official responsible for procurement is required to sign an integrity pact that expresses his or her commitment against any acts of corruption, collusion, and nepotism. The regulation and its amendment also prohibit a provider from participating in public procurement where such participation gives rise to a conflict of interest. It also prohibits any government official, not just procurement officials, from participating as a provider in a public procurement, unless that official is on a leave of absence.

(continued)

¹⁴ Behavioural Insights for Public Integrity: Harnessing the Human Factor to Counter Corruption, OECD (2018).

(Box 1 continued)

Italy: The Italian National Anticorruption Authority (ANAC)—an independent administrative body whose mandate is the prevention of corruption in the public sector, subsidiaries and State-controlled enterprises, that also has regulatory powers—has recently adopted guidelines on conflicts of interest. These guidelines clarify some provisions of the Code of Public Contracts concerning conflicts of interest in public procurement. In particular, they are intended to help the detection, prevention, and resolution of conflict of interest in tendering procedures by promoting standards of behavior and the dissemination of good practices so as to reduce burdens on contracting authorities and entities involved in public procurement procedures. The legislation takes into account specific risks in the context of public contracts, including possible risks of illegal interference, and is intended to protect fair competition.

Awarding of licenses and permits

While COI in the granting of some types of licenses and permits may not cause significant harm to the public, some can cause long-term damage to the public interest. For example, a license to operate a restaurant certainly is important to the restaurant owner and possibly to the health of the public who might eat there, but a license or permit to extract natural resources or emit pollutants has the potential for a more significant effect on the public interest and should be weighed accordingly when evaluating risks and setting management priorities.

If licenses and permits are of a very technical nature, such as in the extractive industries, there may be a limited pool of officials with the necessary training and expertise to evaluate the request and a limited number of private sector experts who can represent those seeking the permits/licenses. A similar risk can be seen in small-island nations, for example, where—without appropriate management of the potential conflicts of interest that can arise—the same individuals might be involved in both granting the request for a license as well as advising the ultimate recipient of the license. There is a risk in these cases that the licensing or permitting process may be abused or that permits and licenses will not be allocated on an objective and meritorious basis. In these contexts, a COI can also arise from a personal or family connection that influences the awarding of licenses. For example, if a minister interferes in the awarding of an exploration license and his wife is the owner of a company that is likely to apply or bid for the license, it would represent a clear potential COI requiring preventative action.¹⁵

As with public procurement, one way to prevent and mitigate COI in the award of licenses and permits is to develop a system that helps identify ties or relationships that present significant COI risks. A public list of license and permit holders can be crosschecked against the interests disclosed by public officials with a role in the process. Requiring officials to certify that they do not have a COI in awarding a license or a contract is a way of reinforcing standards and behavior and a means of supporting the enforceability of administrative penalties, should they fail to disclose a conflict of interest.

Regulation

Because regulators make decisions that directly affect public investments in different sectors as well as the rules that govern service delivery and private sector activities in sectors, one frequent and good practice is to prohibit regulators from having financial interests in or fiduciary relationships with individual members of or organizations representing the members of the sectors they regulate.

¹⁵ “License to Drill: A Manual on Integrity Due Diligence for Licensing in Extractive Sectors”, Votava, Cari L; Hauch, Jean, p. 13.

Appointment and hiring of public officials

The hiring and appointing of government officials based on family or personal connections, membership of a social or ethnic group, or criterion other than qualifications undermines the competence and perceived impartiality of public administration. The selection and hiring of relatives are an issue of concern in a wide variety of countries, independent of their size or economic development. Given that this is an issue that commonly arises, many COI systems encompass or are supported by human resource administration systems that have specific rules regarding the appointment of relatives or close friends or the acceptance of benefits in exchange for an appointment.

Box 2. Examples of COI risks in hiring and appointment decisions that regulations seek to address

Restriction on civil servants in China: Where there is such a relationship as husband and wife, lineal descent, collateral consanguinity within three generations, or close affinity between civil servants, the persons concerned shall not assume posts immediately subordinated to the same leader in the same organization or hold posts with a relation of immediate superior and subordinate, or engage in such work as organization, human resource, disciplinary investigation, supervision and inspection of auditing and finance in the organ where one party concerned holds the leading post. (Civil Servant Law of China, 2005)

Restriction on civil servants in Bulgaria: A person shall not be appointed as a civil servant, where he or she is in direct hierarchical subordination of management and control to a husband or wife, relative of direct descent, relative of collateral descent until the fourth degree inclusive, or relative by marriage until the fourth degree inclusive. (Civil Servant law, 1999)

Restriction on public officials in Croatia: Officials shall not promise employment or any other entitlement in exchange for any gift or any promise of a gift. Officials shall not exert influence over the assignment of jobs or contracts through public procurement. (Law on the Prevention of Conflicts of Interest, 2011)

Restriction on civil servants in Poland: Civil servants must be neutral and impartial in discharging his or her duties: must not allow any suspicion on unification of private with public interests and, in administrative issues, civil servant must not discriminate between persons and must not be influenced by relationships arising from family, friendship, work or membership. There cannot be a subordinate relationship between spouses or related persons and civil servants. (Civil Service Code of Ethics, 2002; Law on Civil Service, 2008)

Restriction on public officials in Korea: A high-ranking public official is prohibited from unduly influencing his or her agency, institutions under its jurisdiction, or an affiliated institution to hire their family member. A public official in charge of personnel management is prohibited from improperly influencing his or her agency to hire his or her family member. A public official in charge of directing, supervision, regulating, or supporting an affiliated institution is prohibited from improperly influencing the affiliated agency to hire his or her family member. (Code of Conduct for Public Officials, Presidential Decree No. 28587, Jan. 16. 2018)

Law Enforcement

Decisions to investigate, bring administrative, civil or criminal actions against an individual, and adjudicate those actions may pose a high degree of risk for conflicts of interest depending upon the system. Most law enforcement matters specifically involve identifiable parties and the effects on the parties are direct. A judicial system free from actual or apparent conflicts of interest is generally fundamental for a citizens' trust in its government as well as more generally the perception of a country's adherence to rule of law. Addressing conflicts of interest in law enforcement is as critical as it is in other aspects of governance. However, it is an area where a conflict of

interest management system may need to be tailored to the functions involved. Because of the concern for the independence of the judiciary, a conflict of interest management system for judges is often separate and apart from that of other public officials.

Typologies of conflict of interest situations

While the high-risk areas for COI described above are common across countries, the expression of those risks—the interests or activities that may create potential conflicts of interest—can vary widely across countries, sectors, and sub-regions.

There are also important variations in risk depending on the duties and responsibilities of individual officials. Understanding who or what the public official can affect, positively or negatively, through the performance of his or her duties makes a significant difference in any conflict of interest analysis. For example, an official whose duties involve regulating communications companies would not normally have any conflict of interest with his or her ownership of a portion of a family farm. On the other hand, that same interest could create a potential or actual conflict of interest for an agriculture inspector. It is important to note that COIs are not normally a specific interest or activity but rather the result of conflict between the duties owed to the public by the public official and his or her private interests and activities.

Absent specific prohibitions on the ownership of certain interests or certain activities, for example, stock ownership in a regulated company by the regulator or serving as a leading person in a for-profit corporation, there are some common interests and activities that may give rise to COI typologies. The most common types of these interests, activities and relationships include:

Outside interests and activities of the public official

As noted above, COI typologies include financial and non-financial interests, as well as paid and non-paid activities. Financial interests include, but are not limited to, ownership of businesses either outright or through stocks and shares, beneficial interests in trusts or other properties, ownership of real properties and personal properties held to produce income, accounts receivable and payable, outside self-employment or employment by another. Outside activities that might create conflicts of interest with public duties include those where the public official has fiduciary obligations (e.g., service as a trustee or service as an officer or director of an organization whether or not for pay or whether or not the organization is established for profit), active membership in or acting as a representative of an organization that seeks government benefits or that often interacts with government agencies. Financial interests in or secondary employment by commercial ventures are especially relevant when dealing with officials who are involved in procurement activities, granting of licenses, or regulatory/supervisory tasks.

Interest and activities of the spouse

The types of financial interests and activities noted above that can create a personal conflict of interest for the public official in the execution of his or her duties can also create a conflict of interest if those interests and many of the activities are held by or engaged in by the public official's spouse and possibly minor children. In many

jurisdictions, an individual has some legal obligation for the welfare of the other spouse and for his or her minor children. Thus, the financial wellbeing of those individuals can also be a direct financial interest of the public official and can create the same conflicts of interest as his or her personal interests and activities. One increasingly common good practice is to require the public official to report the interests of the spouse and minor children on his or her financial disclosure declaration, so a conflict of interest analysis can occur, and any necessary management steps taken.

Private interests in government contracts

In part because of the potential for or the appearance of self-dealing, misuse of non-public information, or misuse of position, many countries impose restrictions on a public official's direct interest in a government contract other than a contract for his or her own employment or on contracts with entities that are owned or substantially controlled by a public official. Along with requiring financial disclosure on the part of the public official, one good complementary practice is to have any potential bidder for a government contract certify that it is not owned or substantially controlled by a public official before it can be considered and then again at the time of the award.

Box 3. Examples of restrictions on implementing government contracts

Estonia: Civil servants may not conclude transactions with the state through his or her agency. (Public Service Act, 1995)

United Kingdom: Departments and agencies must not give contracts to: any civil servant in the department or agency, any partnership of which a civil servant in the department or agency is a member, or any company where a civil servant in the department or agency is a director, unless the civil servant has fully disclosed the measure of his or her interest in the contract and senior management has given permission. (Civil Servant Management Code, 2010)

Unites States: Both the criminal conflict of interest laws and the Federal Acquisition Regulation place limitations on when and if executive branch employees may seek any form of benefit, including contracts, from the federal government on behalf of any other person, including family and sole-owned companies. (18 U.S.C. 205(a)(2); 18 U.S.C. 203(a); and Federal Acquisition Regulation, 48 CFR subpart 3.6.) In particular, the Federal Acquisition Regulation states that "Except as specified in [FAR section 3.106(b)] a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees." (48 CFR 3.601)

Croatia: A business entity in which a public official has at least 0.5% of its equity is not allowed to engage in a business transaction with a state agency in which that official is working for, nor in a joint bid as a partner or subcontractor. This applies to all business entities in which a family member of the public official has at least 0.5% of their equity in the case where that family member is able to acquire, either directly or indirectly, the ownership in question or the shares of the in-question official from a period of two years prior to his or her appointment or election to public office until the end of the exercise of office. (Act on the Prevention of Conflicts of Interest, 2011).

(continued)

(Box 3 continued)

South Africa: Employees in the public administration and advisors to Executive Authorities are prohibited from conducting business with the state or be a director of a company conducting business with an organ of state. Any person found guilty of this offence is liable to a fine or imprisonment for a period not exceeding five years or both such fine and imprisonment. Contravention of this clause also constitutes a serious misconduct, which may result in the termination of employment by the employer.

Revolving door

The revolving door generally refers to the movement of individuals in and out of public service rather than making public service a life's career. While there is nothing inherently wrong with moving in and out of public service, it does create situations that have a higher risk for conflicts of interest. For example, when coming into public service, an individual may bring continuing financial ties or strong personal ties with those with whom he or she has just worked. Those ties can or may appear to affect the impartiality of the public official for some period after entering service and should be addressed in the conflict of interest management system. An individual who is considering leaving public service for a position outside the government can or may reasonably appear to be using his current official authorities to aid his or her desire to make a good impression on those with whom he or she wishes to secure a new position. An effective conflict of interest management system should address that potential conflict of interest as well. The individual who has just left government service may still be able to use information and influence with former colleagues gained while in service, so an effective conflict of interest management system should address those risks as well. (See Chapter 4 for more details).

In devising its revolving door regime, a country should keep in mind that revolving door restrictions should protect governmental processes from abuse but should not be so onerous that it can no longer attract the highly talented individuals it needs for certain positions into the public service. This requires a balance of competing public interests.

Impartiality (including favoritism towards friends, family or foes)

When a public official exercises decision-making authority that might determine specific public spending (e.g. grants, awards or contracts) the issuance of a license or permit or establish certain types of regulations directly affecting a specific party or industry, it is important to evaluate if any friend, family or foe, is involved. This involvement would take the form, for example, of a grantee, bidder, applicant or industry member that will be directly affected by that determination. These personal relationships could be red flags indicating potential impartiality or certainly the appearance of such. Such relationships are going to be more prevalent in smaller communities and conflict of interest management systems can take this into consideration by requiring some level of disclosure to superior officials for their determination on how to proceed.

Nepotism

The appointment and hiring of public officials were earlier described as a potential high-risk area for conflicts of interest. When those hired are the relatives of the hiring official or are then supervised by another relative, that is often called nepotism. However, nepotism can also extend to favoring relatives outside of the hiring process.

That too is often covered by rules on impartiality noted earlier. In either case, this is a typology that tends to be frequently identified as very common COI in public administration.

Relationship to organizations outside of public office

Relationships with private organizations (e.g. active member, founder, spokesperson, member of the board of directors) can be varied and as such can give rise to several types of potential or actual conflicts of interest. When the relationship is compensated, it can create a conflict of interest as a source of income just as another financial interest might. When the relationship is as a member of the board of directors or other governing body, whether the organization is for profit or not, the role creates in most legal systems a fiduciary duty to the organization and with it, a possible exposure for financial liability. These private fiduciary duties and financial interests can create real conflicts of interest with the individual's public duties. If the public official seeks benefits for the organization from the government, even if he or she does so without compensation and is not a member of the board, that action may, at a minimum, trigger questions of impartiality or use of government position, and an actual conflict of interest if the public official is involved in the decision to grant the benefits.

Gifts

Gifts are often understood as creating some sort of obligation on the part of the recipient. This is a fairly universal social norm, which fosters a behavioral bias towards reciprocity of in-kind exchanges. The obligation may be limited to a verbal expression of gratitude or it could be more significant. At a minimum, the receipt of gifts by a public official can create concern about that official's impartiality and when that concern is reasonable, countries often begin to regulate the acceptance of gifts. The payment of a bribe is an extreme example on the spectrum of gift giving, creating one of the clearest forms of conflict of interest between public duties and private gain. Consequently, the regulation of gifts presented to public officials is a subject closely related to the regulation of COI. Typical elements of a gifts management system include limitations on the value of acceptable gifts, requirements to turn gifts in to a public authority, a register of gifts and/or the disclosure of certain gifts by the public official on his or her financial disclosure.

The regulation of the acceptance of gifts is often in a country's code of conduct. While the regulation of conflicts of interest can also be in that code, it is more typically covered in separate regulations.

Box 4. Regulations on receiving gifts in South Korea and Singapore**The Improper Solicitation and Graft Act of Korea**

The regulation of gifts is covered in the Code of Conduct for Public Officials of 2003. Since then, the Korean government also enacted 'The Improper Solicitation and Graft Act' in 2016 to eradicate a culture of improper offering and solicitation of entertainment.

According to this Act, no public official and his or her spouse, shall accept, request, or promise to receive any money, goods, etc. exceeding a value of one million won at a time or three million won in a fiscal year from the same person, regardless of whether there is any connection to his or her duties and regardless of any pretext such as a donation, sponsorship, or gift, etc. No public official and his or her spouse, in connection with his or her duties, shall accept, request, or promise to receive any money, goods, etc. not exceeding the amount prescribed above, regardless of whether the money or goods are given as part of any quid pro quo. This Act regulates not only public officials but also the general public in providing the prohibited amount of money or goods, etc.

Any public official will be subject to a criminal punishment for receiving any money, goods, etc. exceeding one million won at a time or three million won in a fiscal year from the same person, regardless of the relationship between such an offer and his or her duties, and the motive for such an offer. Under the Criminal Act, the offense related to bribery requires proof that a benefit is given because of the official duty concerned and is intended to reward the recipient for the performance or nonperformance of a duty. Loopholes therefore arose given that the causality was hard to prove.

In order to achieve the legislative purpose of the Act, which is to root out hospitality and entertainment practices which may lead the public to suspect the impartiality of official acts, the above provisions therefore forbid the offering and solicitation of gifts as described above regardless of whether they are given in connection with the duty of the public official.

The Act also addresses the fact that money, goods, etc. exceeding a value of 1 million won—which is deemed a significant amount under social norms—could be interpreted as connected to the potential and future duties of the recipient. (The Improper Solicitation and Graft Act, Act No. 13278, 27. Mar. 2015)

Legal provisions on gift-taking in Singapore

If a public official is presented with a gift, they must reject it outright. If they are presented with a gift from a visiting dignitary, they are to accept the gift and then surrender it to the head of their department. The value of the gift will be assessed, and the official may pay for it if they wish to keep it.

Ministers are also required to refuse and return all gifts. If it is believed that returning the gift will cause an offense to the donor, then the Minister is required to turn the gift over to the Permanent Secretary of the Minister's Ministry for disposal. If the Minister wishes to purchase the gift, an evaluation of it must be performed; after which, the Minister may purchase it at its cash value, or if valued under \$50, he or she may keep the gift without payment. If the Permanent Secretary believes that the gift is of interest to the government, then the gift may be displayed or used officially in the Minister's premises. The same rules apply when gifts are exchanged during official visits. If the Minister or his or her spouse or child receives a gift, they may have it evaluated or may have it displayed in his or her premises. If the Minister wishes to reciprocate with a gift, the Minister may purchase one at the government's expense.

3. Institutional arrangements to manage conflicts of interest: Who is in charge?

<p>Principle 3</p>	<p>G20 countries should put into place clear means for developing, implementing, and updating conflict-of-interest policies at the appropriate level in the public sector. The implementation, effectiveness, and relevance of conflict-of-interest policies should be periodically reviewed using an evidence-based approach. G20 countries should also consider consulting relevant stakeholders, including the private sector and civil society, when developing and reviewing their conflict-of-interest policies. Consideration could be given to the designation of one or more special bodies to oversee systems for preventing and managing conflict of interest.</p>
<p>Principle 4</p>	<p>G20 countries should identify “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.</p>
<p>Principle 12</p>	<p>G20 countries should implement adequate mechanisms to resolve identified conflicts of interest, as well as enforcement mechanisms for proportionate and timely sanctions for violations of conflict-of-interest policies. This could include a specific set of disciplinary measures.</p>

Institutional arrangements for the management and prevention of conflicts of interest in public administration vary from country to country and will be shaped by a wide variety of factors including political structure (federal or not), population size and distribution over territory, existing bureaucratic structures, and the availability of resources for implementing COI regulations. While this guide will not address all of these variables, answers to the following questions will provide some direction on what may be the more suitable institutional arrangements for preventing and managing COIs in a given context.

What type of regulation governs COI management and any applicable sanctions? Are COIs managed through stand-alone regulations or by codes of conduct or civil service rules with disciplinary sanctions? Are the regulations established by statutes with administrative, civil and/or criminal sanctions, or, are they found in more than one of these sources?

To whom do the COI regulations apply? Do they include all public officials equally or is coverage based on risk factors, candidates for elected office, officials of State-Owned Enterprises (SOEs), etc.?

Which agency is best placed to manage the education and training of public officials about their responsibilities for preventing and managing COI? Is it the agency that manages the disclosures, for example?

What is the disclosure mechanism? Are public officials required to disclose their interests through a financial disclosure requirement? Is the primary purpose of the financial disclosure requirement the detection and management of conflicts of interest or is it also the detection of illicit enrichment? (The former may require more information sharing with the filer's employer.) Are disclosure requirements the same across all of government or are they different depending upon the branch or the entity within the branch?

Does the law emphasize the proactive management of potential conflicts of interest, in addition to periodic financial disclosures? If so, where will the responsibility for advising public officials about managing potential COIs lie? (With a central body, line managers, ethics officers, etc.?)

What systems are in place for the detection of potential or actual COI- including self-reporting; and for the investigation and enforcement of civil/administrative penalties and/or criminal prosecution?

Which body is responsible for following up on concerns or complaints?

For many countries, addressing conflicts of interest is undertaken as part of broader anticorruption or ethics programs in public administration. Consequently, a conflict of interest prevention and management system will not stand alone; it may be combined with systems that deal with a broader range of functions including complaints, whistleblower protections, management of COI in the lobbying industry, public procurement administration, investigations, administrative actions, and in some cases prosecution of cases. Effective coordination and information sharing between these entities may be essential to effective conflict of interest detection, control, and management.

Can existing staff supervision and management procedures in public entities contribute to COI management goals?

In countries with established and well-functioning bureaucracies, the management of conflicts of interest may be carried out by managers and supervisors in public institutions as a part of their regular functions. This approach relies on existing hierarchies, without introducing new positions or public bodies, but rather recognizing that managing the ethical performance of public officials is an important element of the administration of public institutions and is a direct responsibility of line managers.

Under this approach, public officials are required to disclose their conflicts of interest to their direct supervisors, and to follow instructions with regard to managing potential conflicts of interest—remedial action—to be taken. An advantage of such a system is in using existing bureaucratic mechanisms for reporting and supervision to manage public ethics. There are disadvantages to this approach, including the fact that the management of COI could receive limited attention by line managers as part of the overall supervision of the performance of public officials may. In addition, extensive training for managers is required to ensure that they have the capacity to understand and address potential COI situations and recommend the appropriate remedial action. To mitigate this risk, some governments and public entities are considering the introduction of stronger systems of ethics guidance, provided by specially designated ethics officers who provide assistance to staff to resolve ethical dilemmas, including dilemmas involving conflicts of interest.

What are some other types of approaches to COI management based on international practices? The types of approaches described below are neither prescriptive nor comprehensive. They are intended as models to illustrate a range of approaches observed across COI systems. A variety of actual examples of institutional arrangements for dealing with the prevention and management of conflicts of interest are also available in UNODC Secretariat reports to the Open-ended Intergovernmental Working Group on the Prevention of Corruption.¹⁶

¹⁶ See links to reports at <https://www.unodc.org/unodc/en/corruption/WG-Prevention/session9.html>, for example: https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2018-September-6-7/V1804122_E.pdf

Model 1: Conflict of Interest system is managed by a primary body for each branch of government

Based on constitutional considerations of separation of powers, a country may require separate institutional arrangements for each branch and possibly for other independent entities. For example, because of the necessary independence of judges, most institutional arrangements place responsibility for the development and implementation of non-criminal codes of conduct or purely disciplinary standards, including those dealing with conflicts of interest, inside the judiciary.¹⁷ For political reasons related to representational government, legislatures may also retain responsibility for those same functions for its own members.

A primary body for each branch of government could then be responsible for defining and managing disciplinary standards. These responsibilities would normally also include developing a code of conduct with COI standards, providing training and education, and providing a source of advice and counseling for members/judges. If the staff of these bodies is not a part of a civil service system with its own disciplinary system, typically these separate institutional arrangements would be applicable to staff as well. In addition to the judicial and legislative branches, the executive branch and any independent bodies would then have their own administrative systems as well.

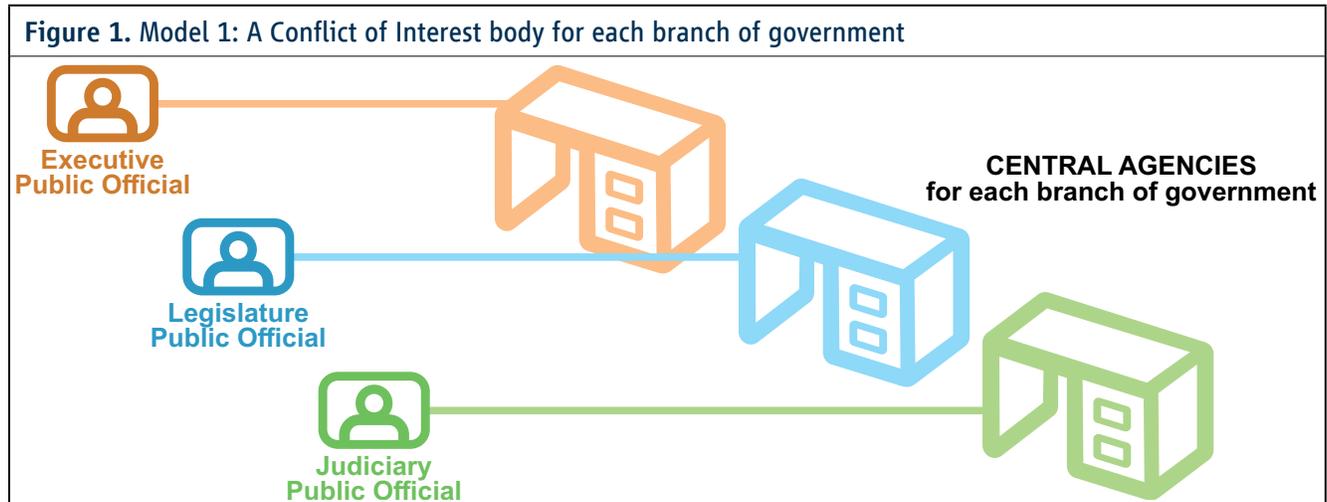
Under this type of model, the collection and review of financial disclosures may be the responsibility of the separate bodies in each branch, or that function could reside in a separate independent body. Regardless of where disclosure forms are filed and reviewed, many countries have found it is good practice to require that the information collected from filers in all three branches is consistent to help build public trust. The bodies of each branch may then formally or informally share their interpretations of filing requirements so as to keep those interpretations consistent.

When there is one primary body responsible for COI management per branch, it is often part of an oversight body or accountable to the legislature and therefore has more political accountability. In the judiciary, this entity is often accountable to the Judicial Council or its equivalent. One advantage to having a body in each branch, whether a commission or with a single head, is that it will not usually have the same budgetary woes as an independent body. And, because the body may be able to focus more on preventive education, training, and counseling, it may have a higher degree of trust of the employees of the branch. These bodies have a particular advantage if the senior leaders of the executive are fully supportive of the program both through the adequate human and financial resources, and by their own personal conduct. The disadvantage is that these bodies may feel some influence from senior leaders of the branch when making difficult determinations if they are neutral about the program or do not appear to support it. Depending upon the level of public mistrust in government structures or concern for corruption, having a body in each branch may not always enjoy the same level of public trust as an independent body, even if it makes financial sense.

A system in which COIs are managed by one body for each branch of government will likely rely on interagency collaboration to effectively fulfil its mandate. For example, an executive branch central body may need to rely on the HR management system for the imposition of disciplinary measures or on an Inspector General system for investigations. All three branch bodies generally need to rely on the prosecutor's office for any criminal enforcement actions that must be taken. The advantage of using existing systems is these activities are not duplicated, nor are costs. A challenge is that these activities require collaboration and coordination.

¹⁷ The procedures for imposing discipline in the form of removal of a Judge will typically be set out in a country's constitution and will specify which body or bodies have responsibility for that action.

This model corresponds to the institutional arrangements in Argentina, for example, where each branch of government has an office in charge of the prevention and management of COI. The Anticorruption Office in the Ministry of Justice is responsible for dealing with all COI-related issues for public officials in the federal administration; the Supreme Court has an office that handles COI matters for all federal judges; and the Congress has an office responsible for handling COI issues involving Senators or members of the Chambers of Representatives.



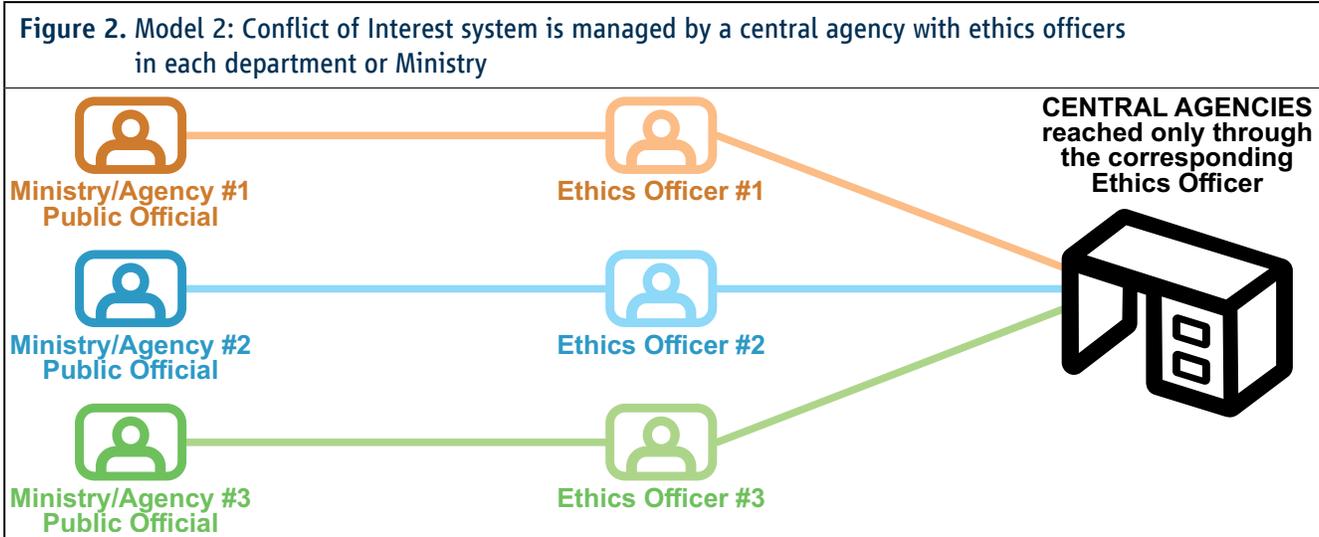
Model 2: Conflict of Interest system is managed by a central agency with ethics officers in each line ministry or government agency

The executive branch or public administration typically has the largest number of public officials in government. Where that number is very large, a central body responsible for preventing and managing COI in the executive branch may delegate or assign some of the functions of a COI system to individuals or offices within government departments and agencies. In some cases, the agency will embed one of its own employees in each department and agency. Under this approach, the central agency usually designs the program, sets the policies, and periodically evaluates the program design and policies. It also serves as a central advisory body to ensure consistency in interpretation and implementation, trains program officials serving in the agency, and oversees each agency's compliance with those programs.

The individual offices within each department or agency may be staffed with employees of the central agency or they may be employees of the department or agency where they are situated—smaller or low risk agencies might share this function for economies of scale. An advantage of this type of system is that each agency or department will have access to a source of training and counseling on site, including the possibility of initial financial disclosure review and COI management advice. This approach can also signal ownership and commitment by the agency to managing COI issues. The individuals employed or embedded as ethics advisors should be familiar with the activities of the agency and can be more effective for purposes of counseling or identifying potential COIs and designing training programs. They may also work in tandem with Human Resources staff in the implementation of these functions, including in the administration of disciplinary measures.

A challenge with this approach is that it can be very costly. The central agency may have to cover the cost of embedded advisors as well as the cost of training and education. If ethics advisors are employed locally by the agency in which they serve, this can help reduce the budgetary burden on the central agency, although perceptions of the independence

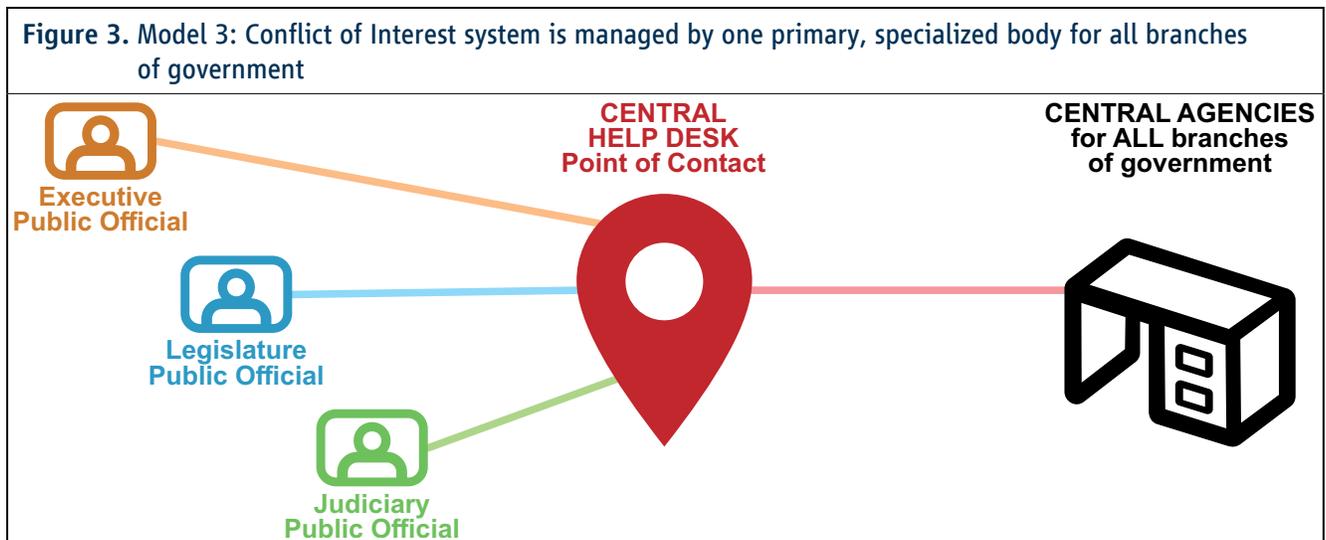
of advisors may be affected. Additional challenges with this approach include the selection of officials who can remain insulated from perceived or actual pressure and influence from senior agency officials, particularly where difficult decisions may have to be made. If the ethics advisor is employed centrally and has been embedded locally, more effort may be required to gain the trust of local staff, particularly if he or she has a role in enforcement. Conversely, the ethics advisor could risk appearing co-opted by the entity in which he or she serves. Central oversight functions can provide support and cover in those situations. In some cases, the head of the department or agency may be responsible for the effective implementation of the COI program in her agency. Failure to meet COI obligations at the entity level can result in public notice or other political cost, providing an institutional incentive for effective implementation.



The U.S. federal executive branch is an example of this kind of model. The Office of Government Ethics (OGE) serves as the central policy and program design office for the executive branch. It is headed by a Director, who is appointed by the President and confirmed by the Senate. All program staff are career staff. The head of each executive branch agency or department must select a Designated Agency Ethics Official (DAEO) and an Alternate Designated Agency Ethics Official (ADAEO) to carry out the day-to-day activities of the ethics and conflicts of interest program, including education, counseling training and financial disclosure collection and review. OGE establishes overall ethics policies, defines minimal ethics program standards, trains ethics officials regarding the ethics laws, and serves as a source of counsel to them when they are faced with difficult questions of interpretation. OGE also oversees the agencies' implementation of the ethics program responsibilities. Financial disclosures are designed to gather information to detect conflicts of interest, not illicit enrichment, and they are used as vehicles to counsel employees. Matters that require investigation are referred to the respective agency's Office of Inspector General. OGE has a close working relationship with the Inspectors General throughout the executive branch. Discipline for violating the standards of conduct including its conflict of interest provisions is imposed by the agency, typically a supervisor, following standard procedures. Restrictions on statutory prohibitions on outside employment and earned income are enforced through civil actions taken by the Department of Justice. Prosecutions for violations of the criminal conflict of interest statutes are also handled by the Department of Justice; this is true for all three branches. OGE has a memorandum of understanding with the Department of Justice so that it and its ethics officials may give advice and counsel on the application of the criminal conflict of interest statutes. To put the size of this model in perspective, while OGE has a staff of less than 80 there are several thousand executive branch officials involved in administering the program worldwide, from full-time and part-time ethics officials providing substantive support of the training, advice, and financial disclosure functions, to ethics-adjacent administrative, human resources, and information technology functions.

Model 3: One primary, specialized body for all branches of government

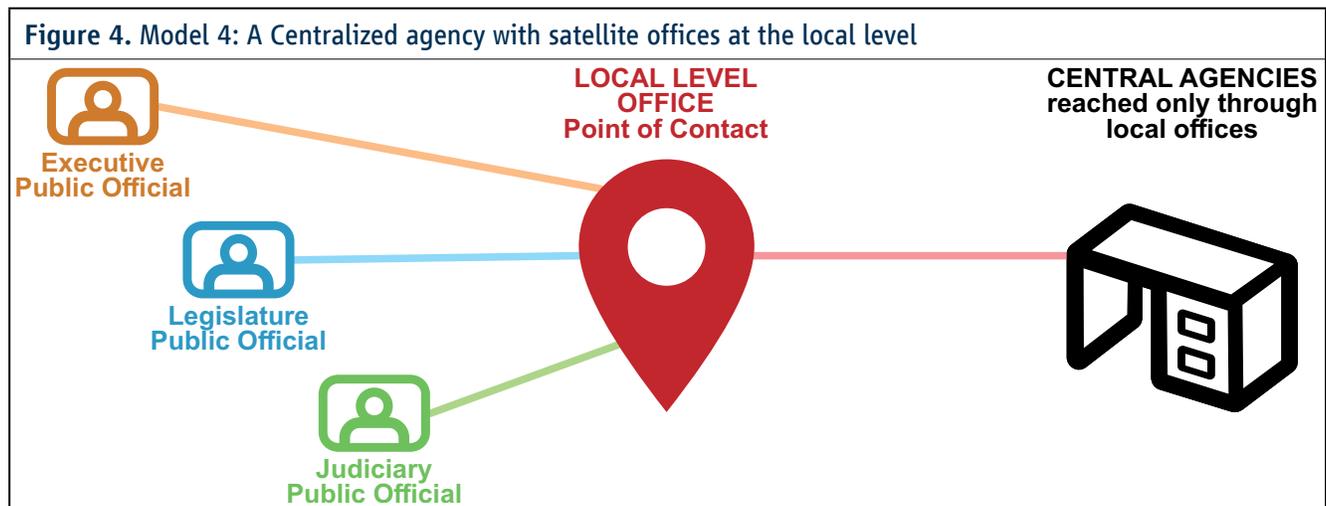
Some countries have opted for systems that give primary responsibility for COI prevention and management to one independent specialized body. This is often the case where COI standards are not purely disciplinary but are also contained in regulation or statute. It may also be the case that a law setting up the financial disclosure requirement for all public officials anticipated a specialized agency and other functions were added or were transferred to it. Independent agencies have also been established because of public pressure to have an independent body address corruption in government, including the prevention and management of conflicts of interest. Although these bodies can have a single head, they are more likely to be collegial bodies headed by a commission or a committee. This can help diffuse political interests, depending on how members are selected and the duration of their tenure, and may provide more internal accountability than an office with an individual at the helm. A body whose functions are focused on accountability needs a structure that assures its own accountability. One of the advantages of a specialized body is greater consistency in the definition, interpretation and enforcement of policies. And, in countries with a high level of concern for misconduct and corruption, it has the potential of enjoying more public trust. If it has financial disclosure responsibilities, it may have the ability to design and operate one system rather than many. This is particularly important for designing and operating electronic filing and review systems. A major recurring challenge of an independent body is ensuring that it receives sufficient funds to carry out its duties, since the control of funding is often a way to control the body. If it has responsibility for prevention, detection, investigation, and prosecution for a medium- or large-sized public service, it will require substantial staff and resources to do so, particularly if its jurisdiction extends beyond the central government. Independent bodies have sometimes been set up primarily with enforcement responsibilities rather than both enforcement and prevention. This may limit the effectiveness of COI prevention if public officials are wary of using its advisory services. A good practice for specialized bodies with both prevention and enforcement responsibilities is to clearly place the responsibilities for education, training, and counseling in separate sections of the body.



This schematic represents a specialized body with both prevention and enforcement responsibilities. Romania and Ukraine both have a specialized body with jurisdiction for statutory standards and financial disclosure for all three branches. Public officials reach out to a unique help desk of the Central Agency in charge of COI prevention and management. They do so, independently of the agency/ministry they belong to, or the geographic area where they work. This central help desk is the main point of contact for inquiries and also receives the disclosures of interest where applicable.

Model 4: A Centralized agency with satellite offices at the local level

When conflict of interest standards applies to federal and local government officials equally, some countries have established specialized structures to manage that scope of responsibility. The larger the country, the more expensive this type of system becomes, although it eliminates the need for local governments to create their own conflict of interest management systems. To manage this type of system, some countries establish local satellite offices of a central agency just as other countries embed ethics officials within departments and agencies. The advantages are similar in that local offices are likely to have a better understanding of local conflict of interest risks and concerns. It can sometimes be a challenge, however, to ensure effective intra-agency coordination and that the central office is aware of actions taken at the local level, which is necessary for effective oversight.



This schematic corresponds to the approach in Peru, for example, a country with a unitary system of government. In Peru, public officials file their asset and interest disclosures and address any queries related to possible COI matters with the local office of the Inspector General's Office. After an initial review or response by the local office, if the matter remains unresolved, it is sent to headquarters in the capital where a determination will be made and communicated. Under this model, the Central Agency only sees a portion of responses provided to queries or matters handled at the local level.

4. Addressing key risk areas - Pre/post public employment and public decision making

<p>Principle 4</p>	<p>G20 countries should identify “at-risk” activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.</p>
<p>Principle 6</p>	<p>G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision making to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision making as appropriate, the use of ethics agreements and other arrangements, such as reviewing interest declarations, recusal statements and orders to mitigate potential conflicts of interest.</p>

Sound prevention and management of conflicts of interest requires recognizing the key risk areas that can undermine public governance (see Chapter 2) and ensuring that there are appropriate safeguards in place to address these risks. Indeed, normal governance processes, including recruitment and policymaking, can present several points for increased risk of conflicts of interest. Preventing and managing potential conflicts of interest at these junctures is critical to ensuring confidence in public administration.

Given that pre- and post-public employment is a fact of public life, countries must strike a balance that encourages freedom of movement and employment for current and former employees, whilst also protecting the public interest. While movement between sectors contributes to the career development of personnel and improved organizational competencies, the so-called “revolving door” can also increase the risk of conflicts of interest for incoming employees and the possibility of undue influence by former employees that might lead to preferential treatment or create an unfair advantage for specific entities or individuals.

There are a range of tools that help inform public policy design, including public consultation and lobbying. When these channels promote transparent, balanced and fair competition of interests, public decision making favors the public interest. However, these tools can also be used to acquire unfair advantage in public decision making. The undue influence of vested interests—whether real or perceived—erodes the system’s credibility and legitimacy.

This chapter presents several policy considerations and good practices to support G20 countries in averting conflict of interest risks in public decision-making. It builds on G20 country practice, as well as the OECD's Recommendation on Guidelines for Managing Conflict of Interest in the Public Service¹⁸, the OECD's Recommendation on Public Integrity¹⁹, the OECD's Recommendation on Principles for Transparency and Integrity in Lobbying²⁰, the OECD Post-Public Employment Principles²¹, associated implementation guidance, as well as work on influence in public policy making.²²

Good practices for managing conflict of interest in pre- & post-public employment situations

Pre- and post-public employment issues can include forms of lobbying, switching sides and abuse of insider information. For lobbying, while it is a fact of modern democracies, risks of conflicts of interest arise when former public officials lobby their former employers in their new capacities. Similarly, a conflict of interest risk arises when public officials switch sides, representing their new employer on an issue they previously worked on in their public capacity. Using insider information is another post-public employment conflict of interest risk, as well as a breach of oath in many countries, when public officials take unfair advantage of confidential information they obtained while in government to benefit themselves or their new employer. While each problem area is distinct, taken together, they create an uneven playing field as former public or private sector officials use their privileged information, expertise, and access to exert improper influence.

Where and how pre- and post-public employment issues occur are specific to each type:

- **Post-public employment:** Former public officials make use of the information and connections gained during their public employment to unfairly benefit their new employer. For example, former public officials become lobbyists and use their connections to advance the interests of their clients. Similarly, during their time in office, public officials might already favor certain companies in decisions with the expectation they will be employed upon leaving the public sector.
- **Pre-public employment:** The appointment of individuals to the public sector who previously held key positions in the private sector can raise a possibility of preferential bias towards former employers, clients, and industry participants in policy formulation, procurement decisions and regulatory enforcement.²³ In addition, incoming public officials may have ongoing economic ties to their former employer through retirement benefits, deferred compensation arrangements, and retained equity or stock interests that raise the possibility of financial conflicts of interest. These risks can be heightened when former lobbyists enter the public service in an advisory or decision-making capacity.²⁴

¹⁸ OECD (2003).

¹⁹ OECD (2017).

²⁰ OECD (2010a).

²¹ OECD (2010b).

²² OECD (2017).

²³ Transparency International (2015).

²⁴ Transparency International (2010).

Principles for addressing pre-and post-employment COI risks

The OECD's Post-Public Employment Principles set out the key responsibilities that public sector organizations and public officials should take to prevent conflicts of interest arising from post-public employment. The principles are organized in four functional categories (see Annex A, Table 1). The first category addresses problems that arise while public officials are still working in the public sector; the second addresses those that arise primarily after public officials leave government; the third focuses on the duty of current officials to avoid preferential treatment of former public officials; and the fourth covers the duty of the private sector and non-profit organizations relating to post public employment.

To support effective implementation of these principles, there are a range of measures that can be considered, and the following focuses on the key policies and practices G20 countries could use to prevent and manage both pre- and post-public employment conflicts of interest.

► **Pre- and post-public employment considerations are included in law and policies, and linked to the broader integrity system**

G20 countries use a range of different legal instruments to manage pre- and post-public employment conflicts of interest. Such instruments include primary and secondary legislation, which can provide strict standards for sanctions and therefore serve as a more effective deterrent than other instruments. However, the use of primary legislation can also be a strong disincentive, as the tough sanctions could be viewed as prohibitive and unduly restrictive of employment rights.

Other legal instruments, such as orders, circulars, collective agreements and contracts can also govern pre- and post-public employment. In addition, a good practice includes using soft law instruments, such as codes of conduct, to complement other legal measures and promote broader values of integrity.

Like other conflict of interest measures, pre- and post-public employment structures should be integrated into the broader integrity system. For example, in Canada, post-public employment measures are integrated into the Conflict of Interest Act, as well as into the Policy on Conflict of Interest and Post-Employment.

► **The pre- and post-public employment system covers entities and job categories where there is a real or potential problem**

In many cases, countries choose to apply measures to all categories of public officials, including elected and appointed officials. It is however necessary to provide enough flexibility and to avoid imposing unnecessarily tough restrictions on the employment rights of certain public officials, or groups of officials.

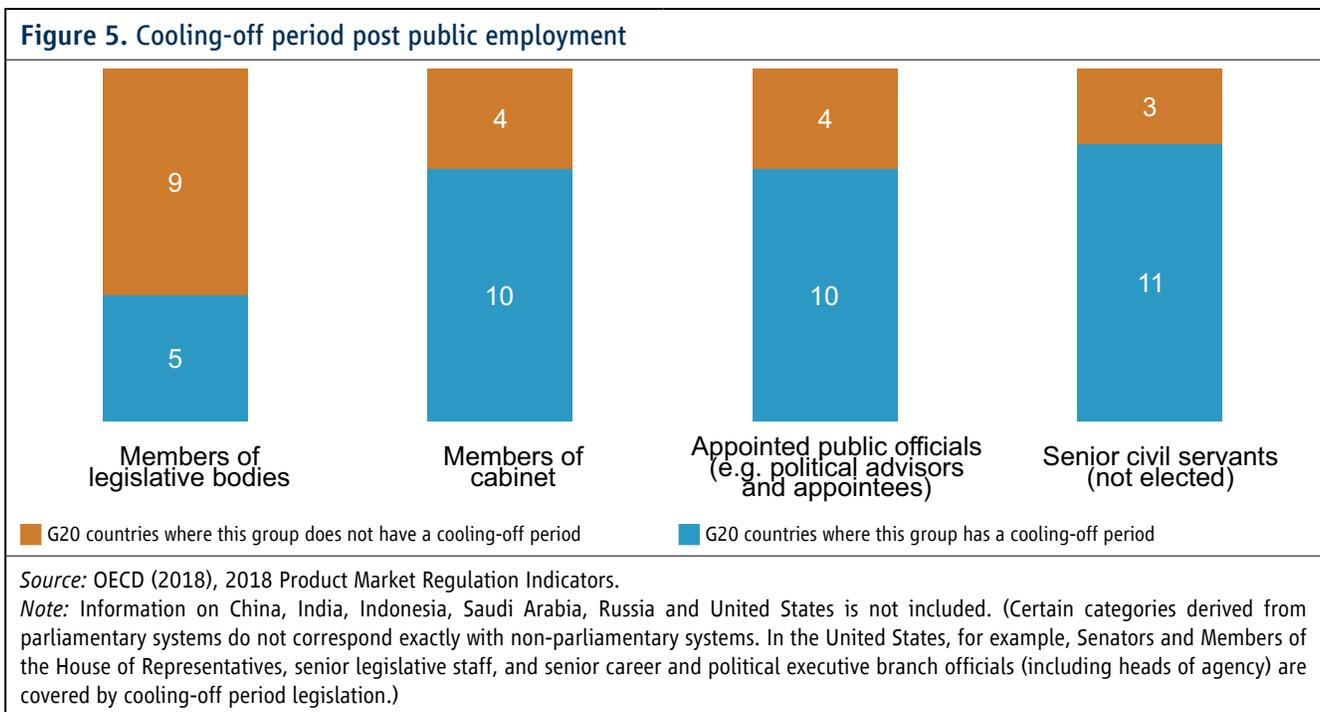
Countries could introduce flexibility into the pre- and post-public employment system by imposing different restrictions on different public sector entities, depending on the extent of the threat they pose. G20 countries could also consider applying a gradation of post-public employment constraints, depending on the official's level and position in the organization. For example, in the United States, the more senior the public official, the stricter the restrictions.

Countries should also ensure tailored guidance exists for high-risk positions, including public procurement and contracting, regulation, inspections, tax and customs, whose regular engagement with the private sector puts them at risk for potential abuse of position. Chapter 7 provides some examples of specific guidance for high-risk positions.

Another risk area concerns those holding senior political or public positions. In general, these officials enjoy comparatively attractive post-public employment opportunities because of the power they exercise, the information and experience they possess, and the public funds they allocate. Moreover, their heightened public exposure leaves them more vulnerable to public and media scrutiny should they abuse their pre- or post-public employment restrictions.

► **Restrictions are in place, are timely and proportionate, and effective enforcement systems support implementation**

Time limits, or cooling-off periods, are a useful tool to restrict post-public employment lobbying, switching sides, and use of insider information. A recent OECD survey found that for G20 countries using cooling off periods as a policy tool, limits most commonly apply to members of cabinet and senior civil servants (see Figure 5).



For countries that use cooling-off periods, there is substantial variation between countries, as well as within countries according to position, when it comes to time limits adopted. For example:

- In Australia, Article 7 of the Lobbying Code of Conduct sets a cooling-off period of 18 months for ministers and parliamentary secretaries, and 12 months for ministerial staff. During those times, the former are prohibited from engaging in lobbying activities pertaining to any matter on which they worked in the last 18 months of employment, and the latter in the last 12 months.

- In **Canada**, the Lobbying Act prohibits “former designated public office holders,”²⁵ from carrying on most lobbying activities for a period of five years.
- In **China**, according to *the Civil Servant Law of the PRC*, after resignation or retirement, a public servant cannot be employed by enterprises or other profitable organizations that are directly related to the duty of their former position either within three years if they formerly held a leading position, or within two years for other civil servants. According to *the Supervision Law of the PRC*, after resignation or retirement, a supervisor has a ban of three years from holding positions that are related to supervision or judicial work and may lead to a conflict of interest.
- In the **European Union**, the 2018 Code of Conduct for Commissioners extends the cooling-off period from 18 months to two years for former Commissioners and to three years for former Presidents of the European Commission. The new Code of Conduct²⁶ sets clearer rules and higher ethical standards and introduces greater transparency in a number of areas. It also creates an Independent Ethical Committee with reinforced status—replacing the previous Ad Hoc Ethical Committee—to strengthen scrutiny and to provide advice on ethical standards. The Committee’s opinions on former Commissioners’ post-mandate activities are public.
- In **Germany**, the Civil Service Act stipulates cooling-off periods for civil servants after they have left public service or have reached retirement age. Post-public employment is prohibited where there is a concern that it will interfere with service-related interests. For members of the Government and Parliamentary State Secretaries, the Federal Government may prohibit, either wholly or in part, the taking up of gainful or other employment for the first 18 months after leaving office, where there is a concern that such employment will interfere with public interests. The decision on a prohibition is taken in light of a recommendation from an advisory body composed of three members.
- In **India**, a cooling-off period of one year after retirement is mandatory. All retired Group A Officers must obtain authorization from the government before accepting any commercial employment within one year from retirement.
- In **Italy**, specific national legal provisions (d. lgs. 165/2001, art. 53, c. 16-ter, modified by the Anticorruption law n. 190/2012), prevent public officials who have held managerial and negotiating positions in the previous three years from performing related duties in a private sector entity.
- In **Korea**, high-ranking public officials shall report to their agency head their private sector activities for the three years prior to their appointment or commencement in office within 30 days from the date he or she is appointed, or the term of office starts. Private sector activities include details of the corporation or organization for which a public official worked and their work there, details of business or profit-seeking activities that a public official managed or operated (Code of Conduct for Public Officials, Presidential Decree No. 28587, Jan. 16, 2018). Further, according to the Public Service Ethics Act, no person liable for registration, persons subject to employment screening, shall be employed within three years from the time of his or her retirement by any of the institutions closely relevant to the duties of the department or agency with which he or she has been affiliated for five years before his or her retirement. (Public Service Ethics Act, Act No. 14839, 26. Jul 2017)
- In the **United Kingdom**, the Ministerial Code does not allow ministers to lobby government for two years after they leave office. Moreover, UK ministers and senior crown servants must seek the advice of the Advisory Committee on Business Appointments before taking on any new paid or unpaid appointment within two years of leaving ministerial office or Crown service.

²⁵ This category includes Members of Parliament, Senators, ministers, ministers of state, staff working in the office of ministers, ministers of state and the Leader of the Opposition in the House and in the Senate who were appointed pursuant to subsection 128(1) of the *Public Service Employment Act*, deputy ministers, associate and assistant deputy ministers, as well as any individual who occupies a position that has been designated by regulation.

²⁶ https://europa.eu/rapid/press-release_IP-18-504_en.htm

- In the **United States**, senior executive branch officials are prohibited from communicating or appearing before their former agency on behalf of any other person except the United States for one year from the date they leave their senior position.²⁷ For certain very senior employees, such as the Vice President and heads of major departments, this cooling-off period applies for two years from the date of termination and also extends to certain other high-level positions elsewhere in the government.²⁸ In addition, public procurement officials are prohibited from accepting compensation from a contractor for one year following their government employment if they served in certain decision-making roles with respect to a contract awarded to that contractor. They are also required to disclose any contacts regarding non-federal employment by a vendor on an active procurement, and either reject such offers of employment or disqualify themselves from further participation in the procurement.

When considering the length of cooling-off periods, core factors to consider include whether the time lengths are fair, proportionate and reasonable, considering the seriousness of the potential offence. Tailoring the duration of restrictions is also necessary depending on the type of problem area and level of seniority. For example, a ban on lobbying may be appropriate for a specific length of time, but restrictions on the use of certain insider information, such as classified information, should be for life, or until the sensitive information is public.

G20 countries could consider including provisions that allow for flexibility and some degree of discretion when applying cooling-off limits. For example, in Canada, the Commissioner of Lobbying may grant an exemption if doing so would not be contrary to the purposes of the Lobbying Act.²⁹ Setting standards for applying discretion can support fairness and integrity in the process.

To effectively implement cooling-off periods, G20 countries could establish a public body or authority responsible for providing advice and overseeing the regulation. In some countries, public officials are required to disclose future employment plans and seek approval from the dedicated advisory body.³⁰ Another good practice G20 countries could consider is including requirements in legislation for former public officials to report regularly on their employment situation to a designated body. G20 countries may also consider publishing decisions taken on post-public employment cases online to enable public scrutiny. For instance, in Norway, decisions are published online and routinely scrutinized by the media.³¹ In addition, the introduction of sanctions for violating the cooling-off period would ensure a deterrent effect. For pre-public employment, this could be disciplinary sanctions, while for post-public employment, the public pension could be reduced, and the private sector employer sanctioned.

²⁷ 18 U.S.C. § 207(c).

²⁸ 18 U.S.C. §207(d).

²⁹ OECD (2019), OECD Integrity Review of Argentina: Achieving Systemic and Sustained Change, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/g2g98ec3-en..>

³⁰ Transparency International (2015).

³¹ Transparency International (2015).

Box 5. Example of legal restrictions addressing revolving door conflicts of interest

USA: Federal employees in the executive branch of the United States are subject to a series of criminal post-employment limitations (18 U.S.C. Section 207). All former executive branch employees are prohibited from performing certain representational activities for private parties. Former employees who occupied high-level positions while in government are subject to further restrictions.

There are three basic restrictions applicable to all former executive branch officials. First, all employees are prohibited under a lifetime ban from switching sides in certain very specific matters, such as contracts, permits, and litigation; this restriction lasts for the life of the matter, not the person, and prevents the employee from representing any private party back to the government on the same particular matter involving specific parties in which the former official had worked personally and substantially for the government. Second, the law also establishes a separate two-year ban on switching sides on matters that involved specific parties that fell under the employee's official responsibility in the last year of service, but in which she or he was not personally and substantially involved. Third, all executive branch officers and employees are prohibited for one year after they leave government from aiding, assisting, or representing any outside party back to the government on certain ongoing trade or treaty negotiations they participated in the year prior to the end of their service.

In addition to these general restrictions, senior and very senior public officials are also covered by additional cooling-off restrictions. Senior employees are subject to a one-year-cooling-off period barring representational communications and attempts to influencing persons in their former departments or agencies on behalf of outside parties, and a one-year ban on performing specific representational or advisory activities for foreign governments or foreign political parties. Very senior officials, including the heads of cabinet-level agencies and the Vice President, are subject to a two-year-cooling off period barring representational communications to and attempts to influence their former agency and certain other high-ranking officials across the executive branch on behalf of outside parties, and are covered by the same one-year ban on performing certain representational and advisory activities for foreign governments and foreign political parties as are senior public officials.

Aside from these restrictions of post-employment representational and lobbying activities on behalf of private parties, specific types of positions carry with them additional restrictions. The largest such group are those officials who were involved in procurement activities. They have additional time limited restrictions on the acceptance of compensation from private contractors, as well as additional rules on reporting employment contacts from prospective employers who are also government contractors.

- ▶ **Restrictions and prohibitions contained in the post-public employment system are effectively communicated to all affected parties**

Good practice and tools on communications and training can be found in Chapter 7. It is worth noting however, that while there is no single magic bullet to ensure that public officials and prospective employers understand and follow pre- and post-public employment rules, communication and training on the rules should be part of the broader conflict of interest system.

Ensuring that current public officials are sensitive to the pre- and post-public employment rules is critical to the success of the system. This is because post-public employment offenses can begin before officials leave the public sector, for example, in the form of negotiating for future employment, both for themselves and for interested actors from the private sector who may wish to join the public sector later. Moreover, current public officials are responsible for preventing conflicts of interest when dealing with former public officials, by not granting them preferential treatment, special access, or privileged information to former officials.

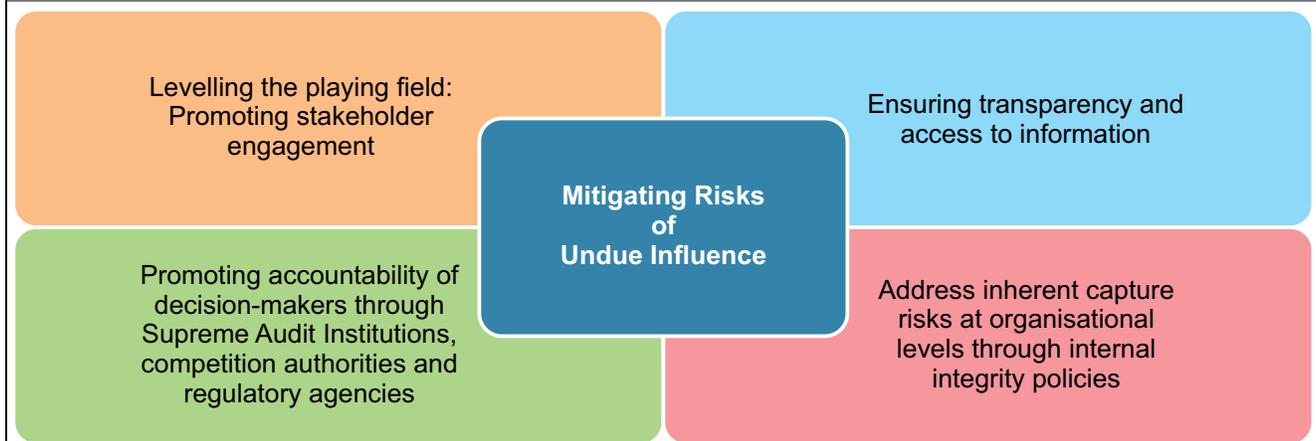
Safeguarding the public interest and ensuring integrity in decision-making

A recent report by the OECD identifies ways in which public decision-making can be improperly influenced by private interests³². Table 4-1 provides a summary, including direct and indirect sources of influence. Most are legal and legitimate and may even constitute necessary means to promote participation in public decision-making. Yet, if these channels are abused, they can seriously undermine integrity in public decision-making.

Direct influence	<p>Creating a sense of reciprocity</p> <ul style="list-style-type: none"> • Illegal payments • Favors, such as: <ul style="list-style-type: none"> ○ Hosting receptions ○ Offering future jobs ○ Other benefits, such as expensive presents • Providing research and analysis • Threats against public decision-makers <p>Building on existing personal ties</p> <ul style="list-style-type: none"> • Family and other close relationships • Networks • Affiliations • SOEs • Politicians as board members • Revolving doors <p>Building on strategic communication</p> <ul style="list-style-type: none"> • Meetings, conferences, study trips
Indirect influence	<p>Building on strategic communication</p> <ul style="list-style-type: none"> • Broad concerted action through media ownership • Writing media comments, articles, columns or letters to the editor • Issuing press releases, holding press conferences • Participating in public hearings and consultations • Grassroots lobbying <p>Building on expertise</p> <ul style="list-style-type: none"> • Publicizing analytical reports and other research • Participating in expert or advisory groups and consultations • Using think tanks to produce research • Responding to requests for comment • Providing manipulated information and expertise
<p><i>Source: OECD (2017) Preventing Policy Capture: Integrity in Public Decision Making.</i></p>	

Mitigating the risks that accompany unchecked influence through a comprehensive system that fosters a culture of integrity and accountability in public decision-making is vital for levelling the playing field. The interplay of four mutually reinforcing strategies that operate at different levels can prevent undue influence and help safeguard the fairness of public decision-making (Figure 6.)

³² OECD (2017).

Figure 6. Four complementary strategies against risks of undue influence

Source: Adapted from OECD (2017).

Levelling the playing field

Engaging stakeholders with diverging interests ensures an inclusive decision-making process that is more resistant to influence by narrow interests, as one interest group will find it more difficult to influence decisions without resistance from other groups. At least two types of policies are required to achieve more inclusive policymaking processes:

- policies promoting stakeholder engagement and participation
- policies fostering integrity and transparency in lobbying activities

Promoting stakeholder engagement and participation

Stakeholder engagement can support a more inclusive and informed policymaking process. Inclusion means that citizens have equal opportunities and multiple channels to access information and are consulted in policymaking.³³ G20 countries could consider establishing a legal framework for stakeholder engagement that provides meaningful opportunities for the public to contribute both to the policymaking process and the quality of the supporting analysis.³⁴ The timing and the scope of the stakeholder engagement process are also critical for implementation and can help prevent the process from becoming an avenue for undue influence.³⁵ To that end, G20 governments could consider looking beyond traditional consultation processes, targeting the willing but unable and the able but unwilling:

- **Willing but unable:** some social groups, hampered by a lack of awareness, low participation literacy and information overload, are unlikely to engage effectively even when given the opportunity;
- **Able but unwilling:** people with low interest in politics and a lack of trust in the meaningful use of popular input in the consultation process³⁶.

³³ OECD (2015a); OECD (2015b).

³⁴ OECD (2012).

³⁵ OECD (2016).

³⁶ OECD (2009).

To engage the wider society, G20 countries could also partner with civil-society networks or umbrella organizations (e.g. Involve the United Kingdom, which coordinates public involvement in open government). Table 4-2 provides a framework for managing stakeholder engagement to mitigate influence risks.

Policy Objectives		Policy Options
Ensuring transparency & accountability	Set a clear objective and define the scope of the engagement	Identify objectives a desired outcome of engagement: <ul style="list-style-type: none"> • Seek expert knowledge? • Obtain buy-in from stakeholders? Define the roles and responsibilities of all parties and required level of engagement. Consult, collaborate and empower, etc.
	Actively disseminate balanced and objective information on the issue	Make relevant information publicly available through channels such as web sites, newsletters and brochures
	Allow information disclosure	Provide access to information upon demand by stakeholders <ul style="list-style-type: none"> • Freedom of Information law Promote media and civil-society scrutiny Establish independent oversight body to ensure appropriate disclosure
Enhance quality & reliability	Target groups relevant to the issue	Find the right mix of participants and ensure that no group is inadvertently excluded <ul style="list-style-type: none"> • Stakeholder mapping and analysis • Not marginalize “usual suspects”
	Incorporate knowledge and resources beyond public administration	Consult with experts and leverage their expertise through means such as expert group workshops and deliberative polling
	Promote coordination within and across governmental organizations	Ensure policy coherence, void duplication, and reduce the risk of consultation fatigue. <ul style="list-style-type: none"> • Establish a central agency or unit focusing on intergovernmental coordination
Promote implementation & compliance	Allow adequate time	Undertake stakeholder engagement as early in the policy process as possible to allow a greater range of solutions and raise the chances of successful implementation
	Enhance confidence in the decisions taken	Build mutual understanding to increase the likelihood of compliance
	Manage expectations and mitigate risks	Identify and consider risks earlier in the process, thereby reducing future costs

Table 2. Options for managing stakeholder engagement to ensure integrity in decision-making (continued)

Policy Objectives		Policy Options
Provide comprehensive support & capacity	Introduce new forums and technologies for outreach	Develop online engagement tools <ul style="list-style-type: none"> • Participative web • Social media
	Support stakeholders	Provide support to stakeholders to help them understand their rights and responsibilities <ul style="list-style-type: none"> • Raise awareness and strengthen civic education/skills • Support capacity building
	Develop internal capacity in the public sector	Provide guidance/code of conduct to foster an organizational culture supporting stakeholder engagement Provide adequate capacity and training, i.e. <ul style="list-style-type: none"> • Enough financial, human and technical resources • Access to appropriate skills, guidance and training for public officials
	Evaluate the process together with stakeholders	Assess the effectiveness of engagement and make the necessary adjustments <ul style="list-style-type: none"> • Identify new risks to the system's policy objectives • Identify mitigation strategies

Source: OECD (2017) Preventing Policy Capture: Integrity in Public Decision Making.

Fostering integrity and transparency in lobbying activities

A sound framework for lobbying transparency is crucial to safeguarding the public interest and promoting a level playing field for different interests. To increase transparency in the interactions between public officials and private actors, several G20 countries run lobbying registers; the amount and type of information disclosed to the public varies widely depending on the resources available, the country's specific concerns, and the maturity of the system in place. Additionally, G20 countries could require that membership, agendas, minutes, participant submissions and other information relating to advisory groups be made publicly available, so that stakeholders can scrutinize their work. Annex A, Table 3 provides a full overview of a framework for ensuring transparency and integrity in lobbying.

Ensuring Transparency and Access to Information - Enforcing the right to know

Transparency is a necessary—but not sufficient—condition for promoting accountability and fostering confidence in public decision-making. A transparent process gives stakeholders access to relevant information, leading to more inclusive decision-making as well as social accountability. However, transparency does not merely entail providing access to vast amounts of information. Disclosing the right amount and type of information is crucial to achieving transparency. However, determining what constitutes the right information is not always easy. How much information needs to be publicly available will depend on the proposed measure. The objective is not necessarily

to make the whole process transparent, but rather to shed light on the influence process. As a matter of principle, tools to increase transparency should be based on timely, reliable, accessible, and intelligible information.³⁷

It is key to note that the final decision remains the prerogative of policy makers, who are the guardians of the public interest and need to weigh all considerations when adopting transparency policies. G20 countries have increasingly made use of public records—including formal presentations to legislative committees, public hearings and consultations in legislative processes, and communications with public officials—to increase transparency in the policy-making process. Governments can choose to make public the names of organizations and people who seek to influence the legislative process; in many G20 countries, government officials disclose the identities of the people they consulted when drafting legislation, leaving a legislative footprint that facilitates public scrutiny.

Table 3 in Annex 1 provides examples of concrete transparency measures that can help mitigate risks of undue influence throughout the policy cycle.

Promoting accountability through competition authorities, regulatory agencies and supreme audit institutions

External controls, effective competition, and regulatory policies enable accountability in both the public and private sectors. The agencies responsible for these processes are particularly likely to become targets of undue influence, and to that end, regulation and policies ensuring their independence should be in place. These institutions can play a considerable role in preventing undue influence. (Providing detailed guidance is beyond the scope of this report. More detailed information can be found in OECD 2017.)

Addressing inherent capture risks at organizational levels through internal integrity policies

Defining clear standards of conduct (as noted in Chapter 1) and cultivating an open culture of integrity in public organizations (as noted in Chapters 5 & 7) can help embed organizational resistance to influence. In addition, creating the conditions for a merit-based, professional public sector dedicated to public-service values and good governance are important safeguards against the improper influence of private interests. This includes ensuring fair and open recruitment, selection and promotion procedures based on objective criteria. Box 6 highlights the example of the Australian Public Service, which bases employment decisions on merit. Other human resource measures, such as separating or rotating functions, can also help organizations tackle these risks. Chapter 8 on remedies provides details on additional policy options.

³⁷ Pfeiffer, S and B.W.Speck (2008), *Accountability and transparency in political finance, Why, how and what for?*, Working document 1/2008, Transparency International, Berlin, https://www.academia.edu/4064298/Silke_Pfeiffer_Bruno_Wilhelm_Speck_Accountability_and_transparency_in_political_finance._Why_how_and_what_for

Box 6. Merit-based employment procedures in the Australian Public Service

The Australian Public Service Act sets out procedures designed to ensure that employment decisions in the Australian Public Service (APS) are based on merit.

Under the 1999 Public Service Act, a decision is based on merit if:

- It is taken of the relative suitability of the candidates for the duties, using a competitive selection process;
- It is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties;
- It focuses on the relative capacity of the candidates to achieve outcomes related to the duties;
- It is the primary consideration in taking the decision.

For the assessment to be competitive, it should be open to all eligible members of the community. For ongoing jobs and non-ongoing jobs for more than 12 months, this is achieved by notifying the job in the APS Employment Gazette on the APS jobs website.

The work-related qualities that may be considered when making an assessment include:

- Skills and abilities;
- Qualifications, training and competencies;
- Standard of work performance;
- Capacity to produce outcomes from effective performance at the level required;
- Relevant personal qualities;
- Demonstrated potential for further development;
- Ability to contribute to team performance.³⁸

³⁸ Information provided by the Australian Public Service Commission.

5. Building an open organizational culture to identify and manage conflicts of interest

Principle 5	G20 countries should nurture an open organizational culture in the public sector, taking steps to promote the proactive identification and avoidance of potential conflict-of-interest situations by public officials. This should include ensuring that public officials can seek guidance and advice from competent officials regarding how to avoid potential conflict-of-interest situations, without fear of reprisal. Appropriate measures should be established to protect disclosures from misuse.
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Building an open organizational culture to foster communication and commitment around managing conflicts of interest

A proactive approach to managing conflicts of interest does not merely rely on setting standards for preventing and managing conflicts of interest, but supports the implementation of such standards with measures aimed at fostering a culture of integrity in which public officials are encouraged to actively identify and manage potential conflict-of-interest situations. An open organizational culture is one where anyone can raise issues—such as queries related to conflicts of interest—to identify and resolve them before they become damaging to the organization. Open organizational cultures are built on clear communication and commitment to organizational values, and create a safe and encouraging environment where employees can feel free to voice their concerns, freely discuss ethical dilemmas, potential conflict-of-interest situations, and other integrity concerns with trusted counterparts.

Clear communication and feedback channels enable organizations to gather feedback on how they are performing against their policies and values. They can better enable an organization to pinpoint where integrity risks may exist and channel resources accordingly. An organizational culture that fosters open communication has two mutually supportive elements: leadership commitment to providing timely advice and resolving relevant issues and employees who are confident raising ethical doubts and concerns when they encounter them.³⁹

What are some common challenges in proactively managing conflicts of interest?

Creating an open organizational culture in which employees feel free to come forward with ethical queries remains a challenge for many public sector organizations. It is common that employees experiencing an ethical dilemma or potential conflict-of-interest situation do not come forward to discuss the matter and seek guidance with a supervisor or appropriate counterpart. This might be due to limited awareness of what constitutes a conflict of interest and how to manage it, or to the lack of clear reporting channels and procedures. Research has also

³⁹ OECD (2017).

shown that not raising concerns can be influenced by an employee's perception of their immediate supervisor or organizational leader,⁴⁰ or of any leader in an organization's chain of command who is above the employee's immediate supervisor.⁴¹

What are some approaches to improving the organisational culture so that conflict-of-interest situations can be proactively discussed and resolved?

Creating an environment that is more conducive to the proactive identification and management of conflicts of interest could be supported in the following ways:

- Actively involving public officials in the design and review of the conflict-of-interest framework to shape a common understanding of the values and objectives of conflict-of-interest regulations;
- Training public officials to develop an understanding of the relevant general principles and specific rules, and to help them improve decision-making skills for practical application (for further details, see Chapter 7);
- Setting up the structures and reporting channels to provide timely guidance and advice to address and resolve issues before public servants run the risk of violating regulations;
- Requiring that senior public officials speak to staff about the goal and importance of these regulations to demonstrate commitment to these values and show leadership and integrity by example.

The following section identifies tools to operationalize each of the approaches identified.

Create a partnership with public officials

To support an organizational culture in which conflict-of-interest situations are proactively addressed, a common understanding and engagement with the ethical values and norms of public administration is key. When organizational values conflict with the values of the employee, employee commitment, and involvement to the organization will likely suffer. Alternatively, if employees hold their personal values to a higher standard than the organization, then they will experience a conflict of interest, resulting in decreased commitment and engagement. It is therefore vital to engage public officials in a dialogue on integrity, where public officials perceive that the values embodied by the organization align with their own values. In this way, ownership and commitment can be built.

To build and sustain communication and dialogue concerning integrity and the promotion of ethical behavior, public sector organizations could involve employees and other interested parties in the review of the existing conflict-of-interest policy, for instance the process for declaring a conflict of interest. Their perspective, as users of the system, on difficulties that may arise in the implementation of the conflict-of-interest policy can substantially contribute to the improvement of these measures by introducing practical considerations into the policy-making process and building a common understanding that is vital for the implementation of agreed policy. A concrete example for engaging public officials would be to involve them in the development and/or update of the code of ethics. This could include a survey on values public officials consider to be crucial and most applicable to their daily work and to be included in the code of ethics. By giving public officials a voice and taking their feedback into

⁴⁰ Morrison (2014).

⁴¹ Detert & Treviño (2010).

account, public officials feel more confident to raise concerns and dilemmas. The measures mentioned should be supported by communicating rules and standards in plain language to create awareness and skills (see chapter 7).

Provide guidance and timely advice

To support public officials in proactively identifying and managing conflict-of-interest situations sources of information and advice for public officials are essential. These should be widely available. Guidance could include examples of conflict of interest situations and explanations of how such situations have been managed in the past and are expected to be managed in the future. In this way, public officials feel more confident to seek guidance and advice from senior officials or other appropriate sources. For example, in Canada, the departmental officers for conflict of interest and post-employment measures are designated specialists within their respective organizations who advise employees on conflict of interest and post-employment measures in line with the Values and Ethics Code. In Mexico, the Ethics, Public Integrity and Prevention of Conflict of Interest Unit in the Ministry of Public Administration offers all public officials the possibility to consult them on specific cases in which the public official might be in a potential conflict-of-interest situation. Furthermore, immediate hierarchical superiors and managers can provide concrete guidance in the form of advice and counsel for public officials to resolve ethical dilemmas at work and potential conflict-of-interest situations. In Brazil, the Office of the Comptroller General (CGU) has developed an electronic system to provide guidance on potential conflicts of interest—the SeCI (www.seci.cgu.gov.br, regulated by Ordinance n. 333/2013). The system allows any public official from the Federal Executive Branch to inquire about concrete situations that may fall into the scope of the Law on Conflict of Interest (Law n. 12.813/13). The inquiries are sent to the Human Resources unit or Ethics Committee of the public official's body or entity, which must provide an answer within 15 days, and may retransmit the inquiries to the CGU if a potential situation of conflict of interest is identified. In Korea, the Head of a central administrative agency designates a Code of Conduct Officer at the agency. The Code of Conduct Officer provides education and counseling to public officials in his or her agency on the Code of Conduct and Conflicts of Interest, checks and assesses their level of compliance with the Decree, receives reports on and conducts investigation into violations, and handles any other necessary matters for the implementation of the Code of Conduct.

Making this advice available not only to public officials, but also to the private sector and others who interact with public entities, including contractors, agents, and partnering bodies, creates a common understanding of applicable integrity standards and generates greater confidence in adherence to these standards in public-private interactions.

Demonstrate leadership commitment

Leadership credibility, or the extent to which employees trust their leadership to embody the values of the organization and act according to integrity regulations, has a positive impact on the organizational culture. By setting an example in terms of integrity, it is more likely that employees will feel confident to discuss and seek advice on potential conflict-of-interest situations or ethical dilemmas from their managers or appropriate sources of advice.⁴²

⁴² Brown, M., L. Treviño & D. Harrison (2005), *Ethical leadership: A social learning perspective for construct development and testing*, *Organizational Behavior and Human Decision Processes*, Vol. 97/2, pp. 117-134, <http://dx.doi.org/10.1016/j.obhdp.2005.03.002>.; Berry, B. (2004), *Organizational Culture: A Framework and Strategies for Facilitating Employee Whistleblowing*, *Employee Responsibilities and Rights Journal* 16 (1): 1–12.

There are several ways that managers can generate credibility and trust in the example they set and thereby promote openness across the organization. The degree to which leadership acts in ways that are consistent with the vision, values, and behavior of others in the organization has an influence on openness. The Positive and Productive Workplaces Guidelines in New South Wales, Australia, for example, propose concrete actions that managers can take to build trust and show leadership in organizational values (Box 7). Managers can also communicate these values in one-on-one discussions with employees. This can help reduce employees' fear of negative consequences for coming forward.⁴³ Governments increasingly provide training for managers to build these skills (see for example Box 8). Proactively communicating with staff about ethical values, and conflict of interest regulations, procedures and resources could also be included as a performance indicator for managers. Ethical leadership by example could also be included. For instance, in the UK and Canada, leadership awards are given to public officials who exemplify behavior based on integrity and openness. In this way, public service values are made visible and a strong signal is sent that ethical behavior is valued.

Box 7. Concrete actions that managers can take to build trust and show leadership in integrity: Positive and productive workplaces guidelines, New South Wales, Australia

Recognising the impact of manager behaviour on organisational culture and employee attitudes, the Public Service Commission provides guidelines for managers, including:

- Ensure leaders understand the importance of values and organisational culture to achieve business outcomes.
- Require leaders to behave in an exemplary fashion.
- Ensure leaders implement the organisational values in their areas of responsibility.
- Discuss behaviour and acceptable standards of ethics and conduct at regular team meetings.
- Expect leaders and managers to be alert to any signs or reports of unreasonable behaviour and to take quick, informal, discreet action to draw it to the person's attention.
- Expect leaders and managers to treat complaints or potential symptoms of systemic issues rather than seeing them as exasperating or, indeed, the cause of poor workplace culture.
- Provide development for managers in holding respectful conversations, managing workplace conflict, providing constructive feedback on work performance, and speaking candidly to employees about unreasonable behaviour.
- Use scenario-based exercises to foster discussions amongst employees and managers about the expected standard of behaviour and organisational culture.
- Promote an understanding of diversity and inclusion based on assisting all people to participate in the workplace and make a valued contribution to the group.
- Expect managers who observe or hear about unreasonable behaviour to act quickly and fairly. They need to have a confidential, clear and direct conversation with the person who engaged in the behaviour about the behaviour, its impact on others, the expected standards of behaviour, the need for the behaviour to stop, and how the organisation can assist the person in changing their behaviour. The focus of the conversation must be on the behaviour and the message must be clear and consistent: the behaviour is not acceptable, and it must stop.⁴⁴

⁴³ OECD (2018).

⁴⁴ Public Service Commission New South Wales (2016).

Box 8. Example of a tool to build the skills of senior managers to proactively manage conflicts of interest

As a diagnostic measure, senior managers and heads of public organizations can use the following short questionnaire to remind themselves of the need for personal efforts to specifically target and discourage conflict of interest, corruption and misconduct in the organizations for which they carry responsibility:

1. If a public survey on the incidence of conflict-of-interest cases were conducted in government ministries this week, I believe that the survey would show that the occurrence of serious conflict-of-interest cases in my ministry/agency is: a) Low. b) Moderate. c) High. d) No opinion.
2. During my duties in the past six months, what have I achieved specifically with reference to reducing? a) Conflict of interest? b) Lack of transparency in the organization? c) Lack of accountability in the organization?
3. During my duties in the past six months, how many times have I spoken with my senior staff with specific reference to: a) Managing conflict of interest? b) Increasing transparency in what we do as officials? c) Increasing accountability for what we do as officials?
4. In seeking to increase transparency and accountability in the organization, what have I achieved to encourage concerns by staff about conflict-of-interest issues to be raised for discussion with me, or with an appropriate person in the organization?
5. In seeking to increase transparency and accountability in the organization, what have I achieved to encourage concerns about conflict-of-interest matters to be raised with me or with another appropriate person, by clients, contractors and citizens who have dealings with the organization?
6. During my duties in the next six months, what do I plan to achieve specifically with reference to reducing: a) Conflict of interest? b) Lack of transparency in the organization? c) Lack of accountability in the organization?⁴⁵

⁴⁵ OECD (2005).

6. Managing conflicts of interest – Use of financial disclosures

<p>Principle 4</p>	<p>G20 countries should identify at-risk activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflicts of interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.</p>
<p>Principle 10</p>	<p>G20 countries should adopt and implement appropriate and effective mechanisms for the prevention, identification and management of conflicts of interest, such as periodic financial, interest and asset disclosure systems for relevant public officials consistent with G20 High Level Principles on Asset Disclosure by Public Officials and applicable law.</p>
<p>Principle 11</p>	<p>Countries that have established declarations systems or are considering establishing them, are encouraged to support each other, where domestic law and institutional mandates permit, facilitating the identification and exchange of information on public officials’ interests abroad and/or sources that could be consulted by foreign authorities to gather and/or confirm information on officials’ interests abroad. In this regard, G20 countries should make appropriate use of new technologies, without prejudice to personal data protection.</p>

Financial disclosures⁴⁶ can be an important tool for the prevention and detection of COI, as set out in Article 8 (5) of the UNCAC⁴⁷. Full access to the information reported on financial disclosures to appropriate official reviewers and as fully as appropriate to the public is key in developing their full potential.

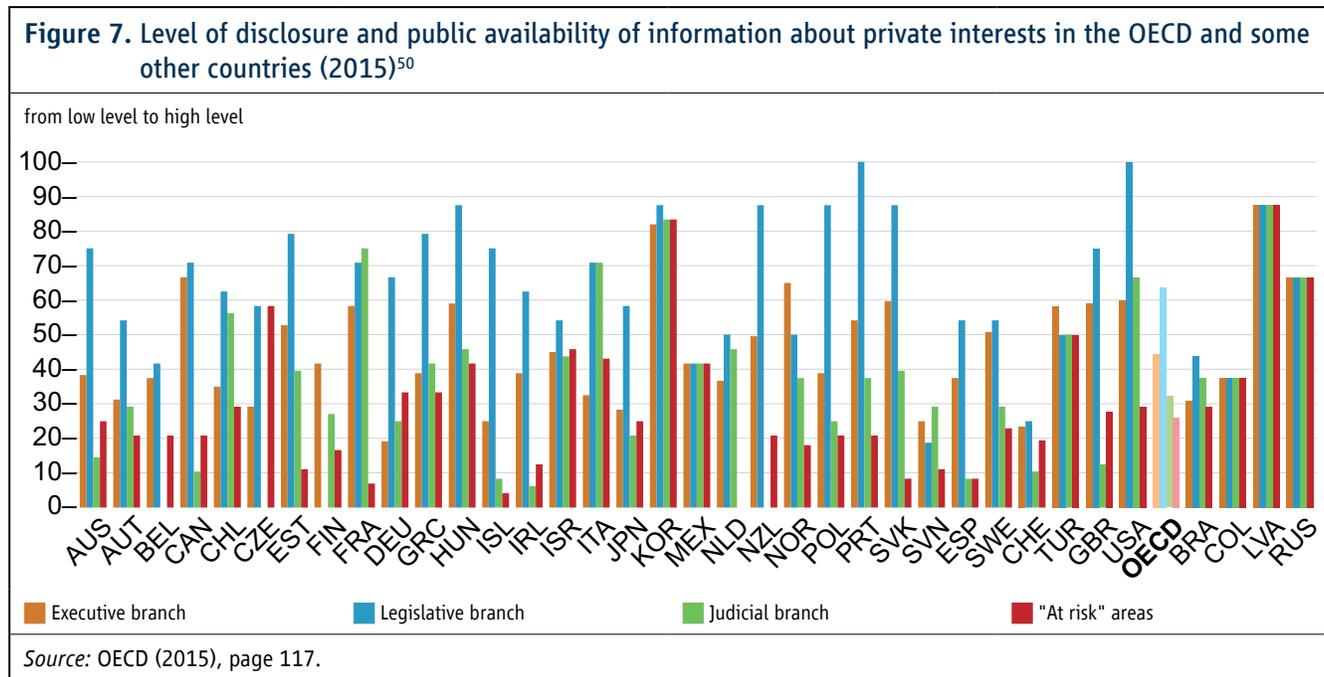
This chapter deals with the routine financial disclosures that are not linked to specific decision-making processes or *ad hoc* disclosures, which may be required to be filed each time an actual or potential COI arises. A financial disclosure for this chapter means a written or an electronic form which a public official submits to a central or other depository (e.g., at the place of work) to disclose information about assets, sources and amounts of income, liabilities and, in some systems, expenditures of the official and his or her family members. It can also include disclosure of positions held outside of public service, gifts, and relationships with individuals and organizations outside of public service. This chapter focuses

⁴⁶ In this guide the terms ‘financial disclosure,’ ‘income and asset declaration’ and ‘asset and interest declaration’ are used interchangeably. Practices vary internationally (and other languages use other idioms, such as *declaration de patrimoine* (statement of patrimony) in some francophone countries or ‘*declaración jurada*’ or ‘*declaración responsable*’ (sworn statement or responsible statement) in some Spanish-speaking countries. Regardless of the nomenclature, there is a growing trend internationally to improve the collection of information relating to private interests on financial disclosure forms. This trend is in part driven by the growing adoption of e-filing of asset declarations and the data analytics that this enables.

⁴⁷ See <https://www.unodc.org/unodc/en/corruption/WG-Prevention/thematic-compilation-prevention.html> for a compilation of information and material submitted by States parties to the UNCAC Working Group on Prevention. The compilation covers practices related to income and asset declarations, including relevant policies, practices and legislation as well as further resource material.

on the use of financial disclosures as a tool to manage COI and does not cover other uses such as detecting illicit enrichment; these additional uses have been the subject of other studies.⁴⁸

Requirements that public officials file financial disclosures are widespread globally. Many international anticorruption agreements, principles, and evaluation reports contain references to and recommendations for the collection and use of financial disclosures.⁴⁹ Figure 7 below shows the level of disclosure and public availability of information about private interests in the OECD and some other G20 countries. The private interests include assets, liabilities, income source, and amount, paid and non-paid outside positions, gifts and previous employment.



Why use financial disclosures for conflict of interest management

Historically, many financial disclosure systems were designed for detecting illicit enrichment while overlooking the potential for using information reported on disclosures as a way of detecting and managing COI. Information regarding non-financial interests such as outside activities or positions was sometimes included with the disclosure of financial interests, was sometimes the subject of a separate disclosure, or was never requested. Experience has shown that when creating a new system or enhancing an existing one, gathering relevant information for COI purposes should be strongly considered.

⁴⁸ See, among others: World Bank/StAR (2017), *Getting the Full Picture on Public Officials: A How-to Guide for Effective Financial Disclosure*, <http://documents.worldbank.org/curated/en/517361485509154642/pdf/112302-PUB-Box402876B-PUBLIC-PUBDATE1-13-17.pdf>; World Bank/StAR (2014), *Good practices in asset disclosure systems in G20 countries*, <https://www.bmjv.de/SharedDocs/Downloads/EN/G20/Good%20practices%20in%20asset%20disclosure%20systems%20in%20G20%20countries,%20prepared%20by%20the%20OECD%20and%20the%20World%20Bank.pdf>; World Bank/ StAR (2012), *Public Office, Private Interests: Accountability through Income and Asset Disclosure*, <https://star.worldbank.org/publication/public-office-private-interests>.

⁴⁹ Such as the United Nations Convention against Corruption, Inter-American Convention against Corruption, African Union Convention against Corruption, G-20 High Level Principles on Asset Disclosure by Public Officials, APEC High Level Principles on Financial Disclosure by Public Officials.

⁵⁰ At the time of data collection Latvia was not yet a member country of the OECD.

Financial disclosure forms that focus strictly on financial interests and do not contain information on activities, gifts and relationships, still usually contain a vast amount of valuable information that can be used to understand an official's direct and indirect interests that could potentially or actually conflict with his or her duties.

The act of completing a disclosure form can help strengthen the integrity of public officials. When filling out a form as part of a COI management regime, an official has to take stock of his or her interests and the interests of his or her family members, evaluate these interests in light of the duties performed and decide whether any additional steps need to be taken to manage COI. This initial self-identification and evaluation process can and should generate requests for assistance to those who provide advice and guidance on managing conflicts of interest and help supplement the advice and guidance provided based simply on a subsequent official review.

Public officials' private interests and affiliations that could compromise the disinterested performance of public duties should be disclosed appropriately to enable adequate control, management and resolution.⁵¹ Further, public disclosure and scrutiny of financial disclosures can act as a deterrent and supplement official oversight. If the disclosure forms are available to the public, online or otherwise, there is an additional deterrent feature as well as more opportunities for oversight and accountability. The media and civil society then have the opportunity to raise issues regarding potential or actual conflicts of interest they perceive to exist or to have occurred. While not a substitute for official review, this is a second level of review that can be of assistance, particularly where resources for official review are limited.

Financial disclosures can be used as a detection and enforcement tool. For example, disclosures can be used to identify specific violations of the COI regulations (e.g., incompatibilities) or COI situations, which should have been prevented or resolved, or a false declaration could be used as a basis for sanctions for unreported interests.

If a reporting system is electronic, data on interests can also be reused and merged with other data sets to conduct analytics for purposes of detecting corruption risks and/or other violations of law or regulations. Digital information on interests is a valuable potential resource, especially if provided in machine-readable formats.

When and how to use financial disclosures

Financial disclosures can be a useful tool to formalize and institutionalize COI management and can be used throughout the Human Resource Management (HRM) cycle—from recruitment to post-employment. This institutionalization process will help mainstream the identification and avoidance of COI as a part of the integrity framework in HRM in the public service.

Use prior to appointment or election

Financial disclosures may be requested from candidates for appointed or elected public office. The Council of Europe Model Code of Conduct stipulates (Article 13) that any conflict of interest declared by a candidate to the public service or to a new post in the public service should be resolved before appointment. Some systems also require publicly available financial disclosures from candidates for elected office so that the public has an opportunity to judge for themselves the potential conflicts of interest of the candidate prior to voting. This also

⁵¹ OECD Guidelines for Managing Conflict of Interest in the Public Service.

helps address the issue that COI standards for those in elected office may be different than those in appointed or administrative offices in part because there are more options for managing conflicts of interest for the latter than those in a representative role.

For appointed positions, the recruiting agency or another public authority can vet the candidate, including for potential conflicts with the duties of the future office. This can help manage and resolve COI issues before the person takes office, if possible, or lead to the rejection of the candidate if the COI is not resolvable or resolution requires unreasonable efforts. The background check using financial disclosure can look at the candidate's financial and non-financial interests—stakes in companies, employment of relatives, previous employment of the candidate, outstanding debts and other liabilities of the candidate or family members, gifts received during the preceding period, outside engagements, and activities that may be incompatible with the office, etc. Such review can be conducted before a person enters public service or an official is appointed to a new position in the same and another agency.

Box 9. Example of procedures using financial disclosures to manage conflicts of interest: USA

Procedure for financial disclosures of Presidential Nominees

A presidential nominee to a position requiring the advice and consent of the Senate is required by law to file a financial disclosure form no later than five days after nomination by the president for the position. Filers are generally required to file a report with the White House as part of the background review process before their nomination is announced, which is then reviewed by OGE and the nominee's potential future agency. As a part of the disclosure, the filer must report:

- filer's positions held outside US Government for preceding two years;
- filer's employment, assets & sources and amounts of income and retirement accounts;
- filer's employment agreements and arrangements with those outside of the government as of filing date;
- filer's sources of compensation exceeding \$5,000 in a year for preceding two calendar years to filing dates;
- spouse's employment, assets & and sources of income and retirement accounts;
- other assets and income of the filer, spouse and dependent children;
- liabilities over \$10,000 arising in the preceding calendar year to the filing date.

Typical Steps in the Review of a Draft Report

The filer submits a draft report to the White House. Most filers will complete and submit their draft report using Integrity, the Office of Government Ethics' (OGE) electronic financial disclosure system. The White House releases the draft report to OGE and to the agency where the position is located. OGE and the agency review the draft report, ask follow-up questions, provide guidance on addressing technical disclosure issues, and analyze disclosed items for potential conflicts of interest. A draft ethics agreement (see below) is prepared outlining the steps the filer will take to avoid conflicts of interest. OGE preclears (i.e., tentatively approves) the report and the ethics agreement.

Typical Steps in the Review of a Final Report

The filer is formally nominated by the president. The filer formally files the report containing any necessary amendments that have been identified in the preclearance process. For filers who use Integrity, formal filing requires the filer to log into Integrity, open the report, and re-submit it. The agency's Designated Agency Ethics Official (DAEO) certifies the report and provides OGE with the report, the final ethics agreement, and an opinion letter stating that based on the report and the ethics agreement, the filer is in compliance with applicable laws and regulations. OGE staff review the materials for completeness and transmit for final review and certification by OGE.

(continued)

*(Box 9 continued)***Resources used during a review**

As a general matter, each nominee's financial disclosure is reviewed on the basis of the information submitted to determine whether the individual is in compliance with applicable laws, including the reporting requirements of the Ethics in Government Act and the Federal Ethics Laws. Agencies and OGE may use the following documents to assist in the review:

- the filer's prior reports and any supporting materials (if applicable);
- the notes of an individual who performed an earlier review of the report (if applicable);
- the instructions accompanying the financial disclosure form;
- federal ethics laws and regulations;
- agency's prohibited holdings list (if applicable);
- a list of agency's grantees, contractors, licensees, etc.;
- OGE legal and program management advisories; and
- financial reference materials and/or access to the internet to conduct research.

For any financial disclosure report, if the reviewing official concludes that information disclosed in the report may reveal a violation of applicable laws and regulations, the official shall: (i) notify the filer of that conclusion; (ii) afford the filer a reasonable opportunity for an oral or written response; and (iii) determine, after considering any response, whether or not the filer is then in compliance with applicable laws and regulations. Because nominee financial disclosure reports are filed before an individual is an employee of the United States, information disclosed is generally used to establish an ethics agreement to ensure that if the individual is appointed to a position, he or she will be able to comply with all relevant ethics laws.

If the reviewing official concludes that the report does not fulfill the requirements, he shall: (A) notify the filer of the conclusion; (B) afford the filer an opportunity for personal consultation if practicable; (C) determine what remedial action should be taken to bring the report into compliance with the requirements; and (D) notify the filer in writing of the remedial action which is needed, and the date by which such action should be taken.

Remedial action. Except in unusual circumstances, remedial action shall be completed not later than three months from the date in which the filer received notice that the action is required. Remedial action may include, as appropriate: (A) divestiture of a conflicting interest, (B) resignation from a position with a non-federal business or other entity, (C) restitution, (D) establishment of a qualified blind or diversified trust, (E) procurement of a waiver, (F) preparation of a written instrument of recusal (disqualification), or (*G) voluntary request by the filer for transfer, reassignment, limitation of duties, or resignation. In the context of nominee reports, steps taken to comply with the ethics laws are generally contained in an ethics agreement.

Ethics agreement. A promise by a reporting individual to undertake specific actions in order to alleviate an actual or apparent conflict of interest, such as: (1) preparation of a written instrument for recusing (disqualifying) the individual from one or more particular matters or categories of official action, (2) divestiture of a financial interest, (3) resignation from a position with a non-federal business or other entity, (4) procurement of a waiver, or (5) establishment of a qualified blind or diversified trust. Ethics agreements for nominees are memorialized in written form.

The ethics agreement shall specify that the individual must complete the action that he or she has agreed to undertake within a period generally not to exceed three months from the date of Senate confirmation. Evidence of any action taken to comply with the terms of such ethics agreements shall be submitted by the designated agency ethics official, upon receipt of the evidence, to the Office of Government Ethics and to the Senate confirmation committee. The ethics agreement is publicly available on the website of the OGE.

(continued)

(Box 9 continued)

Certificate of Ethics Agreement Compliance. To ensure that an individual complies with the commitments made in the ethic's agreement, he or she must submit a Certificate of Ethics Agreement Compliance to the employing agency and OGE within 90 days of appointment. This certificate is made publicly available on the website of the OGE. If an individual fails to file his or her certificate in a timely fashion, a note to that effect is placed on the website of the OGE until such time as the certificate is filed.

*Typically a remedial action used only for incumbents. For potential presidential nominees, it is the president who decides whether to proceed with the nomination of a particular individual to a position requiring Senate confirmation.

Source: OGE (2018); Government of the United States (nd).

Use during public service

Periodic financial disclosures are most often required to be filed annually or every two years. These reports by incumbents to positions require updated information on assets, income, liabilities and other interests—including outside activities, if required—of the officials and their family members. Such periodic disclosures can be checked for any new interests—financial and otherwise—that may indicate a potential or actual COI—new sources of income, interests in companies, etc. In this way, the financial disclosure can be used as a monitoring tool to consistently and regularly assess officials' COI exposure and compliance.

Even if assets and interests have not changed, the official's duties may have changed (e.g., new responsibilities that involve reviewing procurement tenders, supervising entities in a new sector or geographical area) or the nature of the businesses in which the official has an interest may have changed or expanded. For COI purposes, the verification of the periodic disclosure should therefore include the review of the private interests and public duties of the official compared with the official's current position and scope of authorities. This review may also look into the decisions taken by the official in performance of his duties during the reporting period (e.g., preceding year) to check for possible COI violations.

Ad hoc disclosures of significant changes in assets or emerging situations of potential conflict of interest

Given that formal disclosure requirements are annual or periodic at most, effectively addressing and managing conflicts of interest is likely to require more flexible approaches that enable the disclosure of situations as they arise. For that purpose, many systems include a requirement and procedures for *ad hoc* disclosure, whether to a supervisor or a centralized body, to enable public officials to alert the competent authorities, seek advice and take action in a timely way. In systems that rely on electronic filing of financial disclosures, *ad hoc* disclosures can be incorporated into these data management systems.

Use when leaving and following public service

Exit and post-employment financial disclosures are typically filed when the public official is about to leave the office or has just left. They may also be required for a one- to two-year period following public service. Disclosures filed after leaving office have two general purposes: they are used for reviewing compliance with applicable post-employment restrictions, (See Chapter 4). They are also used to ensure that the former public official has

not received delayed enrichment following government service. Exit disclosures that are filed just as the public official leaves the office and which require the reporting of information about agreements and arrangements for future employment can also be used to review compliance with any applicable restrictions on negotiating for employment, if necessary, to re-review official actions taken by the public official in the period leading up to departure.

When using financial disclosures for COI management, it is important to explain to the filer and to the public how such use correlates with other COI policies. Such other COI policies may require the official to proactively report and seek resolution of COI situations as they arise. An annual or biennial financial disclosure may then reflect a situation where the actual or potential conflict of interest has already been resolved at an earlier date. For example, a matter arises where a public official identifies a potential conflict of interest, with an action she may be required to take and an asset she has that could be affected. She makes an *ad hoc* disclosure of this situation and agrees to recuse herself from the matter. The asset is still required to be reported on the annual or biennial report. Standing alone, these periodic financial disclosure reports will not include information on how the COI situation has been resolved through the separate procedure. It is, therefore, important to explain to officials and to the public that annual disclosures may present potential conflicts of interest that have actually been resolved, and what to expect from the two separate reporting requirements, if *ad hoc* disclosures and details of recusals are available. It should be made specifically clear to public officials that whenever a COI situation arises, they are supposed to immediately resolve and report it, and not wait until filing an annual or biennial financial disclosure report. Also, it should be made clear that filing a financial disclosure does not as such resolve the COI situation.⁵²

What information to include to be useful for managing conflict of interest

Many systems require not only the disclosure of a public official's financial interests but also information about the identity of a public official's immediate family and other dependent persons. When that is the case, information gathered generally includes each of those individual's full name and ID details, date of birth and residence details. Disclosure of the identities of relatives is usually limited to the persons living in the same household as the official; although, if conflict-of-interest risks encompass a broader definition of close relatives and associates then the identity of those individuals may also be required.

While an official's personal financial interest might typically be considered as creating the strongest basis for a potential conflict of interest, the financial interests of family and non-financial relations (e.g., membership or leadership roles in organizations) can also create real conflicts with public duties. Conflicts of interest can arise not only because of the public official's financial interests and other activities but because of the interests and activities of those individuals and organizations to whom he or she owes some legal duty and/or trust. To be most useful for full COI management, the financial disclosure should also include information about interests of the official and of closely related persons and entities. Like with the public official, information gathered relating to other individuals generally involves not only financial information but information on activities and relationships.

⁵² See relevant recommendations to Mexico in OECD (2019), *Follow up Report on the OECD Integrity Review of Mexico*, pages 31-32, <https://www.oecd.org/gov/ethics/follow-up-integrity-review-mexico.pdf>; and OECD (2017), *OECD Integrity Review of Colombia*, pages 89-90, <https://dx.doi.org/10.1787/9789264278325-en>

A financial disclosure usually requires reporting on **financial and non-financial interests**. This typically includes:

- **Assets.** Almost all financial disclosure systems require the reporting of real assets and most types of personal property (land, buildings, vehicles, collections, jewelry etc.) Information about such assets in most cases will not reveal outside activities or other interests, unless there is a relation to a third party to be reported. In order to identify such potential conflicts of interest, the disclosure form would need to require reporting from whom the asset was purchased, or, whether the filer uses property they do not own, the name of the owner (e.g., real estate rented or simply used by the official). Reporting on different categories or classes of assets owned (e.g. mineral interests) helps indicate if the official has an interest that could generate a conflict of interest in policy decisions that affect classes of assets. Reporting the geographical area where the official's real estate is located can be important if the official takes part in zoning or other similar land use decisions that may affect the value of the property.

The disclosure form may also require reporting beneficial ownership of assets—effective control of assets which the filer does not formally own in their name. The form should also ask for information on the nominal owner (individual or company) as the official in this way becomes related to this person. For example, in Ukraine and Moldova, the disclosure form requires reporting of assets beneficially owned by the filer, including information on the nominal owner. In Chile, the disclosure form requires information on real estate located in the country or abroad whether in ownership, co-ownership, community ownership, fiduciary property or any other form of property.

- **Financial assets and investments.** Information on the financial institutions where the official or related persons have deposits or financial investments will be important for officials who work in the regulatory bodies (e.g. Central Bank). A category of financial assets that should also be considered is liabilities owed to the public official. Knowing who owes the public official money, either because of an outright loan or because of past services rendered or goods sold, can provide insight into potential conflicts of interest that could arise when the official could be called upon to take actions affecting those individuals or entities that are in debt to the filer.
- **Securities and stocks.** Information on securities provides insight into financial interests by indicating specific companies and, cumulatively, industries in which the filer or relative/associate has invested. As with other types of assets, information on the relevant issuer is important to identify and check for COI (name and identification details of the entity). Disclosures should also cover any deferred corporate rights (e.g. options to purchase shares in the future) and investments regardless of their form.
- **Trusts.** Information regarding any trust and its assets for which the filer or his related persons are the trustees or beneficiaries will show financial interests in the individual assets of the trust and their connections with external parties. The types of trusts that require additional information are those trusts established by the filer for the benefit of other persons or from which the filer is a beneficiary. In Canada, disclosures of members of parliament include information about any trust from which the MP could derive benefits/income currently or in the future, either directly or indirectly.
- **Beneficial ownership or control of companies.** To show indirect connections to legal entities, the disclosure form could include reporting of legal entities for which the filer or his related persons have beneficial ownership or control. Such reporting can be based on the percentage of shares owned, directly or indirectly, or other measure of effective control over the entity. Reporting of such entities is required, for example, in Chile, Indonesia, Moldova, and Ukraine. The ownership, whether nominal or beneficial, as well is often important where there are restrictions on participation in government procurements by companies who are owned or controlled by public officials.

- **Income.** Similar to reporting assets, the source and type of income received by the filer, and often related persons, is fundamentally important for COI analyses and management. What person or legal entity has provided income to the official? What type of income was received—employment remuneration, income from self-employed activity (e.g., independent professional activity, sole entrepreneurship), income from fees and honoraria, royalties, interest, dividends, selling assets, inheritance, debts repaid, etc.? Each type of income may involve a different type of conflict of interest analysis and management as the types of loyalty or ties will differ. For example, loyalty to or the necessity of an income from an employer or client, or a passive investment income from a bank account or stock, or a profit from the sale of an asset, may require different types of remedies for the purposes of managing a COI.

For example, in Croatia, the disclosure form includes information about different types of income received—income from employment, income from self-employment, income from property and property rights, income from insurance and capital, as well as other types of income, and receipts for which income tax is not paid—and their source—name and ID number of payer. Globally, 77% of countries require disclosure of the income source (see table below).

- **Gifts.** For COI management and deterrence, as well as application of other laws involving the acceptance of privately provided benefits by public officials, information on the source and types of gifts and donations received can be especially relevant. Whether treated as a type of income or separately, a financial disclosure should include information on gifts and donations received to check for compliance with relevant restrictions and manage potential or apparent COI.

For example, in Indonesia, civil servants are obliged to report gifts and benefits to KPK (Law No. 30 of 2002), unless the conditions or context of receipt are exempt (KPK Circular No. B1341/01-13/03/2017). While government officials are prohibited under Law No. 20 of 2001 from accepting any gratification related to their position and contrary to their functions, there are different thresholds established in the implementing regulations. KPK has issued Guidelines on Gratification Control in June 2015 and Guidelines on Conflict of Interest Handling in 2009 to facilitate graft control and handle conflicts of interest.

- **Sponsored travel.** If not reported as a gift, sponsored travel could be a separate item to disclose. In Canada, ministers, ministers of state, parliamentary secretaries, ministerial advisers and ministerial staff must disclose acceptable travel to the Conflict of Interest and Ethics Commissioner within 30 days of its acceptance and is subject to the public declaration identifying the source and circumstances under which it was accepted.
- **Intangible assets.** Disclosures could cover financial interests based on patents owned or other intellectual property rights, licenses, and permits obtained from the central or local government.
- **Liabilities.** As with details of bank accounts, information on financial institutions that have provided credit or other funding to the filer can indicate the potential desire of the filer to remain in this institution's good graces. This could arise, for example, if the official is involved in the regulation or supervision of the sector. Similarly, in case of private loans provided by an individual or an entity that is not a financial institution, information on the source of the loan (lender) should be disclosed and possibly the terms of the loan in order to be able to rule out a loan disguised as a gift or other payment. If there is a third party guaranteeing the official's liability, this person's identity could be disclosed as well. Similarly, if the filer acts as a guarantor of the obligation, it could be reported.
- **Expenses and transactions.** Disclosure of the official's expenses is more relevant to the assessment of the official's financial balance for purposes of detecting possible illicit enrichment than for a typical conflicts of interest analysis. However, knowing the party to whom the official made a payment may also be useful for COI management, as it will

disclose who received the payment for services provided or work performed for the official or his related persons. Information on transactions is included in the disclosure forms, for example, in Latvia, Lithuania, Ukraine.

- **Memberships and positions.** Memberships in various organizations—charities, associations, unions, other non-profit organizations, private clubs, etc.—may be required to be reported, depending upon a country’s privacy laws. However, non-remunerated leadership positions (e.g. board functions in political parties, other organizations, foundations) are usually reported in the disclosure forms because they carry with them some fiduciary responsibility to the entity that could conflict with an official’s duties. With outside positions, whether paid or not, and with memberships, it is important to report enough identifying and descriptive information to make an appropriate conflict of interest analysis. This includes the proper name of the relevant institution, its purpose, the position held by the official, and if appropriate, the institution’s address and ID number.
- **Outside activities:** Disclosures could cover other engagements, whether paid or not, outside of the main place of the official’s employment. These could include such activities as teaching, academic pursuits, creative work, medical practice, work as a sport referee, or trainer. Professional activities should be reported as well, including services or consulting activities. The disclosure form in Korea also covers advisory work including both paid and unpaid.
- **Pre-tenure employment and activities.** To help identify particular biases or influences from work and activities engaged in prior to public service (the incoming aspect of the “revolving door”), it can be important to require disclosure of the filer’s employment, paid activities and other engagements prior to taking public office. Such pre-public service information may be relevant for one- to two-year period before the date the initial disclosure is filed. For example, in Chile, the new electronic disclosure form includes information on the professional, labor, economic, union, or charitable activities carried out within 12 months prior to the date of entering into office. Such information is also requested in Mexico.
- **Post-employment work and activities.** If an exit or post-employment disclosure form is required, it could ask for information on agreements for future employment, filed prior to or at exit, or current employment, filed after leaving public service. Requiring such information could be important for enforcing restrictions on negotiations for employment following public service and post-employment restrictions—the on the way out and out portions of the revolving door.
- **Government contracts.** The disclosure could include contracts concluded and completed within a certain period of time before the start of the time in office, contracts concluded before the start of the time in office, and still ongoing and contracts concluded since the start of the time in office with any government agency by the filer, his or her spouse or companies that are fully controlled by them or in which they have a major stake. Such contracts could include procurement, privatization, lease or property management contracts, and contracts to provide services.

Disclosure of assets and other financial interests and disclosure of outside activities and other non-financial interests may be required by some systems to be made on one form or two separate forms. Having two separate disclosure forms is less common. For instance, two forms are required in Portugal and Lithuania, where assets and income are disclosed through tax declarations submitted by all nationals, not simply public officials, while disclosure of other interests is required for public officials only through a separate form. Some countries, which had two concurrent systems of disclosure for interests and assets, decided to merge two forms into one. For example, until 2015, Chile had separate disclosure forms for interests and assets, which were merged into a single electronic form by the new law on Integrity in the Public Function and Prevention of Conflicts of Interest. As the official guide to the law states, this was not only due to

practical issues but also because they recognized assets could be the source of conflicts of interest so separating a report on assets from other interests had no justification.⁵³

To enable effective cross-checking and management of COI situations, it is important that whenever a third party, not the filer and his or her family members, is mentioned in the disclosure form (e.g., the source of income or a party to a transaction) minimum details identifying the party are provided—name, ID/registration number or tax number, address.

In some countries (e.g., Chile, Lithuania) the disclosure form also includes an open field to indicate any interests or potential conflicts of interest not covered by other sections. To be useful, such provisions need detailed guidance with examples. In general, however, it is advisable to avoid such open fields in the disclosure form; it is more useful for future verification and for the filer if the form contains, where appropriate to the interest or activity required to be reported, clear instructions or fields with a pre-determined list of options from which to choose.

Category	Global	Asia	ECA	LAC	MENA	OECD high-income	SSA
Immovable assets	88	100	90	100	82	78	80
Sources of income	77	73	95	96	45	100	48
Stocks and securities	86	100	95	100	64	87	70
Bank accounts	80	86	86	100	64	72	70
Cash	29	45	38	37	36	16	20
Values of income	67	73	90	93	27	63	48
Movable assets	80	86	90	100	82	56	75
Liabilities	72	82	71	100	45	56	68
Pretenure activities	58	45	71	85	27	75	33
High-level positions	41	45	38	33	27	84	15
Gifts	39	59	57	33	9	53	18
Other positions	30	32	19	19	36	69	10
Unpaid activities	29	18	38	22	9	69	10
Expenditures	18	18	38	22	0	25	3
Sponsored travel	14	14	5	4	0	41	8
Posttenure activities	14	0	29	7	0	34	8

Source: World Bank/StAR (2017), p. 33.
Note: OECD= Organisation for Economic Co-operation and Development. Approximate percentages based on the analysis of 153 jurisdictions.

⁵³ Government of Chile (nd).

Approaches to the review and verification of financial disclosures

Verification/review of financial disclosures is an important step in the identification of potential COI and subsequent management of COI, the enforcement of relevant regulations and, if necessary, the imposition of sanctions for non-compliance. Publication of information from financial disclosures for purposes of public scrutiny have a deterrent effect and promote integrity and trust in the public administration. Publication cannot, however, replace the enforcement of rules through systematic review and verification of the financial disclosures and the imposition of sanctions for non-compliance. Ensuring that filers understand their obligations, the purpose of the law and the consequences for not complying and are able to identify and self-report potential conflicts of interest is an important part of the review process. Resolving conflicts of interest before they occur should be a primary goal of any COI system. Official review mechanisms need to exist to address non-resolved conflicts of interest when they arise. Countries are increasingly adopting data-driven approaches to verification (see Chapter 10).

The scope of COI-related review of financial disclosures can cover:

- Compliance with various restrictions that aim to build integrity in public service, notably those concerning prohibited outside activities (rules on incompatibility), divestment of financial interests, prohibited gifts, post-employment restrictions and others. Non-compliance with these restrictions and requirements can result in sanctions.
- Detection of specific interests or activities that may give rise to situations of potential, actual or apparent COI with the public official's duties and position; in some cases these may require counseling on how to avoid an actual conflict of interest or other remedies, but not necessarily sanctions. This type of review looks at two areas of concern: (i) the official's expected involvement in decision-making processes (e.g., procurement decisions, granting of licenses and permits, dispute resolution, inspections, resolution of administrative complaints and other cases); and (ii) the official's potential participation in the development and approval of policies and regulations, which may affect the official's reported interests and activities.

To be done properly, verification/review of a financial disclosure for COI issues requires an in-depth analysis by qualified verification agency officials. It may require a comparison of the data in the financial disclosures with the external data sources (e.g., public registers of companies, real estate and vehicle ownership, procurement awards, licenses and permits sought and issued, etc.) as well as knowledge of official records and processes. The primary focus of the verification/review, however, should be the detection of potential COI and then subsequent management to prevent their escalation to real conflicts of interest.

In systems where the number of financial disclosures is large and resources are not available to verify/review all disclosure forms, it is advisable to design a risk-based verification/review system. Review of financial disclosures for COI-related issues may be especially resource consuming as it may require manual comparisons of the personal interests with the duties performed by the official. Initial verification/review should exploit digital solutions as much as possible, such as using data analytics to uncover potential or real COI (see examples presented in other sections of this paper).

A risk-based approach to financial disclosure verification for potential COIs could use various characteristics and red-flags, for example:

- The level or function of the filer—a high-level official or Politically Exposed Person, having decision-making or supervisory powers, a position in high risk sectors like tax inspection and customs, or in a regulatory body, etc.

- Based on an assessment of risk for typologies of conflict of interest in the country context, criteria for red-flags that can be digitally detected in the disclosure can be developed (e.g., major outside corporate and financial interests in government contractors, actual contracts with the government, significant interests in extractive industries, significant changes in assets and interests compared with the previous financial disclosure, etc.).
- Previous COI situations (e.g., if the filer has violated COI regulations in the preceding year, or the filer reported potential or actual COI, which were resolved).

To be most effective, the verification/review agency or system needs to have adequate technological, financial and human resources. It also should have direct access to relevant databases and should be authorized to crosscheck and analyze information in the disclosures.

7. Raising awareness, building capacity and commitment in conflict of interest systems

Principle 8	G20 countries should endeavor to ensure that sufficient information, guidance, training, and timely advice are provided to public officials upon taking up positions, throughout their careers, and upon leaving their position, in order to enable them to identify and manage actual, apparent, and potential conflict-of-interest situations.
Principle 9	Preventing and managing conflicts of interest is a shared responsibility of the public and private sectors. Hence G20 countries should take steps to promote awareness within the private sector and the general public on the standards of conduct in place to prevent and mitigate public officials' conflicts of interest, as well as to promote the core values of public service in the society at large.

Raising awareness and building capacity to mobilize conflict of interest policies

Technically sound laws and policies on conflicts of interest will be of little impact unless public officials understand how to apply them in the course of their public duties. Within the public sector, raising awareness helps public officials recognize conflicts of interest when they arise. Capacity building efforts familiarize public officials with the conflict of interest policies in place, increase their knowledge about how to prevent and manage conflicts of interest, and equip them with the skills to seek out advice and guidance when required. Moreover, by raising awareness about and building capacity for preventing and managing conflicts of interest, governments help cultivate a commitment amongst public officials for the public good. This commitment motivates behavior to carry out public duties in the public interest.

To be effective, raising awareness and capacity building should be ongoing, extending beyond initial on-boarding and supporting public officials throughout their careers and when they leave the public service. Efforts should also be tailored to high risk areas, such as procurement and tax and customs. Where appropriate, governments may also want to facilitate the exchange of good practices and lessons learned across sectors and levels of government.

Raising awareness should also extend to society at large, with the goal of setting expectations amongst citizens about the role public officials play in serving the public interest. Furthermore, citizens are also stakeholders and participants in public integrity. Their own actions with respect to conflicts of interest matter. To that end, when citizens interact with public officials, for instance in their capacity as employees in the private sector, their commitment to supporting public officials in managing and preventing conflict of interest is critical.

This chapter identifies innovative methods to ensure that public officials recognize, understand and are committed to COI principles. Moreover, it will touch on measures that can be implemented to raise society's expectations of public officials' obligations to manage conflicts of interest.

What are common challenges that countries encounter when raising awareness and building capacity to prevent and manage conflicts of interest?

The experience of G20 countries with raising awareness and building capacity varies widely; however, all countries face challenges around a number of issues, including:

- implementing tailored training for high-risk officials,
- ensuring that training achieves the intended impact by being both relevant and present in the public official's mind throughout their career, and
- facilitating the exchange of good practices and lessons learned across sectors and levels of government.

What opportunities can countries leverage to raise awareness, and build capacity and commitment?

In the public sector

Onboarding training. The initial recruitment of a public official into the public service is a critical time to raise awareness, build capacity, and inspire commitment to preventing and managing conflicts of interest. For example, the 2014 OECD Conflict of Interest Survey found that 11 of the G20 countries disseminate rules/guidelines to public officials upon taking office.⁵⁴ The first point of departure for any new public official should be to raise their awareness about the values of the organization, including the commitment to safeguarding the public good by preventing and managing conflicts of interest. Here, the focus should be on helping public officials to recognize conflicts of interest as they arise. One way to facilitate raising awareness on conflict of interest is to provide all new public officials, upon initial appointment and on taking up a new position or function, with a clear and concise statement of the current conflict-of-interest policy, as well as examples of actual, potential, or apparent conflict-of-interest situations that public officials may encounter.

Raising awareness amongst new recruits can also be accompanied by capacity-building efforts. Here, the focus is on increasing knowledge about potential conflict-of-interest situations, and building the skills to identify and manage them. To that end, to increase knowledge and build skills, onboarding training programs could include a module that introduces the core principles and standards of the policy along with the available reporting channels and protection measures, and sources of advice in their organisation. In India, every public official undergoes compulsory training on taking office on ethics and conflicts of interest, covering the All India Services (Conduct) Rules of 1968 and the Central Civil Services (Conduct) Rules of 1964. There are no separate laws that address conflicts of interest for public servants—these are embedded in the Codes of Conduct. All SOEs in India have elaborate Conduct & Discipline Rules, which provide safeguards for preventing conflicts of interest of public officials, and all listed companies are required under federal laws to implement a Code of Conduct for their Core Management and put in place a vigil mechanism for public officials. These provisions are compliant with Article 7.4 of UNCAC. Public sector officials receive onboarding training that covers the Code of Conduct, Rules and Guidelines with case studies. The United States Office of Government Ethics (OGE) provides a number of advisory materials to support public officials in understanding and applying their ethical responsibilities, including on

⁵⁴ Note: at the time of the survey, data was not collected from Argentina, China, India, Indonesia, Saudi Arabia and South Africa.

conflict of interest (see Box 10). In certain cases, when public officials in high-risk positions are onboarded, such as public procurement, tax, or customs, G20 countries could provide tailored training for new recruits on managing conflict of interest.

Box 10. Supporting public officials in applying integrity standards through advisory publications

In the U.S., the Office of Government Ethics produces and publishes a wide variety of information on the standards of ethical conduct for employees of the executive branch and federal ethics laws. This information is generally disseminated and publicly accessible through OGE's website and the online portal of OGE's Institute for Ethics in Government (IEG). Publications that are available include:

- *Compilations and copies of applicable laws* including OGE's regulations and regulatory examples that provide descriptions of how the standards apply in given circumstances.
- *Topic-based discussions* of certain subject areas covered by the criminal and civil statutes, executive orders, and administrative code of conduct that are central to the executive branch ethics program.
- *Booklets* on the conflict-of-interest statutes and the standards of ethical conduct applied to executive branch employees. These booklets provide an easy-to-read, anecdotal treatment of some of the basic ethics laws and regulations.
- *Pamphlets and Job Aids* about the basic conflict-of-interest laws and regulations.
- *Videos and On-Demand Web-based Training* to assist executive branch officials in the administration of agency ethics programs.
- *Informal advisory letters and memoranda, and formal opinions* on the interpretation and compliance with conflict of interest, post-employment, standard of conduct, and financial disclosure requirements in the executive branch.⁵⁵

In Argentina, the Anticorruption Office (*Oficina Anticorrupción, OA*) has published the manual, *Public Ethics and Conflict of Interest, Study for its prevention and proper management* compiling different interpretive criteria and standards applied by the OA in the more than 600 resolutions issued since its creation and in the nearly 300 preventive instructions addressed to high-ranking public officials. An online search engine enables access to the resolutions issued by the OA. The objective of the manual is to support public officials and individuals in simple and accessible language to develop an understanding of the current conflict of interest standards, to identify a conflict-of-interest situation, what measures can be adopted to manage it, and sanctions in case of violation.

Continuing training. Raising awareness and capacity building should not be limited to a public official's initial on-boarding program. New conflict-of-interest situations may appear, and public officials require the capacity and know-how to address them proactively. Throughout a public official's career, countries could therefore ensure continuous efforts to raise awareness about conflict-of-interest policies. This can help public officials build their own mental red-flag system, so that they can proactively evaluate and respond to potential conflict-of-interest situations. For example, Argentina's online conflict-of-interest simulator provides guidance for public officials who are in doubt about whether they have a conflict of interest (see example in Box 11). Countries could also consider issuing regular reminders on what a conflict of interest is, and the responsibility of public officials to resolve them. In certain cases, countries should ensure that public officials in high-risk positions, such as procurement or tax officials, have tailored reminders issued to them, based on the specificities of the conflict of interest risks present in their positions.

⁵⁵ OECD (2003).

Box 11. On-demand guidance on conflict of interest in Argentina

The Anticorruption Office in Argentina has developed an online conflict-of-interest simulator. Through the selection of answers to certain questions, public officials receive an assessment to assess whether they are in a situation of current or potential conflict of interest. The simulator is available for future, current and past public officials. By asking the public official various questions, the simulator determines if the official is in a conflict-of-interest situation. If a potential conflict of interest is detected, the simulator informs the official of the violated norm of the Public Ethics Law and advises the public official to seek guidance of the OA. The simulator is a useful tool to enable officials to clarify any doubts they might have about a situation.⁵⁶

Countries should also provide training to inform public officials of available reporting channels and protection measures, as well as the existence of advisory functions for managing conflicts of interest. For example, in the United States, the Office of Government Ethics (OGE) provides a variety of ethics training workshops and seminars to agency ethics officials working in the executive branch (see Box 12). Moreover, each agency provides an ethics training program that ensures that all executive branch employees are aware of the core principles and standards of the policy, along with available sources of advice.

Box 12. Training programs in the United States

The Office of Government Ethics (OGE) has taken a multi-faceted approach to increasing agency ethics officials' knowledge and training capacity through train-the-trainer courses. To this end, OGE offers a variety of ethics training workshops and seminars to agency ethics officials working in the executive branch. These training workshops focus on applying the standards of ethical conduct, criminal conflict-of-interest statutes, and public and confidential financial disclosure requirements in day-to-day work. OGE also maintains a growing library of publicly available, on-demand training courses through its Institute for Ethics in Government (IEG) online portal. This library also includes reference guides, job aids, and other documents covering topics such as the ethics laws and regulations, ethics program management, enterprise risk management, and behavioral insights for agency ethics programs. Finally, OGE recently released guidance on ways that agency ethics officials can increase the effectiveness of their ethics education through a risk-response approach, including providing agencies with an ethics education maturity model, risk questionnaire, and planning worksheet.

To build knowledge and skills amongst public officials in high risk positions, countries may want to consider developing specialised training modules and tools (e.g. posters, digital material, brochures, etc.). These efforts could build on existing conflict-of-interest materials, but be tailored to specific audiences by including sector-specific examples and scenarios. In Germany, for example, there is specialized training for public procurement officials (see Box 13).

⁵⁶ Government of Argentina (nd).

Box 13. Specialized and mandatory integrity training for public procurement officials in Germany

The Federal Procurement Agency manages purchasing for 26 federal authorities, foundations, and research institutions that fall under the responsibility of the Federal Ministry of the Interior. It is the second largest federal procurement agency after the Federal Office for Defence Technology and Procurement.

The Federal Procurement Agency has taken several measures to promote integrity among its personnel, including support and advice by a corruption prevention officer—Contact Person for the Prevention of Corruption—and the organization of workshops and training on corruption.

Since 2001, it is mandatory for new staff members to participate in a corruption prevention workshop. They learn about the risks of getting involved in bribery and the briber's possible strategies. Another part of the training deals with how to behave when these situations occur. Workshops highlight the central role of employees whose ethical behavior is an essential part of corruption prevention. About ten workshops took place with 190 persons who gave a positive feedback concerning the content and the usefulness of this training. The involvement of the agency's Contact Person for the Prevention of Corruption and the Head of the Department for Central Services in the workshops demonstrated to participants that corruption prevention is one of the priorities for the agency. In 2005, the target group of the workshops was enlarged to include not only induction training but also on-going training for the entire personnel. Since then 6–7 workshops are held per year at regular intervals. In 2017/2018, 186 staff participated in relevant management training, induction training and particular corruption prevention workshops.

Countries can also consider leveraging behavioral insights to build capacity for identifying, preventing and managing conflicts of interest. Using actionable conflict-of-interest training, encouraging reflection, and creating personal commitment to the COI rules, can help public officials develop a behavioral script for reacting to COI. For instance, behavioral research shows that individuals in leadership roles, due to their power and strong identification with the organization, tend to judge their own integrity breaches more leniently and are prone to overlook misconduct in their team.⁵⁷ Consequently, specific attention should be paid to COI training for leadership.

Objective decision making can be threatened unconsciously through perceptual bias. Legislators might implicitly favor those who are similar to them or with whom they are in frequent exchange. COI training for legislators can strengthen an equal representation of interest also in the minds and perceptions of decision makers. Taken together, both the awareness raising and capacity building measures should aim to remind public officials of their commitment to serving the public interest, and ensure that they have the knowledge and skills to do so.

Exit training. For public officials who are leaving their position, certain restrictions may be in place, based on their previous career related to their future employment. As such, countries may want to consider raising awareness about what situations could lead to a conflict of interest, and increase knowledge and skills to manage such situations. For example, Australia's Public Service Commission has prepared guidance on post-separation employment to support employees who are leaving the public service in understanding what their obligations are to prevent conflict-of-interest risks associated with post-public employment.⁵⁸ (See chapter IV for more information on managing conflicts of interest related to pre- and post-public employment).

⁵⁷ OECD (2018), *Behavioural Insights for Public Integrity: Harnessing the Human Factor to Counter Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264297067-en>

⁵⁸ See for example <https://www.apsc.gov.au/sect-414-post-separation-employment>

Raising public awareness

Raising awareness on public officials' responsibilities to prevent and manage conflict of interest should also extend to citizens. Here, the emphasis should be on setting expectations amongst citizens about the role public officials play in serving the public interest. Moreover, as partners in upholding public integrity, citizens have a responsibility for respecting conflict-of-interest standards in their interactions with public officials.

Countries may therefore consider conducting awareness campaigns about conflict-of-interest policies and standards. Measures could include posting conflict-of-interest policies in buildings where the public interacts with government officials, as a reminder to both citizens and public officials. For high-risk positions, such as public procurement officials, communication measures could include attaching the conflict-of-interest standards to requests for proposals and calls for applications, or by posting on the government's e-procurement portal. In engaging the public in overseeing public integrity, the U.S. Office of Government Ethics also uses social media to identify when new ethics documents are available on the OGE website and to describe what the documents contain, where they can be found, and how they can be used by the public.

Some G20 countries have developed integrity standards that are applicable to those who provide services to the public sector. These standards include reference to the conflict of interest measures that are in place. For example, the code of conduct for procurement in Canada applies to both public officials and vendors, and consolidates the federal government's measures on conflict of interest, post-employment and anticorruption (see example in Box 14). As noted in Annex 2, through the Committee on Standards in Public Life (CSPL), the United Kingdom established seven principles that serve as the basis for the ethical standards framework for those who both operate in the public sector and with the public sector. These seven principles have informed subsequent reports addressing conflict of interest and provide guidance for public service providers.

Box 14. Code of conduct for procurement in Canada

The government of Canada is responsible for maintaining the confidence of the vendor community and the Canadian public in the procurement system by conducting procurement in an accountable, ethical, and transparent manner. The Code of Conduct for Procurement aids the government in fulfilling its commitment to reform procurement, ensuring greater transparency, accountability, and the highest standards of ethical conduct.

The code consolidates the government's existing legal, regulatory, and policy requirements into a concise and transparent statement of the expectations the government has of its employees and its suppliers. Framed by the principles set out in the Financial Administration Act and the Federal Accountability Act, it consolidates the federal government's measures on conflict of interest, post-employment measures, and anticorruption as well as other legislative and policy requirements relating specifically to procurement.

The Code of Conduct for Procurement provides all those involved in the procurement process—public servants and vendors alike—with a clear statement of mutual expectations to ensure a common basic understanding among all participants in procurement. As such, the Code serves as a single point of reference to key responsibilities and obligations for both public servants and vendors. In addition, it describes vendor complaints and procedural safeguards. The government expects that all those involved in the procurement process will abide by the provisions of this code.

The consequences for non-compliance to the code are the penalties and sanctions contained in the applicable law or policy. In addition to these consequences, if a supplier or any of their affiliates is convicted of bribery of officers, bid rigging, or any other offence applicable under the Ineligibility and Suspension Policy of the Integrity Regime, the supplier may be declared ineligible or suspended from doing business with the government.

8. Remedies for different types of conflict of interest

Principle 6	G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision-making in order to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision-making as appropriate, the use of ethics agreements and other arrangements, such as reviewing interest declarations, recusal statements and orders, to mitigate potential conflicts of interest.
Principle 12	G20 countries should implement adequate mechanisms to resolve identified conflicts of interest, as well as enforcement mechanisms for proportionate and timely sanctions for violations of conflict-of-interest policies. This could include a specific set of disciplinary measures.

A key objective in managing conflicts of interest is determining and implementing the appropriate remedial actions to be taken to avoid a potential conflict of interest from becoming an apparent or actual conflict of interest and to mitigate any consequences arising from it.

While some jurisdictions focus more heavily on enforcing sanctions for failures to comply with conflict-of-interest legislation or codes of conduct, many others are focusing on actions to manage conflicts of interest and prevent the harm they cause, including negative effects on the public trust.

In deciding what remedial action should be taken, usually due consideration is paid to the type of conflict of interest, the importance of the interests that are affected by the conflict of interest, and on that basis—the potential harm to the institution and society if the conflict of interest is not remedied.

This often requires actions by the public official—such as the obligation to disclose a potential conflict when it arises—by the organization, or supervisor, or by an external specialized body. Different types of conflicts of interest require different remedies, and in many cases these can be applied with a certain amount of flexibility and discretion, taking into account the nature of the conflict of interest and the harm it may cause.

Potential remedies for different types of conflicts of interest

Remedies to address conflicts of interest and prevent the negative consequences arising from the conflicts of interest may include the following:

Strategies that focus on the private interest. These focus on eliminating or mitigating the influence a private interest can exert on a public official:

- ***Divestiture of the external interest.*** The public official may choose to relinquish their external interest entirely. Examples may include selling shares in a company owned by the official. It is important that the divestiture be real; transferring the private interest (e.g. stock, company shares) to other family members is not a proper implementation of this management strategy.
- ***Resignation from an outside position.*** In cases where the conflict of interest is caused by an outside employment, the official may choose to resign from the outside employment and to retain the public sector position.
- ***Waiver of the conflict of interest created by private/outside interest or activity.*** This conflict of interest management strategy is a possible scenario in cases of external employment. It is a feasible approach in cases of lesser external interests.
- ***Establishing a blind management trust*** to manage the financial interests (e.g. stocks, shares, other investments) of the official while holding a public office. This approach is limited to countries with established traditions in using it and is highly legislation- and culture-specific. The assets of the official that may be causing a conflict of interest are transferred to a third party, which manages them independently. While the public official remains the beneficiary of the trust, he or she may not interfere in the management of the assets, should not issue instructions, and may not even know how the assets are being invested or used.

Strategies that focus on the public official. These focus on limiting the influence of the public official on the decision-making process:

- ***Recusal*** of the official. This is a frequently-used approach, with strong traditions as a conflict of interest management strategy in the judiciary and public administration. It requires the conflicted official not to take part in decisions that could affect him, herself, family members or close associates.
- ***Reassignment.*** Often, in cases of permanent conflict of interest, the official may be reassigned to a new position, where he or she would not have to choose between their public and private interests. This conflict of interest management strategy is particularly useful in the context of human resources management decisions, for example, to avoid situations where family members may be working together.
- ***Voluntary (resignation) or involuntary termination of the public service.*** At times, the conflict of interest may be so difficult to manage and the potential negative consequences may be so serious, that resignation or termination may be the only feasible strategy to uphold the public trust. This conflict of interest management strategy is most often used in the case of high level, elected public officials.

Remedies related to public procurement and to contracting

An increasing number of jurisdictions are establishing remedies to address the award of public contracts in situations of conflict of interest that benefit private sector actors. Depending on the local legal context, remedies may include:

- ***Establishing clear restrictions that prohibit conflicts of interest in public procurement.*** These restrictions may be supported with additional disclosure requirements in e-procurement procedures and bidding processes, including requirements that suppliers and procurement officials attest to the absence of a conflict of interest prior to the award of a contract.
- ***Declaring the contracts signed in a situation of conflict of interest to be null and void,*** and/or initiating a civil or administrative procedure to recover the funds paid by the public sector organization to the company. This approach effectively requires all companies to be particularly vigilant and to ensure that they are not in a

situation of conflict of interest when they submit a procurement bid. While highly effective, it also is associated with some unexpected risks. For example, declaring a major construction contract null and void may go against the development objectives of the government and may have serious negative impacts on investor confidence and on the intended beneficiaries of the service or project. Initiating recovery procedures for the funds paid may easily bring even a large a company to bankruptcy.

- *Fines* for companies that sign contracts in situations of conflict of interest. Contracting in a situation of conflict of interest may be an offence in many countries. To ensure that the companies would not benefit from illegal behaviour, and to prevent other companies from engaging in such conduct, countries make contracting in a situation of conflict of interest an administrative or a criminal offence and may impose fines on offending companies. The procedure for imposing the fine may follow either administrative or criminal procedures.
- *Debarment for companies or individuals*. Also called blacklisting, debarment is an exclusion or banning of a legal or a natural person from obtaining government contracts or from doing business with the government in the future. While often viewed as a sanction, many countries and organizations regard debarment as a preventive measure to ensure that government funds are well protected. Companies may also be required to introduce compliance programs as a condition of release from sanction. Both individuals and companies may be subject to debarment. The concept of cross debarment allows for debarment decisions of one organization to be recognized and applied by organizations and the public sector—as is the case with the multilateral development banks. Companies or individuals can be debarred either following a civil or criminal procedure and a conviction or following an administrative procedure, usually by the procuring entity itself. The debarment of companies or individuals may be permanent or temporary. In case of temporary debarment, companies who demonstrate that they have implemented certain measures to ensure future compliance with requirements could again become eligible to participate in procurement with the government.

9. Responses to conflicts of interest: Enforcing sanctions and addressing the harm caused

<p>Principle 4</p>	<p>G20 countries should identify at-risk activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.</p>
<p>Principle 5</p>	<p>G20 countries should nurture an open organizational culture in the public sector, taking steps to promote the proactive identification and avoidance of potential conflict-of-interest situations by public officials. This should include ensuring that public officials can seek guidance and advice from competent officials regarding how to avoid potential conflict-of-interest situations, without fear of reprisal. Appropriate measures should be established to protect disclosures from misuse.</p>
<p>Principle 12</p>	<p>G20 countries should implement adequate mechanisms to resolve identified conflicts of interest, as well as enforcement mechanisms for proportionate and timely sanctions for violations of conflict-of-interest policies. This could include a specific set of disciplinary measures.</p>

This chapter describes a range of measures that can be used to sanction the conduct of a public official when he or she has failed to prevent and manage a COI situation, and the conduct of any natural or legal person who has failed to meet reporting requirements designed to prevent COI or who has been complicit in, or instigated the public official's misconduct. Second, it describes measures that can be used to address the harm done to any government processes as result of the public official's COI and failures in the COI management system.

Enforcing COI standards, not only for individual public officials but for officials who have management responsibilities with regard to the COI framework is essential to ensure the effectiveness of the whole framework. Sanctions for all should aim to be effective, proportionate and dissuasive. The sanctioning provisions ultimately affect the overall strength, impact and credibility of the COI system.

Enforcement is relevant not just for rules-based systems where clear restrictions and requirements are set in the regulations and are matched with sanctions for non-compliance; principle-based systems, where only general ethics principles and values apply, need some appropriate level of consequences for failure to adhere with those principles and values. Accountability is crucial for the legitimacy and credibility of any COI system.

It is important to note that, absent restrictions on incompatibilities, merely having an interest, or outside activity that may conflict with public duties does not, as such, constitute an offence. However, failure to prevent and manage it in

an appropriate manner may very well be a violation of conflict of interest regulations. Taking official actions in matters where there is an unresolved COI is almost always a fundamental breach of conflict of interest regulations. That type of act normally has more serious consequences and may attract stricter sanctions, including criminal penalties. COI may lead to the abuse of office, but the latter is a distinct and broader violation, which this chapter does not cover.

Overview of sanctions for conflict of interest violations

International standards usually refer to effective, dissuasive and proportionate sanctions. Sanctions are effective if they are enforceable and properly address the offense in question. Sanctions are dissuasive if they have a sufficient deterrent effect, that is, if the personal cost of bearing the sanction is higher than the potential benefit derived from the offense. Sanctions are proportionate if they take into account and correspond to the nature and gravity of the offense. To achieve their aim and be credible, sanctions have to be applied in a transparent, timely, consistent and fair manner. Enforcement tools should also be coherent with the COI management systems, including by matching each requirement or restriction with a specific sanction for non-compliance and a mechanism to enforce sanctions.

The following is an overview of possible sanctions and consequences, first for the public official and for any person who has potentially benefitted from or has been complicit in the conflict of interest. This chapter also addresses sanctions or consequences for failure of responsible entities and actors to enforce the system. In addition to sanctions, it is important for government agencies to take corrective actions to address any underlying issues and prevent future violations from happening. Corrective actions could include counseling, termination of a specific activity, additional training, or other non-disciplinary actions aimed at rehabilitating the individual or the process.

Sanctions that may be applicable for a public official who has failed to address a conflict of interest or who has taken an official action when he or she had a conflict of interest depend on whether the COI regulations envision disciplinary, administrative, or criminal penalties or a combination of these. Having a range of sanctions can help ensure that misconduct is addressed in a proportionate way. A system that only envisages criminal sanctions, for example, may result in only the most severe COIs being addressed while other COIs, although potentially damaging to the public interest and public trust go unaddressed.

Disciplinary measures

As COI rules are closely linked to the performance of official duties, disciplinary measures are often the first tool to use to address misconduct.⁵⁹ The range of measures applicable through disciplinary proceeding is very broad and may include a reprimand or warning, withholding of a certain part of the salary, suspension of the right to promotion—including in salary steps, demotion, suspension from office for a period of time, or dismissal from the office. If the public official holds a position that is not subject to regular disciplinary procedures, discipline can also include political/party accountability or impeachment. The use of disciplinary measures does not exclude application of other sanctions or legal consequences described below.

⁵⁹ Article 8.6 of the UN Convention against Corruption calls on its State Parties to consider taking disciplinary or other measures against public officials who violate the codes or standards established in accordance with Article 8—codes of conduct for public officials.

Civil and administrative penalties

If COI regulations envisage civil or administrative penalties, public officials may be subject to such sanctions as monetary fines, payment of compensation for damages, return of proceeds, or forfeiture of property. If possible as an administrative or civil penalty, it may also involve a prohibition or restriction on holding public office.

Criminal penalties

For criminal violations of COI regulations, the public official may be subject criminal fines, incarceration, confiscation of proceeds and property, equipment or other instrumentalities used in the offense, as well as a bar on holding future public offices.

Reputational sanctions

Additional adverse consequences for not only the public official, but a person who has participated in the COI could be the public disclosure of the COI-related violation that was committed. Such naming and shaming can reinforce other measures imposed and raise awareness about the COI regulations and their enforcement. Publication of information about enforcement actions is a good practice that helps to build trust in the system and promote compliance through visibility. To ensure that the rights of the offender are not improperly affected, the law or other regulation should clearly stipulate the form of the publication (e.g., online), the scope of information about the offender and offence to be disclosed and the duration when the information should be publicly available.

Sanctions for parties associated with the COI violation

As a complement to the criminal penalties that can be imposed on a public official, depending upon the statutes of the country, a natural or legal person who has acted as an accomplice, assistant or instigator of the conflict of interest, may also be subject to most of the same criminal sanctions as the public official.⁶⁰ They may also be affected economically from actions taken to address the harm done. Under certain circumstances and usually as an entirely separate procedure, an individual may have his or her license to practice certain professions revoked, or, if the matter involved a regulatory procedure, the person may be prohibited from holding certain leading positions in regulated entities.

Sanctions for supervisors or managers who fail to implement conflict of interest responsibilities

In most conflict of interest systems, the manager/supervisor of a public official may have some responsibilities in taking actions to address a COI disclosed by an individual he or she supervises. This may include reassigning the matter in which the official has the conflict to another official or issuing a written waiver of the conflict of

⁶⁰ A former U.S. Defense Department procurement official was found guilty of conspiracy to violate a fundamental conflict of interest statute (18 U.S.C. 208) and an executive of the company that benefitted pled guilty to one count of aiding and abetting the conflict of interest. Both were imprisoned. The company who benefitted from the former procurement officer's acts entered into a civil non-prosecution agreement under which it paid a \$50,000,000 criminal penalty for this conduct as well as separate unrelated conduct and a \$565,000,000 civil settlement for both. A description of the case against the procurement official can be found at [https://www.oge.gov/Web/oge.nsf/0/621E6C77FBF8A06285257E96005FBD47/\\$FILE/54e5a65f72dc43f6909c717849828e822.pdf](https://www.oge.gov/Web/oge.nsf/0/621E6C77FBF8A06285257E96005FBD47/$FILE/54e5a65f72dc43f6909c717849828e822.pdf).

interest if that option is available. These failures by supervisors may often be treated as performance matters and addressed through performance accountability systems. There are also officials who may be responsible for collecting financial disclosure forms, making reports or providing information to a central COI authority, etc. They too may be subject to discipline or fines for failure to carry out those duties depending upon the design of the COI management system.

Sanctions and sanctionable conduct related to failure to report a COI

Most COI systems aim primarily to prevent individual conflict of interest situations and to manage them by ensuring that the official reports any potential, actual, or apparent COI and then takes measures in his or her competence to resolve it or see that it is resolved by the appropriate body or official. Failure to file with or to otherwise disclose to a superior official, a designated official, or external authority, an *ad hoc* report about a conflicting private interest may trigger disciplinary or administrative sanctions.

Most COI systems assume or explicitly require public officials to regularly assess whether they have an actual or apparent conflict of interest and, if so, to take appropriate steps to address it. Self-assessment and self-reporting are therefore important steps in the COI management cycle, as other methods of detection may be unavailable or less effective. Having a sanction for, generally intentional, failure to report encourages officials to be aware of their obligations to disclose a conflicting interest, to prevent COI and to be alert to any situations from which a COI may arise.

The reporting obligation may be linked to specific types of decision-making or functions (e.g. issuing administrative acts, performing supervision, control, inquiry or sanctioning powers, or concluding contracts). In some systems, a duty to disclose may also be linked to general policy making when the policies will affect an identifiable class of business interests. Reporting may also be linked to any new interest that was acquired by the official or his relatives and affiliates (e.g., a new business interest or election to the governing board of an organization). This reporting obligation should be differentiated from the duty to file periodic asset and/or interest declarations which the official may be required to submit, and which are not linked to specific decision-making.

Many COI management systems require that these *ad hoc* reports or disclosures be made in writing and that they be submitted to the superior official to whom the official reports, to the designated ethics/COI official inside the employing institution or to the external agency (e.g., an ethics commission, anticorruption agency, the parliament for political officials, judicial council for judges). In some systems, the notification is submitted not to only to the immediate superior of the official but also to the head of the respective public institution.

The late filing of or the failure to file a required written report may trigger sanctions. There may also be a related offence for failing to follow proper procedures for such submissions. This might include failing to use the prescribed form for the COI disclosure, filing the COI report after performing the action in connection with which the report had to be filed, and/or continuing to engage in the process in connection with which the report was filed.

Sanctions and sanctionable conduct related to failure to resolve a COI

The primary responsibility for resolving a COI lies with the public official himself or herself. Such resolution may require actions of the supervisor/superior official or authority; for example, in the case of transferring the official to another position or reassigning the matter to another official. A number of remedies can be taken by the officials themselves—for example: transferring or alienating private property interests, recusing from the decision-making in a specific case; resigning from the private engagement, duty or function; and/or resigning from the public function (see Chapter 8).

The COI law may explicitly state the duty of self-exclusion (i.e., recusal). For example, in Lithuania, the Law on the Adjustment of Public and Private Interests in the Civil Service prohibits a civil servant from participating in the preparation, consideration or the taking of decisions or from otherwise influencing decisions, which may give rise to a conflict of interest situation. The civil servant also has to file a self-recusal declaration. Furthermore, the law stipulates that the head of the institution or their authorized representative or other collegial state or municipal institution may, pursuant to the criteria approved by the Chief Official Ethics Commission, refuse by a written reasoned decision to accept the civil servant's declared self-exclusion and obligate the person to take part in the subsequent preparation, consideration or the taking of the decision. The civil servant must follow the written preliminary recommendations of the institution head or authorized representative and specify the decisions from the preparation, consideration or taking whereof he must exclude himself.

Failure to act on the COI situation, including failure to implement the decision of the superior or other designated official or entity with regard to the disclosed COI, may trigger disciplinary or administrative sanctions against the public official.

Sanctions for accepting or holding a prohibited private interest or position

Failure to comply usually attracts strict sanctions to ensure that relevant rules are followed and enforced. The whole range of sanctions may be employed depending upon the significance of the breach. Sanctions may be disciplinary, administrative and/or, as well as civil or administrative confiscation of the benefit if it was obtained (e.g., inappropriate gift or income received from engaging in the activity incompatible with the public office). Because such offences are generally treated as serious breaches of ethical duties, the sanctions may include dismissal from public office and a ban on holding office for a certain period of time in the future.

Sanctions for acting under actual or apparent conflicts of interest

When a public official fails to recognize and remedy a COI, he or she commits a serious offence by continuing to perform official duties that affect or involve the personal interest or activity that creates the conflict of interest. This type of breach is generally treated as seriously or possibly more seriously than the non-compliance with the statutory prohibitions and restrictions described above because of the harm to governmental processes involved.

For example, this offence may include actions of the official who, while having an actual or apparent COI, prepared or issued an administrative act, or performed supervisory, control and sanctioning powers, etc. The offence may be aggravated if as a result of such action the official or his or her related persons obtained any benefit. In these types of cases, the offence may attract even a criminal sanction (e.g., in the USA, Romania).

A similar offence occurs when the public official is not directly involved in the respective decision-making but exerts his or her influence over other officials who are the decision makers. For example, in Lithuania, a public official is prohibited from using his or her position to influence other public officials who are responsible for preparing or issuing administrative acts or performing supervision, control, inquiry, or punitive functions with respect to: 1) this official, his or her relatives or counterparties; 2) matters that can influence or may influence the personal or financial interests of the official, his or her relatives or counterparties; 3) those natural or legal persons from whom the official or his or her relatives obtain any type of income; or 4) a commercial company where the public official or relatives is or serves as shareholder, stockholder, partner or the member of supervisory, control or executive body. If through such action of influence or its promise the official obtained or sought to obtain a benefit for himself or other parties, he or she may also be liable under the trafficking in influence criminal offence.

Sanctions for failure to submit an asset and interest disclosure, or for false statement in the disclosure

Many countries now have requirements for at least certain public officials to file regular asset and interest declarations, in addition to the *ad hoc* reporting of conflicts of interest. (See Chapter VI on the uses of financial disclosures.)

To help ensure the collection of correct information, it is important to have dissuasive sanctions for failing to adhere to a number of steps in the financial disclosure process.

- ***Late filing.*** It is reasonable to have some consequences for late submission of the asset declaration to encourage timely compliance with the requirement to file. At the same time, sanctions for the late submission may not need to be excessively high; getting the information, while tardy, is the primary purpose of the system. Sanctions for late submission could be an administrative fine or even a disciplinary sanction with a possibility of higher sanctions for repeated violations. When determining what types of sanctions are best for a particular filing system, the cost of enforcement should also be taken into account.

A grace period for the late submission of the financial disclosure, a period during which a late submission is exempted from the sanction, is provided only in a few countries. On the one hand, a grace period could effectively postpone the submission deadline in many filers' minds. On the other, it will provide time for administrative or electronic glitches that need not be the basis for a sanction. Generally, any submissions past the deadline should have some consequences unless there are justified reasons that exempt the declarant from the liability.

For example, in the United States, where such grace period is afforded, any reporting individual who is required to file a public financial disclosure report is subject to a late filing fee of USD 200 to be paid to the United States Treasury, if such report is filed more than 30 days after the latter of (1) the date such report is required to be filed; or (2) the last day of any filing extension period granted pursuant to the rules.

- ***Failure to file.*** A failure to submit the financial disclosure, when it is intentional, requires more strict sanctioning. A lack of significant consequences for the official who refuses to file the declaration will undermine the whole asset and interest disclosure system. There may be those who would be willing to pay a fine rather than file the report and possibly face more significant consequences because of the information reported.

In France, in case of non-submission of the declaration following eight days after the deadline, the public integrity agency (High Authority for Transparency in Public Life) sends a formal notice to the official; the separate procedure is established for members of parliament. If no declaration was filed, the High Authority adopts an injunction to submit the declaration within one month. If a public official does not follow the said injunction, the High Authority refers the case to the public prosecutor. In such a case, the failure to submit asset declaration is punishable with a three-year imprisonment sentence and EUR 45,000 fine.

- *A false statement* on an asset and interest disclosure form means a willful submission by the declarant of information that is incorrect or incomplete. It includes both misrepresentation of the real data (e.g., underreporting or overreporting value of one's income or assets owned), as well as the omission of data (e.g., when the asset or interest is not mentioned in the asset declaration or the asset/interest is mentioned, but the information provided about it is incomplete).

To be effective, the liability for the false statement should provide for sufficiently strong enforceable sanctions. Unlike the late submission or non-submission, which are acts that are relatively easy to establish, detecting and proving the intentional false statement may require complicated investigative actions. Administrative procedures usually do not afford a range of sufficient tools to detect and investigate false statements, as do the criminal procedures. Therefore, criminal sanctions may be more effective to tackle the false statement offense, at least in the case when the misreported or omitted asset/interest is of enough significance to warrant criminal prosecution. The failure to report an interest or activity on the disclosure may also be used as a lesser included offense in a series of charges against the filer for an underlying crime related to the non-disclosed information.

Liability for a false statement on the asset and interest disclosure report may be covered by the general offense of falsifying official documents or submitting false statements to public authorities or it may be established by a special provision targeting false reporting in the asset and interest declaration form.

- *Post-employment liabilities.* Liability related to the asset and interest disclosure may extend to former officials for their failure to file any required disclosures after leaving public office. The ability to enforce rules related to restrictions or prohibitions on holding interests or engaging in activities after terminating the public function may significantly depend on information found in the post-employment disclosure filed by a former official. Through such disclosure, the enforcement agency may detect a violation of the respective rules. Therefore, sanctions for the non-submission, late submission, or disclosure of false information should extend to former public officials.

Sanctions for failure to report COI of another public official

Under some countries' rules, a public official's duty may not be limited to preventing and managing his or her own conflicts of interest. The requirement for this type of duty is supported by a number of international organizations. For example, according to the Council of Europe Model Code of Conduct for Public Officials (Art. 12),⁶¹ the public official should, in accordance with the law, report to the competent authorities if he or she becomes aware of breaches of this Code by other public officials. The public official who has reported any of the above and believes that the response does not meet his or her concern may report the matter in writing to the relevant head of the public service. The public official should report to the competent authorities any evidence, allegation, or suspicion

⁶¹ EU (2000).

of unlawful or criminal activity relating to the public service coming to his or her knowledge in the course of, or arising from, his or her employment. The investigation of the reported facts shall be carried out by the competent authorities. The public administration should ensure that no prejudice is caused to a public official who reports any of the above on reasonable grounds and in good faith. An intentional failure to report may be subject to disciplinary and administrative measures.

Sanctions/consequences for private individuals and entities

Legislation may also extend obligations to prevent and manage COI to external actors who are not public officials but who interact with public entities and may become a party to a transaction marred by COI. Private sector contractors applying for public contracts or other advantages (e.g., licenses, permits, concessions) may be required to attest to the fact that they understand the COI and other integrity restrictions applicable to those public officials with whom they interact. Such declarations aim to raise awareness among bidders/contractors and may also require disclosure of any relations a contractor has or has recently had with public entity employees that may lead to a conflict of interest. Failure to disclose potential COI or otherwise comply with any commitments they were required to take in order to participate in the process may trigger sanctions against the private entity (e.g. in the form of disbarment from future public procurement processes and annulment of the contract in question).

Legal entities may be liable also for other offences (e.g. for providing prohibited gifts to the public official, employing former public official in violation of the revolving doors restrictions). Depending upon national criminal legislation both natural and legal persons may be liable for a participation crime if a COI is also a crime, and their assets may be subject to freezing, seizing, and confiscation.

Addressing the harm done when a conflict of interest has occurred

It is often not enough to just sanction the public official who has taken official actions in matters where he or she had an unresolved conflict of interest. The governmental decisions or processes in which the individual participated are now tainted by that conflict of interest, or are at least perceived to be tainted, and that damage needs to be addressed. Depending upon the type of action the official has taken and in what type of matter, addressing this harm may take the form of reversing the decision or action taken, reverting to any previous stage of the process before the public official became involved or starting a new governmental process devoid of COI implications. These actions generally require the existence of procedures to be followed but often those procedures can already be found in general administrative laws.

Some conflict of interest statutes require that decisions taken where there is a conflict of interest are automatically void. The advantages to that type of consequence are that it seems straightforward, eliminates any discretion and can be dissuasive. The disadvantage to automatic voiding is that the consequences of voiding a specific action may be far more damaging to the public interest than other solutions. In some situations, it may also be viewed as so out of proportion to the violation that it may have the perverse effect of creating an incentive to find a way to analyze the situation as not being a conflict of interest when it actually was. For example, if a very large public construction contract is issued to build a bridge and half way through the construction, a conflict of interest on the part of a key decisional official is discovered, a question arises as to whether it is in the public interest to void the contract thus stopping construction and postponing the completion until another contract can be issued with the additional costs and delays that would entail, or whether other remedies would be preferable such as allowing

for direct award of the contract to another trusted supplier without interrupting the works, or unbundling large contracts to reduce the risks and consequences of nullification.

Sanctions related to the effective enforcement of the COI regulations.

These sanctions complement measures applied to officials for the violation of core obligations and ensure that all responsibilities assigned to different actors are properly implemented. Such offenses, if established, usually go beyond the COI rules enforcement and concern general powers of the enforcement agency (e.g., anticorruption agency). While supplementary, these offenses can be important to ensure that the system of COI management operates properly and that all administrative procedures are enforced and followed. Sanctioning, or initiation of sanctioning, for such offenses could be vested with the anticorruption or other enforcement agency in charge of the COI enforcement. The following sanctions are examples of those that may be imposed on the agency that employs the official, the official, or other entities and their managers/responsible officers:

- *Failure to provide information* in response to the request of an enforcement agency.

Such a request may be addressed to the public authorities or private individuals and entities that possess information that is relevant for the verification or investigation conducted by the enforcement agency (e.g., anticorruption agency). The request may also be addressed to the public official (e.g., requiring information missing in the asset and interest declaration or asking for the explanation of other allegations).

For example, in Ukraine, failure to comply with the lawful requirements (orders) of the National Agency for Corruption Prevention regarding elimination of the violations of the anticorruption legislation; failure to provide or meet a deadline to provide information or documents; or providing knowingly false or incomplete information is punishable by an administrative fine of approximately USD 60 to 150. A repeat violation is punishable with a higher fine. The sanction is applied by the court following a request filed by the authorized officers of the National Agency for Corruption Prevention. In Albania, when the responsible persons of the public and private institutions fail, within 15 days, to submit the data required by the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest for its use in conducting an audit and verification of the asset declaration, they are punished by a fine of approximately USD 1,800 to 4,600. Such a sanction is also applied to licensed experts who refuse to conduct an examination and to banks for failure to provide information on the request.

- *Failure of the public agency* to fulfill their duties related to the asset and interest disclosure and COI management.

Examples of such infringements include: failure to verify compliance with the disclosure submission requirements, both for the regular and *ad hoc* disclosures; failure to report non-compliance to the anticorruption or another enforcement agency; failure to properly organize collection and storage of disclosure forms that are submitted in paper form; failure to verify identity of the official if such identification is required during the official's registration in the electronic system of the disclosure; failure to publish any required register of filed interest disclosures; non-performance of any other duty assigned to the employing agency and its staff with regard to the asset and interest disclosure, other COI related requirements.

For example, in Romania, an entity where declarants work is supposed to designate responsible officers to perform a range of duties related to the asset and interest disclosure system, including: receive, register the asset and interest declarations and issue a proof of receipt; advise on the correct completion of the declaration forms; ensure publication of the statements on the entity's website if required; prepare, after the deadline for submission, a list of persons who have not filed asset and interest declarations within that period and immediately inform such persons asking for explanation within 10 business days; submit to the National Integrity Agency the final list of persons who have not submitted their declarations within the deadline or those that have submitted late, together with the explanation received. Failure to comply with these duties is punishable with a fine of approx. USD 12 to 490. The same penalty applies to the head of the entity if he or she does not fulfill their obligations under this law.

In Georgia, the head of the human resources management unit of a respective public institution, or duly authorized person, is required to inform the Civil Service Bureau (enforcement agency) in writing, within 7 days of an individual's appointment to or dismissal from a position that carries with it an obligation to file a financial disclosure. In case of failure to provide such information, the Head of the Civil Service Bureau shall notify the head of the respective public institution of this fact, which may become grounds for the imposition of disciplinary liability on the head of the human resources management unit or duly authorized person.

10. Data and analytics to support conflict of interest policies, prevention, management and detection

<p>Principle 3</p>	<p>G20 countries should put into place clear means for developing, implementing and updating conflict-of-interest policies at the appropriate level in the public sector. The implementation, effectiveness and relevance of conflict-of-interest policies should be periodically reviewed using an evidence-based approach. G20 countries should also consider consulting relevant stakeholders, including the private sector and civil society, when developing and reviewing their conflict-of-interest policies. Consideration could be given to the designation of one or more special bodies to oversee systems for preventing and managing conflicts of interest.</p>
<p>Principle 4</p>	<p>G20 countries should identify at-risk activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.</p>
<p>Principle 6</p>	<p>G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision making in order to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision-making as appropriate, the use of ethics agreements, and other arrangements, such as reviewing interest declarations, recusal statements and orders, to mitigate potential conflicts of interest.</p>

How can data analytics support the prevention and detection of conflicts of interest?

The core pillars of the High-Level Principles focus on developing standards and systems to prevent and manage COI, fostering a culture of integrity and enabling effective accountability. Data collection and analysis can help identify potential and actual COIs as well as tailor the legal and regulatory framework to country needs and context.

There are several types of data that can be useful for identifying and managing COI and can be collected by countries to enhance the functioning of their systems. Using data on how the COI system functions in practice—business intelligence on the performance of the system—can be helpful for periodically reviewing the rules and policies through an evidence-

based approach. The data gathered can help set benchmarks for implementation of existing regulations and identify gaps and weaknesses.

Data analysis that draws on data generated by COI disclosures and cases is also helpful for identifying high-risk activities, and common typologies of COI in a jurisdiction, to help define or update a country's priorities, and to assess the effectiveness of COI regulation in preventing and managing COI in those risk areas. It can confirm that activities identified as higher risk are indeed so, backing this up with information on specific cases. It can also help flag new high-risk areas that originally were not identified by the framework, and consequently provide the basis for tailoring the framework to evolutions in the country context.

In terms of preventing and managing COI in public decision-making, data and analytics can also play a very relevant role. For these purposes, there are additional types of data that can be analyzed together with data generated by the COI system. These include: names of contractors, license holders or regulated entities for each agency of the government, data regarding beneficial ownership of companies—where available, and, of course, information present in the financial disclosures of public officials. Other state records such as the general company (or possibly the broader legal person) registry, real property ownership records, and tax records can also be useful to crosscheck information as well as identify potential conflicts for COI management purposes.

Making the transition to electronic systems for company registries, public procurement, and financial disclosure can greatly enhance the capacity of countries to identify potential conflicts. Some countries are also taking steps to ensure these databases are interoperable for purposes of reviewing financial disclosures and public procurement. Overlaying these multiple sources of data in a financial disclosure review can generate certain red flags for additional review and COI management. An integrated system can, for example, identify discrepancies between information disclosed in company registries and that disclosed in financial disclosures or for linking public procurement information with asset and company ownership information.

As the examples below show, there have been recent efforts by countries to collect data, analyze it and use it for advancing their COI systems—benchmarking their existing rules and identifying areas for further improvement. Another way of improving COI management is through real-time data mining for the timely detection and prevention of COI.

Common challenges in data collection and analytics

G20 and non-G20 country experiences show that challenges vary depending on the country context, but that there are common issues that typically must be addressed.

Common challenges include:

- Data collection: is data collected electronically or on paper, and if on paper, how challenging will it be to convert it to a useful electronic format?
- Data sharing: can data collected by other agencies be shared with those administering the COI framework or vice versa? Data sharing usually involves legal issues with access, privacy issues and intended uses of other databases and/or practical issues with compatibility of formats.
- Resources: are there sufficient resources for the technology necessary to gather the data, to develop electronic review systems, to integrate various data bases and to employ and train personnel to use the systems?

Data and prevention: Crosschecking data to flag potential conflicts of interest in public procurement (Case Example: Romania)

As noted, data collected regarding state contractors, companies, beneficial ownership, and financial disclosures of public officials can be used for detecting potential and preventing actual COI particularly through the identification of red flags in public processes that are at higher risk of COI.

Public procurement is particularly vulnerable to COI (see chapter 4). One high risk, for example is the award of public contracts to companies connected to family members of government officials. Collecting and analyzing information related to all the parties involved in the procurement process can produce a map of existing connections and generate warnings before a contract is granted under a situation that involves a COI.

Romania’s *Prevent* program is an integrated IT system aimed at preventing conflict of interest in public procurement. This system has enabled the National Integrity Agency (A.N.I.) to identify COIs ex-ante and prevent the award of contracts where a COI exists.

The Romanian system performs an ex-ante analysis and automatically detects whether participants in the public bid are related or otherwise connected to the management of the contractor. The system predicts the likelihood of a potential COI with a risk rating for each tender; for this it uses relevant data on both sides of the equation: about the contracting authority and the bidder. These predictions are based on information about the individuals making decisions on the contracting authority’s side, and to the company data on each bidder’s side.

The information is gathered through integrity forms that both the bidders and the members of the Evaluation Commission from the contracting authority must complete (see Table 4 below).

Table 4. Data collected in Romania’s Integrity Forms	
Data about bidders	Data about the bid evaluation commission
The data requested about the bidders includes the identity of the company officers, shareholders, and management officials of the bidder company.	The information requested from the evaluation commission includes the source for funding, estimated value, contracting authority, and type of contract involved in the procurement procedure, the personal identification data, position within the authority, and membership within NGOs or associations of the decision maker, and the personal identification number, position/capacity, and previous employments with bidders of those who are members of the contracting commission. The data is used for populating the system initially, and then is complemented with other information that the ANI inspector gathers from open sources (i.e. company register, the personal ID, etc.).

Once the information is collected, ANI staff perform data analysis, conduct crosschecks and generate relational maps. If applicable, they issue red flags that the system automatically translates into an integrity warning for the head of the contracting authority.

Diagnosing country priorities through surveys and data collection. (Case Examples: Mexico and Vietnam)

As part of several reforms for strengthening transparency and accountability, Mexico identified a need to design and institutionalize a system for the prevention of COI. A baseline survey of COI in Mexico was developed and carried out with the assistance of the World Bank, aimed at public officials, citizens, and private sector actors. The objectives of the project were three-fold: to gauge survey respondents' perception of what constitutes a conflict of interest in Mexico; to gauge their perception of how prevalent conflict of interest behaviors are; and to assess their awareness of the institutions and regulations that have been put in place to prevent and manage conflicts of interest.

The survey results were complemented with focus group consultations. The surveys included both qualitative and quantitative information. The value of this kind of survey is that allows policymakers and implementers of the COI system to identify perceptions of high-risk behaviors; for example, whether family connections are a significant influence on public decision making or whether other factors predominate. The baseline information on COI together with future data collection can provide evidence-based recommendations for the federal government of Mexico and relevant stakeholders to better manage conflict of interest (COI) in the public sector over the long term.

Vietnam also conducted a similar baseline study to help reform the legal framework for COI.⁶² The survey also identified measures that the Government and relevant stakeholders could take to raise awareness and reduce COI situations. The survey results highlighted weaknesses in the COI regulation and provided insights to help in the redesign of COI regulations and the removal of inconsistencies in relevant regulations.

The quantitative and qualitative data gathered through surveys and focal groups contributed to the drafting of recommendations tailored to the country context. The study focused on six types of common activities in the public sector: public service delivery, recruitment and appointment of officials, procurement, licensing and approval of projects, inspection and auditing, and handling of violations. It also looked at four prevalent forms of activities by public officials: gift-giving/receiving, interest-sharing investment, using inside information for personal interest, and making decisions in favor of family members.

The results identified types of COI situations in public procurement, project licensing, and recruitment and appointment of officials. They also indicated that the most frequent forms of COI were expecting/receiving gifts—indicating a need to address this risk and its prevalence in the cultural context.⁶³ The results also highlighted the need for clearly defining COI situations and increasing awareness of COI.

Electronic filing of financial disclosures: A way to enhance data and analytics to support conflict of interest prevention & detection

Financial disclosures are recognized as one of the main tools to detect and prevent conflicts of interest, improve integrity and promote accountability of public officials (see chapter 6). Many jurisdictions are transitioning to electronic filing of

⁶² This study was organized by the Government Inspectorate (GI) of Vietnam and the World Bank, and it was conducted during 2016. See: *Managing Conflict Of Interest In The Public Sector: Books And Practices In Vietnam* (Version, May 2016).

⁶³ Nearly 70% of respondents, reported that the purpose of gifts was to facilitate the gift-giver's business, and many agreed that giving gifts has become a "trend", "custom", or even "a rule of the game". In consequence, it is not surprising that gift-giving was actually seen as a way of solving business problems for enterprises (66%) rather than as a way of building relationships (31%).

financial disclosures (asset and interest declarations) particularly given the challenges and costs associated with managing a paper-based system and the additional benefits provided by the electronic system. The timing of the transition to electronic-based filing and data management depends on many variables such as internet access, availability of digital signatures, information technology capacity, and institutional capacity to process electronic filings.⁶⁴

An increasing number of countries in different regions have digitized their asset declaration systems, including Argentina, Bhutan, Chile, Costa Rica, Croatia, Estonia, France, Georgia, Indonesia, Republic of Korea, Kyrgyz Republic, Latvia, Lithuania, Mexico, Moldova, Mongolia, Rwanda, Serbia, Slovenia, South Africa, Spain, Uganda, Ukraine, and the USA. Moving to an electronic system makes it possible to cover a broader scope of filers, simplifies the submission process and makes the declaration form more user-friendly. It also facilitates further analysis and verification of declarations, improves data management and opens new possibilities for disclosing data to the public and promoting better accountability and transparency.⁶⁵

The transition to e-filing represents a valuable resource for data and analytics since it makes it easier to use the information gathered for identifying and managing COI. In addition to other benefits, electronic filing ensures a higher quality of data, since in many cases it includes built-in validations, drop-down menus, and autocomplete functions that prevent logical and arithmetic mistakes by declarants. This minimizes data-entry errors and simplifies the future analysis of declarations.

The United States has generally transitioned to electronic filing for the financial declarations of their public officials. For the officials of the executive branch, this is done through a system called *Integrity* that collects, manages, processes, and stores their financial disclosures. It is a secure, web-based system through which individuals may file executive branch public disclosure reports, including new entrant, annual, periodic transaction, and termination reports.

The system has been designed to help produce quality reports, enhance oversight, and promote transparency. With this purpose, for example, it has incorporated a combination of data-entry tables and context dependent questions that help filers to identify all of their reportable financial interests and disclose those interests correctly, in a quicker and easier way. It also has a pre-population tool and filer wizards that prompt public officials to provide information they might otherwise forget to report in an initial submission. The filer wizards have been limited to the areas where filers make the most mistakes. Based on previous information, the U.S. Office of Government Ethics (OGE) has identified these areas as those regarding financial interests related to outside employment and retirement plans of the filer and the filer's spouse.

Integrity also enhances the oversight of the executive branch ethics program by allowing the OGE to monitor agencies' progress in administering their individual financial disclosure programs, as well as by enabling agency ethics officials to assign, review, track, and manage reports electronically.

The system has been widely adopted throughout the executive branch, with over 100 agencies and more than 10,000 filers registered during the first year. Given that its two primary objectives have been to increase the accuracy of public financial disclosure and to reduce the burden on filers, the OGE is continuously soliciting feedback on the operations of the system, and regularly considers suggestions for improvement in coordination with an interagency advisory body known as the Integrity Advisory Council. This type of information requested from filers ensures that the functioning of the system can be modified and enhanced.⁶⁶

⁶⁴ Kotlyar, D. and L. Pop (forthcoming publication).

⁶⁵ For policy and practical recommendations on e-filing see Kotlyar, D. and L. Pop.

⁶⁶ Kotlyar, D. and L. Pop. *See also*: OGE (2018; 2017; 2015).

In Indonesia, Public Officials submit their financial/asset declaration on an annual basis through the Asset Declaration reporting mechanism (LHKPN). The submission shall be made electronically via an e-LHKPN website (elhkpn.kpk.go.id). All information on how to report assets can be found on the website. Guidelines are available in various media formats, such as tutorial videos and infographics, on the KPK website and can be consulted with officers in the Directorate of Asset Declaration Registration and Examination at the KPK office.

Incoming LHKPN documents will have to go through administrative verification to check the accuracy of information written in the form, completeness of supporting documents, and correctness of use of the form. After that, each document will be examined based on any outstanding complaint from the general public, request made by other agencies/law enforcers, and result of internal analysis.

The use of the online reporting method started in 2018; previously, asset declaration report used paper-based mechanism. Based on KPK Regulation No. 7 of 2016, documents must undergo administrative verification and analysis on:

1. The addition of assets compared to the reported net income;
2. The addition of assets originating from grants, gifts or inheritance in significant amounts compared to the total reported assets; and
3. The amount of assets compared to debt/payables.

In examining an Asset Declaration, KPK may request data from any ministry/agency, private institution, financial services provider, goods and services provider, and public notary. During the first year the online system was launched, 142,350 public officials reported their assets. Information on the reported assets of public officials is publicly available through the e-LHKPN website, and the general public is welcome to provide input.

Annex 1. G20 High-Level Principles for Preventing and Managing ‘Conflict of Interest’ in the Public Sector

(ADOPTED 2018)

Introduction and context

The G20 has long recognised the necessity of promoting high integrity standards on behalf of public officials. In this regard, G20 countries have previously committed to a number of measures to strengthen integrity in the public sector including commitments related to effective asset disclosure systems and to taking steps to establish effective organisational structures to combat corruption.⁶⁷

In addition to the previous commitments made by G20 countries, the G20 is further committed to taking concrete steps to prevent and manage conflicts of interest, which arise when there is an actual, potential, or apparent conflict between the public duty and the private interest of a public official, in which the official’s private-capacity interest could improperly influence the performance of their official duties and responsibilities. Although the majority of G20 countries have laws, policies, and guidance, opportunities remain for strengthening systems for preventing and managing conflict-of-interest situations.

As a result, preventing and managing conflict of interest remains a priority issue for G20 countries, as reflected in the 2017–2018 Action Plan of the G20 Anticorruption Working Group. The Action Plan includes the commitment to take action to promote a culture of integrity and accountability in our institutions, including by preventing and resolving conflicts of interest affecting public officials. In addition, Argentina set conflict of interest as a priority issue for the 2018 G20 Presidency with the aim to share experiences on how to prevent and resolve conflicts of interest affecting public officials, taking into account the potential of financial disclosure systems. In support of these initiatives, the Argentine G20 Presidency has pursued the following two products:

- High-Level Principles for Preventing and Managing Conflict of Interest in the Public Sector. These build upon existing policy standards and good practices, in particular those from the United Nations and the OECD. They identify a set of key concrete actions that governments could commit to undertake in accordance to their needs and country context.
- Good Practices Guide for Preventing Conflict of Interest in the Public Sector. These support implementation of the High-Level Principles by sharing experiences and highlight good practices on how to deal with specific conflict-of-interest situations.

These High-Level Principles build on relevant international instruments and standards such as those from the United Nations, OECD, World Bank, Council of Europe, Organization of American States, African Union, and APEC, as well as previous G20 High-Level Principles in related areas, and knowledge work such as that produced by the World Bank and the Stolen Asset Recovery Initiative.

⁶⁷ G20 High Level Principles on Organising Against Corruption; G20 High Level Principles on Asset Disclosure by Public Officials; G20 Guiding Principles to Combat Solicitation; G20 Anticorruption Open Data Principles; G20 Principles for Promoting Integrity in Public Procurement; the G20/OECD Compendium on Whistleblower Protection; and the G20 High Level Principles on Countering Corruption in Customs

Applicability, scope, and definitions

The following G20 High-Level Principles identify a set of key concrete actions that G20 countries commit to undertake, in accordance to their needs, country context, and domestic legal principles to prevent actual, potential, and apparent conflicts of interest. For the purpose of the Principles, the term public official is used generically. Each country shall define the term and apply it in line with their national laws and public sector context, bearing in mind the UNCAC definition of public officials. The High-Level Principles focus on three core pillars: 1) developing standards and a system to prevent and manage conflict of interest, 2) fostering a culture of integrity, and 3) enabling effective accountability.

Developing standards and a system to prevent and manage conflict of interest

Standards of conduct for public officials:

1. G20 countries should establish specific, coherent, and operational standards of conduct for public officials. These standards should provide a clear and realistic description of what circumstances and relationships can lead to a conflict of interest situation. These standards should further advance public officials' understanding and commitment to: a) serving the public interest, and b) preventing any undue influence of private interests that could compromise, or appear to compromise, official decisions in which they officially participate.
2. G20 countries should further consider the need for additional standards of conduct for those public officials working in high-risk areas, reflecting the specific nature of these positions, exposure to conflict of interest risks and public expectation.

Applying the conflict-of-interest standards:

3. G20 countries should put into place clear means for developing, implementing, and updating conflict-of-interest policies at the appropriate level in the public sector. The implementation, effectiveness, and relevance of conflict-of-interest policies should be periodically reviewed using an evidence-based approach. G20 countries should also consider consulting relevant stakeholders, including the private sector and civil society, when developing and reviewing their conflict-of-interest policies. Consideration could be given to the designation of one or more special bodies to oversee systems for preventing and managing conflict of interest.

Risk-based approach to managing conflict of interest:

4. G20 countries should identify at-risk activities and duties that create heightened risks for potential conflict-of-interest situations and establish adequate preventive measures. G20 countries should establish effective organizational responses through, as appropriate, specialized bodies established for managing conflict-of-interest and/or competent officials within each organization. G20 countries should pay specific attention to safeguarding the public interest in the recruitment, nomination and promotion of public officials. Particular due diligence should be applied as appropriate to assessing and resolving conflicts of interest before individuals undertake public functions, as well as establishing appropriate post-employment restrictions, such as cooling-off periods.

Fostering a culture of integrity

Open organizational culture where dealing with conflict of interest matters can be freely raised and resolved:

5. G20 countries should nurture an open organizational culture in the public sector, taking steps to promote the proactive identification and avoidance of potential conflict-of-interest situations by public officials. This should include ensuring that public officials can seek guidance and advice from competent officials regarding how to avoid potential conflict-of-interest situations, without fear of reprisal. Appropriate measures should be established to protect disclosures from misuse.

Averting conflict of interest risks in public decision making:

6. G20 countries should ensure that effective management policies, processes, and procedures are established for preventing and managing conflicts of interest in public decision making in order to safeguard the public interest and avoid undue influence. Such procedures could include management and internal controls, providing ethical advice on the application of conflict-of-interest policies to specific circumstances, recusal from decision-making as appropriate, the use of ethics agreements and other arrangements, such as reviewing interest declarations, recusal statements and orders, to mitigate potential conflicts of interest.
7. G20 countries should establish guidance and mechanisms, such as disclosure of interests, for members of boards, advisory committees, and expert groups in order to prevent unduly influencing the public decision-making processes.

Raising awareness, building capacity and commitment:

8. G20 countries should endeavor to ensure that sufficient information, guidance, training, and timely advice are provided to public officials upon taking up positions, throughout their careers, and upon leaving their position, in order to enable them to identify and manage actual, apparent, and potential conflict-of-interest situations.

Partnership with the private sector and civil society:

9. Preventing and managing conflicts of interest is a shared responsibility of the public and private sectors. Hence G20 countries should take steps to promote awareness within the private sector and the general public on the standards of conduct in place to prevent and mitigate public officials' conflicts of interest, as well as to promote the core values of public service in the society at large.

Enabling effective accountability

Disclosure, transparency and verification:

10. G20 countries should adopt and implement appropriate and effective mechanisms for the prevention, identification, and management of conflicts of interest, such as periodic financial, interest, and asset disclosure systems for relevant public officials consistent with G20 High Level Principles on Asset Disclosure by Public Officials and applicable law.
11. Countries that have established declarations systems or are considering establishing them, are encouraged to support each other, where domestic law and institutional mandates permit, facilitating the identification and

exchange of information on public officials' interests abroad and/or sources that could be consulted by foreign authorities to gather and/or confirm information on officials' interests abroad. In this regard, G20 countries should make appropriate use of new technologies, without prejudice to personal data protection.

Effective Enforcement:

12. G20 countries should implement adequate mechanisms to resolve identified conflicts of interest, as well as enforcement mechanisms for proportionate and timely sanctions for violations of conflict-of-interest policies. This could include a specific set of disciplinary measures.

Annex 2. Supplemental Guidance from the OECD for Chapter 4

Annex 2. Table 1. OECD Post-Public Employment Principles	
Problems arising primarily while officials are still working in government	<ul style="list-style-type: none"> • Public officials should not enhance their future employment prospects in the private and non-profit sectors by giving preferential treatment to potential employers. • Public officials should, in a timely manner, disclose their seeking or negotiating of employment and offers of employment that could constitute a conflict of interest. • Public officials should, in a timely manner, disclose their intention to seek and negotiate employment and the acceptance of an offer of employment in the private and non-profit sectors that could constitute a conflict of interest. • Public officials, who have decided to take up employment in the private and non-profit sectors, should, where feasible, be excused from current duties that could constitute a conflict of interest with their likely responsibilities to their future employer. • Before leaving the public sector, public officials who can become involved in a conflict of interest should have an exit interview with the appropriate authority to examine possible conflict-of-interest situations and, if necessary, determine appropriate measures for remedy.
Problems arising primarily after public officials have left government	<ul style="list-style-type: none"> • Public officials should not use confidential or other insider information after they leave the public sector. • Public officials who leave the public sector should be restricted in their efforts to lobby their former subordinates and colleagues in the public sector. An appropriate subject-matter limit, time limit or cooling-off period may be imposed. • The post-public employment system should take into consideration appropriate measures to prevent and manage conflict of interest when public officials accept appointments to entities with which the officials had significant official dealings before they left the public sector. An appropriate subject-matter limit, time limit or cooling-off period may be required. • Public officials should be prohibited from switching sides and representing their new employer in an ongoing procedure on a contentious issue for which they had responsibility before they left the public sector.
Duties of current officials in dealing with former public officials	<ul style="list-style-type: none"> • Current public officials should be prohibited from granting preferential treatment, special access or privileged information to anyone, including former officials. • Current public officials who engage former public officials on a contractual basis to do essentially the same job as the former officials performed when they worked in a public organization should ensure that the hiring process has been appropriately competitive and transparent. • The post-public employment system should give consideration on how to handle redundancy payments received by former public officials when they are re-employed.

Annex 2. Table 1. OECD Post-Public Employment Principles (continued)	
Responsibilities of organizations that employ former public officials	<ul style="list-style-type: none"> • Private firms and non-profit organizations should be restricted in using or encouraging officials who are seeking to leave or who have left government to engage in activities that are prohibited by law or regulation.
Source: OECD (2010), Post-Public Employment: Good Practices for Preventing Conflict of Interest.	

Annex 2. Table 2. Options for managing stakeholder engagement to ensure integrity in decision-making		
Policy Objectives		Policy Options
Ensuring transparency & accountability	Set a clear objective and define the scope of the engagement	<ul style="list-style-type: none"> • Identify objectives a desired outcome of engagement: <ul style="list-style-type: none"> ○ Seek expert knowledge? ○ Obtain buy-in from stakeholders? • Define the roles and responsibilities of all parties and required level of engagement. Consult, collaborate and empower, etc.
	Actively disseminate balanced and objective information on the issue	<ul style="list-style-type: none"> • Make relevant information publicly available through channels such as web sites, newsletters and brochures
	Allow information disclosure	<ul style="list-style-type: none"> • Provide access to information upon demand by stakeholders <ul style="list-style-type: none"> ○ Freedom of Information law • Promote media and civil-society scrutiny • Establish independent oversight body to ensure appropriate disclosure
Enhance quality & reliability	Target groups relevant to the issue	<ul style="list-style-type: none"> • Find the right mix of participants and ensure that no group is inadvertently excluded <ul style="list-style-type: none"> ○ Stakeholder mapping and analysis ○ No marginalise of “usual suspects”
	Incorporate knowledge and resources beyond public administration	<ul style="list-style-type: none"> • Consult with experts and leverage their expertise through means such as expert group workshops and deliberative polling
	Promote coordination within and across governmental organisations	<ul style="list-style-type: none"> • Ensure policy coherence, void duplication, and reduce the risk of consultation fatigue. <ul style="list-style-type: none"> ○ Establish a central agency or unit focusing on intergovernmental coordination
Promote implementation & compliance	Allow adequate time	<ul style="list-style-type: none"> • Undertake stakeholder engagement as early in the policy process as possible to allow a greater range of solutions and raise the chances of successful implementation
	Enhance confidence in the decisions taken	<ul style="list-style-type: none"> • Build mutual understanding to increase the likelihood of compliance
	Manage expectations and mitigate risks	<ul style="list-style-type: none"> • Identify and consider risks earlier in the process, thereby reducing future costs

Annex 2. Table 2. Options for managing stakeholder engagement to ensure integrity in decision-making (continued)		
Policy Objectives		Policy Options
Provide comprehensive support & capacity	Introduce new forums and technologies for outreach	<ul style="list-style-type: none"> ● Develop online engagement tools <ul style="list-style-type: none"> ○ Participative web ○ Social media
	Support stakeholders	<ul style="list-style-type: none"> ● Provide support to stakeholders to help them understand their rights and responsibilities <ul style="list-style-type: none"> ○ Raise awareness and strengthen civic education/skills ○ Support capacity-building
	Develop internal capacity in the public sector	<ul style="list-style-type: none"> ● Provide guidance/code of conduct to foster an organisational culture supporting stakeholder engagement ● Provide adequate capacity and training, i.e. <ul style="list-style-type: none"> ○ Enough financial, human and technical resources ○ Access to appropriate skills, guidance and training for public officials
	Evaluate the process together with stakeholders	<ul style="list-style-type: none"> ● Assess the effectiveness of engagement and make the necessary adjustments <ul style="list-style-type: none"> ○ Identify new risks to the system's policy objectives ○ Identify mitigation strategies
<i>Source: OECD (2017) Preventing Policy Capture: Integrity in Public Decision Making.</i>		

Annex 2. Table 3. Framework for Transparency and Integrity in Lobbying

Policy Objectives		Policy Options
Build an effective and fair framework for openness and access	Grant stakeholders fair and equitable access	<ul style="list-style-type: none"> • Fair and equitable access to participate in the development of public policies • Allow public consultation through: <ul style="list-style-type: none"> ○ Informal consultation ○ Public meetings ○ Advisory groups ○ Online tools • Allow free flow of information • Address lobbying concerns
	Ensure comprehensive rules and guidelines on lobbying	<ul style="list-style-type: none"> • Build a consensus on the scope of lobbying rules and guidelines • Avoid replicating rules and guidelines from one jurisdiction to another • Consider the scale and nature of the lobbying industry within their jurisdictions • Consider the administrative burden of compliance
	Ensure consistent rules and guidelines on lobbying	<p>Lobbying rules and regulations should be in line with the regulatory framework in place, such as:</p> <ul style="list-style-type: none"> • Stakeholder engagement through public consultation and participation • The right to petition government • Freedom-of-information legislation • Rules on political parties and election-campaign financing • Codes of conduct for public officials and lobbyists • Mechanisms for keeping regulatory and supervisory authorities accountable • Effective provisions against illicit influencing
	Define the terms “lobbying” and “lobbyist” clearly	<ul style="list-style-type: none"> • Clearly determine actors covered by lobbying rules and regulations, (e.g. by targeting those who receive compensation for performing lobbying activities, such as consultant and in-house lobbyists) • Define the types of communication with public officials that are or are not considered lobbying.

Annex 2. Table 3. Framework for Transparency and Integrity in Lobbying (continued)		
Policy Objectives		Policy Options
Enhance Transparency	Require disclosures	<p>Disclosure should provide pertinent information, such as:</p> <ul style="list-style-type: none"> • Name • Contact details • Employer’s name • Names of clients • If the lobbyist was previously a public official • Source and amount of any government funding received • Contribution to political campaigns
	Enable scrutiny	<ul style="list-style-type: none"> • Provide timely, reliable, accessible and intelligible public disclosure of reports • Create an accessible, up-to-date, searchable and sortable public registry • Ensure disclosure of legislative footprint
Foster a culture of integrity	Provide clear rules and guidelines of conduct for public officials	<ul style="list-style-type: none"> • Provide principles, rules, standards and procedures that give public officials clear directions on how they are permitted to engage with lobbyists • Communication between public officials and lobbyists should be in line with relevant rules, standards and guidelines • Establish restrictions for public officials leaving office to: <ul style="list-style-type: none"> ○ Prevent conflict of interest when seeking a new position ○ Inhibit the misuse of confidential information ○ Avoid post-public service switching sides in specific processes in which the former officials were substantially involved • Impose a cooling-off period that temporarily restricts former public officials from lobbying their past organizations, and appointing or hiring a lobbyist to fill a regulatory or advisory post
	Promote self-regulation among lobbyists	<ul style="list-style-type: none"> • Develop a code of conduct • Develop a monitoring and enforcement system

Annex 2. Table 3. Framework for Transparency and Integrity in Lobbying (continued)

Policy Objectives		Policy Options
Ensure effective implementation, compliance and review	Involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance	<ul style="list-style-type: none"> • Design and apply a coherent spectrum of strategies and mechanisms, including properly resourced monitoring and enforcement, to: <ul style="list-style-type: none"> ◦ Raise awareness of expected rules and standards ◦ Enhance skills and understanding of how to apply them ◦ Verify disclosures on lobbying and public complaints • Encourage organizational leadership to foster a culture of integrity and openness in public organizations, and mandate formal reporting or audit of implementation and compliance • Involve key actors in establishing and implementing rules and standards
	Appraise the rules and guidelines on a regular basis	<ul style="list-style-type: none"> • Balance risks with incentives for both public officials and lobbyists to create a culture of compliance • Review the implementation and impact of rules and guidelines on lobbying to better understand what factors influence compliance • Refine specific rules and guidelines, and update implementation strategies, and mechanisms

Source: OECD (2017) Preventing Policy Capture: Integrity in Public Decision Making.

Annex 2. Table 4. Examples of transparency-based influence mitigation measures

Agenda setting	Policy development	Policy adoption	Policy implementation	Policy evaluation
<ul style="list-style-type: none"> • Publish background studies • Publish relevant data in open-data format • Enhance transparency in the budget process • Disclose relevant officials' private interests • Make publicly available information on meetings with external stakeholders 	<ul style="list-style-type: none"> • Ensure timely publication of draft laws, regulation and policies • Publish background studies • Publish relevant data in open-data format and limit exceptions • Make publicly available the rationale underlying policy • Make publicly available information about meetings with external stakeholders 	<ul style="list-style-type: none"> • Publish legislative and administrative footprints • Disclose relevant officials' private interests • Make publicly available information about meetings with external stakeholders 	<ul style="list-style-type: none"> • Share widely the rules of the game related to the implementation of policies • When appropriate, publish policy-implementation milestone reports • Limit restrictions on open government policy 	<ul style="list-style-type: none"> • Publish evaluation reports, underlying methodologies, and data

Source: OECD (2017) Preventing Policy Capture: Integrity in Public Decision Making.
Note: The measures in this table require the existence of regulations promoting both active (access to information) and passive transparency.

Annex 3. Selected examples of G20 Country Practices

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members)	
ARGENTINA	<p>Online conflict-of-interest simulator</p> <p>The Anticorruption Office in Argentina has developed an online conflict-of-interest simulator. Through the selection of answers to certain questions, public officials receive an assessment to assess whether they are in a situation of actual or potential conflict of interest. The simulator is available for future, current and past public officials. By asking the public official various questions, the simulator determines if the official is in a conflict-of-interest situation. If a potential conflict of interest is detected, the simulator informs the official of the violated norm of the Public Ethics Law and advises the public official to seek guidance of the OA. The simulator is a useful tool to enable officials to clarify any doubts they might have over a situation.</p> <p>In the first semester of 2019, there were 1479 visits (more than half were public officials). http://simulador.anticorruccion.gob.ar/simulador.php?ciclo_id=1</p> <p>Conflict-of-Interest Manual</p> <p>In Argentina, the Anticorruption Office (<i>Oficina Anticorrupción, OA</i>) has published the <i>Manual Public Ethics and Conflict of Interest, Study for its prevention and proper management</i> compiling different interpretive criteria and standards applied by the OA in the more than 600 resolutions issued since its creation and in the nearly 300 preventive instructions addressed to high-ranking public officials. The objective of the Manual is to support public officials and individuals in simple and accessible language to develop an understanding of the current conflict of interest standards, to identify a conflict-of-interest situation, what measures can be adopted to manage it and sanctions in case of violation.</p> <p>Also, an online search⁶⁸ engine enables access to the resolutions issued by the OA. It allows searches based on different criteria such as, date of issue, key words, public officials or organizations involved and principle, rule or law applied.</p>

⁶⁸ <http://www.saij.gob.ar/anticorruccion>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

AUSTRALIA

The Australian Public Service Commission has developed guidance to support managers and employees in understanding and applying their requirements under the Australian Public Service (APS) Act, the APS Values, the APS Employment Principles and the APS Code of Conduct. Section 5 of the Guidance deals specifically with managing conflicts of interest, and section 5.10 provides guidance to public officials in understanding their duties with regards to post-public employment:

5.10 Post-separation employment

5.10.1 Many agencies have developed policies on identifying and managing the risks that arise from post-separation employment.

5.10.2 There are three key risks involved when an employee accepts employment in a field that is aligned to his or her APS responsibilities:

1. that the employee, while still employed in the APS, would use their position to influence decisions and advice in favor of the prospective new employer.
2. that the former employee would reveal confidential Commonwealth information to their new employer or provide other information that would give the new employer an advantage in its business dealings.
3. that the former employee would exploit their knowledge of the APS and other areas of the Commonwealth public sector and the Government to lobby, or otherwise seek advantage, for their new employer in dealing with the Commonwealth. There may be a perception that the former employee will have a greater ability to influence their former colleagues in their decision-making.

Before leaving the APS—managing conflicts of interest

5.10.3 Employees are required to disclose any conflict of interest as it arises. Agencies are advised to ensure that their system for registering and monitoring these disclosures brings to the attention of the agency head any conflict that may arise when an employee intends to separate from the APS.

5.10.4 Even where an employee receives an offer of employment that they are not inclined to accept, an apparent conflict of interest may still arise, for example where an employee involved in a tender process is offered employment by a tenderer.

5.10.5 On receiving advice of a conflict arising from an employee's intention to leave the APS, it would be good practice for the agency head, or a nominated person, to discuss with the employee steps to be taken to avoid or mitigate any conflict of interest while the employee is still employed in the APS. The steps may include:

- re-allocation of the employee's duties
- temporary movement of the employee to a different work area
- taking leave until the new appointment commences

5.10.6 Agency heads should likewise consider appropriate steps to manage any conflicts if they themselves are offered employment outside the APS which they are inclined to accept. The nature and timing of steps they need to take will depend on the circumstances of the case. However, no later than the point at which an agency head is inclined to accept an offer, they should inform the Secretary of the Department of the Prime Minister and Cabinet, the Australian Public Service Commissioner and the Minister about their intentions and any conflict of interest arising as a result. They should also outline the steps they are taking to mitigate the risks.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)**AUSTRALIA****Protecting the interests of the Commonwealth**

- 5.10.7 There are clear provisions under law that protect the disclosure and use of official information after an employee has left the APS. See Section 4: *Managing information* for more information.
- 5.10.8 Agency heads may wish to restrict the actions of former employees in other ways. There are no legislative provisions, which allow the Commonwealth to impose general post-separation employment restrictions on former employees. However, policy can operate to restrict the dealings of current employees with their former colleagues.
- 5.10.9 A restraint clause can be included in an employee's contract of employment, where an employee may agree not to work for certain employers, or establish certain types of businesses, for a period after they leave the APS. For such an agreement to be enforceable, it would need to be reasonable in terms of the interests of the parties and the interests of the public. Any such agreement must also comply with the competition provisions of the *Competition and Consumer Act 2010*.
- 5.10.10 It may also be appropriate to include provisions in contracts with successful tenderers to restrict the employment of APS employees who managed the tender process. Restrictions may apply during and after the tender process. Similar provisions may be included in requests for tender to preclude the solicitation, enticement or engagement of employees during the process.
- 5.10.11 Agency heads may put in place broad policy guidelines, which include, for example, suggested periods of time that an employee should wait after leaving the APS before they work in business areas that have direct contact with their former agency. Some agencies, such as the Department of Defence, have developed common understandings of ethical behaviour with relevant industry associations to help promote the acceptance of agency guidelines. These arrangements are not enforceable and depend on the goodwill of parties and their perceptions of mutual benefit.
1. Agency policies and procedures.
 2. Agency policy and guidance on identifying and managing conflicts of interest needs to be tailored to reflect the agency's key business risks.
 3. A template for mandatory SES conflicts of interest declarations is available for agencies to use, and may be adapted to meet particular requirements and for use in other situations. The template contains a consent form for immediate family members if disclosure of their interests is considered necessary.
 4. Agencies are advised to set out clearly in their policies the circumstances in which a gift or benefit may be accepted and retained by an employee, or how it might otherwise be dealt with.
 5. Agencies are encouraged to establish procedures to alert grant assessors to the need to identify, disclose and avoid or manage the conflicts of interest that are inherent in the grant selection process.
 6. It may be useful to develop strategies and plans to assist employees working with contractors to identify and disclose any conflicts of interest.
 7. It is good practice for agencies to inform suppliers and contractors about their conflict of interest policies so that they can avoid making inappropriate offers.
 8. Agencies are expected to ensure that employees are aware of the Lobbying Code and their obligations in dealing with lobbyists.

Source: <https://apsc.govcms.gov.au/section-5-conflict-interest>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
AUSTRALIA	<p>The Conflict of Interest Disclosure Form of the Department of Social Services, Australia</p> <p>In order to manage a conflict-of-interest situation, employees in the Department of Social Service in Australia need to fill out a conflict of interest disclosure form. The employee is asked the following questions:</p> <ul style="list-style-type: none"> • Describe the private interests that have the potential to impact on your ability to carry out, or be seen to carry out, your official duties impartially and in the public interest • Describe the expected roles/duties you are required to perform • The conflict of interest has been identified as non-pecuniary, a real, apparent or potential conflict of interest or pecuniary interest. <p>The employee then signs a declaration that declares that they have filled out the form correctly and that they are aware of the responsibility to take reasonable steps to avoid any real or apparent conflict of interest. The employee also commits to advise the manager of any changes. The manager, who describes the proposed mitigation strategy to address the real or perceived conflict of interest, and explains why this course of action was taken, completes the form. This action has to be signed by both the employee and manager. Once completed, the form is sent to the section manager and the workplace relations and manager advisory section for retention on the employee’s personnel file.</p>
NEW SOUTH WALES, AUSTRALIA	<p>Guiding public officials in facing ethical dilemmas in Australia</p> <p>The Australian Government developed and implemented strategies to enhance ethics and accountability in the Australian Public Service (APS). To support the implementation of ethics and integrity regime, the Australian Public Service Commission has enhanced its guidance on APS Values and Code of Conduct issues. This includes integrating ethics training into learning and development activities at all levels.</p> <p>To help public servants in their decision-making process when facing ethical dilemmas, the Australian Public Service Commission developed a decision-making model. The model follows the acronym REFLECT:</p> <ol style="list-style-type: none"> 1. Recognize a potential issue or problem <ul style="list-style-type: none"> Public officials should ask themselves: <ol style="list-style-type: none"> a. Do I have a gut feeling that something is not right or that this is a risky situation? b. Is this a right vs right or a right vs wrong issue? c. Recognize the situation as one that involves tensions between APS Values or the APS and their personal values. 2. Find relevant information <ol style="list-style-type: none"> a. What was the trigger and circumstances? b. Identify the relevant legislation, guidance, policies (APS-wide and agency-specific). c. Identify the rights and responsibilities of relevant stakeholders. d. Identify any precedent decisions. 3. Linger at the ‘fork in the road’ <ol style="list-style-type: none"> a. Talk it through, use intuition (emotional intelligence and rational processes), analysis, listen and reflect. 4. Evaluate the options <ol style="list-style-type: none"> a. Discard unrealistic options. b. Apply the accountability test—public scrutiny, independent review. c. Be able to explain your reasons/decision.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

NEW SOUTH WALES, AUSTRALIA

5. Come to a decision

- a. Come to a decision, act on it and make a record if necessary

6. Take time to reflect

- a. How did it turn out for all concerned?
- b. Learn from your decision.

If you had to do it all over again, would you do it differently?

Conflict of interest management during tender evaluation in Australia

The Government of South Australia’s Department of Planning, Transport and Infrastructure (DPTI) suggests ways to address potential and material conflict-of-interest situations during the procurement process through the Procurement Management Framework. It states that the DPTI staff member should notify the evaluation Panel Chairperson as soon as they notice any apparent conflict-of-interest situation. Even though a potential conflict of interest will not necessarily preclude a person from being involved in the evaluation process, it is declared and can be independently assessed. It also lists situations that would be considered as a material conflict of interest of a staff in relation to a company submitting a tender including:

- A significant shareholding in a small private company which is submitting a tender;
- Having an immediate relative (e.g. son, daughter, partner, sibling) employed by a company which is tendering, even though that person is not involved in the preparation of the tender and winning the tender would have a material impact on the company;
- Having a relative who is involved in the preparation of the tender to be submitted by a company;
- Exhibiting a bias or partiality for or against a tender (e.g. because of events that occurred during a previous contract);
- A person, engaged under a contract to assist DPTI with the assessment, assessing a direct competitor who is submitting a tender;
- Regularly socializing with an employee of tenderer who is involved with the preparation of the tender;
- Having received gifts, hospitality or similar benefits from a tenderer in the period leading up to the call of tenders;
- Having recently left the employment of a tender;

Considering an offer of future employment or some other inducement from a tenderer.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
CANADA	<p>Advice and guidance functions in the Government of Canada</p> <p>Senior officials for public service values and ethics</p> <ul style="list-style-type: none"> • The senior official for values and ethics supports the deputy head in ensuring that the organization exemplifies public service values at all levels of their organizations. The senior official promotes awareness, understanding and the capacity to apply the code amongst employees, and ensures management practices are in place to support values-based leadership. <p>Departmental officers for conflict of interest and post-employment measures</p> <ul style="list-style-type: none"> • Departmental officers for conflict of interest and post-employment are specialists within their respective organizations who have been identified to advise employees on the conflict of interest and post-employment measures (...) of the Values and Ethics Code for the public sector. <p>The Canadian Conflict of Interest Network</p> <p>The Canadian Conflict of Interest Network (CCOIN) was established in 1992 to formalize and strengthen the contact across the different Canadian conflict of interest commissioners. The commissioners from each of the ten provinces, the three territories and two from the federal government representing the members of the Parliament and the Senate meet annually to disseminate policies and related materials, exchange best practices, discuss the viability of policies and ideas on ethics issues.</p>
CANADA	<p>The Interdepartmental Network of Values and Ethics Practitioners</p> <p>The Canadian Interdepartmental Network of Values and Ethics (INVE) is a community of practice made up of departmental practitioners responsible for informing, preventing, and advising employees and senior management on values and ethics' concerns. Hosted by the central agency, Treasury Board Secretariat, practitioners raise conflict of interest cases at the monthly meeting in order to get information, guidance, and tips from their colleagues. In addition, members of the INVE collaborate on a confidential web-based site and share best practices and resources.</p> <p>Code of conduct for procurement in Canada</p> <p>The Government of Canada is responsible for maintaining the confidence of the vendor community and the Canadian public in the procurement system, by conducting procurement in an accountable, ethical and transparent manner. The Code of Conduct for Procurement aids the Government in fulfilling its commitment to reform procurement, ensuring greater transparency, accountability, and the highest standards of ethical conduct.</p> <p>The Code consolidates the Government's existing legal, regulatory and policy requirements into a concise and transparent statement of the expectations the Government has of its employees and its suppliers. Framed by the principles set out in the Financial Administration Act and the Federal Accountability Act, it consolidates the federal government's measures on conflict of interest, post-employment measures and anticorruption as well as other legislative and policy requirements relating specifically to procurement.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

CANADA

The Code of Conduct for Procurement provides all those involved in the procurement process—public servants and vendors alike—with a clear statement of mutual expectations to ensure a common basic understanding among all participants in procurement. As such, the Code serves as a single point of reference to key responsibilities and obligations for both public servants and vendors. In addition, it describes vendor complaints and procedural safeguards. The Government expects that all those involved in the procurement process will abide by the provisions of this Code.

The consequences for non-compliance to the Code are the penalties and sanctions contained in the applicable law or policy. In addition to these consequences, if a supplier or any of their affiliates is convicted of bribery of officers, bid rigging, or any other offence applicable under the *Ineligibility and Suspension Policy of the Integrity Regime*, the supplier may be declared ineligible or suspended from doing business with the government.

Making Conflict of Interest declaration the default

Behavioral insight show that people tend to stick with the default—even for important decisions. Whether it is the savings rate of our retirement plan or our organ donor status, many people stay with the setting initially chosen for them. Default inertia prevents them from regularly reviewing the decision.

Such default inertia can also apply to Conflict of Interest declarations. When the path of least resistance is just to remain silent about a conflict of interest, many public officials might be tempted not to file a declaration or might not even realize that a conflict of interest has arisen.

Regular mandatory declaration of Conflict of Interest can counteract default inertia. In many governments, every public official files a COI declaration at least once a year thereafter, in addition to declaring conflict when they arise. Employees of the Office of the Auditor General of Canada, for example, make a Conflict of Interest Declaration annually. To ensure, this does not become a check-the-box routine, declarants are given a quiz to verify their understanding of Conflict of Interest.

Such process forces public officials to reflect upon their situation and refresh their knowledge regarding conflict of interest. A matter that was not on the radar or seemed too unimportant to pro-actively report a conflict of interest is more likely to come up in an annual conflict of interest declaration.

Source: http://www.oag-bvg.gc.ca/internet/English/au_fs_e_8603.html

Addressing key risk areas-Pre/post public employment & public decision making

Part-time employment restrictions. According to *the Civil Servant Law of the PRC*, if a public servant needs to get a part-time job due to official need, he or she shall get the approval from the department he or she works for and shall not get paid for that job.

Post-employment restrictions. According to *the Civil Servant Law of the PRC*, after resignation or retirement, a public servant, shall not be employed by enterprises or other profitable organizations, which are directly related to the duty of his or her former position either within 3 years if he or she formerly held a leading position, or within 2 years for other civil servants. According to *the Supervision Law of the PRC*, after resignation or retirement, a supervisor shall not hold positions, which are related to supervision or judicial work and may lead to COI within 3 years.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

CHINA

China's Best Practice in Managing COI

III. Institutional arrangements to manage COI-Who is in charge?

Withdrawal Systems are established to prevent COI.

The withdrawal system for holding a public position. According to *the Civil Servant Law of the PRC*, if a civil servant is in the same department with a person who is his or her immediate family member or has the relationship of collateral kinship within 3 generations with him or her, or a person who is the immediate family member of his or her spouse or has the relationship of collateral kinship within 3 generations with his or her spouse, he or she shall not hold a position under the same leader or as direct superior and subordinate with the person mentioned above. If either of them holds a position as a leader, the other shall not be allowed to take positions for organization, human resources, discipline inspection, supervision, auditing, or financial affairs.

The withdrawal system for performing official duties. According to *the Supervision Law of the PRC*, in any of the following situations, a supervisor shall voluntarily withdraw, and the persons to be supervised or the whistle blowers or other persons concerned have the right to demand his or her withdrawal: (1) if he or she is the immediate family member of the person to be supervised or the whistle blower; (2) if he or she has served as a witness in the current case; (3) if the case concerns the interests of himself or herself or the interests of his or her immediate family members; (4) if there is anything else which may affect the impartial handling of the case.

The withdrawal system for holding positions in specific localities. According to *the Regulation for Appointing Leading Officials of the CPC*, a public official is now allowed to hold a position as the chief of discipline inspection organs, organization departments, courts, prosecutor's offices, or public security departments in his or her birthplace at the municipal or county levels.

IV. Addressing key risk areas-Pre/post public employment & public decision making

Part-time employment restrictions. According to *the Civil Servant Law of the PRC*, if a public servant needs to get a part-time job due to official need, he or she shall get the approval from the department he or she works for and shall not get paid for that job.

Post-employment restrictions. According to *the Civil Servant Law of the PRC*, after resignation or retirement, a public servant, shall not be employed by enterprises or other profitable organizations, which are directly related to the duty of his or her former position either within 3 years if he or she formerly held a leading position, or within 2 years for other civil servants. According to *the Supervision Law of the PRC*, after resignation or retirement, a supervisor shall not hold positions, which are related to supervision or judicial work and may lead to COI within three years.

VI. Managing COI- use of financial disclosures

According to *the Regulation for Public Officials to Report Personal Matters*, public officials need to report his or her own person income, the house properties and investment by himself or herself, his or her spouse and his or her dependent children.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
CHINA	<p>VII. Raising awareness, building capacity and commitment in COI systems</p> <p>The governments at various levels in China have been making efforts to raise awareness of COI and promote capacity building to prevent COI by organizing workshops and trainings. For instance, in 2009, then the Ministry of Supervision of China, together with the Office of Government Ethics and the US Department of State, organized the APEC Workshop on Code of Conduct-Preventing COI in Beijing, China. Participants from APEC economies discussed how to better prevent COI. In 2011, the West Lake Forum, which is an influential national forum in China, took COI as its topic. Representatives from departments of discipline inspection and supervision throughout China participated in the forum to discuss how to raise the awareness of COI among civil servants and how to better prevent COI.</p>
INDONESIA	<p>Indonesia’s Government Internal Control System</p> <p>Indonesia has several layers of law and regulations stipulates Conflict of Interest (COI). There are Law on Government Administration, Law on Eradication of Corruption, Law on the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council and the Regional House of Representatives, Presidential Instruction on Corruption Prevention and Eradication Act of 2012 and Ministerial Regulation of Minister of Administrative Reform and Bureaucratic Reform (AR&BR) on the General Guidelines for Handling Conflict of Interest. Indonesia is also currently involved in the drafting of Government Regulation on Gratification.</p> <p>Serious criminal sanction for conflict of interest violation has been regulated in Eradication of Corruption Law, while the administration sanction has been regulated in the Law on Government Administration. Furthermore, the supervision on the implementation of the conflict of interest is carried out through government internal control system. The Government Regulation on Government Internal Control System (SPIP) stipulates that to strengthen and support effective implementation of Internal Control System, internal oversight and guided-supervision for the implementation of SPIP shall be conducted.</p> <p>The Finance and Development Supervisory Agency (BPKP) has the role as the Government internal auditor (APIP) in the SPIP and will conduct internal supervision over the accountability of state finances. Meanwhile, the general responsibility for internal control, including the supervisory of conflict of interest management, shall be the responsibility of the Inspectorate General, Provincial Inspectorate and District or City Inspectorate who perform the internal supervision. The violation of conflict of interest has also been included as the breach of code of conduct. Hence, in some government agencies, there are council of ethics who are also supervise COI. Specialized training on integrity/anticorruption is held for certain positions for civil servants considered prone to corruption, by the State Administration Agency (LAN).</p> <p>Guidelines in Handling Conflict of Interest for Public Officials and Public Agencies</p> <p>Indonesian Corruption Eradication Commission (KPK) has completed an initiative study and development on COI management guidelines and promote it to both central and local governments. As a follow up, in 2018, KPK Indonesia has completing the draft of the Guidelines in Handling Conflict of Interest for Public Officials and Public Agencies. It defines and stipulates among others: the possible conflict of interest cases, the causes, the vulnerable position of conflict of interest, monitoring process, the sanction and the stages required in dealing the conflict of interest. The guideline is expected to be a national standard for public officials and public agencies in identifying, handling and dealing the conflict of interest.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

INDONESIA

In 2019, KPK continues the work with developing many pilot projects in some ministries, public universities, state owned enterprises and local governments. The aim of the pilot projects is finalizing the guidelines and develop the instrument tools to make it applicable. Periodic campaigns have to be conducted to build the culture, raising awareness and internalize the system. In 2020, it is expected that the final version of the guideline can be applicable even further to all provincial levels.

Prevention on Conflict of Interest in the Judiciary and Prosecution

Judges who have a conflict of interest shall withdraw from examining and adjudicating the associated case. The decision to withdraw from the panel must be made as early as possible to mitigate any possible negative impact on the judiciary or any allegation that the judicial proceeding is not carried out in a fair and impartial manner. The elaboration of the conflict of interest is further stipulated in the Joint Decree between Indonesian Supreme Court and Indonesian Judicial Commission on Guidelines on the Enforcement of Code of Ethics and Judicial Code of Conduct.

Prevention of conflict of interest among prosecutors is regulated on the Law on the Public Prosecution Service, according to which the Prosecutor is prohibited to concurrently hold any position as: a business person; manager or employee of a government-owned enterprise (state/local) or a private enterprise; and lawyer. In addition, the Code of Conduct of Prosecutors is regulated in Attorney General's Regulation on the Behavior of the Prosecutor, which stipulates, among others:

- Prosecutors are prohibited from giving or promising something that can deliver personal gain, directly or indirectly, for themselves or others by using names or any means;
- Prosecutors are prohibited from requesting and/or accepting gifts and/or benefits in any form from anyone who has a direct or indirect interest;
- Prosecutors are prohibited from handling cases with personal or family interests, associated with employment, political parties or financial matters, or having direct and indirect economic value;
- Prosecutors are required to prohibit their family members from requesting or accepting gifts or benefits in any form from anyone who has any interest directly or indirectly in relation to their position

Indonesia's experience in Preventing Conflicts of Interest in KPK

As an anticorruption agency, KPK must lead by example, including in preventing conflicts of interest. In carrying out its duties, the Commission is governed by a separate set of code of ethics for staffs and commissioners. KPK has an Internal Monitoring Department which handles all complaints against staffs and commissioners (whether complaints are from other staff members or the general public). The Department reviews and investigates the complaint (including through surveillance of staff activities, if necessary) and then submits a report to an internal Ethical Committee for further action. The commission also launched an online whistle-blower system to handle anonymous corruption complaints against its own staffers. Decisions are made through a quasi-judicial process, where the employee has an opportunity to defend him or herself before the Committee makes a final determination and decides further action.

KPK is also supported by seconded pre-investigators, investigators and prosecutors from other law enforcement agencies. Based on the KPK Law, these seconded officers have to temporarily deactivate from their respective home agencies during their term in KPK in order to avoid conflicts of interest and dualism of report. KPK has a sophisticated e-monitoring system which uses a performance management framework similar to that of a balanced-scorecard system, which tracks workers' performance by requiring staffers to report via an online system the time they spent on daily tasks.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

GERMANY

"The German Regulation on the Award of Contracts sets out a detailed list of situations where a conflict of interest is presumed by law, requiring that the person(s) concerned shall not be involved in the specific procurement procedure. This provision includes a broad abstract definition of the legal term "conflict of interest" and regulates that staff members of a contracting authority (as well as other agents of the contracting authority) are not allowed to be involved in a specific procurement procedure if such a conflict of interest exists. To make the abstract definition of the term "conflict of interest" clearer and easier to apply, the provision also includes a detailed, non-exhaustive list of concrete situations - such as employment, consultancy contract or different kinds of kinship with the bidder - where a conflict of interest is presumed." (https://www.bmwi.de/Redaktion/EN/Downloads/vergabeverordnung-ordinance-award-of-public-contracts.pdf?__blob=publicationFile&v=2, -cf. section 6).

Mandatory Introductory Course

Germany’s corruption prevention directive for the Federal Administration stipulates different forms of awareness-raising and training measures. It regulates for example mandatory awareness raising (“shall be informed of the risk of corruption and the consequences of corrupt behavior”) for new staff and additional measures for staff in areas particularly prone to corruption This is done in the course of an introductory event or they have to meet the contact person on corruption prevention.

Frequently Asked Questions

To raise awareness in the public service and the business sector, Germany’s Private Sector/Federal Administration Anticorruption Initiative has developed answers to frequently asked questions about accepting gifts, hospitality or other benefits. The initiative was based on the perception that in business transactions between the public administration and the private sector, there was too little awareness of the standards in this area. Thus, the catalogue of frequently asked questions intends to help recognizing the boundaries of permissible behaviour with regard to gifts, hospitality and other benefits for federal administration employees. The questions are asked primarily from the perspective of federal administration employees and are intended to foster understanding within the private sector as to the boundaries set by public service law and—for both sides—by criminal law.

The catalogue is available on the website of the Federal Ministry of the Interior, Building and Community and can be downloaded free of charge.

Detailed Conflict of Interest Management Regulations in the Administrative Procedure Act

Section 20 of the Administrative Procedure act regulates which persons may not act in an administrative act or procedure on behalf of the authority because of a possible conflict of interest. The provision applies not only to the person directly affected, but also to his relatives (fiancé(e)s, spouses, direct relations and direct relations by marriage, siblings, children of siblings, spouses of siblings and siblings of spouses, siblings of parents, persons connected by a long-term foster relationship involving a shared dwelling in the manner of parents and children (foster parents and foster children).

Section 21 gives instruction how to manage a situation where grounds exist to justify fears of prejudice in the exercise of official duty, or if a participant maintains that such grounds exist.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

GERMANY	<p>Specialised integrity training for public procurement officials</p> <p>The Federal Procurement Agency is a government agency, which manages purchasing for 26 different federal authorities, foundations and research institutions that fall under the responsibility of the Federal Ministry of the Interior. It is the second largest federal procurement agency after the Federal Office for Defense Technology and Procurement.</p> <p>The Procurement Agency has taken several measures to promote integrity among its personnel, including support and advice by a corruption prevention officer (“Contact Person for the Prevention of Corruption”), the organization of workshops and training on corruption and the rotation of its employees.</p> <p>Since 2001, it is mandatory for new staff members to participate in a corruption prevention workshop. They learn about the risks of getting involved in bribery and the briber’s possible strategies. Another part of the training deals with how to behave when these situations occur; for example, by encouraging them to report it (“blow the whistle”). Workshops highlight the central role of employees whose ethical behavior is an essential part of corruption prevention. About ten workshops took place with 190 persons who gave a positive feedback concerning the content and the usefulness of this training. The involvement of the Agency’s “Contact Person for the Prevention of Corruption” and the Head of the Department for Central Services in the workshops demonstrated to participants that corruption prevention is one of the priorities for the agency. In 2005 the target group of the workshops was enlarged to include not only induction training but also on-going training for the entire personnel. Since then 6–7 workshops are held per year at regular intervals. In 2017/2018 186 staff participated in relevant management trainings, induction trainings and particular corruption prevention workshops. Another key corruption prevention measure is the staff rotation after a period of five to eight years in order to avoid prolonged contact with suppliers, as well as improve motivation and make the job more attractive. However, the rotation of members of staff still meets difficulties in the Agency. Due to a high level of specialization, many officials cannot change their organizational unit, their knowledge being indispensable for the work of the unit. In these cases, alternative measures such as intensified (supervisory) control are being taken.</p>
NETHERLANDS	<p>Central Government Code of Conduct</p> <p>The Integrity Central Government Code of Conduct gives a framework for acting with integrity. The document provides an overview of the most important government-wide agreements in the field of integrity. In addition, the code of conduct offers guidance in making assessments and making decisions. The code of conduct sets specific standards on conflicts of interest (p.12–19 Code of Conduct). It regulates how to deal with gifts, services, invitations, commercial activities and sponsorship, financial interests and trade securities, secondary activities and incompatible duties, cooling-off period in a sensitive move to other work and procurement, hiring and tenders. Also, it provides tools to help civil servants to do their work in a professional manner. However, there will always be situations where even these Code of Conducts offer no cut-and-dried answers. The Code has no list specifying every kind of behaviour that could be considered a breach of professional ethics, but it includes for instance conflict of interest, fraud and corruption. Each ministry has an integrity adviser but there is also a Central Integrity Coordinator.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
NETHERLANDS	<p>Awareness and support</p> <p>Since 2006 an update of the Civil Servants Act came. Among other things, it required government bodies to pursue integrity policies, to set up codes of conduct, and to introduce the oath of office. In this phase, government authorities also committed to a number of Basic Standards. These formulated further instructions for the design of integrity policies. For example, government organisations are required to devote attention to recruitment and selection, to conduct surveys for vulnerable positions, to protect confidential information, and to develop procurement and contracting procedures. In order to support government bodies with the implementation of these standards, the Minister of the Interior and Kingdom Relations decided in 2006 to form the Dutch National Integrity Office (BIOS). This led to more attention for the awareness aspect of integrity. Since then integrity became a topic in introductory courses for new employees, it was placed on the agenda during team meetings, and all kinds of integrity related courses have become, more or less, common practice within the government.</p> <p>BIOS was discontinued in 2016. The Whistleblowers Authority was established in 2016. The Prevention department of the Whistleblowers Authority develops guidelines and practical tools for employers. Directors and organizations are thus supported in promoting an ethical corporate culture.</p> <p>Data / monitoring: In the Netherlands, the Integrity and safety monitor is performed every four years. The most recent Monitor dates from 2016. Target group consisted of political officials and civil servants in central government, provinces, municipalities and water boards. This monitor provides the basis for evidence-based policy. In addition, the central government reports annually on (suspected) established integrity violations in the Central Government Operational Annual Report and each ministry conducts periodic employee reviews with questions about integrity and cultural aspects.</p> <p>When it comes to risk management and screening: In NL, political officials and civil servants can be screened prior to appointment. A Declaration of Behavior can also be requested (VOG). Some functions require stricter screening (safety research). Screening is seen as the final piece of a broader integrity policy.</p> <p>Recruitment and selection of civil servants is done in the Netherlands through selection procedures based on skills and competences. If this is necessary and required for work, competencies such as situational awareness play a role in this. This applies in any case to the recruitment and selection of senior officials. In the general administration' vision on Public Leadership, integrity is one of the three core competencies, and it is explicitly stated that the public task and public values are central.</p>
RUSSIA	<p>Russian experience in raising awareness of public officials of actual, apparent and potential conflict-of-interest situations</p> <p>The Federal Laws n. 273-FZ dated 25 December 2008 "On Combating Corruption" and n. 79-FZ dated 27 July 2004 "On State Civil Service in the Russian Federation" stipulate a detailed procedure for prevention and management of conflict of interest of Russian public officials.</p> <p>The reporting of a personal interest in the execution of official duties which may lead to a conflict of interest to a superior or a collegial body of the respective public authority or organization constitutes the basic instrument for preventing conflict-of-interest situations. The Decree of the President of the Russian Federation n. 650 dated 22 December 2015 provides for the procedure for such reporting.</p> <p>The Ministry of Labor and Social Protection of the Russian Federation elaborated an overview of standard situations of conflict of interest of public officials and the ways of their management. Every public official is recommended to refer to the overview in order to better understand which behavior is inadmissible for a civil servant and how to interact with the competent authorities in case they encounter a conflict-of-interest situation.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

RUSSIA

Every year the Presidential Executive Office of the Russian Federation organizes workshops on the implementation of national anticorruption legislation for the heads of anticorruption divisions of the federal government bodies and the bodies of federal entities.

In addition, the federal government bodies receive annually the recommendations for training of public servants under such programs for further professional education as "Prevention of and fight against corruption in the civil service" and "Functions of divisions for the prevention of corruption and other offences of federal government organs". These programs cover the issues of prevention, detection and management of conflict of interest. The topics are equally included in similar programs for the public officials of the Russian federal entities, the officials of the public corporations and organizations subordinate to the federal government bodies. These trainings give the public officials the opportunity to adopt a uniform approach to anticorruption activities of federal government organs on the basis of an integrated study of anticorruption legislation which also reflects its current amendments and includes problematic issues that arise in the process of its implementation.

Moreover, the General Prosecutor's Office of the Russian Federation prepares and publishes booklets, pamphlets and videos that provide in simple terms the necessary information on the relevant legislation, regulations and the standards of ethical conduct of public officials. All the materials are also published on the web site of the body. Some of them are translated in English and are accessible via the same web site (<https://eng.genproc.gov.ru/anticor/>).

One of the most significant elements of the system of countering corruption in the Russian Federation is the institute of declaration of income, expenses, property and property obligations of an official, his or her spouse and minor children. The responsibility for providing this information rests with the persons holding positions of the federal public civil service, which are classified according to the legislation in force as the top job family of the federal public civil service, positions of a head or deputy head of territorial organs of the federal executive organs and other positions, the appointment to and the dismissal of which is made by the Government of the Russian Federation, as well as the positions related to corruption risks (total over 1.6 million of people). The information is provided every year by April 1 or April 30, depending on the position that is occupied. Specific categories of people should provide their information via electronic disclosure system.

The Ministry of Labor and Social Protection of the Russian Federation prepares and publishes on-line recommendations for providing the information on income, expenses, property and property obligations, filling in the respective reporting form and submitting it to the competent authorities, as well as policy recommendations for analyzing the information that is submitted.

The analysis of this information includes interviews with officials who submitted the declarations with their agreement and in order to have further explanations. In case of necessity the competent authorities inquire if civil servants respect the rules of their professional conduct. However, they may not request the information constituting state, bank, tax or any other kind of secrecy protected by law. If the results of the analysis prove that the provided information is false or incomplete, contains conflict of interest or other violation of national anticorruption legislation, a decision on further steps should be made and a check be conducted within 30 days (or within 60 days in exceptional cases), which results in the determination of the degree of liability.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

SAUDI ARABIA

Code of Conduct and Ethics

In 2016, the Kingdom of Saudi Arabia issued the Code of Conduct and Ethics (Council of Ministers’ Resolution No. 555 of 27/09/2016) which is enforceable on all civil servants, except those governed by specific codes of conduct. The Code includes a chapter on conflicts of interest, which requires civil servants to disclose in writing any actual or potential conflict of interest.

Due to the specific nature of their work, specialized standards of conduct are in force for the National Anticorruption Commission (Nazaha), the Saudi Arabian Monetary Authority (SAMA or the Central Bank), the Judiciary, and the Public Prosecution service, which contain further conflict of interest provisions.

Chapter V of this Code is dedicated to conflicts of interest and obliges, in article 19, the civil service employee to disclose in writing any situation or potential situation of conflict of interest. Paragraph 3 of chapter V of the Code of Conduct and Ethics establishes two criteria for defining a conflict of interest, and defines a conflict of interest as a situation where there is a special interest, whether actual or potential, for the official or another person that affects their objectivity or neutrality in making a decision or expressing an opinion related to their functions, including but not limited to: (a) the existence of an interest between the employee and the contracting party, and (b) consanguinity up to the fourth degree.

Declarations of Interests

National Anticorruption Commission (Nazaha)

The staff of the National Anticorruption Commission must declare their assets, in accordance with Nazaha’s rules on financial disclosures adopted by Nazaha’s President Resolution No. 2 of 4 December 2011. Nazaha staff is also prevented from exercising any functions or holding positions in other sectors either with or without pay. Article 3(9) of the Statute of the Anticorruption Commission further provides that Nazaha has the power to “set controls necessary to submit financial declarations ... with regard to some categories of government employees.”

The Saudi Arabian Monetary Authority (SAMA or Central Bank)

Declarations of financial and non-financial interests are also required for SAMA (Central Bank) staff, pursuant to SAMA’s Code of Conduct. The Code inter alia requires employees to comply with SAMA’s approved disclosure policy in respect of the following:

- Ownership of shares in banks and companies supervised by the institution and its trading controls;
- Financial transactions of SAMA employees and their relatives;
- Ownership of shares and institutions of employees of SAMA and their relatives;
- Obtaining funding from an institution under the supervision of SAMA;
- Disclosure of any existing relationships with current or potential consultants or suppliers that may constitute a conflict of interest;
- Disclosure of any relationships between the employees of the institution;
- Disclosure in the event of a close relationship between the employee and a candidate for employment when the decision to recruit depends on the decision or opinion of the employee.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

SAUDI ARABIA

Conflict of Interest in the Public Procurement

Several preventive measures have been adopted to enhance integrity in public procurement (e.g., art. 17, Tenders and Procurement Law). Article 19 of the Code of Conduct and Ethics requires recusal of public servants from any decision aimed at influencing any contract award, which a member of their family is part of, as well as for disclosure of conflicts of interest. Integrity training of procurement officers is conducted by the National Institute of Public Administration.

Management of conflict of interest in the public service:

Code of Conduct for employees in the public service requires that employees to, among other things:

- not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties; and
- recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this shall immediately be properly declared by the employee; and

Gifts

- employees should not receive or accept any gift from any person in the course and scope of his or her employment, other than from a family member, to the cumulative value of R350 per year, unless prior approval is obtained from the relevant executive authority;
- In terms of the Prevention and Combating of Corrupt Activities Act, 2004, it is an offence to “accept any gratification from any other person whether for your benefit or for the benefit of another person or gives or agrees or offers to give to any other person any gratification for the benefit of that other person or for the benefit of another person. The definition of gratification is wide and include gifts.

Prohibition of employees from conducting business with the State:

- Employees are prohibited to conduct business with the State or be a director of a public or private company conducting business with the state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act, 1991.
- In terms of the Public Administration and Management Act, 2014, this provision extends to employees in municipalities and special advisors to executive authorities.
- Transgression of this policy carries with it a maximum of five-year imprisonment term, or a fine, or both a fine and imprisonment. It is also a dismissible offence.
- The central supplier data base (which is electronic) is monitored to identify employees who conduct business with the State by matching suppliers’ identity numbers with the personnel information system of the public service (PERSAL).
- Any public officer who... acquires or holds a private interest in any contract, agreement or investment emanating from or connected with the public body in which he or she is employed or which is made on account of that public body, is guilty of an offence (section 17 of the Prevention and Combating of Corrupt Activities Act, 2004).

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
SAUDI ARABIA	<p>Other remunerative work outside the employee’s employment in the relevant department (other remunerative work)</p> <ul style="list-style-type: none"> • Section 30 of the Public Service Act, 1994, prohibits an employee to engage in other remunerative work without the written permission of the executive authority. In assessing an application for other remunerative work, the executive authority will take into consideration whether outside work will impede or interfere or impede the effective and efficient performance of official duties or constitute a contravention with the code of conduct. • Any remuneration received in transgression of section 30, constitutes an unauthorized remuneration. An employee may be ordered to pay to revenue the amount of money received as remuneration. If the remuneration does not consist of money the value thereof as determined by the head of department. <p>Disclosure of financial interests</p> <ul style="list-style-type: none"> • Designated employees in the public service are required to disclose their financial interests, which will be, assessed for conflict of interest between the employee’s private interests and his or her official duties. Designated employees include employees in the senior management service, middle management, professionals earning an equivalent salary of members of the senior management or middle management, employees in supply chain management and officials responsible for disclosure of financial interest management. <p>Once a conflict of interest has been identified, the executive authority (in the case of a head of department) or a head of department (in case of other employees) shall consult with the employee concerned and take appropriate action to remove the conflict.</p>
SPAIN	<p>Declaration of activities: verification of post-employment activities and data-sharing with Social Security General Treasury</p> <p>In Spain, members of Government and high-ranking officials shall submit a declaration of activities to the Office for Conflicts of Interest prior to starting any professional activity during the two-year cooling-off period after leaving office. The Office for Conflicts of Interest analyses whether any intended professional activity could breach the prohibition to provide services to private organizations affected by the decisions made while in office.</p> <p>Verification of the information provided in the personal declaration of activities is carried out by the Office for Conflicts of Interest by contrasting the declarations with the information provided by Social Security entities regarding the actual employment status of former members of Government and high-ranking officials (companies they eventually work for, any type of self-employment status, dated periods of any professional activity, etc.). This verification process allows the Office to check whether the information on professional activities provided by members of Government and high-ranking officials after office is complete and accurate. If the Office for Conflicts of Interest identifies non-declared activities, a sanction procedure can be initiated.</p> <p>An agreement was signed with the General Treasury of Social Security to ensure that the information provided by Social Security entities, on a quarterly basis, comply with data protection, social security and conflicts of interest legislation.</p> <p>In addition, the Office for Conflicts of Interest may request information from the Commercial Registry (information is also requested on the eventual participation of all appointed high-ranking officials in corporate boards and their property rights on those companies), the Foundations Registry and other public and private organizations that are legally obliged to cooperate with the Office.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
SPAIN	<p>Sanctions related to the effective enforcement of COI regulations: debarment of private companies from public contracting</p> <p>Law 9/2017 on Public Sector Contracts strengthens the restrictions to post employment activities of high-ranking officials in order to minimize conflicts of interest. In particular, companies who have hired any person breaching the prohibition to provide services in private companies directly related to the competences of the position held during the two-year cooling-off period are debarred from contracting with any public administration provided that the breach has been published in the Official State Gazette. The debarment will be effective for as long as the person hired remains in employment with the maximum limit of two years from his or her termination as high-ranking official.</p> <p>Blind management trust</p> <p>In Spain members of Government and high-ranking officials are obliged to hire authorized investment companies for the management of stock and debt securities admitted to trading in regulated markets or in multilateral trading systems, financial derivatives, shares in companies announcing their request for admission to trading and/or shares in collective investment schemes, if their total value exceeds EUR 100.000. The interested parties shall send copies of their contracts to the Office for Conflicts of Interest for the record, as well as to the National Stock Exchange Commission.</p>
TURKEY	<p>Apart from the general regulations such as the Law on Civil Servants and the Law on Ethics for Public Officials, which regulate the conflicts of interest among public officials in Turkey, there are special regulations such as the Law on Judges and Prosecutors and Public Procurement Law for special groups or professions inclined to conflict of interest. Especially the "regulation on the principles on ethical conduct and procedures and principles on application for public officials" regulates in detail the issues regarding conflict of interest.</p> <p>Within this scope, works are conducted for establishing the culture of ethics within the public, determining the principles on ethical conduct to be followed by public officials when carrying out their duties and helping them act in accordance with these principles as well as eliminating situations that damage the principles of justice, honesty, transparency and impartiality in the execution of duties and create insecurity within the public. The Council of Ethics for Public Officials (CEPO), which is an independent institution, was established to carry out these works. Apart from the aforementioned works, the CEPO conducts, ex officio or upon application, the necessary examination and research on allegation of violation of principles on ethical conduct, determines the scope of the ban on receiving gifts, oversees its implementation and presents opinion regarding the problems encountered by institutions and organizations in the application of principles on ethical conduct. Furthermore, reports are prepared upon the decision of CEPO on certain matters and these decisions are published in the official gazette as ethical principles violated. As the public officials who are under personal responsibility concerning conflict of interest in Turkey are generally personally aware of the situations where the conflict of interest might arise, they are expected to act cautiously in any potential or real incident of conflict of interest, to take the necessary steps to refrain from any conflict of interest and to notify their superiors about the situation as soon as they become aware of the conflict of interest.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

TURKEY

Also, public officials may report acts of corruption and/or unethical behavior of other public officials to appropriate authorities. Law No. 3628 titled as “Declaration of Property and Combatting Corruption and Bribery” states that any public official contacts or observes some sort of corruption or bribery case may inform the situation to the prosecution office. The Law provides protection by disguising the informers’ names. However, in situations that are unfound or lack concrete evidence, name of the whistleblower could be disclosed publicly with the request of the informed. In fact, CEPO has set up a precedent on the protection of complainants in 2015 by not disguising the complainant’s/whistleblower’s name as a result of a request from the contested public official. The Council based its argument on two grounds: 1. Article 20 of the Turkish Constitution that emphasizes respecting and protecting the privacy of individual and their information; and 2. Article 21 of Law Number 4982 on “Right to Information Act” which in some cases protect certain private documents of a person to avoid harm to that person’s private/family life in the case of revealing.

On the other hand, the Law on Civil Servants regulates the obligation of public officials to declare their property in respect of the movable and immovable property belonging to them, their spouse and children under their custody as well as their debits and credits and foresees sanctions to be imposed on those failing to fulfil this obligation. Furthermore, in this regard, the “Law on Declaration of Property and Fight Against Bribery and Corruption” was introduced and special provisions on the fight against corruption were included in the Law.

Moreover, the aforementioned Law regulates matters such as the renewal of declaration of property, declaration of property by spouses, declaration of more than one property, declaration of property in case of change of duty, declaration of property by those on leave without pay and declaration of property for those resigning to participate in elections.

In Turkey, the declarations of property are kept in the special file of the declaring party, without prejudice to the provisions in special laws. No publications or explanations can be made and no information can be provided regarding the content of the declaration of property based on the information and records included therein. The exception in this regard includes CEPO authorized to examine the declarations of property when necessary, and persons authorized to carry out proceeding, investigation and prosecution on financial crimes.

Awareness-raising activities are also conducted in Turkey for preventing conflict of interest. Within this framework, pre-service and in-service trainings are provided for public officials.

Around 40 thousand public officials received ethics training. Among those 350 of them are certified ethics trainers. Another data signifying the measures is the ethical violation cases investigated. As of April 16, 2019, 45 applications received by the CEPO. Among those, 9 were investigated and 3 of those were decided for violating ethical codes.

CEPO is provided various EU funds to implement technical assistance and Council of European assisted projects in the last 12 years to reduce corruption and embed ethical culture at not only public sector but public in general. These projects included European Union Pre-Accession Assistance (IPA) Projects, Direct Grants, and Support Activities to Strengthen the European Accession Process (SEI) projects. Given that all those projects were implemented successfully, the Council is expected to run two new projects in the upcoming years. These projects meet the objective of “embedding ethical culture and improving the ethical climate of public sector and public in general” as defined by CEPO’s establishment Law No. 5176.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
TURKEY	<p>The list of the projects the Council conducted is as follows:</p> <ul style="list-style-type: none"> A. TYEC 1: “Ethics for the Prevention of Corruption in Turkey” Project (2007–2009) B. TYEC 2 (IPA 2010): “Consolidating Ethics in the Public Sector” Project (2011–2013) C. SEI Project: “Technical Assistance for Need Assessment for Ethics Commissions” (2010) D. “Technical Assistance for Prevention of Corruption and Promotion of Ethics” (2015–2017) E. “Technical Assistance for Increasing Ethical Awareness among Elected and Non-Elected Public Officials at Local Governments”
UNITED KINGDOM	<p>Ethical standards for providers of public services in the United Kingdom</p> <p>The Committee on Standards in Public Life (CSPL) is an advisory non-departmental body sponsored by the Cabinet Office that has the specific role of advising the Prime Minister on ethical standards across the whole of public life in the United Kingdom. It also monitors and reports on issues relating to the standards of conduct of all public office holders.</p> <p>In 1995, the CSPL established the Seven Principles of Public Life, also known as the Nolan principles. Minor changes to the descriptions of the principles were made in 2013. Originally responsible for advising on ethics matters related to the public sector, CSPL terms of reference were clarified in 2013 so that its remit also incorporated all those involved in the delivery of public services. As such, the Seven Principles of Public Life are applicable to all those delivering public services, including third-party providers from the private or voluntary sector. These seven principles serve as the basis for the ethical standards framework for those who both operate in the public sector and with the public sector:</p> <ol style="list-style-type: none"> 1. Selflessness: holders of public office should act solely in terms of the public interest. 2. Integrity: holders of public office must avoid placing themselves under any obligation to people or organizations that might try to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits to themselves, their family, or their friends. They must declare and resolve any interests and relationships. 3. Objectivity: holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. 4. Accountability: holders of public office are accountable to the public for their decision and actions and must submit themselves to the scrutiny necessary to ensure this. 5. Openness: holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so. 6. Honesty: holders of public office should be truthful. 7. Leadership: holders of public office should exhibit these principles in their own behavior. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs. <p>In every review, CSPL examines potential conflicts of interest under the principles of integrity and selflessness. In its 2013 report into public service providers, CSPL conducted research into how public and private sector providers of public services understand and implement ethical standards, including conflicts of interest. Five key findings resulted from the CSPL’s research:</p> <ol style="list-style-type: none"> 1. The public wants common ethical standards across all provider types, regardless of sector, supported by a code of conduct. 2. “How” the service is delivered is as important to the public as “what” is delivered, with a focus on personalisation and use-led definition of quality.

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)	
UNITED KINGDOM	<p>3. Public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life.</p> <p>4. Commissioners expect providers to conform to ethical standards, but rarely articulate this.</p> <p>5. Commissioners want guidance on how to embed ethical standards in the commissioning and procurement process.</p> <p>Using the evidence base and building on existing mechanisms, the report set out a high-level framework required to support these standards and provide the necessary assurance based around:</p> <ul style="list-style-type: none"> • Principled leadership and governance. • A suitable code of conduct. • A culture of dialogue and challenge. • Clarity of accountability and transparency. • Ethical capability. <p>Following publication of the report, the CPSL has shared its findings with providers of public services, such as the Chartered Institute of Public Finance and Accountancy and the Industry Forum. In addition, the CPSL conducted two seminars with the Business Services Association to discuss practical internal organizational measures for delivering high ethical standards in public services, as well as a workshop with the Whitehall Industry Group on Building an Ethical Culture in Organizations. In December 2015, CPSL published a guidance document for public service providers, which identifies practical examples of measures commissioners and providers can use to support high ethical standards.</p> <p>Inspirational Leadership Award</p> <p>As part of the annual Civil Service Awards, the UK presents the <i>Inspirational Leadership Award</i>. This award recognizes an individual who has demonstrated outstanding leadership in delivering results. The award is open to all, regardless of grade or role. Exemplifying the behaviors set out in the Civil Service Leadership Statement, nominees should be:</p> <ul style="list-style-type: none"> • inspiring about their work and future through setting direction, valuing professionalism and embracing innovation; • inclusive and confident in engaging others, communicating clearly and collaborating successfully; • empowering through openness and a commitment to diversity, recognizing and helping others fulfil their potential
UNITED STATES	<p>Defining Roles and Responsibilities for the Federal Executive Branch Ethics Program</p> <p>OGE has set forth in regulation specific roles and responsibilities for key individuals in the ethics program. This includes the responsibilities of employees, supervisors, agency ethics officials, human resource officers, inspectors general, and agency heads. In particular, these responsibilities identify that supervisors have heightened responsibilities for advancing government ethics and modeling ethical behavior and that agency heads must exercise personal leadership in establishing and maintaining effective agency ethics programs and fostering an ethical culture in their agency. Defining these roles and responsibilities by regulation ensures accountability and sets the standard expectations for those occupying these positions.</p>

Annex 3. Selected examples of G20 Country Practices (reported by ACWG members) (continued)

UNITED STATES

Training and Education Programs in the Federal Executive Branch

Each agency in the executive branch is required to maintain an ethics training program that ensures that employees are aware of the core principles and standards of the policy along with the available sources of advice. All new hires must receive induction ethics education. In addition, selected groups—such as Presidential appointees, financial disclosure filers, and White House employees—are required to receive at least one hour of annual ethics training. High-level Presidential appointees requiring Senate confirmation are required to receive a personal briefing within 15 days of coming on board, in addition to more general induction ethics training.

The central ethics agency, the Office of Government Ethics (OGE) offers a variety of ethics training, including on-demand videos, job aids, workshops and seminars for agency ethics officials working in the executive branch. This information is generally disseminated through OGE’s Institute for Ethics in Government (IEG), which maintains an online web portal. These training workshops focus on applying the standards of ethical conduct, criminal conflict-of-interest statutes, and public and confidential financial disclosure requirements in day-to-day work. They also include training information on good practices in ethics program management, including methods of increasing effectiveness of ethics education, use of data to benchmark ethics programs, records-keeping obligations for ethics program documents, enterprise risk management, and effective relationships between ethics officials and Inspector Generals.

Financial disclosures and conflicts of interest: State of Illinois, United States

The Financial Disclosures and Conflicts of Interest form (“form”) must be accurately completed and submitted by the vendor, parent entity(ies), and subcontractors. There are nine steps to this form, and each must be completed as instructed in the step heading and within the step. A bid, offer, or proposal that does not include this form shall be considered non-responsive. The agency/university will consider this form when evaluating the bid, offer, or proposal or awarding the contract. The form is divided into eight steps, as follows:

- Step 1. Supporting documentation submittal
- Step 2. Disclosure of financial interest or board of directors
- Step 3. Disclosure of lobbyist or agent
- Step 4. Prohibited conflicts of interest
- Step 5. Potential conflicts of interest relating to personal relationships
- Step 6. Explanation of affirmative responses
- Step 7. Potential conflicts of interest relating to debarment and legal proceedings
- Step 8. Disclosure of current and pending contracts. The requirement of disclosure of financial interests and conflicts of interest is a continuing obligation. If circumstances change and the disclosure is no longer accurate, then disclosing entities must provide an updated form. Separate forms are required for the vendor, any parent entity(ies) and any subcontractors.

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