

Response by the United States to Note Verbale: CU 2020/417(A)/DTA/CEB

The United States is pleased to provide the following response to the request for information provided by Secretariat contained in CU 2020/417(A)/DTA/CEB related to Information requested from States parties in relation to strengthening the role of supreme audit institutions in the prevention of and fight against corruption (Resolution 8/13 of the Conference of the States Parties to the United Nations Convention against Corruption)

- a. Measures taken to promote, in accordance with the fundamental principles of the legal systems, the independence of the supreme audit institution;*

The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress. GAO's authorities and independence are provided for in federal law. Often called the "congressional watchdog," GAO investigates how the federal government spends taxpayer dollars through audits, investigations, legal decisions and opinions, and other work. The head of GAO, the Comptroller General of the United States, is appointed to a 15-year term by the President from a slate of candidates Congress proposes. GAO's mission is to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people. GAO provides Congress with timely information that is objective, fact-based, nonpartisan, non-ideological, fair and balanced.

GAO's work is done at the request of congressional committees or subcommittees or is mandated by public laws or committee reports. GAO also undertakes work under the authority of the Comptroller General. GAO supports congressional oversight by: auditing agency operations to determine whether federal funds are being spent efficiently and effectively; investigating allegations of illegal and improper activities; reporting on how well government programs and policies are meeting their objectives; performing policy analyses and outlining options for congressional consideration; and issuing legal decisions and opinions, such as bid protest rulings and reports on agency rules. Federal law provides GAO the authority to conduct this work and also provides authority for GAO to access the information it needs for its work.

- b. Measures taken to implement policies for the effective operation of the supreme audit institutions in accordance with the principles and standards formulated by the International Organization of Supreme Audit Institutions, with regard to ensuring the proper management of public finances and public property, and in areas such as public procurement;*

The GAO develops and applies Generally Accepted Government Auditing Standards (GAGAS), which provide a framework for conducting high-quality audits with competence, integrity, objectivity, and independence. These standards, along with GAO audit policies, are generally consistent with the International Standards of Supreme Audit Institutions (ISSAI). The GAO applies GAGAS to its work, including on public procurement, and has an entire team devoted to

contracting and national security acquisitions that audits public procurement. In 2019, the GAO issued the 2019 High Risk List¹, a list of programs and operations that are ‘high risk’ due to their vulnerabilities to fraud, waste, abuse, and mismanagement, or that need transformation. The list is issued every 2 years at the start of each new session of Congress and has led to more than \$350 billion in financial benefits to the federal government in the past 13 years. The high risk list includes many items related to public procurement. The GAO’s Financial Management and Assurance team helps improve and transform the government’s financial management and operations to meet existing and emerging critical accountability challenges and ensure stewardship of financial resources.

- c. Measures taken to promote transparency and accountability in the management of public finances, including through a system of accounting and auditing standards and related oversight;*

The U.S. government issues accounting and auditing standards for use in government oversight. U.S. government oversight is conducted by GAO, Inspectors General, and a number of other agency auditors and oversight entities. Accounting standards for federal government entities are issued by the Federal Accounting Standards Advisory Board (FASAB). FASAB is a federal advisory committee jointly established by the Department of the Treasury, the Office of Management and Budget (OMB), and GAO. Government auditing standards (referred to as the Yellow Book) are established by the Comptroller General of the United States. See <http://www.gao.gov/yellowbook>. The Government Auditing Standards are used by auditors of government entities, entities that receive government awards, and other audit organizations performing Yellow Book audits.

The Inspector General Act of 1978 (IG Act), and certain other federal statutes, established Inspectors General within federal agencies. Office of the Inspector General (OIG) audits are conducted in accordance with Government Auditing Standards established by the Comptroller General of the United States [IG Act, § 4(b)(1)(A)]. In addition, OIGs coordinate with the Comptroller General to avoid duplication in Federal audits [IG Act, § 4(c)]. OIGs also establish criteria for using non-Federal auditors (typically, Certified Public Accounting firms) and take appropriate steps to assure that such auditors comply with Government Auditing Standards.

OIGs are charged with not only investigating and auditing fraud, waste, and abuse after they have occurred, but also identifying vulnerabilities and recommending programmatic changes that would, when enacted or implemented, strengthen controls or mitigate risk. Additionally, OIGs may investigate allegations of mismanagement. To this end, some OIGs, but not all, have separate offices devoted to conducting program inspections and evaluations. Others fulfill this responsibility through their audit and investigative offices. OIGs are charged with issuing semiannual reports to the Congress, and such reports are to include, among other things, findings and recommendations from audits, program evaluations, and inspections. The Council of the Inspectors General Inspection and Evaluation Committee’s (CIGIE) Quality Standards for Inspection and Evaluation² provides a solid framework for the work of OIG inspectors and evaluators.

¹ <https://www.gao.gov/highrisk/overview>

² <https://www.ignet.gov/sites/default/files/files/QualityStandardsforInspectionandEvaluation-2020.pdf>

Pursuant to 31 U.S.C. § 331(e)(1), the Department of the Treasury, in cooperation with OMB, must submit an audited (by GAO) financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government to the President and Congress no later than six months after the September 30 fiscal year-end. The consolidated financial statements include the financial status and activities of the executive, legislative, and judicial branches. The Financial Report is prepared from the audited financial statements of specifically designated federal agencies. GAO's responsibility is to express opinions on the consolidated financial statements based on conducting an audit in accordance with the Government Auditing Standards.

The Chief Financial Officers Act of 1990 (CFO Act), as expanded by the Government Management Reform Act of 1994 (GMRA), requires the inspectors general of the 24 CFO Act agencies to be responsible for annual audits of agency-wide financial statements prepared by those agencies. (31 U.S.C. § 3521(e)). GMRA authorized the Office of Management and Budget to designate agency components that also must report financial statements and have them audited. (31 U.S.C. § 3515(c)). GMRA requires GAO to be responsible for the audit of the U.S. government's consolidated financial statements, (GMRA, Pub. L. No. 103-356, § 405(c), 108 Stat. 3410, 3416-17 (Oct. 13, 1994), codified at 31 U.S.C. § 331(e)(2)), and the Accountability of Tax Dollars Act of 2002 (ATDA) requires most other executive branch entities to annually prepare financial statements and have them audited. (ATDA, Pub. L. No. 107-289, 116 Stat. 2049 (Nov. 7, 2002), codified at 31 U.S.C. § 3515.) For fiscal year 2019, OMB and Treasury identified 40 federal entities that are significant to the U.S. government's consolidated financial statements, including the 24 CFO Act agencies. (See Appendix A of the *Fiscal Year 2019 Financial Report of the United States Government* for a listing of the 40 entities.) These 40 entities were considered to be significant component entities for purposes of the audit of the consolidated financial statements. GAO's work is performed in coordination and cooperation with the inspectors general and independent public accountants for these significant component entities to achieve its respective audit objectives. GAO also separately audits the financial statements of certain component entities, and parts of significant component entities.

- d. *Measures taken to ensure that the audited entities respond to the findings of the audit reports, implement the recommendations of the supreme audit institutions and take appropriate corrective action, including criminal prosecution, to ensure the proper management of public affairs and public property;*

The GAO tracks recommendations made to audited entities and implementation rates. Information on this implementation can be found on its website.³ GAO also reports on the results of its work in an annual Performance and Accountability Report (PAR).⁴ The current implementation rate for past recommendations reported in the PAR is 77 percent. Further, the Comptroller General and GAO senior executives meet regularly with the heads of executive branch agencies to discuss the High Risk List and priority recommendations.

³ <https://www.gao.gov/reports-testimonies/recommendations-database/>

⁴ <https://www.gao.gov/products/GAO-21-4SP><https://www.gao.gov/products/GAO-21-4SP>

In fiscal year 2020:

- GAO’s work yielded about \$77.6 billion in financial benefits—a return of about \$114 for every dollar invested in GAO.
 - GAO also identified 1,332 other benefits—those that cannot be measured in dollars, but led to program and operational improvements across the government.
 - GAO reported on 35 areas previously designated as high risk due to vulnerabilities to fraud, waste, abuse, and mismanagement or because they face economy, efficiency, or effectiveness challenges. This work yielded 168 reports, 26 testimonies, \$54.2 billion in financial benefits, and 606 other benefits.
 - GAO reports allegations of criminal wrongdoing to the Justice Department
- e. *Measures taken to promote integrity and honesty through the application of codes of conduct in the supreme audit institutions and in particular measures for aligning these codes of conduct with the Code of Ethics promulgated by the International Organization of Supreme Audit Institutions;*

For SAIs to promote the efficiency, accountability, and effectiveness of the public sector, they must be independent of the audited entities and protect against outside influence. This involves establishing and maintaining appropriate legal, financial, and operational frameworks. The GAO undertake numerous steps and undergo internal and external review to ensure that it is free from real or perceived conflicts of interest at the staff, audit, and organizational levels. By ensuring its independence, GAO reinforces the credibility and objectivity of its work.

SAIs must also have appropriate mechanisms, policies, and practices to ensure the integrity of their work. In particular, it is critical for SAIs to ensure adherence to appropriate auditing standards and employ appropriate quality assurance and quality control mechanisms. To this end, the GAO employs a rigorous quality assurance framework to ensure compliance with generally accepted U.S. government auditing standards as well as INTOSAI standards. Its framework recognizes the importance of leadership, human capital, engagement performance, and monitoring and review. Using this framework reinforces public confidence in the quality and soundness of audit findings.

The United States is pleased to provide the following response to the request for information provided by Secretariat contained in CU 2020/417(A)/DTA/CEB related to information on the role of national parliaments and other legislative bodies in preventing and combating corruption in all its forms (resolution 8/14 of the Conference of the States Parties to the United Nations Convention against Corruption)

- a. *Measures taken to support the role and strengthen the capacity of parliaments and other legislative bodies to prevent and combat corruption, including in areas where they have a mandate for review or oversight;*

The legislative body of the United States – the U.S. Congress – plays a crucial role in efforts to prevent and combat corruption. Congress maintains this role through implementation of a robust institutional anticorruption framework that promotes integrity amongst its members, officials, and staff, and by exercising its constitutional responsibilities to draft and adopt legislation and ensure oversight over the operations of government. For the purposes of this data request, the United States is providing an illustrative, rather than comprehensive, overview of the measures Congress has in place and implements to prevent and combat corruption. For more information on these and other measures, interested parties should review the U.S. Self-Assessment Checklist for the Second Cycle of the UNCAC Implementation Review Mechanism as well as the U.S. evaluation under the GRECO Fourth Round of Review.

Background

The United States has a bicameral legislature consisting of the Senate and the House of Representatives. The Senate is comprised of 100 members (Senators or Members of Congress); two members elected by popular vote in each state. The House of Representatives (the House) is comprised of 435 members elected by popular vote from population-based districts apportioned within each state based on results from the U.S. census (House Members or Members of Congress). Senators must stand for re-election every six years, while House Members must stand for re-election every two years.

Members of Congress are elected in order to represent the interests of the constituents in their respective states or congressional districts, as well as regional and national interests.

Institutional measures to prevent and combat corruption

Each chamber of Congress is responsible for establishing its own rules of conduct and discipline. However, the Constitution explicitly authorizes each chamber to expel any member with a formal vote and concurrence of two thirds of its members. The Constitution does not specify the grounds on which a formal vote for expulsion should take place. There are no statutory or regulatory provisions that authorize the recall of a Member of Congress.

The House created the Committee on Ethics (originally known as the Committee on Standards of Official Conduct) in 1967. The Senate created the Senate Ethics Committee (originally known as the Select Committee on Standards and Conduct) in 1964. The

Committees' rules have been periodically revised since they were established to reflect changes in Committee structure and procedures implemented by the Senate and House. Current rules also reflect changes necessitated following experience under prior rules. The current House rules provide for an Office of Advice and Education within the House Committee on Ethics and the bifurcation of the Committee's investigatory and disciplinary process. The rules also govern the issuance of advisory opinions, the receipt of complaints, and the conduct of Committee investigations.

The Ethics Committees are tasked with interpreting and enforcing each Chamber's ethics rules. The Committees have sole jurisdiction over the interpretation of the Code of Official Conduct, which governs the acts of Members, officers, and employees. The Committees are the only standing committees with equal numbers of Democratic and Republican Members. The operative staff of the Committees are required by rule to be professional and nonpartisan.

The Senate and House Ethics Committees are tasked with interpreting and enforcing the respective chambers ethics rules. The Committees have sole jurisdiction over the interpretation of the Code of Official Conduct, which governs the acts of Members, officers, and employees. The Committees' core responsibilities include providing training, advice, and education to Members, officers, and employees; reviewing and certifying all financial disclosure reports Members, Congressional candidates, officers, and senior staff are required to file; and investigating and adjudicating allegations of misconduct and violations of rules, laws, or other standards of conduct.

For the purposes of illustration, in the 114th Congress (which served from January 2015 to January 2017), the House Committee on Ethics:

- Issued more than 850 formal advisory opinions regarding ethics rules;
- Fielded nearly 55,000 informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 14 advisory memoranda on various ethics topics to the House;
- Provided training to approximately 11,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements;
- Received nearly 16,000 Annual Financial Disclosure Statements and amendments filed by House Members, officers, senior staff, and House candidates;
- Received more than 3,000 Periodic Transaction Reports filed by House Members, officers, and senior staff, containing thousands of transactions;
- Commenced or continued investigative fact-gathering regarding 78 separate investigative matters;
- Filed 5 reports with the House totaling nearly 2,100 pages regarding various investigative matters; and
- Resolved 40 additional investigative matters confidentially.

For the purposes of illustration, in the 114th Congress (which served from January 2015 to January 2017), the Senate Ethics Committee:

- Issued more than 1,755 ethics advisory letters and responses including, but not limited to, 1,484 travel and gifts matters (Senate Rule 35) and 176 conflicts of interest matters (Senate Rule 37);
- Fielded approximately 20,001 telephone inquiries and 4,364 inquiries by email for ethics advice and guidance;
- Provided 8 new Member and staff ethics training sessions; 49 Member and Committee office campaign briefings; 41 employee Code of Conduct training sessions; 21 public financial disclosure clinics, seminars, and webinars; 45 ethics seminars and customized briefings for Member DC offices, state offices, and Senate committees; 9 private sector ethics briefings; and 12 international briefings;
- Received 6,377 public financial disclosure and period disclosure of financial transaction reports filed by Senate Members, officers, employees, and Senate candidates;
- Received 118 alleged violations of Senate rules;
- Conducted 12 preliminary inquiries;
- Dismissed 8 alleged violations, after conducting a preliminary inquiry into the matters, for lack of substantial merit or because it was inadvertent, technical, or otherwise of a de minimis nature;
- Dismissed 79 alleged violations for lack of subject matter jurisdiction or in which, even if the allegation in the complaint were true, no violation of Senate rules would exist; and
- Dismissed 27 violations because they failed to provide sufficient facts to any material violation of the Senate rules beyond mere allegation or assertion.

Investigation and enforcement

The Code of Ethics for Government Service directs all people in government service, including Members of Congress, to “[e]xpose corruption wherever discovered.” The House Committee on Ethics may exercise its investigative authority in several scenarios. Among those, the Committee may exercise its investigative authority when: (1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee; or (2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee. However, most Committee investigations begin when the Committee, on its own initiative, undertakes an investigation.

In the 114th Congress, the House Committee on Ethics:

- Commenced or continued investigative fact-gathering regarding 78 separate investigative matters;
- Filed 5 reports with the House totaling nearly 2,100 pages regarding various investigative matters; and

- Resolved 40 additional investigative matters confidentially.

The Senate Ethics Committee shall exercise its investigative authority whenever it receives a complaint, allegation of, information about, or becomes aware of any information alleging that any Senator, officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in any improper conduct which may reflect upon the Senate.

In the 114th Congress, the Senate Ethics Committee:

- Received 118 alleged violations of Senate rules;
- Conducted 12 preliminary inquiries;
- Dismissed 8 alleged violations, after conducting a preliminary inquiry into the matters, for lack of substantial merit or because it was inadvertent, technical, or otherwise of a de minimis nature;
- Dismissed 79 alleged violations for lack of subject matter jurisdiction or in which, even if the allegation in the complaint were true, no violation of Senate rules would exist; and
- Dismissed 27 violations because they failed to provide sufficient facts to any material violation of the Senate rules beyond mere allegation or assertion.

Congressional oversight

Congressional oversight of the executive branch is a critical part of the United States federal government's system of checks and balances, and an important part of promoting integrity and exposing malfeasance where necessary. Congressional oversight processes include those related to investigations, impeachment, confirmation of nominees, appropriations, authorization, and budget. Congress conducts much of its oversight through committees, with the support of a number of federal agencies and offices that investigate, audit, and provide information and analysis on executive branch activities. Below are brief descriptions of these processes.

Investigative Process

The Supreme Court has held that the power to investigate is implied in the Constitution's vesting of legislative powers in Congress. In furtherance of these powers, Congress may compel the disclosure of documents or require the attendance and testimony of witnesses at hearings through the issuance of subpoenas. Failure to comply with a valid subpoena or the provision of false statements to Congress may result in criminal liability. Investigatory hearings and reports published in conjunction with such hearings may receive extensive media attention and result in resignations, firings, or impeachment proceedings.

Impeachment Process

The Constitution gives Congress the authority to impeach and remove the President, Vice President, and other federal civil officers after determining that the officers have engaged in treason, bribery, or other high crimes and misdemeanors. While this is a critical tool for holding government officers accountable, it is rarely used, and is considered a political mechanism for checking executive branch authority.

Confirmation Process

The Constitution requires Senate confirmation for a number of high-ranking executive branch positions, especially those “exercising significant authority pursuant to the laws of the United States.” This process can be used by senators to provide policy directions to and obtain commitments from nominees seeking confirmation.

Appropriations Process

The Constitution requires appropriations measures for general government operations and certain discretionary funding. Appropriations measures may include explicit statutory controls, including language constraining how the funding may be used. Non-statutory controls also exist where agencies reliant on future appropriations risk receiving less funding and becoming subject to more stringent controls if they ignore the recommendations of Congress.

Authorization Process

Authorizing measures are pieces of legislation that establish, continue, or modify an agency, program, or activity on a permanent, annual, or multiyear basis. Such measures may contain statutory controls in the form of explicit directions, as well as non-statutory controls imposed by committees.

Budget Process

Members of Congress can use the budget process to relate program priorities to financial claims on the national budget and incentivize the elimination of less-desirable programs in favor of more-desirable ones.

Congressional Committees

Congressional oversight traditionally involves the delegation of powers through the committee system and the support of a number of federal agencies and offices, including the Council of the Inspectors General on Integrity and Efficiency, the Government Accountability Office, and the Congressional Research Service.

Committees

Either chamber of Congress may delegate its oversight powers to committees composed of its members. A committee's ability to investigate the executive branch is substantial and wide-ranging as long as the subject matter is within its jurisdiction and the investigation is "related to, and in furtherance of, a legitimate task of the Congress."

Council of the Inspectors General on Integrity and Efficiency (CIGIE)

Inspectors General (IGs) are executive branch positions created by statute with broad powers to audit and investigate their affiliated agencies, and with special protections to ensure their independence. Violations of federal criminal law and other significant problems detected by IGs must be reported to Congress. The CIGIE facilitates coordination among the various IGs, provides regular reports to Congress, and is in frequent communication with Congress on oversight matters.

Congressional Research Service (CRS)

The CRS provides objective, nonpartisan policy analysis and research services to members of Congress on a wide range of issues, including congressional oversight. The CRS, however, cannot conduct audits or investigations.

Government Accountability Office (GAO)

The GAO plays a critical role in supporting Congress' oversight responsibilities. The is an independent, nonpartisan agency that works for Congress. Often called the "congressional watchdog," GAO investigates how the federal government spends taxpayer dollars. The head of GAO, the Comptroller General of the United States, is appointed to a 15-year term by the President from a slate of candidates Congress proposes. GAO's mission is to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people. GAO provides Congress with timely information that is objective, fact-based, nonpartisan, non-ideological, fair and balanced.

GAO's work is done at the request of congressional committees or subcommittees or is mandated by public laws or committee reports. GAO also undertakes research under the authority of the Comptroller General. It supports congressional oversight by: auditing agency operations to determine whether federal funds are being spent efficiently and effectively; investigating allegations of illegal and improper activities; reporting on how well government programs and policies are meeting their objectives; performing policy analyses and outlining options for congressional consideration; and issuing legal decisions and opinions, such as bid protest rulings and reports on agency rules.

- b. *Measures taken by national parliaments or other legislative bodies to identify and implement any legislative or other measures that may be necessary to implement the Convention and address relevant recommendations emerging from the Mechanism for the Review of Implementation of the United Nations Convention against Corruption;*

Congress implements a number of legislative and administrative measures that are consistent with the obligations outlined in the Convention. Below are illustrative examples of these measures.

Transparency in the legislative process (consistent with Article 10 and Article 13.1)

The Standing Rules of the Senate and the Rules of the House of Representatives outline the procedure for the legislative process in the Senate and House, respectively. Once draft laws are introduced on the Senate or House floor they are made available to the public via <https://www.Congress.gov> and the Government Publishing Office's Federal Digital System. After draft legislation is introduced, it is generally assigned to a committee or committees having jurisdiction over the subject matter for further review. Depending on the subject of the legislation at hand, the committee may hold public hearings. Except where the rules allow for closed meetings, all committees' meetings are open to the public. Committees must also make a video recording, audio recording, or transcript of their meetings. These recordings must be made available through publication on the internet.

Except when closed sessions are ordered for reasons of secrecy, floor proceedings are open to the public, are televised, and are available to watch via webcast. Further, on all days where Congress is in session, a substantially verbatim report of proceedings is published in the Congressional Record. The results of votes are announced in real time via television and webcast. After the fact, records of votes for each piece of legislation, and by each Senator or House Member, are publicly available on the Senate or House websites.

Financial disclosures of public official (consistent with Article 7.4 and Article 52.5)

The Ethics in Government Act of 1978 requires that Members, officers, and certain employees of the Senate and House of Representatives file public financial disclosure statements. All financial disclosure reports filed for Members, officers, and employees are public filings; Congress does not permit confidential financial disclosure reports. Public financial disclosure reports are due annually on May 15. New Members, officers, and employees who will be financial disclosure filers must also file a financial disclosure report within 30 days of commencing employment. Members, officers, and employees who are financial disclosure filers must also file a financial disclosure report within 30 days of terminating House or Senate employment. Generally, financial disclosure filers must also file public periodic transaction reports within 45 days of certain financial transactions.

The House Committee on Ethics and the Clerk of the House maintain an online system for filing financial disclosure and periodic transaction reports. That system is available at <https://fd.house.gov>, although entrance is protected by a unique user name and password and limited to those who are required to file these reports. Members' financial disclosure and

periodic transaction reports are made available on the Clerk's website. Financial disclosure and periodic transaction reported filed by officers and employees are made available to the public in the Clerk's Legislative Resource Center.

The Senate Ethics Committee and Secretary of the Senate, Office of Public Records maintain an online system for filing financial disclosure and periodic transaction reports. That system is available at <https://efd.senate.gov/security/login/>, although entrance is protected by a unique user name and password and limited to those who are required to file these reports. Members' financial disclosure and periodic transaction reports are made available on the Secretary of the Senate's website. Financial disclosure and periodic transaction reports filed by officers and employees are made available to the public by the Secretary of the Senate.

To assist filers, the House and Senate Committees publish an instruction manual annually. Additionally, Members, officers, and employees may always contact Committee staff to discuss particular questions.

The primary purpose of financial disclosure and periodic transaction reporting in Congress is to promote transparency. The Committees review and certify financial disclosure and periodic transaction reports. Committee staff reviews these reports to ensure completeness of the disclosures. Committee staff works with the individual filers to ensure that everything required to be disclosed by the Ethics in Government Act of 1978 and the Stop Trading on Congressional Knowledge Act of 2012 is fully disclosed, and in the proper format. Like in the executive branch, this process can require multiple rounds before the Committees will certify any particular report. Both original filings and any amendments are made public. The Committees do not review these filings for the purpose of resolving conflicts, although occasionally a review may uncover activities that need to be resolved to ensure compliance with other laws or rules.

Members, officers, and employees that file late financial disclosure and periodic transaction reports must pay a \$200 late fee, although the House and Senate Ethics Committees can waive that late fee in extraordinary circumstances. For late periodic transaction reports, the House Ethics Committee applies a graduated late fee structure, ranging from \$200 for the first late report to \$200 per individual transaction reported late for fifth offenses and beyond. The Senate Ethics Committee assess a \$200 penalty for late financial disclosure and periodic transaction reports. Failure to file financial disclosure or periodic transaction reports, falsification of information on the reports, and making false statements or omissions on the reports are punishable by fines or jail time. The Department of Justice prosecutes federal criminal cases, including those dealing with financial disclosure reporting.

Training and Education (consistent with Article 7.4)

All new Members, officers, and employees of the House of Representatives must take one hour of ethics training within 60 days of being sworn in. All officers and employees of the House of Representatives must take one hour of general ethics training every year of employment thereafter. Certain employees, considered "senior staff," must take an additional

hour of ethics training every Congress, or every two years. Trainings are performed by nonpartisan staff of the House Ethics Committee and are either performed live or online.

All new Members, officers, and employees of the Senate must take a ninety-minute ethics training within 60 days of being sworn in. Trainings are presented by nonpartisan staff of the Senate Ethics Committee and are either live or online.

Codes of Conduct (consistent with Article 8)

All Members, officers, and employees of the Senate and House are subject to many conflict of interest statutes, rules, and regulations. All Members, officers, and employees are prohibited from using their official position for their own personal gain, or the personal gain of anyone else. In addition to the statutory limitations listed below, these restrictions can also be found in Senate Rule 37, House Rule 23, clause 3 and paragraph 5 of the Code of Ethics for Government Service. Additionally, Members who are married to registered federal lobbyists, or whose spouses are employed by organizations that retain a federal lobbyist, must prohibit their official staff from engaging in any lobbying contacts with that spouse, as outlined in House Rule 25, clause 7.

Members, officers, and employees are all limited in their ability to accept gifts from any outside source. The Senate and House gift rules list the various exceptions to the general prohibition on the receipt of gifts. More stringent requirements are placed on gifts given by federal lobbyists or organizations that retain a federal lobbyist or foreign agent. Gifts from foreign government and multinational organizations are governed by statutory exceptions to the Emoluments Clause of the Constitution (Article I, section 9, clause 8).

Members, officers, and staff are also limited in their ability to accept employment opportunities and activities outside Congress. Members, officers, and senior staff are prohibited from receiving compensation for performing fiduciary services, including board service, and are limited in the amount of compensation they may receive for other services. Members, officers, and employees, including staff who are not paid at the senior staff rate, may not accept compensation for services in a matter where the United States is a party or has a direct and substantial interest. Members and senior staff may not accept honoraria, and may only accept compensation for activities such as teaching and writing with the House and Senate Ethics Committees' prior written approval. Finally, Members may not engage in advertising when they have a personal financial interest.

Members, officers, and staff who file financial disclosure statements, discussed below, must disclose, among other things, all positions they hold with outside organizations, any earned income from an outside source that is more than \$200 in the calendar year, as well as any book royalties more than \$200 in a calendar year.

Members and senior staff of the Senate and House of Representatives are limited in actions they can take both before and after leaving House employment. House Members and senior staff who are considering employment with non-public entities must file a Notice of Negotiations or Agreement for Future Employment with the respective House Committee on

Ethics. Members and staff may also file a Statement of Recusal. If a Member files a Statement of Recusal, the Notice of Negotiations or Agreement for Future Employment and Statement of Recusal completed by the Member are also made public through the Legislative Resource Center within the Clerk's office. Senate Members who are considering employment with non-public entities must file a Disclosure by Member of Employment Negotiations and Recusal form with the Secretary of the Senate, Office of Public Records, and file a copy with the Senate Ethics Committee, within 3 business days of beginning the negotiations or arrangements for private employment of compensation. Members are prohibited from negotiating or making any arrangements for jobs involving lobbying activities until after their successor has been elected. Senior staff who are considering employment with non-public entities must file a Non-Public Disclosure by Staff of Employment Negotiations and Recusal form with the Senate Ethics Committee, within 3 business days of beginning the negotiations or arrangements for private employment of compensation.

Additionally, House Members and very senior staff are subject to a one-year cooling-off period following the end of their employment. Senators are subject to a two-year cooling off period. These restrictions generally do not limit the type of employment a Member or very senior staff person may have following employment, but do restrict certain types of activities during these cooling off periods.

- c. *Measures taken to recognize the important role of parliaments and other legislative bodies in strengthening the implementation of the Convention, with a view to effectively preventing and combating corruption in all its forms and preventing money-laundering related to corruption by, inter alia, promoting transparency and accountability in the management of public finances, exercising budget oversight, criminalizing corruption offences and facilitating the asset recovery process, in accordance with chapter V of the Convention;*

Promoting Transparency and Accountability

As part of the United States' overall system of checks and balances, the U.S. Constitution (article 1, section 9, clause 7) contains two clauses giving Congress the role of setting the budget: the Appropriations Clause and the Statement and Accounts Clause. The Budget and Accounting Act of 1921 moved many of the preliminary budget-setting functions to the President and the Executive Branch. The act established the Bureau of the Budget (now the Office of Management and Budget) as an Executive Branch agency that works with the President on drafting a budget; it also established the General Accounting Office (now the Government Accountability Office) as an auditor reporting to Congress.

The framework of the budget process can be divided up into five stages each of which is governed by its own procedures outlined in the Budget Act, the rules of the House and Senate, and other relevant statutes. These stages are, in this order: President's budget submission, adoption of the budget resolution, passage of appropriations bills, consideration of reconciliation legislation, and consideration of authorization legislation. The last three stages often occur simultaneously. While the President is responsible for submitting a budget proposal, budget responsibility is given the Congress in the U.S. constitution as part the checks and balances system.

The President generally submits a comprehensive budget request to Congress in early February. This budget request is public and posted on the website of the Office of Management and Budget. Once the President's budget is submitted, the U.S. House of Representatives and Senate Committees hold public hearings on the budget and the Congressional Budget Committees report a concurrent resolution on the budget that sets each committee's allocation of spending authority for the next fiscal year and aggregate spending and revenue levels for at least 5 years. In May, the House begins consideration of the 12 annual appropriation bills for the next fiscal year based on the discretionary spending allocation in the budget resolution. Starting in May, these bills move through hearings, markups, Floor consideration, and conference and are constrained by the levels and allocations in the budget resolution and the enforcement of the Budget Act and through House and Senate rules. If the spending and revenue levels in the budget resolution require changes in existing law, the resolution would contain instructions to committees to report legislation containing such statutory changes.

An overview of the U.S. budget process can be found on the House of Representative's Budget Committee website: <https://budget.house.gov/about/budget-framework/>

Office of the Inspector General (OIG) audits are conducted in accordance with Government Auditing Standards (<http://www.gao.gov/yellowbook>) established by the Comptroller General of the United States [IG Act, § 4(b)(1)(A)]. In addition, OIGs coordinate with the Comptroller General to avoid duplication in Federal audits [IG Act, § 4(c)]. OIGs also establish criteria for using non-Federal auditors (typically, Certified Public Accountant firms) and ensure that such auditors comply with Government Auditing Standards.

Pursuant to 31 U.S.C. § 331(e)(1), the Department of the Treasury, in cooperation with the Office of Management and Budget (OMB), must submit an audited (by GAO) financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government to the President and Congress no later than six months after the September 30 fiscal year-end. The Financial Report is prepared from the audited financial statements of specifically designated federal agencies. GAO's responsibility is to express opinions on the consolidated financial statements based on conducting an audit in accordance with U.S. generally accepted government auditing standards (GAAP).

Notable legislation furthering implementation of the Convention

In recent years, Congress has passed several pieces of legislation that have strengthened implementation of the obligations under the Convention. Below are illustrative examples of such legislation:

Pandemic Response Accountability Committee

In March 2020, the U.S. Congress passed the CARES Act and three related pieces of emergency legislation to provide approximately \$2.4 trillion in economic relief to individual

citizens, loans for businesses, support for hospitals and other medical providers, and economic relief for impacted industries. In addition to the economic relief funding, the CARES Act created the Pandemic Response Accountability Committee (PRAC). The purpose of the PRAC is to “promote transparency and conduct and support oversight” of the government’s coronavirus response to “prevent and detect fraud, waste, abuse, and mismanagement” and “mitigate major risks that cut across program and agency boundaries.” Composed of federal OIGs, the PRAC is not a stand-alone organization, but rather a Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), an independent entity established within the executive branch by the Inspector General Act of 1978, as amended. The CIGIE includes the 75 statutorily created federal Inspectors General with a mission to address integrity, economy, and effectiveness issues that transcend individual government agencies.

The CARES Act specifically identifies Inspectors General from 9 agencies as members of the PRAC but provides that the CIGIE Chair may designate additional Inspectors General to serve on the Committee from any agency that receives funds or is otherwise involved in the government’s response to the coronavirus pandemic. Consistent with the CARES Act, the Inspectors General serving on the Committee will continue to perform their Inspector General duties. At present, the PRAC is composed of 22 Inspectors General, including the new Special Inspector General for Pandemic Recovery.

The CARES Act also includes a provision for GAO to conduct monitoring and oversight of the use of funds made available to prepare for, respond to, and recover from the COVID-19 pandemic. GAO is to report on, among other things, the pandemic’s effects on the public health, economy, and public and private institutions of the United States, including the federal government’s public health and homeland security efforts. Additionally, GAO is to report on loans, loan guarantees, and other investments and to conduct a comprehensive audit and review of charges made to federal contracts pursuant to the CARES Act, among other things. The CARES Act includes a provision for GAO to submit a report to Congress within 90 days of enactment on its ongoing monitoring and oversight efforts related to the COVID-19 pandemic, with subsequent reports due every 60 days.

Beneficial ownership transparency

In January 2021, Congress overrode a presidential veto to pass the National Defense Authorization Act for Fiscal Year 2021 (NDAA). Among the NDAA’s many provisions was Title LXIV, entitled The Corporate Transparency Act. This law requires covered business entities to disclose to law enforcement authorities and financial institutions information on their true beneficial owners. Beneficial owner is defined with respect to an entity, as an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (i) exercises substantial control over the entity; or (ii) owns or controls not less than 25 percent of the ownership interests of the entity. The information required includes the beneficial owner or owners name, address, date of birth, and driver’s license or other identification number. This information will be reported to the U.S. Treasury’s Financial Crimes Enforcement Network (FinCEN) and will be available to law enforcement for use in financial crime investigations.

Promoting more effective asset recovery

Also included in the NDAA is the Kleptocracy Asset Recovery Rewards Act. This Act establishes, under the Department of the Treasury, a program to be known as the “Kleptocracy Asset Recovery Rewards Pilot Program.” The rewards program is meant to support U.S. government programs and investigations aimed at restraining, seizing, forfeiting, or repatriating stolen assets linked to foreign government corruption and the proceeds of such corruption. Under the program, the U.S. government will pay a reward to any individual, if that individual furnishes information leading to:

- (1) the restraining or seizure of stolen assets in an account at a U.S. financial institution (including a U.S. branch of a foreign financial institution), that come within the United States, or that come within the possession or control of any United States person;
- (2) the forfeiture of stolen assets in an account at a U.S. financial institution (including a U.S. branch of a foreign financial institution), that come within the United States, or that come within the possession or control of any United States person; or
- (3) where appropriate, the repatriation of stolen assets in an account at a U.S. financial institution (including a U.S. branch of a foreign financial institution), that come within the United States, or that come within the possession or control of any United States person.

Government Transparency

With the passage of the 2021 NDAA, the “Taxpayer Right to Know Act” also became law. This law will require federal agencies to provide a complete inventory of all federal agency programs the Office of Management and Budget (OMB), and OMB will be required to update regularly and put the information in a searchable format. The intent is to provide more transparency in government for private citizens as well as allow a means to more easily identify duplication and overlap in federal programs.

- d. Any good practices in relation to the role of parliaments and other legislative bodies in preventing and combating corruption.*

The United States would offer the following as best practices:

The STOCK Act (Stop Trading on Congressional Knowledge Act of 2012)

The STOCK Act affirms and makes explicit the fact that the “insider trading” laws and regulations apply to Members of Congress, congressional employees, or any federal officials. The law also expressly affirms that all federal officials have a duty of trust and confidentiality with respect to material, non-public information which they may receive in the course of their official duties, and a duty not to use such information to make a private profit.

In addition to the STOCK Act, which covers all Members of Congress, each chamber of Congress has specific rules regarding the misuse of confidential information. These rules generally designate as confidential specific work product relating to national security, intelligence, or investigations. The Senate and House Rules outline procedures to be used to investigate if there has been a breach of confidentiality or an unauthorized disclosure.

House Committee on Ethics

As a best practice, the House Committee on Ethics provides confidential advice to Members of the House of Representatives and staff of the House on prospective activities that may have ethics implications. Advice is provided by the Committee's nonpartisan, professional staff. Members and staff are encouraged to contact Committee staff for any question that may involve an ethical concern. We believe this is a best practice because it provides clients the opportunity to conform their actions to the ethics requirements. Additionally, Committee rule 3(k) states that good faith reliance on written opinions will protect against Committee sanctions.

Senate Select Committee on Ethics

As a best practice, the Senate Select Committee on Ethics (Senate Ethics Committee) provides confidential advice to Members, officers, and employees of the Senate on prospective activities that may have ethics implications. Advice is provided by the Committee's nonpartisan, professional staff. Members, officers, and employees are encouraged to contact Committee staff for any question that may involve an ethical concern. We believe this is a best practice because it provides clients the opportunity to conform their actions to the ethics requirements. Additionally, Supplementary Procedural Rules 10(e)(2) and 11(e) state that any person relying on, in good faith, a Committee advisory opinion or interpretative ruling will not be subject to Senate sanctions.

1. Please provide examples of the implementation of those measures, including related court or other cases and available statistics.

In relation to examples of implementation of those measures, States parties may wish to consider including reports by national parliaments or other legislative bodies on their efforts to implement the Convention;

The United States has further considered increasing the transparency of the legislative process, starting with the creation of a Select Committee on the Modernization of Congress ("Select Committee"). It was established by H. Res. 6 on January 4, 2019, as an evenly divided, select committee of the House of Representatives charged with making Congress more effective, efficient, and transparent, by investigating, studying, making findings, holding public hearings, and developing recommendations around the legislative process. The Select Committee held sixteen hearings, six virtual discussions, and six business meetings. During the hearings, the Members of the Select Committee heard from academics,

outside experts, and former Members of Congress. The Select Committee Members discussed and debated various issues, considered many legislative branch reforms, and ultimately voted on recommendations. As a result of these deliberations, the Select Committee issued ten individual reports and a comprehensive Final Report.

The Select Committee spent significant effort considering legislative transparency, in particular. Several of its hearings touched on legislative transparency, and one hearing was dedicated solely to the topic. At that hearing, the Committee discussed and highlighted transparency efforts underway in the House, the value of making legislative information more transparent, and the effect of transparency on the deliberative process in Congress. The final report can be found here: <https://modernizecongress.house.gov/final-report>