

MARCH 22, 2016

[APPROVAL BY MAIL] CODE OF CONDUCT –COMMENTS FROM TI

Dear Mafalda,

Thank you for your email of March 10 giving us the opportunity to comment on the revised version of the CIF Code of Conduct. As you know, we provided extensive comments on the earlier draft of this document. We are pleased that many first round comments and suggestions have been incorporated in the current document. Please allow us to make some further comments.

Applicability

We continue to believe that, in the case of experts, the CIF Code should supersede any other code to which an expert may be bound.

Consequences of non-compliance

It remains unclear how a finding of non-compliance may be reached and by whom. Also, who would determine whether the violation of the Code by the member or observer in question would warrant resignation.

Unfortunately, due process and procedures for review, appeal, and sanctions are not spelt out. The current text of the Code makes reference to a “Contact Point” who *may* provide advice and who *may be notified* of possible non-compliance with the Code to review remedial and mitigating measures. We believe that this would fall short of an oversight committee that would actively promote and, in some cases, enforce compliance with the Code, including the resignation of members and observers where appropriate. As an example, one may consult the ethics and conflict of interest policies of the Green Climate Fund.

Code of conduct for the members of the TF Committees and Sub-Committees

We believe that the Code of Conduct should contain a general requirement that members’ actions should not undermine the public confidence and trust in the Fund’s governance and integrity, and should not involve corruption-related activities. More broadly, consideration should be given to having all members signing a general declaration recognizing their obligations under the Code and their commitment to abide by its rules and regulations.

The current text – para 6(f) – does not seem to provide sufficient “muscle” to implement a robust conflict of interest policy. It seems to stress an advisory role of the Contact Point in helping to remedy or mitigate actual or potential conflicts of interest rather than implementing a pro-active conflict of interest disclosure policy.

Rather, we would recommend a policy that (1) establishes an ethics committee – possibly as part of a “stronger” Contact Point or oversight committee – that would review and manage cases of potential/actual conflicts of interest; and (2) establishes a public registry where members will need to disclose any particular interests. As for receiving gifts, we recommend that permission to receive gifts be deleted from the Code. However, if gift-receiving is allowed, (3) we recommend the introduction of a stricter gift policy setting value thresholds and entering each gift in a gift registry.

Code of conduct for the CIF observers

We would like to highlight our earlier expressed concern about the unequal treatment of CIF observers (vis a vis Committee members) in the case of a potential conflict of interest. In para 11, the Co-Chairs may request certain observers not to participate in the deliberations of, and receive information on, a particular subject matter. In the case of Committee members, participation is left to their personal discretion. We feel there is no foundation for such differential treatment. Ideally, interests of both Committee members and observers should be entered in a public registry on the basis of which an ethics committee would assess, in consultation with the member or observer, whether a real or perceived conflict of interest might arise. On that basis, remedial action could be taken, as appropriate.

Kind regards,

Chrik Poortman
CSO Observer
Senior Adviser TI