



Income and assets declarations: Issues to consider in developing a disclosure regime

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by

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Abstract

The United Nations Convention against Corruption (UNCAC) requires state parties to consider establishing policies requiring officials to reveal “to appropriate authorities ... their outside activities, employment, investments, assets and substantial gifts or benefits” (Article 8, UNCAC). The World Bank has advised a number of countries on whether an income and asset disclosure programme is an appropriate response to the corruption issues they face, and if so, what type of programme they should establish. Assistance has ranged from advice on drafting legislation to furnishing model disclosure forms to providing financial and technical support to an agency created to administer the programme. Drawing on this experience and studies underway by several Bank units, this U4 Issue paper describes the issues policymakers should weigh in deciding whether to adopt a financial disclosure law, and if so, what provisions it should contain.

1. Should public officials disclose their finances?

Although international experience suggests that a financial disclosure regime can be an important element in an anti-corruption programme, there are drawbacks to requiring public servants to disclose their finances. How the trade-offs should be weighed varies from country to country, and, in deciding whether the advantages outweigh the disadvantages, policymakers will want to evaluate them against the backdrop of their own nation's history, law, and political traditions.

1.1. Advantages

Mandating that officials divulge information about their finances may reduce corruption in several ways. Disclosure allows a public employee's wealth to be monitored. If periodic disclosures show an unusual increase in assets or extravagant expenditures, the employee can be asked for an explanation. In addition, when managers know what assets an employee owns - interests in firms, real estate, and so forth - they can determine when the employee's participation in a decision may be coloured by personal interests, and thus when he or she should be excluded from the decision-making process.

Financial disclosure cannot stop those determined to accept bribes, award themselves public contracts, or otherwise loot the public purse. What it can do is deter the less determined, those tempted to steal from the public but fearful their wrongdoing might later be revealed. It can also help honest employees by reminding them and their managers when they should abstain from participating in a decision because it could affect their interests. Finally, it can bolster confidence in government by reassuring citizens that conflicts of interests are being policed and public employees' finances scrutinised.

Financial disclosure laws are an important tool for law enforcement. When suspicions about an individual are raised, investigators can review the person's income and asset disclosure statement. Is it consistent with bank account records and what one can observe of the person's lifestyle? Or is there a significant discrepancy between what the disclosure reveals and the way the person is living? Prosecuting and convicting corrupt officials is also easier when there is a financial disclosure law. Almost all such laws make it a crime to file a false declaration. By doing so, the law creates a new, easily provable offense directly associated with corrupt conduct.

1.2. Disadvantages

Forcing public servants to declare their income and assets is not costless. There is first the administrative burden it puts on government. Personnel must be assigned to review and maintain disclosure forms and train filers in how to comply. The greater the number required to file, the greater the administrative cost.

A much greater cost is the effect it can have on citizens' willingness to enter government service. When financial disclosure laws were introduced into several American states in the 1960s, many legislators and executive branch employees resigned rather than reveal details of their personal finances. In 2005, several judges quit the bench when Romania required them to publicly disclose their finances.

The impact disclosure could have on the composition of the national legislature was a major issue during the recent German debate on legislation requiring MPs to disclose. Opponents contended that it would discourage small business owners, lawyers, and other independent professionals from running for parliament. Disclosure would embarrass this group, especially by revealing, in a society with egalitarian norms, just how wealthy they were. Some might also be reluctant to serve for fear the disclosures would reveal details of their business or professional practice from which competitors could benefit. While Germany's constitutional court ruled by the narrowest of margins that the potential impact of the legislation on an individual's willingness to run for office does not give rise to constitutional concerns, the debate about its impact continues.

1.3. Weighing the advantages against the disadvantages

Decision-makers will want to ask if qualified individuals in their country would refuse to become ministers out of a reluctance to reveal their wealth. Would those for whom disclosure was not a concern differ in some key aspects from those not willing to disclose? Opponents in Germany argued that parliament would become less representative as only those with modest wealth, such as civil servants, teachers, and social workers, sought election.

The most significant drawback to financial disclosure is neither the administrative cost nor its impact on the recruitment of public servants. Rather it is the invasion of a privacy that results. Although the violation is greater when the disclosure is made public, disclosure to a government agency also infringes privacy rights. What policymakers have to decide is whether the interests disclosure advance outweigh the violation of privacy rights.

Lawmakers are divided on whether officials' right to privacy outweighs the public interest in disclosure. A 2006 World Bank study, reproduced in the Appendix (page 17), found that of the 148 countries in which the Bank works 43, or 30 percent, require no disclosure. Of the remaining 106, one-third requires public disclosure and two-thirds disclosure only to a government agency.

In at least four countries - Chile, Germany, Romania, and the United States (U.S.) - the trade-off between privacy rights and the public benefit have been the subject of litigation in national courts. With one exception, the courts have ruled that constitutionally protected privacy rights are not infringed by financial disclosure legislation. The exception was a 1970 decision by the Supreme Court of the state of California holding a California law that required officials to reveal information unrelated to their work an unconstitutional invasion of their privacy. However, all other decisions the Bank has identified on the question, courts have ruled that the interests served by the public disclosure of an official's finances outweigh the official's right to privacy.

In each of these cases the court was not writing on a blank slate. Rather, the starting point was a scale tipped sharply in favour of disclosure. In each, the law being challenged had been approved by two other branches of government, a legislature which had passed it and an executive that had promulgated or approved it. Thus in each case, two branches of government had already determined that the public interest in disclosure outweighed public officials' privacy interest, and in democracies courts accord a determination by the two elected branches of government great respect.

In several countries, proponents of disclosure dismissed the privacy issue saying that individuals could choose whether to enter public service and if they chose to do so, a part of the price they paid was waiving their right to privacy. How much weight to give this argument, will depend upon local conditions. If, thanks to an underdeveloped private sector, government employment is highly desirable, it may carry less force.

Probably the main reason why international experience is of so little use in resolving the privacy question is that the value put on privacy and indeed what the term "privacy" itself means varies across nations and cultures. Even among the industrialised nations of the West, significant differences exist. Whereas in the U.S. the names of individuals charged with a crime are always made public, in many European countries on privacy grounds they are not. European laws governing electronic data bases are much more protective of individuals' privacy than corresponding American laws, and in Europe libel and slander laws are more protective of officials' private lives than those in the U.S. In the U.S. the courts have interpreted the right to privacy mainly in terms of the protections afforded reproductive issues or marital relations. Financial information has been given far less protection.

2. If disclosure is mandated, should it be public or non-public?

Disclosure can be either confidential or public. Confidential disclosures are made to an anti-corruption agency, supreme audit bureau, or other government entity. A public disclosure law requires that the receiving agency publish the disclosure form - in the media or on the internet - or otherwise allow the public to see it. In the U.S., those wishing to view the disclosure forms of a Senator must visit a special office in-person, show identification, and sign in.

An effective confidential disclosure regime demands that the agency administering it must be politically neutral and that it enjoy the confidence of the citizens. These are difficult conditions to meet in many countries. Thanks to the loss of confidence in the American government as a result of the Watergate scandal of the early 1970s, senior officials of the federal government, previously required to disclose their finances to their employing agency, were required to make them public. More recently, an East Asia nation had had a programme requiring members of parliament (MPs) to disclose their income and assets to an office in the legislature. Although the office was non-partisan, it was common knowledge that its director manipulated the programme: leaking details of the opposition members' finances and overlooking ruling party members' failure to file. This manipulation cost the programme its credibility, and an all-party coalition subsequently approved legislation requiring the disclosures to be made public.

Public disclosure allows civil society and the media to help enforce the programme. In 2003, a Philippine reporter used the publicly available forms filed under a newly enacted financial disclosure law to check the life styles of mid-level managers of the national tax agency. She compared what was reported about the values of homes, the number of cars owned, and so forth with what real estate and automobile registries showed and what neighbours said about how the managers lived. Many had significantly understated the value of their homes or lied about the number of cars they owned. On the day her story appeared, two managers resigned and several more were placed on administrative leave.

Some commentators commend public disclosure as a signal of government's commitment to conduct business transparently. If government is willing to make the personal finances of senior officials public, it makes it much harder for mid-level personnel to hide behind claims of secrecy when processing requests under right to information laws or otherwise denying citizens access to information to which they are entitled.

Against public disclosure two objections are raised. One, heard in states where crime and violence is a continuing concern, is that if criminals know that an official is wealthy, they are more likely to kidnap him or her or a family member for ransom. For this reason, Colombia and Haiti have both declined to require that financial disclosures be public.

The second is the privacy issue reviewed above. Whatever the infringement on an official's right by disclosing to a government entity, the infringement is that much more when the disclosure is public.

3. Compromises between public and non-public disclosure

A number of governments have found a middle ground between public and non-public disclosure. In the U.S. only senior government officials - cabinet secretaries and deputy secretaries, other individuals appointed by the president, and senior civil servants - are required to disclose publicly. The remaining 90 percent of those who must disclose their income and assets do so only to officials of the agency where they are employed.

Another variation is to disclose some information publicly and keep the remainder confidential. Members of the Canadian Parliament submit detailed financial disclosure statements, listing even credit card debts in excess of C\$10,000. The parliamentary commissioner for ethics then publishes a summary of the statement on-line which shows the MP's holdings but not their values.

A third variation is found in Bolivia. Executive branch officials make a comprehensive declaration of income, assets, and debts to the Comptroller General, but only totals are published. Figure 1 provides an example: it is the public declaration form for President Evo Morales for 2008. Four entries appear: total assets (bienes), total debts (deudas), the net of the two (patrimonio neto), and a fourth line for income from rental property (rentas). Under Bolivian law, a citizen can request the complete form if he or she shows a need for it. This is a recent provision, and its limits have yet to be tested.

Figure 1 - Financial disclosure form of President Morales

DATOS GENERALES DEL DECLARANTE		
Identificación del declarante	Nro. Doc.: 2763595	Expedido en : ORURO
Apellidos: MORALES AYMA	Nombres: JUAN EVO	
RESUMEN DE LA DECLARACION JURADA DE BIENES Y RENTAS		
1 Total "BIENES" (Activos)	Bs	1563576
2 Total "DEUDAS" (Pasivos)	- Bs	175150
3 PATRIMONIO NETO (Total "BIENES" menos Total "DEUDAS")	= Bs	1388426
4 TOTAL "RENTAS"	Bs	195000
Fecha de presentación de la declaración: 04/11/2008		

4. Administering a disclosure law

If policymakers do decide to enact financial disclosure legislation, they will want to specify how it should be administered. This requires decisions on four questions:

1. Who should be required to disclose?
2. What information should be disclosed?
3. How often should disclosure be made?
4. What agency will administer a disclosure programme?

In making these decisions, they will in turn want to bear in mind three issues:

1. The administrative filing burden;
2. The extent to which officials' privacy should be invaded; and
3. Government's capacity to use the information disclosed.

4.1. Who should be required to disclose?

At a minimum, any financial disclosure law should cover ministers, ambassadors, the top grade of the civil service, and senior management in state-owned enterprises. These individuals possess significant decision-making authority and are therefore likely to find themselves in situations where their personal financial interests could be affected by decisions they are asked to make. They are also likely to have

discretionary power to allocate substantial sums of money, giving them the opportunity to profit from corrupt acts.

How much deeper into the executive branch or state-owned enterprises a disclosure law should reach is a matter of judgment that will turn on several factors. How much discretion do individuals at the lower levels exercise over the allocation of public funds? How much decision-making authority do they have? What opportunities do they have to commit corrupt acts? While even junior employee may engage in petty corruption, is it likely that an income and asset disclosure programme will catch those taking small bribes? Is that likelihood enough to justify making thousands go to the time and trouble of divulging their assets, outside income, gifts, and other details of the financial lives? Will the public be that more reassured the government is serious about combating corruption if junior level employees must file?

More often than not, policymakers tend to overreach, requiring far too many lower level personnel to disclose. In Mongolia, over 43,000 civil servants must make an annual disclosure, and in Kenya all 675,000 odd civil servants are required to submit an annual declaration showing their income and assets. Observers of the U.S.'s long experience with financial disclosure, where many state governments have required disclosure since the early 1960s, and the federal government since 1965, agree that too many junior personnel are required to disclose. Over 250,000 employees of the federal government must file a declaration annually, and in the state of California, even supervising lifeguards at public beaches are required to file a statement of economic interests.

The political dynamic driving enactment of a financial disclosure regime often explains the overreach. Acting against the backdrop of a recent, highly publicised scandal, with public concern at a peak, policymakers compete with one another to show how "tough" they can be on corruption. If one proposes to cover the top two levels of the civil service, another will raise the ante by proposing the top four. The answering bid will be the top six and so on until, as in California, even lifeguards must reveal details of their personal finances.

One way to reduce the number of employees required to disclose – without compromising the objectives of disclosure – is to focus not on civil service grade or pay level when defining coverage but on the type of risk the job entails. Not all employees at the same grade or pay level will have the same exposure to potentially compromising situations. Individuals involved in public contracting or tax and customs collections are obvious examples of higher risk categories of employee. In resource rich countries those responsible for setting or administering policy are another. The 2006 Jordanian law requires all members of government, military, or state-owned enterprise tender committees to disclose. The recent Haitian law covers all officials with the power to authorise expenditures. In addition to senior officials, the Ghanaian law reaches accountants and internal auditors of any rank or pay grade.

There is no consensus among nations on whether an official should be required to disclose a spouse's income and assets when declaring his or hers. Of the 32 states with disclosure programmes that responded to a 2002 United Nations survey, 17 reported that spouses' income and assets had to be reported.

Proponents of spousal disclosure argue that a husband and wife's financial affairs are so closely intertwined that separation is artificial. A second argument is that if the spouse's finances are excluded, evasion of the law is made that much easier, for stock certificates and property can be registered in the spouse's name. On the other side are concerns about invading the spouse's privacy.

No matter how many officeholders are covered by a law, it should be introduced gradually to ensure that administrative arrangements are in place to manage the required submissions. In both Uganda and Argentina tens of thousands of public servants were required to file financial declarations upon passage of the law. The agencies administering the programmes were unprepared to handle such a deluge; the forms went unexamined, and the programmes were quickly discredited.

Although when initially enacted disclosure programmes typically cover only executive branch officials, the international trend is to expand them to include parliamentarians and judges as well. A 2008 World Bank survey found that over 100 countries require some form of disclosure by legislators. Of the 21 countries that responded to a 2007 survey of European Union members, 18 require legislators to disclose and 10 require judges to do so.

4.2. What information should be disclosed?

The information that should be disclosed under a comprehensive law is shown in the box below: income from all sources, assets, positions in profit or non-profit firms, debts owed, gifts received, and any reimbursements for travel or other expenditures from non-official sources. Disclosure of these items provides a complete picture of an individual's personal finances.

<u>Information to Disclose</u>	
•	sources of income
•	assets
•	positions in profit or non-profit firms
•	debts
•	gifts

To reduce the filing burden on those covered by the law, many countries do not require the disclosure of assets, debts, gifts, or reimbursements below a certain amount. Canadian parliamentarian need list only assets greater than C\$10,000. In the U.S. federal officials are required to disclose a gift only when the total received from a single source exceeds \$285 in a calendar year. Setting a reasonable threshold reduces the burden on filers without loss of any significant information. Given Canada's GDP per capita and the level of government salaries, it strains belief to think that a gift of C\$10,000 would influence the decisions of a MP.

The purpose of financial disclosure legislation will determine whether the actual value of assets, income, debts, gifts, and reimbursements need to be revealed or not.

Conflict of interest monitoring

When the sole purpose is to alert employees and their managers to potential conflicts of interest, asset values need not be revealed.

The financial disclosure system governing members of the British House of Commons is an example of one whose purpose is to police conflicts of interest. Members must reveal their ownership interests in a firm when it exceeds 15 percent of the outstanding shares or when the value of their interest is more than the annual salary of parliamentarians - slightly less than \$95,000 in 2009. If they have to disclose an interest in a firm, they must provide a brief description of the firm's business as well.

MPs must also disclose any directorships, whether paid or unpaid, any source of income from employment or a profession and gifts from any source. There is an exemption if the income or gift is less than one percent of their salary, which currently amounts to \$949 per year. Although they do not have to furnish information about their personal residence, they must disclose any real property they own worth more than their annual salary. The rules of the House also contain a catchall provision. Any "relevant interest," not otherwise required to be disclosed, which provides information "which might reasonably be thought by others to influence [a Member's] actions, speeches, or votes in Parliament" must also shown on their disclosure form.

Figure 2 below reprints the disclosure form filed by U.K. MP Anthony Baldry. It shows that he is a director in seven different companies, including chair of a company in the natural resource business in Sierra Leone and one exploring for oil in Central Asia. He has stock in nine companies with the "(a)" indicating his holdings exceed 15 percent of the outstanding shares and the "(b)" that he owns more than \$95,000 in shares.

Figure 2 - Financial disclosure form of MP Anthony Baldry

<p>1. Remunerated directorships Chairman (non-executive), Red Eagle Resources PLC; investing in agriculture and natural resources in Sierra Leone. Chairman (non-executive), Westminster Oil Limited; a BVI registered company, development of oil licences and exploration. West African Investments Ltd; investing in infrastructure and natural resource projects in Sierra Leone and elsewhere in West Africa. Halcyon Oil Limited; a Hong Kong registered company focusing on oil exploration and discovery projects in Central Asia. Partner Capital Ltd (non-executive); an FSA regulated equity fund. Mastermailer Holdings plc; development of stationery and stationery products. Deputy Chairman, Woburn Energy plc; AIM listed company specialising in oil exploration and recovery.</p> <p>2. Remunerated employment, office, profession etc. Practising barrister, arbitrator and mediator. Executive Partner in Diamond Film Partnership; a UK partnership promoting UK film and television production rights. Chairman of the Advisory Committee of Curve Capital Ventures Ltd; a sector neutral investment company that predominantly invests in India, China and Africa and advises companies on strategic growth and global expansion.</p> <p>4. Sponsorship or financial or material support I employ a research assistant who receives some funding direct from the Lighting Industry Federation, solely in connection with work that she does in support of the Associate All-Party Lighting Group.</p> <p>8. Land and Property A cottage in Oxfordshire.</p> <p>9. Registrable shareholdings (a) Red Eagle Resources PLC (a) Carbon Registry Services Ltd. (a) West African Investments Ltd. (a) Halcyon Oil Limited (b) 3DM PLC (b) SPDG plc (b) Petroquest Ltd (owns shares in Westminster Oil Limited) (b) Mastermailer plc; supplier of secure stationery (b) Woburn Energy plc.</p> <p>10. Miscellaneous and unremunerated interests Shareholding of below registrable value in Carbon Registry Services Ltd.</p>

Wealth monitoring

When the aim of the disclosure regime is to monitor changes in employees' wealth, the law must require that the actual value of each asset and gift received and the amount of any income earned from outside activities be provided as well.

Hong Kong was the first jurisdiction to use financial disclosure to monitor employee wealth. Under a 1990 law, public servants must periodically file a statement showing the value of their assets. If the anti-corruption agency detects a significant increase, it can demand that the employee explain the change. Failure to provide a satisfactory one constitutes the offense of "illicit enrichment."

Although public employees may occasionally reveal information pointing to illegal activity, rarely do those embezzling public funds, accepting bribes, or otherwise enriching themselves through corrupt activities disclose that their assets are increasing as a result. When the law requires that the value of

assets be divulged, understating the value of land, buildings, shares or other assets the employee owns must be made a crime. As noted above, falsifying a disclosure is a much easier crime to prove than the underlying corruption, particularly when bribery is involved. There are usually no witnesses when a bribe is passed, and even when there are, a causal link between the receipt of the bribe and an official action must be demonstrated. By contrast, showing that an employee failed to accurately report the value of his or her assets is a straightforward matter.

Figure 3 is an example of a disclosure form showing asset values. It is an excerpt from the 2006 financial disclosure of Indonesian President Susilo Bambang Yudhoyono. The first part lists the real property (harta tidak) the president owns and the second the two automobiles or moveable property (harta bergerak) that he owns. The value in rupiahs of each item, on the first day of the reporting period (July 23, 2001) and the last (May 10, 2004) appears in the two columns to the right. Item A(4), for instance, is a house worth 1.3 billion rupiahs (approximately \$130,000) and B(a)(1) is a 1994 Honda Accord that he estimates is worth \$11,000 in U.S. dollars.

Figure 3 - Excerpt from President Bambang's financial disclosure report for 2006

		Status Laporan	
		23 Juli 2001	10 Mei 2004
II. DATA HARTA			
A. HARTA TIDAK BERGERAK (TANAH DAN BANGUNAN)		Rp. 1.245.504.000	Rp. 1.245.504.000
1.	Tanah seluas 950 m2, di Kabupaten BOGOR, yang berasal dari HASIL SENDIRI, perolehan tahun 1999	Rp. 45.600.000	Rp. 45.600.000
2.	Tanah seluas 1.000 m2, di Kabupaten BOGOR, yang berasal dari HASIL SENDIRI, perolehan tahun 1999	Rp. 48.000.000	Rp. 48.000.000
3.	Tanah seluas 1.000 m2, di Kabupaten BOGOR, yang berasal dari HASIL SENDIRI, perolehan tahun 1999	Rp. 48.000.000	Rp. 48.000.000
4.	Tanah & Bangunan seluas 3.186 m2 & 900 m2, di Kabupaten BOGOR, yang berasal dari HASIL SENDIRI, perolehan tahun 1996	Rp. 1.103.904.000	Rp. 1.103.904.000
B. HARTA BERGERAK			
a. ALAT TRANSPORTASI DAN MESIN LAINNYA		Rp. 567.000.000	Rp. 567.000.000
1.	MOBIL, merk HONDA ACCORD, tahun pembuatan 1994, yang berasal dari HASIL SENDIRI, perolehan tahun 1994	Rp. 110.000.000	Rp. 110.000.000
2.	MOTOR, merk SUZUKI TORNADO, tahun pembuatan 1997, yang berasal dari HIBAH, perolehan tahun 1997	Rp. 7.000.000	Rp. 7.000.000
		2	

4.3. How frequently should disclosure be made?

Although the provisions governing how frequently a financial disclosure statement must be submitted vary, three patterns can be discerned. Probably the most common is that requiring the submission be made periodically, annually, or, as in the case of the new Jordanian law, every two years. Less common are laws that are event driven. Filers must update their submission whenever there is a "significant" change in their holdings. A third pattern, found in several African states, requires officials to make a disclosure upon entering government and a second upon leaving.

Periodic reporting is most often associated with public disclosure while the other two are almost always found when the filings are non-public. Some laws are a combination of one or more variety. In Kenya, covered officials must file annually as well as upon entering and leaving government. In Algeria, reporting officials must not only update their forms whenever there is a significant change in their finances but file annually as well.

If policymakers do decide to enact a financial disclosure law, the question of how often to require disclosures will turn on a series of practical questions. How frequently do people enter and leave government service? How long do they stay in service? If most civil servants remain with the government for life, requiring that they file every two years may be enough, particularly when the cost to the government and the individual of more frequent filings is taken into account. For ministers or those who enter and leave government on short-term assignments, the bi-annual requirement could be supplemented by requiring a submission upon leaving government.

4.4. How should a disclosure programme be administered?

There is great diversity in the administrative arrangements for income and asset disclosure programmes. Some countries have established an independent agency to manage the programme while others have assigned responsibility to a civil service commission or other personnel agency. Some divide the different administrative tasks up among different entities. Others do not.

One of the few areas where a pattern is discernable is in the administration of programmes covering parliamentarians or judges. The legislature or judiciary almost always manages these programmes separately from those covering executive branch staff. The reason given is the need to maintain the separation of powers. Legislators and judges fear that if they are subject to an agency outside their control, it could compromise their independence. Arrangements for legislatures and courts are usually fairly simple because there are so few employees involved. The judiciary will typically have an office in the judicial council or other governing body to oversee judges' submissions. Legislatures will assign responsibility to an ethics committee or an office within the leadership.

As a result of the recent uproar over the abuse of expense accounts in the United Kingdom, an independent entity has been proposed to administer all parliamentary ethics laws. Many observers of parliaments have long recommended such a step but few parliaments have been willing to take it. Whether the controversy in the United Kingdom will provoke a rethinking of this position by other legislatures remains to be seen.

Because they have so many employees, agencies responsible for executive branch disclosure usually have the most complex structure. Administration of a financial disclosure programme requires that five discrete tasks be performed:

1. Form management (receipt and review of submissions omissions, notification of non-filers)
2. Training and counselling on compliance
3. Review with the employee for conflicts of interest
4. Verification of submissions
5. Investigation and prosecution of violators.

A common pattern is for the first three of the five tasks identified to be handled by a single agency. Managing the receipt of the disclosure forms and helping employees obey the law are compliance functions whereas the last two involve law enforcement. While several countries combine compliance with enforcement, this may not be the best solution. Compliance personnel want those with questions to come forward and seek answers. If compliance officers are housed in the same agency as enforcement staff, some employees may be reluctant to discuss possible conflicts of interest or questions about what they must disclose out of a fear they will be turned over to the enforcement wing. Recruitment can also be more complicated if the agency is hiring both compliance and enforcement staff. Separating compliance from enforcement can also avoid duplication and overlap, and thus bureaucratic turf wars, with police and prosecution agencies.

The U.S. federal government separates compliance personnel from enforcement staff. The Office of Government Ethics is responsible for compliance. It receives the forms of those required to make public declarations and ensures that they are properly completed. Personnel from the office also counsel filers on possible conflict of interest situations and how they can be managed. Enforcement is left to the public prosecutor for criminal offenses and to administrative agencies for lesser transgressions.

A slight variation on this model is found in Argentina and Madagascar. There the anti-corruption agencies perform not only the first three tasks but perform some verification. In Argentina, the agency checks filings against land and vehicle registries. In Madagascar, it compares filings with tax records. Until recently, the Argentine office posted the names of non-filers or those whose declarations appeared to be inaccurate. This was the office's way of pressuring the judiciary to pursue the case.

These offices do not extend their oversight beyond this "passive" form of verification. They do not review bank records, put suspects under surveillance, or otherwise actively seek to verify their financial disclosures. This work is left to the public prosecutor.

5. Conclusion

An income and asset disclosure programme can be a useful tool for combating corruption. But it must be designed and administered with the particular circumstances of the country in mind. There is a rich experience with these programmes in developed and developing countries that reformers can draw upon when establishing a programme or revising an existing one. Development agencies will want to take stock of these experiences when providing assistance to their development partners.

6. Further reading

Lavine, A and Rush, L (2009) “Sunshine in the State House: Financial Disclosure Requirements for Public Officials” in Selkin, P E (ed) *Ethical Standard in the Public Sector*, 2nd edition, chapter 4 Chicago: American Bar Association

Mackenzie, G C and Halfkin, M (2002) “Financial Disclosure” in idem *Scandal Proof: Do Ethics Laws Make Government Ethical?* Washington, D.C.: Brookings Institution

Rohr, J A (1998) “The Problem of Financial Disclosure” in idem *Public Service, Ethics and Constitutional Practice*, chapter 6, Lawrence: University Press of Kansas

Demmke, C, Bovens, M, Henökl, T, van Lierop, K, Moilanen, T, Pikker, G and Salminen, A (2007) “Regulating Conflicts of Interest for Holders of Public Office in the European Union: A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions” European Institute of Public Administration in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa

U.S. Office of Government Ethics (2005) *Report to Congress Evaluating the Financial Disclosure Process for Employees of the Executive Branch, and Recommending Improvements to It*, Washington D.C.

U.S. Office of Government Ethics (2009) *Report: Elements of a Successful Financial Disclosure Program*, Washington D.C.

Argentine Government (2007) *Officina Anticorrpcion, Declaraciones Juradas de Funcionarios Publicos: Una herramienta para la prevencion y control de corrupcion*, 2nd ed Buenos Aires

7. Appendix - Income and asset disclosure in World Bank client countries

		Disclosure Required (106)		Disclosure not Required (43)		
		Public (36)	Nonpublic (70)			
East Asia	Indonesia Marshall Is Mongolia	Philippines Thailand Vanuatu Vietnam	China Malaysia Palau	PNG Solomon Is.	Cambodia Fiji Kiribati Lao PDR	Micronesia Myanmar Samoa Timor Leste Tonga
Eastern Europe/ Central Asia	Albania Bulgaria Croatia Georgia Kyrgyz R Latvia	Lithuania Montenegro Moldova Romania Russia Ukraine	Armenia Azerbaijan Belarus Bosnia/Herz Kazakhstan	Macedonia Poland Serbia Slovak R Turkey	Estonia Tajikistan	Turkmenistan Uzbekistan
Latin America	Argentina Belize Bolivia Brazil	Chile Jamaica Nicaragua Paraguay	Antigua/ Barb Colombia Costa Rica Dominica Dominican Rep Ecuador El Salvador Grenada Guyana Guatemala	Haiti Honduras Mexico Panama Peru StKitts/Nevis St Lucia Trinidad/Tob Uruguay Venezuela	Barbados	Suriname St.Vincent/G
Middle East/ North Africa	Algeria Iraq		Egypt Iran Jordan Lebanon	Morocco Tunisia West Bank/Gaza	Djibouti Kuwait	Libya Syria Yemen
South Asia	Bhutan		Bangladesh India Nepal	Pakistan Sri Lanka	Afghanistan	Maldives
Africa	Cape Verde Central AfricaR Liberia	Sao Tome/Pr South Africa Uganda	Benin Burkina Faso Burundi Cameroon Chad Dem Rep Congo Equatorial Guinea Gambia Ghana Kenya Madagascar	Malawi Mali Mozambique Namibia Niger Nigeria Rwanda Rep of Congo Tanzania Zambia	Angola Botswana Comoros Cote d'ivoire Eritrea Ethiopia Gabon Guinea Guinea Bissau Lesotho	Mauritius Mauritania Senegal Seychelles Sierra Leone Somalia Sudan Swaziland Togo Zimbabwe

Abstract

The United Nations Convention against Corruption (UNCAC) requires state parties to consider establishing policies requiring officials to reveal “to appropriate authorities ... their outside activities, employment, investments, assets and substantial gifts or benefits” (Article 8, UNCAC). The World Bank has advised a number of countries on whether an income and asset disclosure programme is an appropriate response to the corruption issues they face, and if so, what type of programme they should establish. Assistance has ranged from advice on drafting legislation to furnishing model disclosure forms to providing financial and technical support to an agency created to administer the programme. Drawing on this experience and studies underway by several Bank units, this U4 Issue paper describes the issues policymakers should weigh in deciding whether to adopt a financial disclosure law, and if so, what provisions it should contain.