

**DRAFT LEGISLATIVE GUIDELINE:  
BASIC ELEMENTS ON THE REGISTRATION OF INCOME, ASSETS, AND  
LIABILITIES**

INTRODUCTION.....	1
1. SCOPE OF LEGISLATION .....	2
1.1. General Legal Framework.....	2
1.2. Special Standards.....	2
2. OCCASIONS FOR SUBMISSION OF DECLARATIONS .....	2
3. GOVERNMENT AGENCIES RESPONSIBLE FOR DECLARATIONS .....	2
4. FORM AND MINIMUM CONTENT OF DECLARATIONS .....	3
5. VERIFICATION, INVESTIGATION AND EXPLANATION OF DECLARATIONS .....	3
5.1. Obligation to Verify.....	3
5.2. Explanation of Declarations.....	4
5.3. Investigation of Declarations.....	4
5.4. Filing of Report .....	4
6. ACCESS TO AND USE OF DECLARATIONS .....	4
6.1. Standards for Access .....	4
6.2. Publication.....	4
6.3. Standards on Use of Declarations.....	4
6.4. Probative Use of Declarations .....	4
7. SANCTIONS OR CONSEQUENCES FOR NON COMPLIANCE.....	5
7.1. Agencies or Officials that Monitor Compliance.....	5
7.2. Sanctions and Prohibitions .....	5
8. DATABASES.....	5
8.1. Establishment of Databases .....	5
8.2. Updating of Databases.....	5
9. AWARENESS BUILDING MECHANISMS .....	5

## **INTRODUCTION**

*This guideline refer to the basic elements that should be included in a legal framework related to the registration of income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public. As the title suggests, the elements contained herein are the basic elements that should be included in such a legal framework, and accordingly, the list of elements is not exhaustive.*

*The guideline is divided into the major areas that a system for the registration for the income, assets and liabilities should entail. These are the scope of coverage; occasions for submission of declarations; the government agencies responsible for such declarations; verification, investigation and explanation of declarations; access and use of declarations, sanctions for non-compliance; the establishment of databases and awareness building mechanisms.*

## **1. SCOPE OF LEGISLATION**

### **1.1. General Legal Framework**

Provisions that establish methods for registering the income, assets and liabilities of those who perform public functions.

### **1.2. Special Standards**

Provisions which provide for special standards on the registration of income, assets, and liabilities applicable to those public officials, who by reason of their position or status or of their functions, must be subject to the analysis of their net worth or interests, such as:

- a) Congressmen
- b) Ministers
- c) Judges and other judicial officials
- d) High ranking government officials
- e) Officials in oversight bodies (Office of the Auditor General, Office of the Attorney General, Office of the Comptroller, etc...)
- f) Central bank officials
- g) Customs officials
- h) Officials of tax collection offices
- i) Officials responsible for government procurement

## **2. OCCASIONS FOR SUBMISSION OF DECLARATIONS**

Provisions that determine the occasions on which the declarations should be submitted:

- a) before starting up public functions
- b) when there is a significant change in net worth
- c) periodically over an established timeframe (i.e., on an annual basis)
- d) when a competent authority requests it
- e) when performance of the public function is terminated
- f) post employment within a given period

## **3. GOVERNMENT AGENCIES RESPONSIBLE FOR DECLARATIONS**

Provisions that specify the officials or bodies to which declarations must be submitted and/or brought up to date.

#### **4. FORM AND MINIMUM CONTENT OF DECLARATIONS**

Provisions which determine the form and minimum content of the declaration, such as:

- a) provisions for the use of printed forms
- b) provisions that expressly require the following information:
  - (i) identity of the filing party and his/her spouse and closest relatives
  - (ii) residence of the filing party and his/her spouse and closest relatives
  - (iii) listing and amount or value of his/her:
    - income
    - assets
    - investments
    - liabilities
    - credit holdings
  - (iv) disclosure of his/her status as a partner in any kind of:
    - enterprise
    - partnership
  - (v) disclosure of his/her:
    - individual interests
    - employment
    - professional activities
    - economic activities
  - (vi) listing and amount of the accounts or deposits he/she holds:
    - in financial institutions located domestically
    - in financial institutions located abroad

#### **5. VERIFICATION, INVESTIGATION AND EXPLANATION OF DECLARATIONS**

##### **5.1. Obligation to Verify**

Provisions that provide for the obligation of verifying the content of the declaration, which:

- a) indicate which officials verify said content
- b) set time-limits for verification
- c) set occasions for verification

## **5.2. Explanation of Declarations**

Provisions that allow the person or agency supervising or exercising control over the filing party to request the latter to provide explanations in the event of a substantial increase of his/her assets.

## **5.3. Investigation of Declarations**

Provisions that allow the person or agency supervising or exercising control over the filing party to initiate an investigation within the scope of his/her competence if there is no reasonable justification in the event of a substantial increase of a person who performs public functions.

## **5.4. Filing of Report**

Provisions that allow the person or agency supervising or exercising control over the filing party to file a report with the competent authorities if there is no reasonable justification in the event of a substantial increase of a person who performs public functions.

# **6. ACCESS TO AND USE OF DECLARATIONS**

## **6.1. Standards for Access**

Provisions that determine how access can be gained to the information supplied by the person subject to the obligation in his/her declaration.

## **6.2. Publication**

Provisions which allow for the publication of declarations.

## **6.3. Standards on use of Declarations**

Provisions that regulate the use of the content of the declaration, indicating the specific end for which the information that is supplied can be used.

## **6.4. Probative use of Declarations**

Provisions that regulate the probative validity of the declaration, specifying whether it constitutes in itself evidence to substantiate:

- a) a claim of violation of integrity in public administration, such as conflict of interest
- b) criminal conduct, such as illicit enrichment

## **7. SANCTIONS OR CONSEQUENCES FOR NON COMPLIANCE**

### **7.1. Agencies or Officials that Monitor Compliance**

Provisions that give to a special official or body the duty of monitoring compliance with the obligations stemming from the system established for registering income, assets, and liabilities.

### **7.2. Sanctions and Prohibitions**

Provisions that envisage sanctions and/or prohibitions on performing functions when a public official:

- a) does not submit a declaration
- b) does not submit a declaration within the occasions prescribed
- c) does not submit a complete declaration
- d) does not submit an accurate declaration

## **8. DATABASES**

### **8.1. Establishment of Databases**

Provisions that establish databases with information regarding the declarations permitting easy consultation of the information by those who are legally authorized to do so .

### **8.2. Updating of Databases**

Provisions that require the databases to be updated on a periodic basis on the declarations that are required to be submitted by persons who perform public functions.

## **9. AWARENESS BUILDING MECHANISMS**

Provisions that establish mechanisms, such as mass media campaigns, information in educational establishments and public institutions, which are aimed at those who are interested in performing or who perform public functions, and that ensure broad knowledge by the latter and society in general about the purpose and scope of the provisions regarding the registration of income, assets, and liabilities.