# Financial/Asset Disclosure in APEC Economies: Standards and Practices

This document includes information about standards for financial/asset disclosure and information about current disclosure practices in APEC Economies. The first section lists disclosure-related provisions of international agreements to which at least two APEC Economies have agreed. The second section presents the results of a questionnaire about disclosure practices distributed to APEC Economies.

#### **SECTION 1: Provisions in International Agreements**

The international agreements discussed in this section (in alphabetical order) contain provisions related to financial/asset disclosure. These agreements establish certain expectations for the existence and nature of disclosure systems.

- 1. Asia-Pacific Economic Cooperation Conduct Principles for Public Officials
  - "A public official shall adhere to all requirements for reporting to appropriate authorities his or her outside activities, employment, financial investments and liabilities, assets and gifts or benefits." (9)
- 2. Asia-Pacific Economic Cooperation Course of Action on Fighting Corruption and Ensuring Transparency
  - "Strengthen Measures to Effectively Prevent and Fight Corruption and Ensure Transparency by Recommending and Assisting Member Economies to: ... Develop and implement appropriate public financial disclosure mechanisms or codes of conduct for senior-level public officials." (II)
- 3. <u>Asian Development Bank / Organization for Economic Cooperation and Development Anti-Corruption Action Plan for Asia and the Pacific</u>
  - "Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote the highest levels of professionalism and integrity through: ... Systems to promote transparency through disclosure and/or monitoring of, for example, personal assets and liabilities" (Pillar 1)

### 4. <u>Association of Southeast Nations Manila Declaration on the Prevention and Control of Transnational Crime</u>

• "Therefore, we confirm our commitment to combat all corrupt practices by, among other measures: developing prevention and control measures to promote a culture of accountability and transparency, with the active involvement and support of the public." (6.a)

## 5. Council of Europe Recommendation No. R (2000) 10 Appendix, *Model Code of Conduct for Public Officials*

• "The public official who occupies a position in which his or her personal or private interests are likely to be affected by his or her official duties should, as lawfully required, declare upon appointment, at regular intervals thereafter and whenever changes occur the nature and extent of those interests." (Article 14)

# 6. <u>Council of Europe Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption</u>

• "... ensure that the organization, functioning, and decision-making processes of public administrations take into account the need to combat corruption, in particular by ensuring as much transparency as is consistent with the need to achieve effectiveness" (Principle 9)

# 7. Global Forum I Guiding Principles for Fighting Corruption and Safeguarding Integrity among Justice and Security Officials

• "Adopt laws, management practices and auditing procedures that make corruption more visible and thereby promote the detection and reporting of corrupt activity. Effective practices include: Systems to promote transparency, such as through disclosing the financial circumstances of senior officials." (5)

#### 8. *Inter-American Convention against Corruption*

- "For the purposes set forth in Article II of this Convention, the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen: ... Systems for registering the 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." (Article III.4)
- "Subject to its Constitution and the fundamental principles of its legal system, each State Party that has not yet done so shall take the necessary measures to establish under its laws as an offense a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions. Among those States Parties that have established illicit enrichment as an offense, such offense shall be considered an act of corruption for the purposes of this Convention. Any State Party that has not established illicit enrichment as an offense shall, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in this Convention." (Article IX)

## 9. Organization for Economic Cooperation and Development Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service

• "Public officials' private interests and affiliations that could compromise the disinterested performance of public duties should be disclosed appropriately, to enable adequate control and management of a resolution." (16)

#### 10. United Nations Convention against Corruption

- "Each State Party shall endeavor, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials." (Article 8.5)
- "Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia: ... Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements." (Article 9.1.e)
- "Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income." (Article 20)
- "Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences establishes in accordance with this Convention." (Article 52.5)

#### 11. United Nations A/RES/51/59 Annex, International Code of Conduct for Public Officials

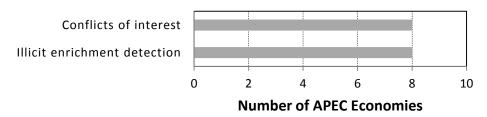
- "Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest." (5)
- "Public officials shall, in accord with their position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and/or dependents." (8)

#### **SECTION 2: Results of 2011 Questionnaire**

A questionnaire concerning financial/asset disclosure practices distributed in mid-2011 generated responses from nineteen of the twenty-one APEC Economies, including information about twenty-two distinct disclosure systems. While the results discussed below do not represent a full population count, they do constitute useful information about the nature of disclosure systems across APEC Economies. Of the nineteen responding Economies, seventeen require some form of financial/asset disclosure in the central government.

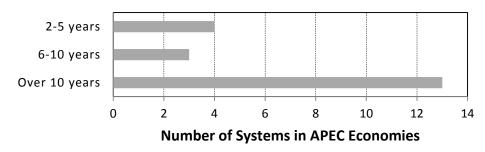
Eight Economies indicated that the primary purpose of their disclosure systems was to prevent and detect conflicts of interest, while eight Economies said that detection of illicit enrichment and other illegal behavior was the primary purpose. Nine Economies indicated having systems with both goals. Eight of the Economies indicated that their disclosure systems were used to prevent or monitor the giving of inappropriate gifts, as well.

**Chart 1. Primary Purpose of System** 



Most of the disclosure systems about which Economies submitted responses had been in operation for a significant period of time. Economies implementing new or reformed systems in the last few years include Canada (for the House of Commons), Chile, New Zealand, and Viet Nam.

**Chart 2. Age of Disclosure System** 



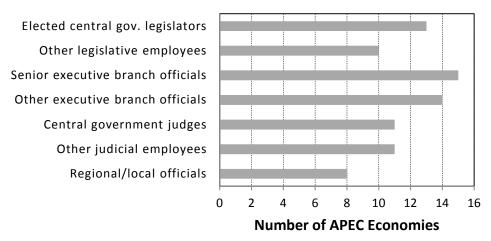
Prepared by the United States Office of Government Ethics Updated: 21 September 2011

4

<sup>&</sup>lt;sup>1</sup> Responses were received from Australia; Brunei Darussalam; Canada; Chile; the People's Republic of China; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; the Philippines; Russia; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam. Canada submitted responses for three different disclosure systems in the central government (one for the House of Commons, one for Senators, and one for Public Servants), and the United States submitted responses for two different systems in the central government (one public system and one confidential system). Where doing so makes sense, the numbers and charts refer to APEC Economies; otherwise the numbers and charts are for the number of systems in APEC Economies.

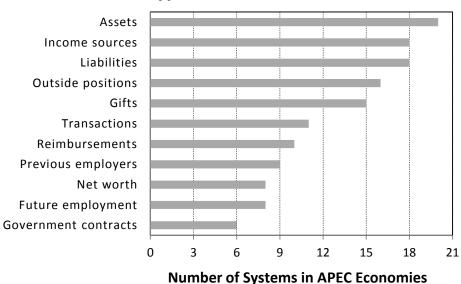
Fifteen of the Economies indicated that they had systems in place that required senior executive branch officials to make disclosures, with fourteen Economies requiring disclosure by other executive branch officials. Thirteen Economies indicated that systems required elected legislators in the central government to report their interests, and ten Economies indicated that other legislative employees were covered by reporting requirements. Eleven Economies required judges and other judicial employees in the central government to report their interests. Finally, eight Economies have centrally administered systems that require disclosure by public servants at the regional and local levels.

**Chart 3. Position Coverage** 



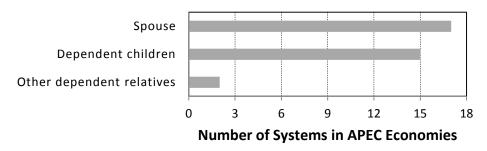
The most commonly required information in a disclosure system concerns assets, income sources, and liabilities. Eight systems require that individuals make a report of their net worth. Only six systems require direct reporting of information about contracts with the government, though some other systems would capture such a conflict through other mechanisms.

**Chart 4. Types of Interests** 



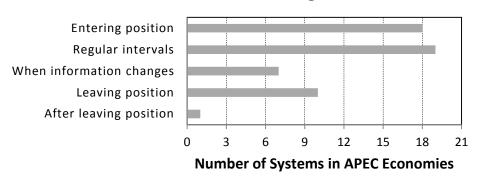
Seventeen of the systems require certain information about the interests of spouses, while fifteen systems require information about the interests of dependent children and two systems require information about other dependent relatives.

**Chart 5. Other persons** 



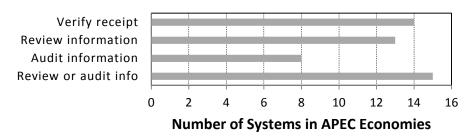
The most common times for disclosure are upon entering a relevant public servant position and at regular intervals thereafter. Eighteen of the systems require that individuals disclose information when entering a position, and nineteen systems require disclosure of information at regular intervals while the public servant holds the position. Seven systems require revisions when an individual's interests change. Ten systems require the reporting of information when an individual leaves the public service position, and one system requires disclosure a certain interval after an individual has left the public position.

**Chart 6. Submission timing** 



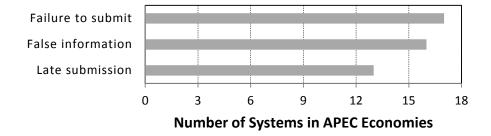
In fourteen of the disclosure systems administrators verify receipt of the completed disclosure report. In thirteen systems administrators review the information submitted, while eight systems go farther by auditing the submitted information, and a total of fifteen systems involve either review or auditing of reports. Five Economies do not have systems that involve reviewing the information submitted.

**Chart 7. Administration** 



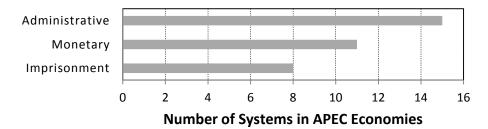
Failure to submit required information is an offense subject to penalty in seventeen of the disclosure systems, and submission of false information is subject to penalty in sixteen systems. Late submission of the information may result in penalty under thirteen systems, though late submission under certain circumstances may fall into the category of failure to submit information. Additionally, fifteen of the systems allow individuals to amend the information they have submitted.

Chart 8. Reasons for Sanction



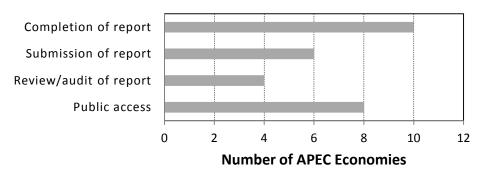
Administrative sanctions (fifteen systems) are by far the most common penalty available if an individual violates laws or rules related to financial/asset disclosure. Eleven systems provide the option of assessing monetary penalties, while eight systems allow for imprisonment.

**Chart 9. Types of Sanctions Available** 



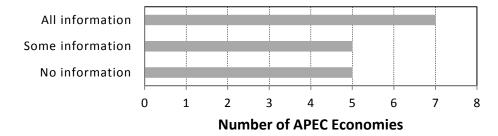
A number of Economies have implemented electronic technologies in their disclosure systems. Ten of the Economies indicated using a system that allowed electronic completion of the disclosure report, with six Economies allowing electronic submission of the report and four Economies reviewing or auditing reports electronically. Additionally, eight Economies allow for public access to report contents using electronic methods. The Economies indicating that they review or audit information electronically were the People's Republic of China, the Republic of Korea, Malaysia, and Mexico.

**Chart 10. Electronic Technology** 



Twelve Economies have systems that allow some sort of public access to disclosure report contents, with seven of those systems allowing public access to the entire contents. Five Economies have systems that do not permit public access to disclosed information.

**Chart 11. Public Availability** 



Finally, four of the Economies were able to confirm that they had mutual assistance procedures that allowed them to share the contents of financial/asset disclosure reports with other countries if deemed appropriate for investigative or judicial purposes.