
CHAPTER 8

Asset and Interest Declarations



Introduction

Why is it important?

Asset and interest disclosure by public officials has been widely used to build integrity and combat corruption. According to World Bank research, over 160 countries around the world have introduced financial disclosure systems.¹ Asset and interest disclosure (AID) systems differ in scope and reach, level of sophistication and transparency. Countries use different institutional setups and methods to enforce the disclosure rules and verify information. However, the analysis shows a clear trend of AID becoming a universal instrument to enhance public sector transparency and accountability, promote integrity and prevent corruption.

AID systems have increasingly become a multi-purpose tool aimed at preventing conflicts of interest, detecting unjustified assets and building broader integrity of public service. AID, therefore, combines prevention and enforcement purposes. New combined systems are replacing traditional ones, which often treated disclosure of assets and interests separately and pursued different objectives. Countries introduce or bolster verification mechanisms to improve enforcement.

AID systems also raise heated debates, especially concerning public disclosure of information from the declarations. It is a prominent example of how countries balance considerations of privacy and personal security with the public interest in transparency and accountability.

With more systems becoming digitized and going online, AID contributes to the development of digital governance and economy. Electronic systems of disclosure have a spillover effect by encouraging civil society and media that use data on the assets and interests of public officials in their watchdog activities. Open AID systems can contribute to the transparency of ownership and support supervision efforts in other sectors.

What affects the effectiveness of AID systems?

While many countries have AID systems, few of them are effective. Most AID systems have yet to live up to their potential. Cumbersome filing procedures, crucial gaps in the disclosure forms, and lack of transparency and enforcement are limiting the role of AID. Such weaknesses also may make it merely another check-a-box exercise to implement national anti-corruption strategies. Lack of control of submission and ineffective verification of declarations undermine their importance as an anti-corruption tool. There is also little understanding of the impact that the asset and interest disclosure systems have on the level of integrity and corruption in the country. Countries rarely have a clear vision of why they are introducing or reforming their AID systems, what goals they are pursuing in this process, and what outcomes they expect to achieve.

This chapter aims to show what an effective AID system should look like and how it can be relevant in the context of transnational financial flows, new ways of disguising unjustified wealth, as well as domestic typologies of conflict of interest and hidden wealth. Selected case studies included in the chapter illustrate what works and what does not, as well as the new trends and essential features that make AID effective. The chapter will follow the general framework that is used to regulate AID systems: who should file, when and how, what to declare, how to verify and sanction non-compliance, and what information should be public. It will end with remarks on how governments and other stakeholders can measure the impact of AID systems and make them more relevant.

The key questions about AID systems

Who should file asset and interest declarations?

The first question to answer when designing an AID system relates to the filer population. Including too many declarants may dilute the focus, raise political opposition and complicate enforcement. Excluding important categories of filers whom the public perceives to be high risk in terms of corruption may also negatively reflect on the system's effectiveness and credibility. It is therefore important to find a balanced solution that targets, first of all, the high-risk public sector positions and areas. There is no standard list of officials whom the system should cover. The filer population should ultimately reflect the national corruption risk assessment. Considerations of effectiveness and impact sought by the system should guide the decision on the scope of filers.

Consideration needs to be given to a minimum and a broader list. The minimum list of high-risk positions can reflect the definition of domestic politically exposed persons used in the anti-money laundering legislation. The broader list may include key officials in all branches of government, including the President, members of parliament, members of government and heads of central executive authorities, other political officials, staff of private offices of political officials (such as advisors), regional governors, mayors of large cities, judges, prosecutors, members of the judicial and prosecutorial governance bodies, anti-corruption investigators, senior executives of state-owned enterprises, etc. The high-risk areas or functions may include, for example, officials responsible for public procurement, licensing and supervision, members of independent market regulators, and tax and customs officials.

Family members should be included. Approximately 65 percent of countries with disclosure laws require officials to submit information not only for themselves but also for their family members.² Omitting family members creates a loophole that declarants can easily abuse to avoid disclosure of assets and interests. The system can require family members to submit their disclosures directly, or the public officials can include information on assets/interests held by family members in their own declaration forms. The latter approach reduces the number of forms submitted and makes it

easier to track and verify disclosures of the official.

How frequently should declarations be filed?

Frequency of filings should follow the employment cycle of the official and provide a record of both entry and exit situations (when the official started and terminated his/her public sector employment), and changes throughout his/her career. It is also useful to look at former officials' assets and interests one or two years after leaving office to see whether they gained any unjustified assets or improper interests. Some systems also require filing of *ad hoc* forms whenever significant changes in assets happen. It is important to note that disclosures discussed in this chapter differ from the conflict of interest reports which officials have to file when a conflict of interest arises and requires a management response.

Electronic vs. paper filing

Managing a paper-based system involves substantial challenges and costs, which an electronic system can eliminate. The following are some of the benefits of the electronic system: it allows for coverage of a broader scope of declarants, simplifies the submission process by making the declaration form more user-friendly, reduces the number of mistakes made in the forms, facilitates further verification of declarations, and improves data management and security. Not surprisingly, an increasing number of countries in various regions have transitioned to electronic AID systems.

However, several issues may impede the introduction of an electronic disclosure system. These include internet coverage and quality of access, availability of digital authentication, institutional capacity to process electronic filings and ensure data security, and additional costs to develop and roll out a new IT system.

Despite implementation challenges, World Bank experience in advising countries in this area shows that the electronic system saves financial and human resources. It eliminates the need for secure

physical storage space for paper declarations and allows the staff of asset declaration agencies to focus on ensuring compliance and advising filers on how to correctly fill out the declaration form or how to manage a potential conflict of interest. It also raises the level of compliance with the disclosure requirements and provides better transparency and public accountability.³

What is to be declared?

To be useful, the asset and interest disclosure has to include information that allows the tracking of all the important assets and interests of the public official. The information provided should also highlight significant changes in wealth that lawful income cannot explain, and uncover interests that may be in conflict with the filer's official duties.

Modern AID systems have to reflect current typologies of money laundering and corruption. Ownership through proxies remains a widespread way of hiding control of assets or getting unlawful benefits. It is essential for an AID system to require public officials or their related persons to report the legal entities of which they have beneficial ownership and control. The declaration form should also cover trusts and other similar legal arrangements, including any relation a public official or family members have regarding a trust.

Disclosure of assets should not only include their formal ownership. What matters for AID is the real control of assets regardless of the nominal owner, and the use of assets, which may show hidden ownership or lifestyle not commensurate with the official's position or income. Disclosure of beneficial ownership of assets should therefore extend to all types of tangible or intangible property and income.

Use of virtual assets (e.g. cryptocurrencies) has become a challenge for tracking ill-gotten proceeds. The reporting of such assets in the AID form is an important step towards bringing transparency to this new mode of wealth accumulation.

Building a comprehensive disclosure form without important loopholes can be accomplished by considering the outcome of the verification process. The form should ask for information that the verification process can later use to detect infringements based on an analysis of methods of hiding unjustified assets, laundering of criminal proceeds and violations of

conflict of interest rules. Among such elements that an effective AID form should include are:

- Disclosure of all types of income as well as gifts and sponsored travel, including disclosure of the identification details of the legal entity or individual who was the source of the income, gift or sponsored travel.
- Disclosure of national and foreign bank accounts and safe deposit boxes (vaults) to which the declarant or family members have access, even if formally opened by another person.
- Loans given or received by the public official, including to/from private individuals.
- Deferred corporate rights (e.g. options to purchase shares) and investments regardless of their form.
- Disclosure of expenditures above a certain threshold. This is essential to track significant changes in wealth by comparing income, savings and expenditures over time. Expenditures should cover not only acquisition of assets but also payment for services and works.
- Disclosure of interests not related to income or assets, notably contracts with state entities of the declarant and family members or companies in their control, prior employment, and any link with legal entities and associations (e.g. membership in governing bodies).

In the new AID systems, policy makers often focus more on assets, forgetting that the disclosure form can be very helpful in managing conflicts of interest. When officials fill out the form, they have to take stock of their interests and review them against their official duties. The officials can then seek guidance from the respective integrity official and manage their potential or real conflict of interest. The disclosure form can be a crucial tool to detect conflicts, if it contains sufficient information on the financial and non-financial interests of the declarant and related persons.

How can declarations best be verified?

Verification is an important element of the enforcement of the disclosure rules. Effective

verification helps to uncover non-compliance and to start the process that ultimately leads to imposing sanctions. Verification can enable the detection of:

- Cases of late submission or non-submission of disclosure forms
- Prohibited gifts
- Assets or income not reported or disclosed incorrectly (e.g. under-reporting or over-reporting of value)
- Assets not justified by the lawful income
- Lifestyle of the public official that does not commensurate with his status
- Non-compliance with anti-corruption restrictions (incompatibilities, divestment of financial interests, post-employment restrictions, etc.)
- Interests or activities that may give rise to situations of potential, real or apparent conflict of interest with the declarant's duties and position.

Certain legislative and institutional conditions provide the basis for an effective verification system. These include:

- A clear legislative framework that establishes the verification mandate, its triggers and scope.
- Verification procedures that streamline the verification process and prevent unnecessary impediments (e.g. short time limits for verification procedures or the possibility to challenge each step of the proceedings).
- Use of a risk-based approach to trigger and prioritize verification when inherent risks are found in the disclosure form, such as the position/duties of the declarant. Systems which automatically trigger the verification on formal grounds (e.g. late submission) are ineffective as they overburden the verification agency. This is especially relevant for systems where the number of disclosures is substantial and not matched with the resources to verify them.
- When the number of mandatory verifications is substantial, the verification agency has to prioritize its work by focusing on high-risk declarations. Such prioritization should be transparent and based on

clear criteria limiting discretionary decision-making. The system may categorize declarations submitted by certain top officials as high-risk by default. This will give credibility to the system and avoid focus on low-level officials or petty inconsistencies.

- External signals (e.g. media reports, complaints of citizens or watchdog NGOs, referrals from other authorities) should take priority. The agency should verify them if they give rise to a substantiated suspicion of irregularity. Anonymous reports about verifiable facts should also be included.
- The verification should include IT solutions that automate certain operations. Such solutions can perform a risk analysis of each declaration, compare several declarations of the filer or compare with declarations of similar filers. Applying analytical software to the disclosure data can help to find patterns that can be then used to develop red flags for future verifications.
- Cross-checking disclosures with other government-held registers and databases is an important element of the verification that effectively uses government data. The system can also automate such cross-checks and perform them shortly after the declaration is filed or even at the time of the submission.

Verification can only be as effective as the people who conduct it. Experience in countries shows that decentralized systems of verification, i.e. where individual agencies take on this responsibility for their own officials, are rarely effective because of the lack of motivation, expertise, and resources. A dedicated verification agency provides a better model for organizing the verification process. Such an agency does not have to deal only with the verification of financial disclosures; it may also combine this function with other preventive or law enforcement functions in the anti-corruption arena. It is important though to separate the verification functions within such an agency to ensure proper specialization and autonomy. The regulations should grant to the officials who conduct verification a certain level of autonomy and protection against undue interference.

A verification agency should have sufficient powers and resources to perform its duties. Such powers could include access to government registers and databases, including tax information, company

register and registers of real estate and vehicles, right to obtain information and records from public and private entities, access to banking and other financial data, and the possibility to request or access information abroad. At the same time, the verification agencies are usually not law enforcement bodies and lack certain tools that a criminal investigation can employ, e.g. special investigative techniques. This highlights the need to understand the limitations of administrative bodies in charge of verification and the importance of cooperation with law enforcement bodies. It also affects the debate on the level of dissuasive sanctions, as shown below.

A major challenge for the verification agencies is finding and tracking assets or financial interests located abroad. This remains an area of weakness in most AID systems with a strong verification mechanism. To address this issue, the verification agencies may take a number of measures, for example: raise the technical expertise of their staff by providing training on the available open source information and use of foreign jurisdiction registers; establish a legal mandate and the technical capacity of the verification agency to get and use information from foreign ownership registers for verification purposes; develop relations and sign information exchange agreements with verification agencies in other jurisdictions, especially in neighboring countries where declarants often acquire or keep assets; and join and support regional initiatives for information exchange on the assets and interests of public officials.⁴

How are sanctions to be imposed for non-compliance?

Effectiveness of verification is closely linked to the sanctioning regime, which should be effective, proportionate and dissuasive. Verification, which uncovers irregularities, is just the first step. The sanctioning proceedings have to follow and adequately respond to the discovered violations. To be dissuasive, sanctions must have a sufficient deterrent effect, which means that the personal cost of the sanction is higher than the potential benefit derived from the offense. To be proportionate, sanctions must correspond to the offense.

The level of sanctions and applicable procedures may also determine what tools enforcement agencies could use to establish and punish non-

compliance. Criminal sanctions for serious violations related to asset and interest disclosure (e.g. non-reporting of significant assets or illicit enrichment), which can be enforced through criminal proceedings, are usually more effective than administrative ones.

In line with the proportionality principle, certain breaches may attract softer measures that do not qualify as sanctions but bear negative consequences for the non-compliant official. For example, the public disclosure of the names of those who failed to submit a declaration or submitted it outside of the set time limit may be sufficient to deter repeat infringements. The “naming and shaming” can also reinforce other imposed measures and raise awareness about the disclosure requirements. Such visibility also helps to build public trust and awareness of the AID system. Some countries implement this tool as a searchable register of corruption offenders that is open to the public.

Sanctions for AID related violations do not have to be applied against an individual to be effective. Civil or administrative confiscation of unjustified assets, even without the individual liability of the public official, may be a dissuasive instrument to target assets that exceed the official’s lawful income. Such measures target the outcomes of the criminal acts of corruption or money laundering by confiscating the proceeds of such activity without having to overcome often an insurmountable hurdle of detecting and proving underlying offenses.

Besides sanctions or measures that target declarants, an effective AID system should also include sanctions that support the enforcement mechanism. They ensure that the different actors in an AID system properly perform the duties assigned to them. Such sanctions may target, in particular:

- Failure of public and private entities to provide information in response to a request from the institution carrying out the verification; and
- Failure of a public agency or official to fulfill their duties related to the AID (e.g. to check the submission of declarations, report non-compliance to the enforcement agency, verify the identity of the official if such identification is required during the official’s registration of the disclosure in the electronic system).

How much transparency should the disclosure system have?

Public transparency of asset and interest declarations acts as a deterrent in and of itself and reinforces other elements of the system. Public availability of information from declarations increases scrutiny and complements the enforcement efforts of the verification agency. Transparency of information about the assets and interests of public officials helps to build public sector integrity and promotes public trust in the government. Over 55% of countries require the declared information to be public.⁵

Making declarations public has both opponents and critics, as such transparency conflicts with the privacy and data protection rights of the declarants and related persons. In some contexts, this can affect their security and become a barrier to the entry of some professionals into public service. The policy makers therefore have to find a balanced solution that takes account of these competing interests.⁶ The degree of transparency could be linked to the corruption and public administration integrity level in the country—the more corrupt and less integrity there is in the system the more transparency it requires. Other considerations matter as well (e.g. the level of physical security and violent crimes). As a result of the balancing exercise, even in systems where wide public access is granted, certain information can be withheld from publication. This could be information about a person's IDs and place of residence or also information about cash and valuables held outside of banks. In any case, the scope of the information withheld from disclosure should be explicitly and narrowly determined in law.

The best approach to ensure transparency is to make data from asset and interest disclosures available online. Providing public access to such information free of charge and without technical barriers will help to reach the transparency objective. An electronic AID system allows the collection of structured data through declaration forms and then its publication in open data (i.e. machine-readable) formats. Publishing declarations as open data facilitates their re-use by civil society and the private sector can contribute to the emergence of new data analytics tools and watchdog initiatives.

Broader public disclosure can be beneficial also because of cross-sector use. For example, publicly available information on declarants and their related persons can help banks (and other obliged entities under the anti-money laundering framework) to conduct customer due diligence, in particular by identifying politically exposed persons. Information about beneficial ownership of public officials in legal entities can increase corporate transparency and improve the investment climate in the country. Governments can combine data from AID forms with other data to detect and prevent violations in areas like public procurement and licensing of rights to resources (e.g. in the extractive sector). Cross-checking data with the register of asset and interest disclosures can help sector regulators ensure compliance with the ownership and transparency requirements in the respective sector (e.g. banking, competition, audiovisual media services). AID transparency has, therefore, a significant spillover effect when actors in other areas use data from declarations for the public good.

Final reflections

AID systems constitute a fast-developing anti-corruption policy and enforcement area. More and more countries all over the world are introducing or upgrading their systems. The reforms usually aim to digitize filing systems, broaden their scope, and establish a verification mechanism. Governments often promote their AID systems as an anti-corruption tool that focuses on the public officials themselves. This and the visibility of AID systems can explain their popularity as an anti-corruption measure.

Countries and development partners, however, need a better understanding of how to measure the success and impact of AID systems. It may be impossible to establish exactly to what extent AID has contributed to the success or failure of anti-corruption policies. But it is still important to measure the impact of a disclosure system. This can include measuring population perception and expert opinion on how the AID system has contributed to the transparency and accountability of the public administration, and the



opinion of the public officials themselves on whether AID has resulted in better compliance with anti-corruption restrictions and improved integrity. Surveys of various stakeholders can measure the perception of whether the verification of declarations is effective and unbiased.

The results of enforcement efforts can also indicate the level of success. These results are reflected by the level of compliance with the AID submission obligation, the number of detected violations and applied sanctions, the amount of unjustified assets and prohibited gifts detected and confiscated, the number of disclosed and prevented conflict-of-interest situations, etc. The work of verification agencies can be evaluated using different performance indicators measuring the effectiveness and efficiency of their work.

The impact of AID may also extend beyond its primary anti-corruption goal and have a cross-sector effect. A disclosure system can have an impact

by boosting civil society activism and encouraging watchdog activities, improving compliance with anti-money laundering and other sectoral regulations, increasing corporate ownership transparency or contributing to digital governance.

The case studies of Romania and Ukraine that follow constitute examples of successful AID systems. Although both countries publish declarations online, the two systems are different in their history and level of development. One is completely digital covering about 1 million filers, while the other allows submission of scanned paper declarations. One country has a strong track record of enforcement and dissuasive sanctions, while in the other a poor enforcement record and allegations of bias brought down the corruption prevention agency. The case studies show why enforcement is key and how digitization can make AID systems more effective. They also include lessons learned from these countries that may be useful for policy makers and practitioners in other countries.