

Compliance Rules

I. Background

The Agreement for the Establishment of the African Risk Capacity (**ARC**) Agency (the **Establishment Agreement**) vests in the ARC Conference of the Parties (**CoP**) the authority to “adopt rules for ensuring Parties’ compliance with approved Contingency Plans” (the **Compliance Rules**).¹ The ARC Agency Governing Board (the **Board**) is responsible for monitoring the implementation of Contingency Plans and for applying the Compliance Rules, if necessary.² The Compliance Rules help ensure the integrity and continuity of ARC, and are therefore a critical part of the overall ARC structure.

1. *The Importance of Contingency Plans*

ARC aims to improve the speed at which natural disaster response activities are implemented in participating ARC Member States (the **Members**) through the timely and predictable provision of funds. The purpose of the Contingency Plans is to delineate the use of an insurance payout (an **ARC Payout**) from the ARC Insurance Company Limited (**ARC Ltd**) in advance so that if a Member receives a payout in a natural disaster situation, it will be prepared to use the funds immediately and efficiently, capitalizing on the advantages of early intervention. Such planning is critical to ensuring that ARC Payouts are used effectively.

Creating and following a Contingency Plan is also important for ensuring the integrity of ARC and its continued access to funding. In its early years, ARC Ltd will be capitalized by development partners, although it is hoped that over time ARC Ltd will become financially self-sufficient. ARC Ltd will also rely on market-based financial transactions to manage risk. Both the financial markets and development partners will be very sensitive to the perception that ARC Ltd insurance payouts are being used inappropriately. Both the CoP and the Board have critical roles to play in making sure that ARC Ltd payouts are used effectively, thereby maintaining the reputation of ARC.

2. *The Contingency Planning Standards and Guidelines*

The Establishment Agreement requires that the Board establish standards for the development and updating of Contingency Plans.³ According to the Contingency Planning Standards and Guidelines (the **CP Standards**) that have been approved by the Board,⁴ Members must submit two different types of plans: Operations Plans and Final Implementation Plans (**FIP**) (collectively, the **Plans**), which will together constitute a Member’s Contingency Plan.

In order to take out insurance from ARC Ltd, a Member must have an Operations Plan approved by the Board.⁵ This Operations Plan must meet the criteria for Operations Plans laid out in the CP Standards. Operations Plans are intended to be flexible. Some Members may propose several potential activities that could be funded by an ARC payout with the intention of choosing from among the activities based on the specific situation at the time of a payout. Other Members may include only

¹ See the Establishment Agreement, Article 13, paragraph 2 (h).

² See the Establishment Agreement, Article 15, paragraph 1 (m).

³ See the Establishment Agreement, Article 15, paragraph 1 (k-l).

⁴ See the CP Standards, CoP Reference Documents.

⁵ See the Establishment Agreement, Article 15, paragraph 1 (k-l).

one activity that they believe will be suitable in any natural disaster situation. Each proposed activity should have both an Operations Plan and a draft Implementation Plan.⁶

When a Member has an approved Operations Plan and has met all of the Criteria for Granting of Certificates of Good Standing (the **CGS Criteria**) adopted by the CoP⁷, it may purchase insurance from the ARC Ltd. If certain conditions are met,⁸ the affected Member will be required to submit a FIP detailing how the ARC payout would be deployed, given the specific situation. The FIP should be a more detailed version of the draft Implementation Plan that the Member submitted prior to purchasing insurance, and it should include only activities that were previously approved as part of the Operations Plan. If a Member wishes to implement an activity that was not included in its approved Operations Plan, it may amend its Operations Plan prior to submission of the FIP, or it may seek a waiver if it wishes to amend its FIP after implementation has begun.⁹ ARC Ltd may not make an insurance payout until the Board has approved the FIP.

What constitutes an appropriate Plan will vary from Member to Member, but whatever Plans a particular Member has submitted, it will be important for the Member to use the ARC Ltd insurance payout in a way that conforms to those Plans. The Board will monitor each Member's compliance through the monitoring and evaluation process, relying on the Monitoring Reports provided to the Secretariat.

3. *Monitoring and Evaluation*

When a Member receives an ARC Payout, it should immediately begin implementing its approved FIP to assist affected communities (the **FIP Implementation**). A FIP Implementation is monitored through regular reporting by the Member detailing the use of the ARC Payout. Member reporting includes:

- i. Regular discussions with Secretariat staff;
- ii. Monthly reports during the Operation; and
- iii. A Final Implementation Report detailing the financial and operational aspects of the full implementation process (the **Final Implementation Report**)

(collectively, the **Member Reports**).

In addition to the Member Reports, the ARC Agency engages independent firms to conduct Process and Financial Audits of FIP Implementations (collectively, the **Audit Reports**). A Whistleblower

⁶ The CP Standards, Operations Plans.

⁷ Report and Decisions of the Second Conference of the Parties of the African Risk Capacity (ARC) Agency, paragraph 9 (i)

⁸ In the case of drought, a FIP will be required if a payout is likely, with likely being defined as: i. when the certainty of an insurance payout is greater than 70% within two months of the potential payout date; or ii. if at the end of the sowing window defined in the insurance contract, it is determined that a country will be entitled to an insurance payout, regardless of the rainfall conditions for the remainder of the insured season. The Director General of the ARC Agency may also declare a payout likely based on the monitoring of the *Africa RiskView* Software. In the case of a sudden onset disaster such as flood or tropical cyclone, a FIP will be required when a payout is triggered, and may be reviewed using a modified process.

⁹ The CP Standards.

Hotline, described in Annex 1 hereto, has been established to allow government officials and staff of implementing partners to report problems with FIP Implementations anonymously.

The Secretariat evaluates the Final Implementation Report, Audit Reports, and any information received via the Whistleblower Hotline (collectively, the **Monitoring Reports**) and reports to the Board on the progress of FIP Implementation. The Board is responsible for considering the reports of the Secretariat and for taking action, if necessary, to assist Members to comply with their approved Contingency Plans. If, once a FIP Implementation has been completed, the Monitoring Reports indicate that a Member has not followed its approved Plans, or has otherwise failed to use its ARC Payout in a way that conforms to the principles of ARC, then the Board shall initiate an inquiry under these Compliance Rules (a **Compliance Inquiry**). The Board may launch a Compliance Inquiry during an ongoing FIP Implementation only in extraordinary circumstances, when the Board has reason to believe that there has been an egregious Misuse of Funds, as defined below. In all other cases, a Compliance Inquiry should be launched after the FIP Implementation has been completed.

II. Steps in a Compliance Inquiry

1. Overview

Each Member will be required to submit its Final Implementation Report, which will demonstrate that the Member has complied with its approved Plans, within the deadline established by the Board in the standard reporting templates and the CP Standards. The Secretariat will consider the Monitoring Reports and, in case of an indication that a Member has deviated from its Plans in a material way,¹⁰ will bring the suspected deviation to the attention of the Board and to the Member.¹¹ If the Monitoring Reports are not sufficient to demonstrate that a Member has complied with its approved Plans, or a Member has not submitted its Final Implementation Report, the Board may be forced to assume that the Member has not complied with its approved Plans and to take action accordingly.

The Member will have six weeks to provide a written explanation of any suspected deviation, if it has not already provided an explanation within the Monitoring Reports. The Secretariat will provide the Monitoring Reports, a report from the Secretariat, and the Member's written explanation to the Board for consideration.

The Board should then take the following steps, outlined in detail in Sections 2-7 below, to evaluate the seriousness of a deviation and determine the appropriate course of action to ensure compliance:

¹⁰ A Material Deviation is defined as a deviation 1. with a monetary value of 10% of the total payout; 2. when there is insufficient evidence of the allocation of the payout; 3. when there are indications of malfeasance including money-laundering, embezzlement, bribery; 4. when there is a 10% or greater deviation from the logframe indicators; or 5. a combination of these factors.

¹¹ Under the Establishment Agreement, the Secretariat is responsible for monitoring Parties' compliance with approved Contingency Plans. By approving these Compliance Rules, the CoP is authorizing the Secretariat to take the steps outlined in these rules as necessary to facilitate and support the work of the Board and the CoP.

1. **Determine the type of deviation.** A Member may deviate from its approved Plans for a variety of reasons, but it is likely that a deviation will fit into one of the following categories:
 - a. **Intentional Deviation.** An Intentional Deviation is a deviation that is taken to respond to a dramatic or unforeseeable event, but is still in keeping with the principles of ARC. For example, if another natural disaster occurs while the Member is implementing its approved Plans, that Member may be forced to deploy its ARC Ltd payout in a way that differs from the original Plans, but is still reasonable under the circumstances.
 - b. **Unintentional Deviation.** An Unintentional Deviation is a deviation that results from an unintentionally flawed implementation of the approved Plans.
 - c. **Misuse of Funds.** A Misuse of Funds is a deviation from approved Plans that is intentional and does not conform to the principles of ARC.
2. **Scope of deviation.** The Board should determine the nature and magnitude of the deviation.
3. **Cause of deviation.** The Board should determine the cause of the deviation from the approved Plans.
4. **Damage.** The Board should ascertain the damage and overall monetary cost of deviation.
5. **Penalty.** Based on the type of deviation, its scope, cause and the damage resulting from the deviation, the Board should determine the appropriate penalty.

2. Intentional Deviations

It is possible that a Member could find itself in a situation where the best use of an ARC payout is an activity that was not included in its Operations Plan. In that case, the Member may intentionally deviate from its approved Plans in a way that is in keeping with the principles of ARC and is reasonable given the circumstances. This should be considered an Intentional Deviation.

If the Board determines that a Member has committed an Intentional Deviation, it should consider the following issues:

1. *Scope of Deviation*

When the conditions required for the submission of a FIP are met, the Member should choose which of the proposed activities from its Operations Plan is most appropriate for the emergency it is facing. It should then submit a FIP that lays out the details of the implementation of whichever activity the Member has chosen.

If a Member wishes to implement an activity that does not appear in its Operations Plan, it may amend the Operations Plan to include that activity before submitting a FIP. The rules for amending

Operations Plans are in the CP Standards.¹² Similarly, if a Member experiences an unexpected event after the submission of its FIP or discovers from the Needs Assessment Survey that it would be preferable to implement a different activity, or if the time available does not suffice to amend the Operations Plan, the Member may ask for an Emergency Waiver. The process for requesting an Emergency Waiver is also included in the CP Standards.¹³

If a Member goes forward with the unauthorized activity without seeking a waiver or other Board approval, the Board should consider whether the Member had the time to seek approval and chose not to, or if it did not have time to seek Board approval. The Board may wish to obtain additional information from the Member to clarify the timing and intent of the deviation. If a Member had opportunity to seek Board approval and did not do so, the Board should consider this when determining whether to assess a Penalty.

2. *Cause of deviation*

The Board should next consider the cause of the deviation. This is tied closely with scope and timing as the cause of an Intentional Deviation may be an event. If the deviation was precipitated by incomplete planning or by lack of adequate consideration of events, the Board may wish to impose additional restrictions on the Member in future Plans. If the deviation was caused by events that could not have been foreseen or mitigated, then the Board may decide not to impose any penalty or restrictions. The Board should also seek to obtain any information that identifies the decision making process around the deviation, which parties were involved and at what level of Governing the decisions were made.

3. *Damage.*

The Board must ascertain if there was any damage and monetary cost associated with the intentional deviation, as described in Section 5 below.

4. *Penalty.*

Based on the answers to the questions above, the Board will determine the appropriate penalty, as described in Section 6 below.

3. Unintentional Deviations

An Unintentional Deviation is a deviation that results from an unintentionally flawed implementation of the approved Plans. The Board should assess the scope of the deviation and any damage that resulted from it to determine any penalty that may be applied.

1. *Scope of Deviation*

¹² The CP Standards.

¹³ The CP Standards.

The Board should consider the extent of the failure to follow approved Plans, including, but not limited to, the following questions:

- a. What was the nature and extent of the deviation?
- b. Can the deviations be isolated to a single cause, or were there issues throughout the implementation?
- c. If a Member implemented more than one activity, were the deviations present in every activity or just one?

2. *Cause of deviation*

The Board should next consider the cause of the deviation, including, but not limited to, the following questions:

- a. Did the problems stem from flaws in the Plans themselves, or from the implementation of the Plans?
- b. Did external factors out of control of the Member, such as consequences of weather events or unforeseeable unavailability of certain food items on the markets, cause the deviation?
- c. Did the Member lack the resources necessary to adequately implement its proposed Plans?
- d. Was it a result of incomplete planning?
- e. Was it the result of a lack of monitoring and oversight?
- f. Could and should the ARC Agency have helped the Member to comply with its Plans?
- g. Were there other mitigating factors?
- h. Did the country realize it was deviating during implementation?
- i. What actions were taken to try and mitigate deviations, if any?

3. *Damage.*

The Board must ascertain if there was any damage and monetary cost associated with the unintentional deviation, in accordance with Section 5 below.

4. *Penalty.*

Based on the answers to the questions above, the Board will determine the appropriate penalty, as described in Section 6 below.

4. Misuse of Funds

A Misuse of Funds is the most serious deviation, and the one that will have the greatest impact on the reputation and sustainability of ARC. As noted above, development partners and financial markets will be sensitive to both real and perceived misuses of ARC insurance payouts. Thus it is critical for the Board to be able to respond effectively to Misuse of Funds.

In certain circumstances, a delay in the use of funds may constitute a form of Misuse of Funds. Such delay is a departure from the time period initially established in the CP Standards for the use of ARC funds, and based on which the Plans were approved. Depending on its length, a delay in the use of funds could constitute a significant deviation, compromising the timely response that characterizes the regular use of ARC payouts, and thereby impacting the reputation and credibility of ARC. Whether a Member has complied with its approved Plans should be discernible from the Monitoring Reports. However, it may not be easy to ascertain whether a Member has intentionally Misused Funds or has done so unintentionally. If the Board suspects that a Member has intentionally Misused Funds, the Board may take one of the following additional actions:

1. Request additional reporting from the Member. As is the case of any deviation, if a Member's Monitoring Reports are not sufficient to demonstrate that a Member has complied with its approved Plans, the Board may be forced to assume that the Member has not complied. To avoid such a situation, the Board may request additional reporting from the Member.
2. Engage an independent third party to conduct an evaluation or investigation of the situation. If the need for an independent evaluation is the result of inadequate reporting by the Member, the Member should bear the cost of the independent evaluation. If the independent evaluation is necessary for another reason, the ARC Agency may bear the cost, at the sole discretion of the Board.

Once the Board is satisfied that it has sufficient information regarding the deviation, it should consider the following questions.

1. *Scope of Deviation*

The Board should consider the extent of the failure to follow approved Plans, including, but not limited to, the following questions:

- a. What was the nature and extent of the Misuse of Funds?
- b. Were there multiple examples of Misuse of Funds, or just one?
- c. Was the Misuse of Funds systematic across the implementation, or can it be localized to a single individual or group?

- d. Was the independent auditor misled?
- e. Was the ARC Agency misled?
- f. Was there other fraud?
- g. Was the Final Report inaccurate or incomplete, or did it contain misstatements?
- h. Has this Member Misused Funds from previous ARC payouts?
- i. How many times has the Member deviated from its approved Plans, including intentional deviations and unintentional deviations?

2. Cause of deviation

The Board should next consider the cause of the deviation, including, but not limited to, the following questions:

- a. Was the Misuse of Funds intentional or unintentional?
- b. If it was intentional, what was the extent of energy undertaken to bring about the deviation?
- c. Does the Member lack the resources necessary to adequately oversee its proposed Plans?
- d. At what level of implementation did the Misuse of Funds occur? Was it perpetrated by highly placed government officials, or at the local level?
- e. What could and should have been done by the Member or by the ARC Agency to prevent the Misuse of Funds?

3. Damage.

The Board must ascertain if there was any damage and monetary cost associated with the misuse of funds, as described in Section 5 below.

4. Penalty.

Based on the answers to the questions above, the Board will determine the appropriate penalty, based on the list in Section 6 below.

5. Damage Assessment

The Board should consider the extent of the damage caused by the deviation from the approved Plans when determining a penalty.

1. What was the monetary value of the funds that were diverted?
 - a. Class I: between 5% and 15% of the total monetary value of the ARC payout
 - b. Class II: between 15% and 25% of the total monetary value of the ARC payout
 - c. Class III: greater than 25% of the total monetary value of the ARC payout.
2. How many deviations were there?
3. What was the total monetary value of all of the deviations together?
4. What was the monetary value of each deviation separately? Was it a single large deviation, or a number of small deviations?
5. Is it possible to assess the monetary damage to potential beneficiaries who did not receive assistance to which they may have been entitled?
6. Did potential beneficiaries or actual beneficiaries suffer non-monetary damage?
7. Was there other non-monetary damage as a result of the deviation, such as reputational damage?

A Misuse of Funds with a monetary value in Class II or III, or an Intentional or Unintentional deviation with a monetary value in Class III should be considered a Serious Deviation.

6. Possible Penalties

The Board should consider both the monetary value and the circumstances of the deviation, such as whether it was intentional and whether the Member took any steps to mitigate the deviation. A single penalty may be applied, or a combination of penalties, as the Board considers appropriate in the situation. Below is a suggested range of penalties. However, the Board may assess other penalties as it deems appropriate.

1. **Additional Monitoring.** For less serious deviations, particularly for Unintentional Deviations, the Board may require that the Member engage additional or independent monitoring of any future payouts in the Member's Certificate of Good Standing. Additional monitoring could be provided by the ARC Secretariat or an independent outside monitor and should be paid for out of the insurance payout.
2. **Restrictions on Future Plans.** The Board may prohibit the Member from undertaking certain activities with future payouts, or require that such activities may only be implemented if additional implementing partners and/or monitoring is engaged.

3. **Removal of a Certificate of Good Standing.** The Board may take away a Member's Certificate of Good Standing and require for its Certificate of Good Standing by resubmitting Operations Plans for approval.
4. **Suspension.** For serious deviations, a Member may have its Certificate of Good Standing suspended, and may be prevented from receiving another Certificate of Good Standing for a period of time from 1 year to 10, at the discretion of the Board. For the most serious deviations, a Member may be suspended from participating in the ARC Agency. If the Board recommends either type of suspension of a Member, its decision must be reviewed by the CoP.
5. **Repayment.** If a Member commits a deviation, it may be required to repay its insurance payout, in whole or in part, to the ARC Ltd. If a Member is suspended, such repayment shall be required. In other cases, repayment is left to the discretion of the Board. A Member may not receive a new Certificate of Good Standing, and therefore may not take out insurance from the ARC Ltd, until it has repaid the required funds.

7. Adjudicative Process

The steps for reaching a decision regarding a deviation from approved Plans should proceed as follows:

1. If the Secretariat determines that a Member may have violated its Plans, it shall bring the suspected deviation to the attention of the Board and to the Member. The Member shall then have six weeks to provide a written explanation of any suspected deviation. The Secretariat will provide the Monitoring Reports, a report from the Secretariat, and the Member's written explanation to the Board for consideration.
2. The Board should meet to consider the Monitoring Reports, written explanation from the Member and the report of the Secretariat. If the Board believes that the deviation is a serious one, for example, because there has been an alleged Misuse of Funds, the deviation had a high monetary value, or other circumstances, it may temporarily suspend the Member and its Certificate of Good Standing, pending a decision. The Board may establish a committee to conduct the initial review of an alleged deviation. It may also engage an independent third party to conduct an evaluation or investigation of the situation.
3. The Board shall notify the Member in writing that it is evaluating the Member's compliance, including an explanation of the type of actions taken or considered, and the reasons behind the decision.
4. The Board should set a time and date by which the Member may respond to the Board's notification, as well as establishing guidelines for the type of information that must be provided.
5. If the Board deems necessary, it may establish a date and time for Member representatives to appear in person before the Board to answer questions.

6. The Board will then meet to consider the Member's situation and take a decision regarding the alleged deviation. The Board shall produce a written report of its findings. Such decisions shall be taken by the Board itself rather than a committee.
7. If the Board determines that a Member's deviation is a Misuse of Funds with a monetary value in Class II or III, or an Intentional or Unintentional deviation with a monetary value in Class III, it shall inform the CoP that there has been a Serious Deviation.
8. In the case of a Serious Deviation, the CoP shall review the decision of the Board and make the final determination regarding the penalty. The Certificate of Good Standing of the Member in question shall be suspended, or if the Member is due to apply for a new Certificate of Good Standing none may be granted, until the CoP reaches its final decision.
9. When there is a Serious Deviation, the Board shall provide its decision to the CoP, along with any supporting documentation, the Monitoring Reports, report of the Secretariat and any submissions made by the Member. The Member will be allowed to submit a written statement on its own behalf to the CoP.
10. In cases of Serious Deviation, any penalty assessed shall not go into effect until the CoP has taken its final decision.
11. Any decision of the CoP shall be final.

ANNEX 1: Whistleblower Hotline Policy and Procedures

I. PRINCIPLES

- (A) The African Risk Capacity Specialized Agency (**ARC Agency**) has the duty to ensure that all of the funds provided to ARC member states (**Members**) through insurance payouts from the ARC Insurance Company Limited (**ARC Ltd**) are used in a transparent and accountable manner, in full compliance with Members' approved Contingency Plans and the ARC Contingency Planning Standards and Guidelines (the **CP Standards**).
- (B) Improper use of ARC funds will not be tolerated. The ARC Agency will not accept any corrupt, fraudulent or collusive practice while using ARC Ltd insurance payouts (**ARC Payouts**). Any complaints received by the ARC Secretariat through the ARC Whistleblower Hotline will be dealt with promptly in accordance with the present Whistleblower Hotline Policy and Procedures (the **Policy**) and the Compliance Rules.

II. POLICY SUMMARY

The monitoring and evaluation procedures that ARC applies to monitoring the use of insurance payouts are intended to detect, prevent or deter improper activities. However, even the best systems of control cannot provide absolute safeguards against irregularities. Intentional and unintentional violations of the CP Standards and approved Contingency Plans may occur. The Compliance Rules adopted by the ARC Agency Conference of the Parties (the **CoP**) allow the Board to detect and investigate deviations from Contingency Plans identified after the use of ARC Payouts and the submission of Monitoring Reports¹⁴. However, deviations from approved Contingency Plans and improper use of ARC Payouts may be detected at an earlier stage of the implementation and ARC has a responsibility to investigate credible allegations of suspected improper use of ARC funds as soon as possible. Information gathered through the ARC Whistleblower Hotline shall be considered in the Mid-Implementation Review Mechanism and the Compliance Rules, depending on the timing of the allegation.

Individuals are encouraged to use the guidance provided by this Policy for reporting all allegations of suspected improper use of ARC Payouts, and the staff of the ARC Secretariat shall use these procedures to properly respond to such allegations. ARC retains the prerogative to determine when circumstances warrant an investigation and, in conformity with this Policy and applicable laws and regulations, the appropriate investigative process to be employed.

III. DEFINITIONS

For the purpose of this Policy, the terms and expression below shall have the following meaning:

ARC Payout means the insurance payout made by ARC Ltd to a Member, triggered pursuant to an insurance policy purchased by the Member from ARC Ltd;

¹⁴ Monitoring Reports are defined in the Compliance Rules as including: regular discussions between Members and Secretariat staff; monthly reports during the Operation; Final Implementation Reports detailing the financial and operational aspects of the full implementation process; Process and Financial Audits of insurance payouts and reports made to the Whistleblower Hotline. See, The Compliance Rules at Section I (3).

Collusive Practice means an arrangement between two or more parties designed to achieve an improper purpose, including but not limited to, influencing improperly the actions of another party and leading to the improper use of an ARC payout;

Contingency Planning Standards and Guidelines mean the standards established by the ARC Agency Governing Board for the development and updating of Contingency Plans submitted by Members;

Contingency Plans mean the Operations Plan and the Final Implementation Plan submitted by Members;

Corrupt Practice means the offering, giving, receiving or soliciting, directly or indirectly, or attempts to do so, of anything of value to influence improperly the actions of another party, affecting thereby the proper use of an ARC payout;

Fraudulent Practice means any act or omission, including any misrepresentation, that knowingly misleads, or attempt to mislead, a party to obtain any financial or other benefit or to avoid any obligation, leading to an improper use of an ARC payout;

Improper Use of ARC Payouts means any improper use of part or all of an ARC payout illustrated by a deviation from the provisions of the CP Standards, the country's approved plans or the principles of ARC;

Independent Agent means the independent firm selected by the ARC Agency to provide the Whistleblower Hotline to receive reports of violation of the CP Standards, deviations from approved plans or any other improper use of ARC payouts.

M&E Officer means the Monitoring and Evaluation Officer who is a member of the ARC Agency Secretariat staff.

Ombudsman means the Member of the ARC Agency Governing Board designated to handle reported allegations of suspected improper use of ARC payouts;

Secretariat means the ARC Agency Secretariat;

Secretary to the Board means the Secretary to the ARC Agency Governing Board as set out in the Rules of Procedures of the ARC Agency Governing Board, and the official designated within the ARC Agency to receive reports of allegations of suspected improper use of ARC payouts from the Whistleblower Hotline;

Whistleblower means the individual providing initial information related to a reasonable belief that an improper use of ARC funds has occurred;

Whistleblower Hotline means the external mechanism provided by the ARC Agency to report any improper use of an ARC payout.

IV. REPORTING PROCEDURES

1. The ARC Agency has established the Whistleblower Hotline as an external mechanism managed by the Independent Agent for any individual to report any violation of the CP Standards, deviations

from approved plans or any other improper use of ARC payouts. All complaints are directly received by the Independent Agent selected by the ARC Agency and shall be handled in conformity with the standards policies and procedures established by the Independent Agent and reviewed by the ARC Agency.

2. To the extent possible, all complaints about improper use of ARC funds shall be treated with strict confidentiality to protect the identity of individuals involved. Nevertheless, Whistleblowers should be cautioned that their identity may become known for reasons outside of the control of the investigators or the ARC Agency.
3. After receiving the complaint, the Independent Agent shall ensure that sufficient information is available to conduct a preliminary assessment of the complaint. The Independent Agent shall communicate with the ARC Agency Secretariat regarding the sufficiency of the information before submitting the complaint.
4. Once sufficient information is obtained, the Independent Agent shall transmit the complaint to the Director General of the ARC Agency, the Ombudsman, and the M&E Officer, who shall serve as the official designated within the ARC Agency to deal with reports of allegations of suspected improper use of ARC payouts.

V. PRELIMINARY ASSESSMENT

(A) Preliminary Assessment Report

1. The M&E Officer, with the support of the ARC Agency Legal Counsel, will conduct a preliminary assessment of the alleged improper use of the ARC payout, relying on the information available to the Secretariat and consulting the Member country as necessary and relevant.
2. As early as possible, and no later than one month from the reception of the allegations of suspected improper use of ARC payout, the M&E Officer shall prepare a preliminary assessment report to be submitted to the Ombudsman and the Director General.
3. The preliminary assessment shall aim at providing the Ombudsman with an initial appraisal of the suspected improper use of the ARC payout. The Preliminary Assessment Report shall include the following information:
 - a. The specific allegations;
 - b. The provisions of the CP Standards or approved plans that have been violated;
 - c. A detailed description of the facts surrounding the alleged improper use of ARC funds;
 - d. Information relating to the main actors in the alleged improper use of ARC funds: the Whistleblower, the individual involved at the governmental level and potential witnesses;
 - e. The context of the suspected improper activity including any specific information on the political environment, the working environment and the cultural issues surrounding the case;
 - f. Assessment of the complaint; and
 - g. Specific recommendations on adequate course of actions to the Board.

4. Recommendations concerning further actions with respect to suspected improper activities could include:
 - a. Closure of the case in the absence of sufficient evidence that the improper use of an ARC payout occurred or otherwise conduct of a formal investigation if the indication of a suspected improper use of ARC funds appears to be *Prima Facie* well founded;
 - b. Suggestion of relevant experts to form part of the Investigation Committee;
 - c. Proposal of pertinent techniques to be followed in the conduct of the formal investigation; and
 - d. Recommendation of preventive measures against the suspected Member where the improper use of ARC payout allegedly occurred, until the finalization of the investigation process.

(B) Handling of the Preliminary Assessment Report

Once the Preliminary Assessment Report is presented to the Ombudsman, one of the following actions shall be taken, as applicable:

- a. If it is considered that the allegations of improper use of ARC funds are unfounded, provided the complaint was made in the reasonable belief that what is being reported is true, no action will be taken if the complaint turns to be misguided or false. The process will be closed with no further action. However, where complaints are found not to have been made in good faith or on reasonable grounds, Whistleblowers may be subject to appropriate action.
- b. If it appears to the Ombudsman that the suspected improper use of ARC funds was generated by technical weaknesses in the approved plans, he may instruct the Secretariat to take appropriate measures to avoid the recurrence of such situation, such as provision of technical support or training. At the end of the implementation process, the Board will assess the efficiency of measures adopted.
- c. If it is considered that there is *Prima Facie* evidence that the improper use of ARC funds occurred, the Ombudsman will notify the Board and submit a report of the ongoing situation including: the Preliminary Assessment Report, all measures undertaken to investigate and address the problem, any relevant documentation that would help the Board making a well-informed decision, and specific recommendations on subsequent steps to deal with the country.
- d. If the Board is notified of a suspected improper use of ARC funds, the Board shall follow either the procedures described in the Mid-implementation Review Mechanism, or the Compliance Rules, depending on the timing of the complaint. If the complaint is made after the implementation has been completed, the Board shall proceed as described in the Compliance Rules. If the complaint is made during implementation, the Board shall proceed according to the Mid-implementation Review Mechanism.

- e. In extraordinary cases, including the egregious Misuse of Funds, the Board may launch a Compliance Inquiry while implementation is still ongoing.