

Nordic Development Fund



INTEGRITY DUE DILIGENCE POLICY

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Responsible Department

Legal and Administrative Support (LAS)

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Related documents

Integrity Due Diligence Guidelines

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1 Introduction and purpose

The Nordic Development Fund (NDF) is the joint international finance institution (IFI) of the five Nordic countries, i.e., Denmark, Finland, Iceland, Norway and Sweden established in November 1988.¹ In fulfilment of its purpose, NDF finances projects that focus on the nexus between climate change and development in lower-income countries and countries in fragile situations and provides financing on concessionary terms in the form of grants, loans and equity. NDF engages in both the public and the private sector and uses one or more financial instruments flexibly in various combinations.

As set out in its Policy on Anticorruption and Integrity², NDF adheres to the principles and definitions commonly applied by IFIs and is committed to participating in the joint efforts of IFIs to combat fraud and corruption.³ Consequently, NDF seeks to implement measures to promote accountability, transparency and integrity in accordance with the highest ethical standards throughout its activities. One such measure is Integrity Due Diligence (IDD). Through IDD reviews, NDF strives to identify, mitigate and monitor potential integrity and other compliance risks, which stem from NDF engaging with contractual counterparties and other actors whose background or activities may negatively affect NDF's reputation.

IDD is key for NDF to support responsible management of financing from NDF as well as good governance and business practices. IDD, often referred to as "Know Your Customer" (KYC) in the finance industry, is critical in ensuring that NDF engages with reputable partners so that its financing and other activities achieve the expected results and impact, its resources are used effectively, and its development and climate objectives are met.

The *objective* of this Integrity Due Diligence Policy (the "Policy") is to strengthen aspects of NDF's risk management by codifying the main principles to be applied in NDF's IDD processes in accordance with international best practices. Identification of integrity risks along with financial, legal, (corporate) governance, environmental and social, and other due diligence related to compliance is an essential component of NDF's risk management. The Policy supports informed decision-making and helps NDF avoid unnecessary integrity and other compliance risks.

IDD reviews conducted in accordance with the Policy⁴ should not be considered a guarantee of elimination of or a safeguard against integrity and other compliance risks. Nevertheless, when consistently applied, the Policy will raise awareness of potential integrity and compliance risks among, including but not limited to, NDF staff members and NDF's counterparties, and help them to identify and address integrity and other compliance risks.

¹ NDF's prevailing constituent documents include the ratified Agreement between Denmark, Finland, Iceland, Norway and Sweden concerning the Nordic Development Fund of 9 November 1998 and thereto related Statutes and the Host Country Agreement between the Government of Finland and the Nordic Development Fund of 15 October 2013. These documents are available on NDF's website.

² Available on NDF's website.

³ Such principles and definitions applied by IFIs are for instance included in the Uniform Framework for Combatting Fraud and Corruption as of 18 February 2006 which originally has been signed by the African Development Bank (AfDB), the Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB) the Inter-American Development Group (IADB), the International Monetary Fund (IMF), and the World Bank Group (WB) and the Agreement for Mutual Enforcement of Debarment Decisions as of 9 April 2010 originally signed by AfDB, ADB, EBRD, IADB and WB.

⁴ And the accompanying internal Integrity Due Diligence Guidelines.

The Policy outlines the basic components that an IDD review should include. More detailed rules and guidelines are to be provided in the Integrity Due Diligence Guidelines, which is NDF's internal document for the purpose of operationalising this Policy.

2 Definitions

For the purpose of this Policy, the following terms and abbreviations shall have the meaning set out below:

"AML" means Anti-Money Laundering.

"AML/CFT Prohibited Jurisdiction" means a jurisdiction which in relation to money laundering and terrorist financing has been categorised by FATF⁵ as high-risk due to strategic deficiencies and where high-level commitment to develop AML/CFT measures is lacking.

"Beneficial Owner" means any natural person or legal entity controlling or owning, directly or indirectly, ten percent (10%) or more in a Counterparty, and/or such natural person(s) on whose behalf a transaction is being conducted and those persons who exercise ultimate effective control over a legal person or arrangement connected to an NDF Activity.

"CFT" means Countering Financing of Terrorism.

"Compliance Risk" means risk of integrity and other reputational risks due to non-compliance by a Counterparty with any applicable laws and regulations, policies, rules and international standards.

"Counterparty" means any natural person or legal entity (when there is no natural person) with whom NDF engages with contractually and, in particular with regard to NDF's financing operations, that receives or seeks from, or transfers to NDF any form of financing or support. Depending on the type of NDF Activity, "Counterparty" may be construed to also cover an entity that otherwise executes, implements, contributes or substantially participates in a NDF Activity.

"Cross-border Link" exists when i) a Counterparty, ii) a Beneficial Owner, or iii) any other party which is of relevance for the NDF Activity is incorporated in another jurisdiction than where the NDF Activity will take place, or when the Beneficial Owner(s) of NDF's direct Counterparty is located in a different jurisdiction than where the Counterparty is located.

"EDD" means enhanced due diligence.

"FATF" means the Financial Action Task Force, an inter-governmental body established to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing, and related threats.⁶

"Financial Institution" means any natural or legal person who conducts as a business one or more of the following activities or operations for or on behalf of a customer:

- a) Acceptance of deposits and other repayable funds from the public;
- b) Lending;
- c) Financial leasing;
- d) Money or value transfer services;

⁵ FATF issues a public statement which identifies countries or jurisdictions with such serious strategic deficiencies that the FATF calls on its members and non-members to apply counter-measures.

⁶ Please see <https://www.fatf-gafi.org/>.

- e) Issuing and managing means of payment (e.g., credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money);
- f) Financial guarantees and commitments;
- g) Trading in: (i) money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); (ii) foreign exchange; (iii) exchange, interest rate and index instruments; (iv) transferable securities; or (v) commodity futures;
- h) Participation in securities issues and the provision of financial services related to such issues;
- i) Individual and collective portfolio management;
- j) Safekeeping and administration of cash or liquid securities on behalf of other persons;
- k) Other investing, administering or managing funds or money on behalf of other persons;
- l) Underwriting and placement of life insurance and other investment-related insurance; or
- m) Money and currency exchanging.

“Financing of Terrorism” means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist activities.

“Global Forum” means the Global Forum on Transparency and Exchange of Information for Tax Purposes which is a multilateral framework for work on transparency and exchange of information for tax purposes and a key international body working on the implementation of the international standards on tax transparency.⁷

“High Compliance Risk” means whenever a risk indicator presents Compliance Risk that falls outside NDF’s risk tolerance. Indicators presenting High Compliance Risk are considered “deal-breakers”.

“IDD” means integrity due diligence.

“Integrity risks” include risks related to corruption, fraud, money laundering, terrorist financing, tax avoidance or evasion, lack of transparency and undue political influence. Integrity risk is a subcategory of compliance risk.

“Low Compliance Risk” means whenever there are no risk indicators identified, or when the identified risk indicators do not pose any or low compliance and integrity risk for NDF.

“Medium Compliance Risk” means whenever a risk indicator presents some degree of Compliance Risk. Indicators presenting Medium Compliance Risk could remain within or outside NDF’s risk tolerance subject to the outcome of Enhanced Due Diligence (“EDD”).

“Modern Slavery” means slavery, servitude, forced or compulsory labour, human trafficking and hazardous child labour.

“Money Laundering” means

- a) the conversion or transfer of property, knowing that such property is derived from criminal activity, to conceal and disguise the illicit origin of the property, or assisting any person who is involved in the commission of such activity to evade the legal consequences of this action;
- b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing such property is derived from criminal activity;

⁷ Please see <https://www.oecd.org/tax/transparency/>.

- c) the acquisition, possession or use of property knowing, at the time of receipt, that such property was derived from criminal activity; or
- d) participation or assistance in any of the activities above.

“NDF Activity” means any activity which is financed, administered or supported by NDF, or proposed to be financed, administered or supported by NDF, specifically including, but not limited to, any projects financed by NDF as well as procurement, including internal procurement.

“Politically Exposed Persons” (PEPs) means any natural person who is or has been entrusted with a prominent public function and any immediate family members, or persons known to be close associates with such person. The definition includes but is not limited to senior officials of central and local government, members of parliament, senior executives of state-owned enterprises and international organisations, judicial or military officials and high-ranking political party officials.

“Prohibited Practices” means corrupt, fraudulent, collusive, coercive and obstructive practices as defined in NDF’s Policy on Anticorruption and Integrity.

“Sanctions List” means any and all sanctions lists maintained by appropriate international bodies, such as the United Nations or relevant international financial institutions (IFIs), which NDF may from time to time deem relevant and appropriate for an NDF Activity.

“Senior Management” means, depending on the type of NDF Activity and Counterparty, i) the chief executive officer, president or secretary general, chief financial officer, treasurer, chief operating officer, chief risk officer, general counsel and chief information officer, or ii) any equivalent according to the relevant entity’s organisational structure, or any individual who has a material role in the decision-making process in relation to the NDF Activity, including the highest ranking officials (whether appointed or elected) and heads of the relevant departments

“Tax-prohibited Jurisdiction” means a jurisdiction that a) the Global Forum has identified as (i) having failed the Phase 1 Global Forum peer review, or (ii) having received a non-compliant rating in the Phase 2 Global Forum peer review or b) the Council of the European Union has included in its *“EU list of non-cooperative jurisdictions for tax purposes”*.

3 Risk-based approach

NDF works with a wide variety of partners, including but not limited to private sector entities, international organisations, and governments (ministries and agencies), and employs various co-financing modalities. As a result, a one-size-fits-all approach to IDD at NDF is not practicable. Instead, IDD reviews shall be in proportion to the level of risk identified or assumed in respect of a Counterparty and/or NDF Activity, and their scope may be broadened or reduced based on factors such as type of financing/transaction, type of Counterparty and its jurisdiction of incorporation, and country of implementation of the NDF Activity, taking into account NDF’s purpose and the geographical scope of its activities.

NDF shall provide further instructions on IDD targeting different types of NDF Activities and Counterparties, as appropriate, in the Integrity Due Diligence Guidelines.

4 Integrity Due Diligence (IDD)

4.1 Overview

IDD reviews shall be conducted in respect of each NDF Activity in accordance with the risk-based approach and the provisions in this Section 4, as well as with any other relevant IDD guidelines and procedures established by NDF.

The basic components of an IDD review are presented in this Section 4. Based on the findings, the NDF Activity shall be assigned a Compliance Risk (Section 5), and an Enhanced Due Diligence (EDD) review may be required (Section 6).

4.2 General integrity review

A general integrity review shall be conducted for each NDF Activity in accordance with recognised IDD-principles, comprising the following areas:

i. Identifying the Counterparty and Beneficial Owners, business rationale

The Counterparty and the Beneficial Owner(s) shall be identified and the identity verified through reliable and independent sources. In addition, reasonable measures shall be taken to assess the purpose and economic rationale of the Counterparty to establish that NDF is engaging in a legitimate and appropriate contractual relationship with a bona fide Counterparty.

ii. Legal and corporate structure, jurisdictions

The legal and corporate structure of, as well as jurisdictions used by, a Counterparty shall be assessed to establish if they have a legitimate purpose or use.

iii. Sanctions screening

Sanctions Lists imposing sanctions against individuals and entities involved in amongst other things fraud, corruption, terrorism, human rights violations, money laundering, terrorist financing, tax evasion, crimes against world peace, political and economic stability shall be reviewed to identify if a Counterparty, Beneficial Owner, or any member of the board of directors or Senior Management of the Counterparty is included on a Sanctions List.

iv. Criminal activities, litigation, investigations

NDF expects that its Counterparties apply national and international laws and regulations when conducting their activities. Consequently, all reasonable measures shall be taken to identify any criminal charges or convictions as well as ongoing investigations for serious wrongdoings, including but not limited to Prohibited Practices, offences related to labour laws, environmental laws, taxation or social security contributions, professional misconduct, human rights violations or conduct related to a criminal organisation by the Counterparty, a Beneficial Owner, or any member of the board of directors or Senior Management of the Counterparty or a Beneficial Owner.

v. Politically Exposed Persons (PEPs)

All reasonable measures shall be taken to identify any Politically Exposed Persons linked to the Counterparty or the relevant NDF Activity.

vi. Modern Slavery

All reasonable measures shall be taken to identify the presence of factors which may include Modern Slavery in an NDF Activity by assessing, among other things, country and sector context, workforce demographics and the characteristics of risk management processes of a Counterparty.

4.3 Legal and corporate structure, jurisdictions

As part of the assessment of the legal and corporate structure of, as well as jurisdictions used by, NDF's Counterparty, the following areas in particular shall be reviewed:

i. Cross-border Links

Taxpayers may sometimes take advantage of disparities between national tax systems in order to reduce their tax base. As a result, cross-border corporate structures can be used for money laundering, tax evasion, tax fraud, aggressive tax planning or other harmful practices. Reasonable efforts shall be used to identify Cross-border Links and, where such exist, whether (a) there is a justifiable business rationale for such Cross-border Links, (b) there are indications of profit-shifting using such Cross-border Links, or (c) the Cross-border corporate structure includes entities in jurisdictions, which have been identified by specialised international agencies, such as FATF and Global Forum, as presenting a heightened risk in relation to tax or AML/CFT.

ii. Complex or opaque legal and corporate structures

Different legal and corporate structures may be used for a range of legal, business, tax and governance reasons. For example, a shell company, i.e., an incorporated company with no independent operations, significant assets, ongoing business activities and/or employees, can be legal, but may be used for e.g., tax avoidance or evasion, money laundering, or concealment of beneficial ownership. Reasonable efforts shall be used to assess whether the legal and corporate structures used in connection with an NDF Activity have a legitimate and justifiable business rationale.

4.4 Regulations and controls

Depending on the type and nature of the NDF Activity, relevant regulatory aspects shall be assessed as well as the internal policies and controls of the Counterparty.

i. AML/CFT

If the Counterparty is a *Financial Institution*, it shall be assessed whether (a) the Counterparty is a regulated Financial Institution as well as its jurisdiction of incorporation, (b) the Counterparty's regulatory and/or compliance history including any incidents of weak controls or poor implementation of AML/CFT systems, and (c) the Counterparty's response to questions related to AML/CFT. Recommendations from FATF shall be taken into consideration in the assessment.

ii. Policies and safeguards

Depending on the type and nature of the NDF Activity, the Counterparty's safeguards, policies and procedures in other areas of fiduciary standards, ethics, integrity and accountability, and their compatibility with relevant NDF policies, may be reviewed and assessed as part of the IDD.

5 Risk classifications

Following the review described in Article 4, the initial and final Compliance Risk will be rated as High, Medium or Low. Ultimately, the assessment of the Compliance Risk is a careful judgement call based on adequate research, the type of risk identified, possible mitigation measures, the context and other circumstances. The initial rating will determine the steps to be taken as set out below.

i. High Compliance Risk

Unless there are special reasons, NDF shall not proceed with project preparatory activities if there is an initial High Compliance Risk classification, as this risk category falls outside NDF's risk tolerance. Moving forward in the project preparations following an initial High Compliance Risk rating always requires weighty reasons and conducting of an extensive Enhanced Due Diligence (EDD). If the final risk rating is determined as High after EDD, NDF shall not move forward with the proposed NDF Activity.

Examples of risk indicators presenting a High Compliance Risk include the following, as further exemplified in the Guidelines:

- a) Unidentifiable Beneficial Owners;
- b) Beneficial Owners with significant unexplained wealth;
- c) The Counterparty or a Beneficial Owner is included on a Sanctions List;
- d) The Counterparty has repeatedly been subject to criminal investigations, charges or convictions for serious wrongdoings;
- e) The Counterparty has a Cross-border Link to a Tax-prohibited Jurisdiction; or
- f) The Counterparty is a Financial Institution incorporated in an AML/CFT Prohibited Jurisdiction.

ii. Medium Compliance Risk

If the IDD reveals Medium Compliance Risk, an EDD shall be conducted as set out in Section 6 below. A number of circumstances and risk indicators may result in a Medium Compliance Risk rating, including the non-exhaustive list of risk indicators below:

- a) Past or ongoing investigations for serious wrongdoings;
- b) The presence of Politically Exposed Persons;
- c) Unduly complex ownership structures;
- d) A member of the board of directors or Senior Management is included on a Sanctions List; or
- e) AML/CFT risks relating to, e.g., jurisdictional risks or weak internal controls or regulations.

In some instances, and based on the results of the EDD, mitigating measures could be recommended or required to maintain the risk within NDF's risk tolerance.

iii. Low Compliance Risk

If no risk indicators are identified or risk indicators only pose a low risk to NDF, no further action or measures are required, apart from regular monitoring in accordance with relevant policies and guidelines.

6 Enhanced Due Diligence (EDD), assessing and mitigating risks

If the initial IDD review in accordance with Section 5 indicates a Medium Compliance Risk, an EDD review shall be carried out. The same applies if there would be weighty reasons for continuing with the internal project preparation process, despite an indication of High Compliance Risk in the initial IDD review. The scope of EDD shall be determined on a case-by-case basis and consist of gathering additional information regarding the identified risk indicators and additional information regarding the relevant risk indicator(s) shall be collected, e.g., by requesting information directly from the Counterparty, from independent sources and/or through an external service provider with relevant expertise, or by reviewing the Counterparty's anti-corruption or KYC-related policies.

After the EDD is completed, the Compliance Risk shall be re-assessed and a final risk rating shall be established. The final Compliance Risk Rating may be Low, Medium or High.

If the final risk rating is Low, no further action is required. If the final risk rating is determined as High after EDD, NDF shall not move forward with the proposed NDF Activity.

The existence of risk indicators denoting Medium Compliance Risk after EDD does not in itself prevent NDF from engaging with a Counterparty if mitigating factors are identified and mitigating measures recommended. Examples of mitigating factors include a Counterparty's existence of appropriate policies and procedures, demonstrated ability to undertake reforms, passage of time and sound management structures. However, the Counterparty may be required to introduce measures to avoid, minimise or manage Compliance Risks for NDF to move forward with it. Such mitigating actions or measures may include, among other things:

- a) Inclusion of relevant contractual obligations or representations and warranties in the agreement with the Counterparty;
- b) Internal policies of the Counterparty revised or put in place;
- c) Additional reporting or audit requirements;
- d) Additional AML/CFT controls to be put in place by the Counterparty; or
- e) Removal of an individual(s) from any decision-making process related to the NDF Activity.

7 Informing decision-making bodies

A decision about whether to proceed with a proposed NDF Activity will be based on a completed IDD or EDD review. Relevant decision-making bodies shall be informed of risk indicators detected, risk ratings recommended and mitigating measures implemented in accordance with NDF's the Integrity Due Diligence Guidelines and established internal procedures.

8 Recordkeeping and monitoring

NDF shall keep records of the identified Compliance Risk indicators, any mitigating measures undertaken and the conclusions reached. Findings shall be archived for future reference in an accessible manner.

Compliance Risks shall be monitored on a regular basis. The frequency and scope of monitoring of ongoing NDF Activities shall correspond to the level of Compliance Risk identified.

The Compliance Risk rating may be re-classified during the lifetime of the NDF Activity based on updated monitoring information.

9 Operationalisation of the Policy

NDF's Board of Directors shall assess the appropriateness of the Policy and its alignment with the prevailing NDF strategy and other relevant circumstances.

The Policy shall be operationalised by the Managing Director through:

- i) the approval of further guidelines and instructions, including the Guidelines on Integrity Due Diligence, which provide practical guidance with regard to the process for conducting IDD reviews contain elements to facilitate determining and assessing the levels and types of risks;
- ii) ensuring that sufficient resources, including technical resources and training, are made available as required under this Policy.

The Legal and Administrative Support Department shall provide more detailed guidance on implementation of the Policy. NDF staff members shall comply with this Policy and any related guidelines and instructions in their day-to-day work, in accordance with their roles within the organisation.

10 Policy review

As recommended practices around IDD constantly develop, this Policy will be regularly revised and updated as deemed relevant, as a minimum every five years. The Head of Department, Legal and Administrative Support, shall have the overall responsibility to monitor developments related to IDD Policy and recommend when a revision of the Policy is needed.