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Public Office, Private Interests

Accountability through Income and Asset Disclosure



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Stolen Asset Recovery (StAR) Series

StAR—the Stolen Asset Recovery Initiative—is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime (UNODC) that supports international efforts to end safe havens for corrupt funds. StAR works with developing countries and financial centers to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets.

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Accountability through Income and
Asset Disclosure

A companion volume to
Income and Asset Disclosure: Case Study Illustrations



Stolen Asset Recovery Initiative

The World Bank • UNODC



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Foreword

When public officials plunder public assets, they degrade institutions, derail economic development, and deprive poor citizens of essential human services. Clearly, the abuse of public office for private gain is a serious crime that must be addressed in order to restore justice and preserve citizens' trust in public institutions.

Globally, the clamor against corruption is only getting louder. The recent protests that flared in North Africa and the Middle East are a powerful reminder that demands for accountability are greater than ever. In an age of global financial flows, public accountability is everybody's responsibility.

The United Nations Convention against Corruption (UNCAC) provides a comprehensive global framework for governments to more effectively prevent and address corruption. It includes detailed provisions on international cooperation, which are critical to anticorruption efforts. UNCAC also includes provisions on domestic measures calling for laws, regulations, safeguards, and the establishment of appropriate institutions to support integrity and accountability in public office. Under UNCAC, all states parties are obliged to consider effective financial disclosure systems for public officials, as well as to ensure that any resulting information can be shared with authorities in other states. Several regional anticorruption agreements support and complement this global framework.

There is growing support for public officials to declare their income and assets, not least because this can lead to the prevention of corruption and conflicts of interest, and the detection, investigation, and prosecution of public officials who abuse the public trust. Well-designed and well-managed asset disclosure regimes can significantly increase public accountability and contribute to the identification and monitoring of politically exposed persons (PEPs), and to national and international financial investigations and prosecutions. Disclosure systems thus have the potential to contribute to broader anticorruption efforts, and, ultimately, to international asset recovery. As part of its mission to combat corruption, the Stolen Asset Recovery Initiative (StAR) is calling on policy makers and practitioners to build on this potential.

The challenges in designing, implementing, and strengthening financial disclosure requirements vary widely around the world, and no single approach can guarantee consistently positive results. This volume responds to requests from policy makers and

practitioners for “good practices,” drawing from practical experiences to provide information on how to maximize the effectiveness of a disclosure requirement in different contexts. The analysis and recommendations are based on extensive data that StAR and the World Bank have collected about international financial disclosure requirements and their implementation, as well as detailed case studies.

We trust that this volume’s findings and recommendations will add momentum to the international community’s ongoing efforts to devise “common principles” guiding asset disclosure. We believe that these principles will jump-start global efforts advocating for the setup of customized disclosure systems worldwide. On a practical note, we also hope that this report will guide policy makers and practitioners as they design and implement their asset disclosure frameworks. The two partners in the StAR initiative, the United Nations Office on Drugs and Crime and the World Bank, stand ready to work with interested parties in making asset disclosure an integral part of their anticorruption and asset recovery efforts.

Janamitra Devan
Vice President and Head of Network, Financial and Private Sector Development
The World Bank

Preface

This volume is the result of a joint project by the Stolen Asset Recovery (StAR) Initiative and the Public Sector and Governance Department (PRMPS) of the World Bank. This guide focuses on income and asset disclosure (IAD) requirements for the executive and legislative branches of government, though some of the systems examined require disclosure from members of the judiciary. The findings in this guide are based on case studies, desk research, and the analysis of data gathered as part of the World Bank's Public Accountability Mechanisms (PAM) Initiative, using data on the legal frameworks for IAD systems in 88 countries.

Detailed case studies were conducted of the IAD systems in Argentina; Croatia; Guatemala; Hong Kong SAR, China; Indonesia; Jordan; the Kyrgyz Republic; Mongolia; Rwanda; Slovenia; and the United States. Case studies were conducted by means of in-depth interviews with practitioners, academics, and representatives of civil society.

This guide draws from and builds on a study prepared for the 2009 Conference of States Parties to the United Nations Convention against Corruption, *Income and Asset Declarations: Tools and Trade-Offs*. The methodology and the indicators that guided this research are provided in appendix A.

This volume and its companion, *Income and Asset Disclosure: Case Study Illustrations*, are intended as a guide for practitioners and policy makers, and for others with an interest in anticorruption tools and procedures. It seeks to fill a gap in the anticorruption literature by setting out the basic elements of IAD systems and key considerations that can influence the design, implementation, and enforcement of an IAD framework in different contexts. Readers should take from this guide an understanding of the different elements that make for effective IAD administration, and an awareness of the contextual factors that may influence the success of a disclosure regime and should, therefore, be considered when making decisions about system design or improvements.

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Abbreviations

AGI	Actionable Governance Indicators
CGC	General Comptroller's Office, Controlaría General de Cuentas (Guatemala)
COI	conflict of interest
HR	human resources
IAAC	Independent Agency against Corruption (Mongolia)
IACAC	Inter-American Convention against Corruption
IAD	income and asset disclosure
MoJ	Ministry of Justice
NGO	nongovernmental organization
OECD	Organisation for Economic Co-operation and Development
PAM	Public Accountability Mechanisms
PEP	politically exposed person
PRMPS	Public Sector and Governance Department (World Bank)
SAR	special administrative region
StAR	Stolen Asset Recovery Initiative
UNCAC	United Nations Convention against Corruption

Overview

The fight against corruption is a developmental imperative. While international efforts have achieved some significant results, they also illustrate the extent of the challenges that remain. A key lesson of experience is that tackling corruption needs to be waged simultaneously on two fronts: prevention and enforcement. Both approaches are complementary and self-reinforcing. The vast scale of illicit financial flows from the proceeds of corruption and the challenges associated with national and international asset recovery efforts call, in particular, for significant investments in prevention and a broadening of prevention tools.

Income and asset disclosure (IAD) systems are gaining prominence as a tool in the fight against corruption, and have the potential to support efforts in both prevention and enforcement. This contribution is recognized in the United Nations Convention against Corruption (UNCAC) and other international anticorruption agreements.

The potential for IAD systems to contribute to broader anticorruption efforts, such as national and international financial investigations and prosecutions, international asset recovery efforts, the prosecution of illicit enrichment, and the identification of politically exposed persons (PEPs) is as yet largely untapped. It is hoped that this guide will promote interest in these areas and point the way for policy makers and practitioners engaged in IAD system development to establish the capacities and institutional links required for this potential to be realized.

IAD systems require that public officials declare their income, assets, and financial interests. They are intended to prevent and help detect the use of public office for private gain, and to help build a climate of integrity in public administration. As a corruption prevention mechanism, an IAD system can provide timely and much-needed guidance to officials about the principles and behaviors of ethical conduct in public office, and remind them that their behavior is subject to scrutiny. It also provides a means for monitoring inconsistencies or irregularities in officials' declared income and assets, and for detecting and avoiding potential conflicts of interest before they occur.

For the purposes of enforcement, requiring that public officials declare their income and assets can generate a valuable source of information for financial or corruption investigations, and can provide probatory evidence of undeclared or illicit income in prosecutions where underlying acts of corruption may be difficult to prove.¹

1. Illicit enrichment as a category of criminal offense is briefly considered in section 3.3 of this guide under "Broader applications of IAD enforcement." The subject will be examined in detail in a forthcoming Stolen

There are a wide variety of approaches in IAD system design and implementation and a wide variety of challenges faced by different systems. New and emerging IAD systems may face challenges associated with resource and capacity constraints, political resistance to implementation, a lack of public awareness, or limited civil society capacity to support anticorruption efforts. Many established systems may also face the need to revise the legal framework, institutional arrangements, or enforcement mechanisms once it becomes apparent that original assumptions do not deliver expected results or unanticipated challenges emerge. This guide does not, therefore, attempt to lay out a standard approach for IAD administration. Rather, it identifies the objectives, features, and mechanisms that can contribute to the effectiveness of an IAD system and enhance its impact as a prevention and enforcement tool.

The findings in this guide are based on an analysis of IAD legal frameworks in 88 countries and on 11 detailed case studies of IAD systems.² The case studies are collected in a companion volume, *Income and Asset Disclosure: Case Study Illustrations*, which examines the design and implementation of the IAD system in Argentina; Croatia; Guatemala; Hong Kong SAR, China; Indonesia; Jordan; the Kyrgyz Republic; Mongolia; Rwanda; Slovenia; and the United States.

The main finding of this guide is that there is no single optimal approach to IAD system design and implementation. Context is essential. What emerges from the analysis, however, is that effectiveness depends on the right questions being asked and addressed at the right moment. Policy makers and practitioners face a common set of questions when setting up or strengthening an IAD regime. This guide provides an overview of these questions and illustrates approaches and key considerations for effectively responding to them.

Chapter 1 of this guide provides an overview of the objectives of IAD systems, identifies the relevant international anticorruption instruments, and provides a summary of key considerations that should influence the design, implementation, and enforcement of an IAD framework. Chapters 2 and 3 drill down into the design of IAD systems and address practical aspects of implementation.

The core design features and implementation challenges of an IAD regime are

- The scope and coverage of the disclosure requirement
- The monitoring and facilitation of compliance
- The verification or monitoring of content
- The enforcement of sanctions
- Public availability of information

Asset Recovery Initiative (StAR) publication. For the purposes of this volume, “illicit enrichment” refers to an unjustified increase in a public official’s wealth—a warning signal for IAD agencies that an official’s declarations warrant closer scrutiny and possible referral for a corruption investigation. This is an objective of many IAD systems regardless of whether the law in that country criminalizes “illicit enrichment.”

2. See appendix A for a list of countries examined and for the methodology of the guide.

Counting on adequate resources and staff members with the necessary skills to implement these functions is also imperative.

An excessively ambitious scope and coverage can compromise the effectiveness and credibility of an IAD regime. Policy decisions about scope and coverage need to be correlated with the objectives of the regime (including, for instance, the potential for identifying and collecting information about PEPs),³ and with available institutional resources and capacities.

Operational challenges related to the management of income and asset declarations also need to be considered so that the handling of large volumes of paper and data does not overburden an agency's (often limited) resources. Systems that have automated their submission and compliance management procedures are at an advantage in this respect. An overview of different institutional arrangements for IAD implementation and of the respective benefits and challenges of delegated and centralized submission systems, depending on which body exercises which functions, illustrates that there is significant room for variation in IAD system design and reinforces the need for country-specific approaches.

Credible scrutiny of the content of declarations is essential. Challenges in this area are related to internal resources and data management capacities, but also arise from the need for access to external sources of data (for example, land, auto, and property registries; banking, tax, or insurance information) against which to corroborate declared assets. Verification strategies can be designed based on available resources and context. The guide describes a variety of tools and approaches—including monitoring an official's declarations for suspicious changes over time, conducting lifestyle checks, performing targeted verifications based on risk factors, and using public access and public complaints mechanisms as a way of enhancing scrutiny.

The effectiveness and credibility of an IAD system requires a *credible threat of detection* of violations of the IAD requirement and a *credible threat of consequences* for such violations. In countries with high levels of impunity or public cynicism surrounding issues of endemic corruption, an IAD system that is effective only in enforcing compliance with the requirement to submit a declaration, but not in detecting irregularities or enforcing sanctions for noncompliance, will likely fail to provide a credible deterrent or enforcement mechanism against corrupt behaviors. To be dissuasive, therefore, sanctions should be both enforceable and proportionate. For this reason, integrating the IAD regime within the broader institutional, political, and cultural environment is essential. The recourse to criminal sanctions, for instance, calls for effective cooperation between law enforcement and independent oversight bodies and the timely prosecution of corruption cases in the courts. The analysis undertaken for this guide points to administrative sanctions—such as suspension or barring from office, fines, and the

3. See section 3.3.1 for a brief discussion of the links between IAD systems and PEPs identification. This subject is also addressed in Rossi et al. (forthcoming).

publication of the names of noncompliant officials—as preferable to criminal sanctions if these are unlikely to be enforced.

Public access to declarations generates some controversy and resistance. There is no straightforward answer to this issue. How to strike a balance between public access to information and the right to privacy of filers—and how to address concerns in some jurisdictions about security risks—is a challenge faced by most systems. There is a wide consensus among practitioners that public access to information matters and that public officials do not enjoy the same right to privacy as do ordinary citizens. Public access to information about an IAD system’s performance, compliance rates, and the enforcement of sanctions is also an important and sometimes overlooked element of the public access debate. Public access to IAD information demonstrates both the authorities’ and the filers’ commitment to transparency, hence enhancing the credibility of the system. Public access to the content of declarations also permits a degree of scrutiny usually beyond the capacity of an implementing agency. IAD systems can adopt public access strategies that address the concerns of filers while seeking to leverage the benefits of public scrutiny—as illustrated by the range of approaches described in this guide.

Public access in itself is not a panacea. Additional critical factors include the vibrancy of civil society organizations; the presence of an independent media; and the public’s awareness of, and attitudes toward, issues of corruption. Moreover, for public access to fully deliver beneficial impacts, it is important that there be an effective and reliable public complaints mechanism to trigger internal reviews or investigations, and for the IAD agency to educate filers and civil society about its mandate and objectives.

The companion volume to this guide, *Income and Asset Disclosure: Case Study Illustrations*, examines the IAD systems in the 11 economies mentioned above. Each case study outlines the legal framework for the IAD regime, the mandate and structure of the IAD agency, and the resources and procedures of the IAD system. The characteristics of each system are highlighted along with other findings that illuminate the challenges faced in implementing the system, the steps taken, and the progress achieved by the IAD agency in fulfilling its mandate. The chapters do not examine the broader applications of the IAD system in combating corruption, nor any results achieved that lie beyond the mandate or administrative purview of the IAD agency (such as, for example, successful prosecutions for corruption in which declarations may have assisted). However, where applicable, the chapters do describe the relationship between IAD agencies and other institutions and actors responsible for enforcing sanctions provided for in the IAD legislation.

The volume of case studies does not seek to answer the question “What works best?” Rather, it describes experiences in different contexts, and the approaches taken to address challenges particular to each, in the belief that these experiences can provide valuable insights to assist policy makers and practitioners in thinking through appropriate strategies for meeting the requirements associated with the IAD regime in their context.

It is conceivable that an IAD system that achieves 100 percent submission rates and successfully performs the functions required under its mandate may, nonetheless, fail to provide a credible deterrent or enforcement mechanism, particularly in countries with high levels of impunity or public cynicism surrounding issues of endemic corruption. Although the link between IAD practices and reductions in corruption is difficult to establish, the failure of an IAD system to implement its mandate, or to bolster credibility or confidence in anticorruption efforts suggests, as a first recourse, that policy makers reexamine and revise the mandate and legal framework of the system. A system that achieves 100 percent compliance with the requirement for public officials to file a declaration but does not provide or enforce sanctions for false filing is unlikely to achieve a credible impact on perceptions of public integrity or impunity. One of the lessons from this guide is that the credibility of an IAD system needs to be built on several fronts—that it cannot be effective in isolation and needs to be integrated as part of a broader anticorruption framework. A newly developed or evolving IAD system that has not yet met the expectations associated with its mandate can nonetheless help bolster public confidence in the integrity and transparency of government by serving as a reminder to public officials of their duty to accountability, and by sending a signal that the wealth and interests of individuals who hold positions of responsibility and trust in public administration are being monitored.

1. Income and Asset Disclosure: An Introduction

1.1 Rationale for an Income and Asset Disclosure System

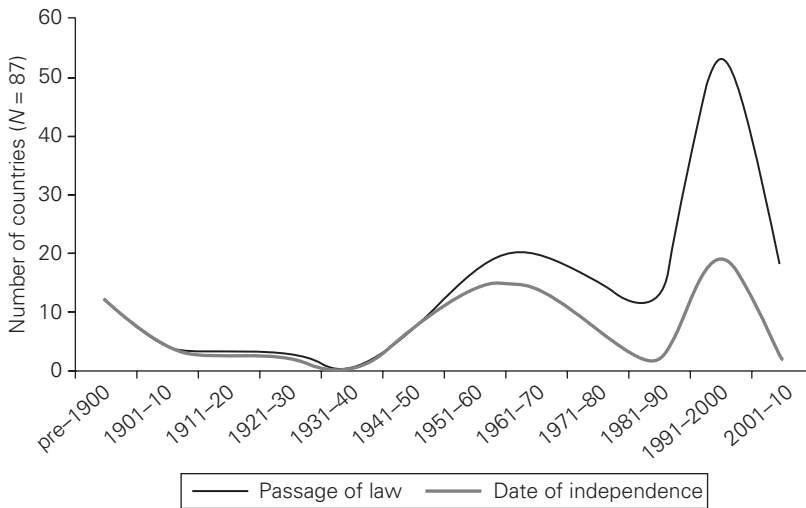
The requirement that public officials declare their income and assets is intended to help deter the use of public office for private gain, whether financial or through other benefit to self, family, or associates. Income and asset disclosure (IAD) systems can help reduce the incidence of conflicts of interest in the exercise of official duties and assist in the detection and prosecution of illicit enrichment by public officials. Effective IAD systems, thus, can be an important element of broader anticorruption regimes and can contribute to building a climate of integrity in public service, as defined as follows by the United Nations Convention against Corruption (UNCAC):

As a general principle, public bodies . . . need to create a climate where the public service provision is transparent and impartial, where it is known that the offering and acceptance of gifts and hospitality is not encouraged and where personal or other interests should not appear to influence official actions and decisions. (UNODC and UNICRI 2009, 25)

IAD systems can provide three distinct benefits:

- *Assisting in the detection and prevention of corrupt behaviors and conflicts of interest in public administration.* Disclosure regimes can assist in the prevention of corruption by enabling the detection and potentially the prosecution of corrupt acts such as bribery, theft of public monies, and conflicts of interest in the exercise of public office. Although an IAD system, by itself, should not be expected to directly and comprehensively prevent all such behaviors, it can serve as a powerful anticorruption tool by providing a mechanism to facilitate prosecution of officials for a violation of the disclosure requirement or as a result of irregularities in their income and asset declarations, when underlying acts of corruption may be difficult to prove. With the right mechanisms in place, the removal of a corrupt official from public office can result as a direct consequence of a disclosure regime and can lead to criminal prosecution or other sanctions.
- *Building a climate of integrity in public service.* An IAD requirement is also an effective reminder to public officials of the duty to accountability that comes with public office. In a statement at the Global Forum against Corruption in 1999, U.S. Justice Stephen G. Breyer remarked, for instance, that “as much as I hate filling out disclosure forms they are a regular reminder of my ethical responsibilities and my accountability to the public” (Breyer 1999). In addition to reminding officials of their ethical responsibilities, IAD systems can fill an important role in providing guidance and advice to officials about compliance with the disclosure requirement and how to identify and avoid potential conflicts of interest.

FIGURE 1.1 Trends in the Adoption of Anticorruption Legislation



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>. See appendix A for a list of countries covered by the PAM data.
Note: The spike in the 1990s is largely attributable to democratic transition in the Commonwealth of the Independent States of the Former Soviet Union.

- *Bolstering public confidence in the integrity of government.* More broadly, and no less important, an IAD system can bolster public confidence in the integrity of government by sending a signal that public officials' finances are subject to scrutiny and that potential conflicts of interest are being monitored and addressed. Effective enforcement of the disclosure regime is important for this benefit to accrue.

The notion that the use of public office for personal gain is undesirable and detrimental to efficient public administration is not new.⁴ The use of financial disclosure systems as an integral element of anticorruption frameworks gained momentum in the 1970s in the United States in the wake of the Watergate corruption scandal.⁵ As concerns about potential conflicts of interest have grown, more and more countries have begun enacting laws requiring senior officials to submit income and asset declarations, frequently as part of broader anticorruption strategies. These laws have seen a steady growth over the past three decades, with a massive spike in the 1990s (see figure 1.1). In 2003, the

4. In the United States, for example, widespread political and economic corruption in the 19th century provided much of the impetus for the development of modern public administration and the professionalization of the civil service (with the Pendleton Civil Service Reform Act of 1883), as well as for the anticorruption regulations that sought to underpin them.

5. The Watergate scandal of the 1970s began with a break-in at the Democratic National Committee headquarters at the Watergate office complex in Washington, D.C., and ended with the resignation of U.S. President Richard Nixon. IAD became an area of policy focus in the wake of the scandal and resulted in the enactment of two important laws—the Government Sunshine Act of 1976 and the Ethics in Government Act of 1978.

UNCAC provided vital momentum to these efforts, as did other regional instruments designed to combat the global challenges of corruption (see box 1.1). International conventions provide useful leverage for governments to undertake comprehensive and sometimes politically costly reforms. The launch of the UNCAC peer review mechanism, adopted at the Third Conference of the States Parties to the UNCAC in Doha, Qatar, in November 2009, applied added pressure on governments to effectively implement the convention.

While a clear division between public duties and private interests has, in most countries, come to be recognized as a principle of good governance (Caiden 2001, 429–55; Stillman 1987), the challenges of monitoring and enforcing ethical conduct in public office are continually growing. Increased cooperation between the public and private sectors has multiplied opportunities for corrupt practices and conflicts of interest to occur (as a result of public-private partnerships, sponsorships, outsourcing, self-regulation, and so forth) (Gilman 1999; OECD 2005). As barriers between the public and private spheres continue to evolve, new pressures on traditional employment obligations and loyalties emerge, and the challenges—and importance—of implementing effective IAD regimes become all the greater.

1.2 Types of Income and Asset Disclosure Systems

The primary purpose of an IAD system varies across countries. The distinction between conflict of interest (COI) and illicit enrichment systems is that in COI systems the IAD agency primarily has an advisory role for preventive purposes, whereas in illicit enrichment systems the agency's primary role is facilitation of the detection of illicit wealth (see figure 1.2). Disclosure regimes may vary for different branches of government, each of which may be governed by a different regulatory framework and enforcement agency. The decision of whether to have a single agency overseeing declarations by all branches of government depends on a variety of factors including political considerations and institutional capacity. Regardless of the approach adopted, the key is for policy makers to weigh the relative concerns of each branch, the objectives of the system, and the implementation challenges involved.

Generally, countries with longer traditions of professionalization in the civil service have narrower disclosure requirements and design their disclosure mechanisms to focus on the prevention of conflicts of interest. This may reflect the fact that these countries have fairly well-institutionalized codes of ethics and other oversight mechanisms for holders of public office. This is true in older European Union member countries,⁶

6. The prevalence of COI systems in European Union countries—as opposed to systems that monitor wealth to detect illicit enrichment—is reflected in Council of Europe standards. Article 14 of Recommendation Nr. R (2000) 10 of the Committee of Ministers to Member States (the first Council of Europe standard to refer to declarations) stipulates, “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 public duties should, as lawfully required, declare upon appointment, at regular intervals thereafter and whenever changes occur the nature and extent of those interests.” (Cited in OECD-EU 2011, 13.)

BOX 1.1**IAD Provisions in International Anticorruption Instruments**

The United Nations Convention against Corruption (UNCAC) was negotiated and adopted by the UN General Assembly in 2003, and as of November 2010, 148 parties have ratified it. Chapter II of the UNCAC is devoted to the adoption of prevention measures directed at both the public and private sectors. These include the establishment of anticorruption bodies and enhanced transparency in the public service. Specific to IAD, Article 8(5) explicitly states:

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.^a

The Inter-American Convention against Corruption (IACAC) was adopted by the Organization of American States in 1996. In addition to emphasizing heightened government integrity and transparent bookkeeping, the IACAC underscores the role of certain measures and mechanisms that may help the prevention and eradication of corruption. Among the preventive measures required by the IACAC, emphasis is given to asset disclosure frameworks. Article III requires that states

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.^b

The African Union Convention against Corruption (AUCC) was adopted by the heads of state and government of the African Union in 2003. The convention covers both the public and private sector and contains provisions that should guarantee access to information and transparency in the public service including the disclosure of income and assets. Article 7 of the convention expressly establishes that

In order to combat corruption and related offenses in the public service, State Parties commit themselves to: 1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service. 2. Create an internal committee or similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics. 3. Develop disciplinary measures and investigation procedures in corruption and related offenses with a view of keeping up with technology and increase the efficiency of those responsible in this regard.^c

The Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was signed on December 17, 1997, and came into force on February 15, 1999. It establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the first international anticorruption instrument focused primarily on the “supply side” of the bribery transaction. The 34 OECD member countries and 6 nonmember countries—Brazil, China, India, Indonesia, the Russian Federation, and South Africa—have

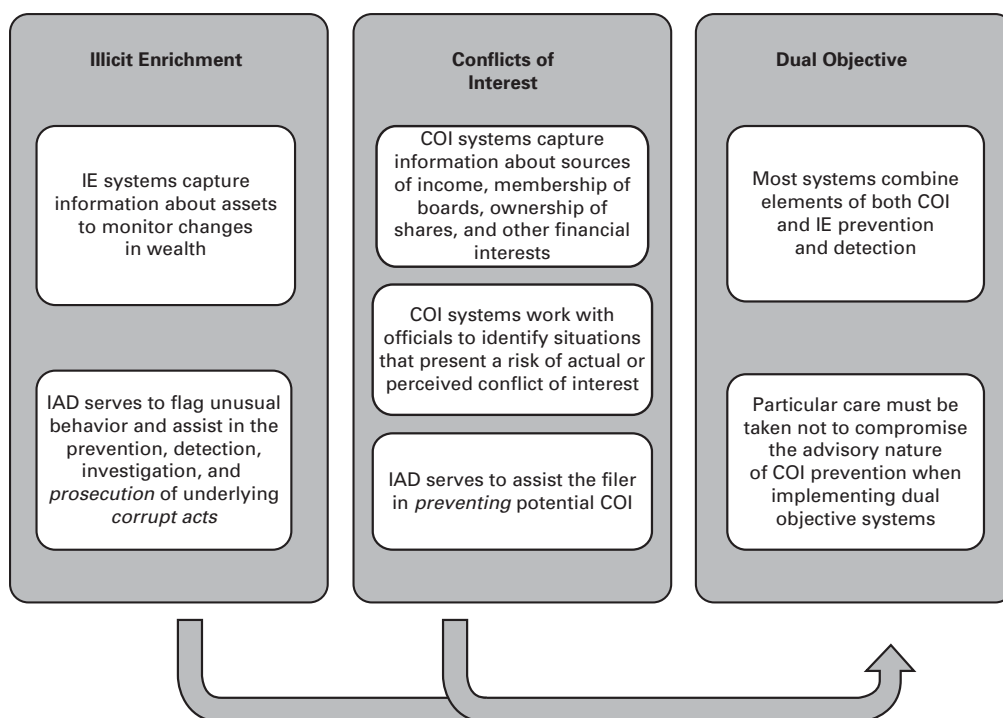
(continued next page)

BOX 1.1 (continued)

adopted the convention. Although it contains no specific provisions regarding income and asset disclosure, IAD systems that monitor changes in wealth of public officials to detect illicit enrichment can assist in the enforcement of the convention.^d

Sources: a. <http://www.unodc.org/unodc/en/treaties/CAC/index.html#textofthe/>. b. <http://www.oas.org/juridico/english/Treaties/b-58.html>. c. <http://www.africa-union.org/root/au/documents/treaties/treaties.htm>. d. http://www.oecd.org/document/20/0,3343,en_2649_34859_2017813_1_1_1_1,00.html.

FIGURE 1.2 Objectives of an IAD System: Preventing and Detecting Illicit Enrichment and Conflicts of Interest



Source: Authors' compilation.

Note: COI = conflict of interest. IE = illicit enrichment.

for instance, and in some cases has been replicated in new member and accession countries,⁷ though for the most part these countries have adopted systems with a focus on both COI and illicit enrichment (Demmke et al. 2007, 44; OGE 2006, 7, 28). In the United States, the primary purpose of IAD is the detection and prevention of potential

7. A strong focus on IAD in these countries reflects the fact that Council of Europe standards for financial disclosure systems have become an element of conditionality in the control of corruption in the European Union accession process (OECD 2011, 79).

conflicts of interest, with the corollary objective of increasing public confidence in government by demonstrating the integrity of the public administration system (Demmke et al. 2007, 28, 30).

Countries whose disclosure systems focus on detecting illicit enrichment do so to address specific abuses of public office. They may also be following regional trends and enacting provisions of international anticorruption instruments. In some cases, countries may choose to focus on illicit enrichment and endow the IAD agency with wealth-monitoring responsibilities, because an effective tax administration system is not in place to fully perform that role.⁸ It is unusual for an IAD regime to focus uniquely on illicit enrichment (Guatemala is an example of such a system), because most illicit enrichment systems also provide some focus on COI. This is the case in Argentina, where the IAD system, based on the 1999 Public Ethics Law, focuses on preventing and detecting COIs and illicit enrichment. Systems that seek to comprehensively manage and monitor disclosures for both purposes face a greater challenge in terms of developing capabilities necessary for meeting both objectives, and in balancing the preventive and advisory role associated with COI prevention and the enforcement role associated with the detection of illicit enrichment.

1.2.1 Conflict of Interest Systems

A conflict of interest exists when a public official is in a position to exploit his or her official capacity for personal benefit, or for the benefit of other private parties, but has not necessarily done so (see box 1.2 for OECD COI guidelines). In other words, the identification of a potential conflict of interest is not an indicator of improper conduct, but rather a warning of its possibility.

COI systems are typically designed to work collaboratively with officials to prevent situations that present a risk of unethical behavior or the perception of unethical conduct. While many COI frameworks place the onus on the filer to recognize and avoid potential conflicts of interest, income and asset declarations provide the means for governments to monitor potential or existing conflicts of interest, provide officials with regular reminders to review their circumstances for potential conflicts of interest, and provide officials with guidance on how to identify and avoid them. Although no improper

8. The link between IAD systems and tax administration is indirect. As noted in the OECD-EU 2011 report, “as far as public officials’ declarations serve the purpose of wealth monitoring, their function overlaps with those of the tax administration. In fact, the tax administration should be the most competent body to monitor income and prevent enrichment from illicit, hence untaxed sources” (OECD-EU 2011). The OECD report suggests ways in which tax administration and asset declaration procedures can be linked, including cooperation between the IAD agency and the tax authority in verifying the accuracy of declarations. Depending on whether the tax administration system in a given country is working effectively, “some systems suffer from ineffectiveness in the monitoring of public officials’ wealth because either the verification of officials’ declarations is too detached from the tax administration, or the tax administration is too weak” (OECD-EU 2011, 29–30). This potential “overlap” can, therefore, influence decisions about the design of an IAD system and the procedures adopted for verification, depending on the effectiveness of the tax administration system.

BOX 1.2**What Is Conflict of Interest? OECD Guidelines for Managing Conflict of Interest in the Public Service**

The OECD Guidelines define conflict of interest as “a conflict between the public duties and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.”

Conflict of interest arises when public officials have to make decisions at work that may affect their private interests. For example, a public official with the telecommunications regulator has to decide whether mobile phone charges are too high. Is he being influenced by the thought that one day he might want a job with a particular company?

Governments have for many years been aware of the dangers of personal bias in public decision making. But in the past these concerns focused on traditional sources of influence, such as gifts or hospitality offered to public officials, and personal or family relationships. Increased cooperation with the private sector in recent years has made the whole issue more complex, multiplying the opportunities for conflicts of interest, such as

- A public official having private business interests in the form of partnerships, shareholdings, board memberships, investments, government contracts, and so forth
- A public official having affiliations with other organizations (for example, a senior public official sits on the board of a nonprofit organization that receives funding from the official’s agency)
- A public official leaving to work for a regulated private company or a chief executive taking up a key position in a government agency with a commercial relationship with his or her former company.

The key question is whether a public official is in a situation where his private interests might improperly influence the way he does his job. The OECD Guidelines adopt the deliberately simple and practical definition of conflict of interest provided above to help organizations answer this question and, if necessary, resolve the problem.

Source: OECD 2005, 2.

conduct may result from a situation in which a conflict of interest exists, the perception that there is or may be a conflict of interest is detrimental to the credibility of an official and can undermine public confidence in government.

COI regulations can provide or supplement an ethics framework to guide public officials in avoiding situations of conflict of interest that may present opportunities for corrupt behavior. In countries with an institutionalized culture of ethics, it is often the responsibility of the official’s supervisor to fulfill that role. In some systems, government agencies have designated ethics officials who perform that function. The advantage in these

situations is the greater proximity and familiarity of the designated supervisor with the official's role and duties. For an IAD agency to successfully fulfill that role it is vitally important that it communicate the objectives of the system to officials, and advise them about COI principles before they take up their posts. This means that advisory, training, and communications capabilities are important to the success of a COI system. Educational and outreach functions can be also be implemented by the IAD agency or another body.

In COI systems, the purpose of income and asset declarations is to assist the filer in identifying potential conflicts of interest before they occur. Disclosure does not eliminate conflicts per se but, in some systems, can facilitate the avoidance of potential conflicts and the detection of actual conflicts once they have occurred (Carney 1998, 3). To be effective, COI systems therefore require that the IAD agency have the necessary skills and resources to review income and asset declarations to detect potential or actual conflicts of interest, or that they be able to rely on public access by civil society organizations with the skills and resources to scrutinize declarations for potential conflicts of interest. The system must have procedures in place for staff members to provide guidance and to respond to requests for advice from filers, a need that could be onerous during the filing period (after elections, and for systems that require annual declarations).

It is also essential that what constitutes a conflict of interest⁹ be clearly articulated in laws and regulations and communicated to filers through comprehensive awareness raising and training. Further, despite its emphasis on prevention, the credibility of a COI system will depend on ensuring that in cases where an actual conflict of interest has occurred, a referral of the case to the appropriate investigatory agency is made and applicable sanctions are enforced. In some countries, public access to declarations is relied upon to assist in the detection of potential or actual conflicts of interest. While this can assist in the detection of a conflict once it has occurred, it is less helpful in anticipating and avoiding potential conflicts before they occur (see the discussion of public access in section 3.4).

1.2.2 Illicit Enrichment Systems

In IAD systems that focus on the detection and prevention of illicit enrichment, declarations are intended to capture information that will enable the monitoring of an official's wealth to detect any unusual assets or income not attributable to salary or other legitimate source. Adopting a primary or exclusive focus on detecting illicit enrichment might be important in countries where perceptions of corruption and impunity are high. An IAD system that presents *a credible threat of detection* and *a credible threat of consequences* for violations of the IAD requirement can help underpin efforts to eliminate corrupt behaviors by public officials.

The underlying acts of corruption with which illicit enrichment is typically associated are bribery and embezzlement-type offenses (Jorge 2007, 54). Due to the difficulty of

9. For more information on conflicts of interest and the role of IAD systems in managing conflicts of interest, see Chêne (2008); Doig (2010); Doig, Watt, and Williams (2007); Gilman (2005); Huberts, Maesschalck, and Jurkiewicz (2008); Messick (2007); and OECD (2005, 2011).

catching and prosecuting both types of crime, many jurisdictions choose to implement an IAD system that focuses on detecting illicit enrichment by monitoring and flagging significant changes in a public officials' wealth that cannot be explained by legitimate income. When discrepancies are detected between an official's declaration and his or her legitimate income, the IAD framework provides sanctions for the filing of false information. The underlying (predicate) corruption offense(s) that was concealed by the lie may also result in a separate criminal prosecution. In such cases, the IAD violation and the declaration form(s) may be used as cause for an investigation, to assist in an investigation, or as evidence in a prosecution.

To be effective, an illicit enrichment system needs to establish *a credible threat of detection*. A vital aspect of the system, therefore, is its ability to verify declarations to detect if possible “red flags” for illicit enrichment appear or if an official has submitted false information in his or her declaration.¹⁰ There are several approaches to doing this, which may generate a more credible threat of detection if done in combination:

- IAD agencies or civil society agents (if declarations are made public) can monitor declarations to detect significant changes in income and assets over time—a potential red flag for illicit income.
- IAD agencies can cross-check the content of declarations with other sources of information about an official's income and assets (tax and bank information, vehicle and real estate registries, and so forth) to detect whether the official may have submitted false information on their declaration.
- IAD agencies and civil society agents (if declarations are made public) can check for discrepancies between an official's perceived standard of living and his or her official income. Such discrepancies can be picked up by conducting “lifestyle checks,” an activity that agencies sometimes carry out themselves, but for which they more typically rely on public access to declarations by investigative journalists or interested civil society organizations (see the discussions of verification practices and public access in chapter 3).

In some systems, IAD agencies rely solely on allegations from the public to serve as a *trigger* for the verification of an official's declaration(s), rather than employing any systematic review process to detect possible irregularities.

1.2.3 Dual Objective Systems

Despite the clear delineation between illicit enrichment and COI objectives, many systems combine elements of both. This combination enables the IAD system to cover a

10. The verification of the content of asset declarations is specified by law in only 55 to 65 percent of countries reviewed in the Public Accountability Mechanisms (PAM) sample (see appendix A for a list of countries covered by the PAM methodology). Even fewer countries—approximately 30 percent—specify by law the criteria to conduct content verification, regardless of whether conflicts of interest are being reviewed or cases of illicit enrichment are being targeted. However, these criteria may be present in sublegal instruments, procedural guidelines, or agency regulations that are specific to small groups of officials (for example, procurement, customs, and others).

broader range of anticorruption objectives, but requires a more comprehensive regulatory framework and poses a greater challenge in terms of resources and skills required, encompassing both advisory role and verification functions. In dual objective systems, particular care must also be taken in the development of enforcement procedures so as not to compromise the advisory role that agencies play in assisting filers to identify and avoid potential conflicts of interest. Clear delineation of COI guidance functions and illicit enrichment detection and prosecution functions is advisable. In deciding whether to adopt a dual objective system, policy makers should take particular care not to set overly ambitious targets, as pointed out in a 2011 OECD study:

Recently created systems often aspire to the achievement of complex goals, aiming at both the control of conflict of interest and wealth monitoring. Such development seems well-grounded because, on the face of it, both purposes are legitimate and hardly irrelevant. Meantime, the plain catch-all approach can be taken as a sign of little pragmatic assessment of what declarations can or cannot accomplish.” (OECD 2011, 101)

As described above, the two approaches differ because of the types of behavior targeted, with a stronger emphasis on the system’s advisory role in COI systems, and on detection mechanisms in illicit enrichment systems.

As mentioned, to be effective, financial disclosure systems need to present a *credible threat of detection* to both filers and the public. Detection is only part of the picture, however. IAD systems also need to present a *credible threat of consequences* for officials who violate the provisions of the disclosure requirement. An IAD system needs, therefore, to be backed up by *enforceable sanctions* that are *commensurate* with the violation of the IAD legal framework¹¹ and that are applied in a timely and consistent fashion.

1.3 Key Considerations in Designing and Implementing Income and Asset Disclosure Systems

There is no single best-practice design that will achieve optimal outcomes in every context, because these outcomes depend on factors that vary in scope and intensity across countries. In practice, IAD systems are far from standardized internationally and may differ within a country between branches of government and from federal to regional and municipal levels.

Despite these variations, there are a number of key questions that all policy makers and administrators face when determining which type of IAD system to adopt, or when making changes or improvements to an IAD system. Recent empirical work on IAD policies and practices¹² has illustrated some key considerations that will determine the choices made in response to these questions. These are summarized as follows:

11. Sanctions for underlying acts of corruption are typically specified in criminal codes, not IAD regulatory frameworks, and fall beyond the scope of an IAD agency’s enforcement functions. See the discussion of sanctions in section 3.3).

12. Public Accountability Mechanisms (PAM) Initiative, Income and Asset Disclosure legislative indicator dataset, 2009; World Bank internal: <https://www.agidata.info/pam>, external: <https://www.agidata.org/>

- *What needs or behaviors is the system intended to address?* Decisions about the design of an IAD system should be determined by the behaviors the system is intended to address, and by consideration of the environment (institutional, political) in which it will operate. As described in the previous section, for countries where perceptions of corruption are high, a system designed to detect illicit enrichment might be important. Assisting officials to detect and avoid potential conflicts of interest, while a priority for most countries, acquires greater significance within an IAD framework if oversight mechanisms are not institutionalized in public service—for example, if there is not yet a code of ethics that civil servants understand and behave in accordance with, or an environment in which line managers or designated ethics officials can credibly provide oversight and guidance on potential conflicts of interest.

In the absence of such mechanisms, it becomes all the more important for an IAD system to set and enforce guidelines that, for example, prevent officials from participating in official decisions or duties that overlap with their personal interests, establish prohibitions on combinations of certain functions and activities (also referred to as incompatibilities), place restrictions on officials entering the private sector after leaving government, or regulate the receiving of gifts and hospitality by members of the executive. The precise role and responsibilities of the IAD system, and the kind of advisory and oversight role the agency will need to play, will thus depend on the broader institutional environment.

- *How many filers should be obligated to declare, how much information, and how frequently?* This question relates to the coverage and scope of an IAD system. The first hurdle for an IAD system is to ensure that all officials obligated to submit a financial disclosure form have done so. An excessively ambitious coverage can compromise an agency's ability to meet that standard and undermine the system's credibility. Such a situation could result, for example, in the implementing agency devoting a disproportionate amount of its resources to managing submission compliance above other tasks under its mandate. Limiting the disclosure requirement to positions most at risk for significant conflicts of interest or for illicit enrichment is likely to be more strategic and cost-effective. If resources and capacity are limited, then governments might also consider rolling out coverage progressively (focusing on senior members of the executive and other key positions first, and then broadening coverage as capacity grows).

The scope of the system (how much information is declared and how frequently) requires a similar consideration of capacity and scale. The type of information declared will largely be determined by the mandate of the system, and although

pam; World Bank Economic Premises “Income and Asset Disclosure Systems,” <http://www.worldbank.org/economicpremise>; World Bank PREM Note, “Salient Issues in Income and Asset Disclosure Systems,” <http://www1.worldbank.org/prem/PREMNotes/premnote151.pdf>; *Income and Asset Declarations: Tools and Trade-Offs* publication prepared for the 2009 Conference of States Parties to the United Nations Convention Against Corruption.

there are universal elements—income, movable and immovable assets, liabilities—in practice, the information required on declaration forms varies widely, even between systems with similar mandates. Certain considerations can be made to optimize the system’s ability to manage the volume of declarations received (for example, by keeping the forms simple and making filing requirements clear and the frequency of filing periodic or predictable). (See the discussion of scope and coverage in section 2.3.)

- *What kind of budgetary and resource support are required?* It is difficult to generalize about the budgetary needs for implementing an IAD system or to compare practices among different countries. This is because of the limitations of available data and the variations in practice resulting from the different mandates and contexts of country systems. While all agencies require (at a minimum) sufficient funding to manage and monitor submission compliance, the mandate and context will determine the approach adopted to verification, oversight, public access, and enforcement procedures. The scope and coverage of the system and decisions about technology use will also have important implications for the system’s workload and budget. A key consideration is that the budget be sufficient, stable, and predictable to ensure the proper staffing and functioning of the system according to its mandate. To that end, an IAD agency’s ability to track its performance of assigned functions and the results achieved is extremely helpful. A fact-based accounting of the operation of the agency can then be used to make a persuasive case for any changes in the agency’s budget, a process vital to the effective scaling up and sustainability of the system.
- *Should the content of declarations be verified and, if so, how?* As a general principle, if an IAD system is to establish a *credible threat of detection* of illicit enrichment and conflicts of interest, then some sort of scrutiny of declarations is required. Beyond reviewing declarations to ensure that they are complete when submitted, there are various possible approaches to reviewing declarations to ensure that the information is accurate. These approaches include (a) checking individual declarations for internal consistency, (b) comparing declarations to monitor changes over time, (c) cross-checking declarations with external sources and databases (land and auto registries, tax and banking information, credit scores, data on assets in foreign jurisdictions, and so forth), and (d) conducting lifestyle checks (to verify that lifestyle is consistent with income). Reviewing declarations to ensure that they do not present any indicators of potential or actual conflicts of interest requires (e) analyzing declarations for potential incompatibilities (or conflicts between private interests and official duties).

An IAD agency’s ability to cross-check the content of declarations for accuracy depends on the existence and availability of external sources of data against which to compare the income and assets declared by officials (for example, banking and tax information; land, auto, and other property registries). If these data sources are available (particularly if online) or if there is effective collaboration among agencies, then it may be possible for the agency to verify a relatively large number

of declarations for the accuracy of certain categories of income or assets. However, in many countries the availability of such data sources is mixed, and in some it is very patchy. As such, strategies for reviewing the content and verifying the accuracy of declarations should take these factors into account and tailor review strategies to make the most of available data sources.

If availability is patchy, then adopting a combination of the review approaches listed above may be advisable. If data sources are not available, then an agency might need to place more emphasis on lifestyle checks. Allowing public access to the content of declarations makes this approach more viable, particularly when combined with a public complaint mechanism that allows the IAD agency to rely on public allegations to trigger more comprehensive reviews or lifestyle checks or, ultimately, investigations. The existence of interested civil society organizations and an independent media will significantly increase the viability of this approach, and under such conditions can be a cost-effective strategy for an IAD system. (See section 3.2 on verifying the content of declarations and section 3.4 on public access to declarations.)

- *Should public access to information about the content of declarations be provided and, if so, how?* Public disclosure of IAD information can contribute to the effectiveness and credibility of an IAD system. Disclosure is useful because it allows citizens to be informed, to make educated decisions at the ballot box, and to pressure their elected representatives to address any concerns raised by that information. It can also enable an IAD system to enlist civil society in supporting the verification of declarations, potentially enhancing the enforcement and credibility of the system (although the risk of initially damaging credibility also exists for systems that are building capacity under the pressure of high expectations).

While public access is a valuable complement to verification, it is not a substitute; effective verification is a specialized task, even more so in COI systems, requiring legal knowledge usually beyond the abilities (or budgets) of most civil society organizations. In countries with an independent media and a vibrant civil society, however, civil society organizations may be able to conduct lifestyle checks that lie beyond the resources and capacity of what the implementing agency can realistically achieve. Public disclosure can thus work as an added deterrent to the abuse of office, given the additional scrutiny it can afford. Media interest in disclosures during election periods may be particularly high.

Whatever the approach taken, balancing privacy issues with the public's right to know is an important consideration. The real value of public access might in fact lie less in its potential to contribute to the verification functions of the system than in reinforcing the message that a public official's duty to accountability is in the public's interest. This benefit is lost in countries where public access is not granted or income and asset declarations are treated as confidential. (See the discussion of public access in section 3.4.)

- *What kinds of sanctions should be applied in case of noncompliance?* If the necessary conditions are in place for an IAD system to detect illicit behavior, the final test of an IAD regime lies in its ability to establish a *credible threat of consequences for violations of the IAD requirement*. It is important that countries craft appropriate and proportionate sanctions and that these be consistently enforced. Sufficient political and leadership support for the IAD system is fundamental in this regard, to ensure that the implementing agency has the necessary authority to enforce the provisions of the IAD regulations. Sanctions can range from minor administrative sanctions (such as fines, reprimand, publication of violation in the official gazette) to more serious administrative sanctions (such as suspension from duties, removal from office, temporary suspension of pay)—usually for noncompliance with the submission requirement—to criminal sanctions—for filing false information, for example.

It is particularly important for the credibility of the system that proportionate sanctions be imposed for false disclosures and for late filing or nonsubmission of a declaration. In determining what kinds of sanctions to apply for different kinds of violations, consideration should be given to the enforceability of the sanctions and its perceived impact on compliance. For example, if the courts are reluctant to enforce criminal sanctions for filing violations, then a prison term, if unlikely to be enforced, could be as ineffective a deterrent as a small fine, with consequent erosion in public confidence in the IAD system.

In such circumstances, serious administrative sanctions for the violation of the IAD requirement might be more effective, leaving room for a subsequent investigation and possible criminal prosecution by the appropriate law enforcement agencies for any acts of corruption that were concealed by the false declaration. The severity of sanctions thus needs to be calibrated both to their enforceability and to their potential for deterring noncompliance.

As a general principle, these considerations are based on the need to set achievable goals. Understanding the context, building capacity incrementally, and managing expectations are vital considerations in this respect. It is also important to note that these considerations will differ when designing a new IAD system or when upgrading or reforming an existing one. An incremental approach is likely to be even more important in a new system while capacity is being developed.

- *Understanding the context.* As the above considerations illustrate, the effectiveness of an IAD system is, to a large extent, dependent on elements of the broader institutional, cultural, and political environment in which it operates (effective prosecution in the courts for the enforcement of criminal sanctions; the availability of banking, tax, or property databases for verifying declarations; degree of institutionalization of ethics codes and their enforcement in the public sector, and so forth). These elements could ultimately determine the effectiveness of an IAD regime. An assessment of these factors prior to designing or upgrading an IAD system is, therefore, important to ensure a good fit between the agency's role, functions, and procedures and the broader environment. The key principle here

is that *context matters*. These external factors should also be reviewed as they evolve and change over time. And it is worth noting that an IAD agency and its procedures may influence developments in the broader environment. For example, an IAD agency can proactively work to alter public understanding and attitudes toward ethics and corruption, thereby altering the environment in which it operates.

- *Building capacity incrementally.* While there is no single or standardized approach that will work in every context, systems that begin with too many requirements, such as too large a pool of filers, and with inadequate institutional capacities to manage and enforce compliance are more likely to fail than those that start with modest, manageable objectives. Building capacity incrementally can be achieved by, for example, gradually expanding the submission requirement to a widening pool of filers, beginning with the most high-ranking officials; by putting in place the capacities and procedures for managing submission compliance before introducing verification procedures; or by limiting costly functions, such as verification, to a fraction of total declarations, either by systematic, random sampling of declarations or by risk-based selection of declarations for verification.
- *Managing expectations: Establishing the credibility of the system with stakeholders.* Credibility of government efforts to establish and enforce IAD systems goes a long way toward establishing a “culture of integrity” that instills behavioral norms of ethics in government. Fostering confidence in an IAD system’s ability to enhance transparency can positively shift perceptions of corruption, which in turn influences behaviors. The process of developing IAD systems is often highly politicized, however, and managing expectations during what can be a lengthy process of debate and gradual implementation can be vital to its success.

IAD measures that are launched with great fanfare in the wake of corruption scandals or as part of sweeping anticorruption promises by a new administration are particularly prone to result in disappointment or, more difficult still, in a vigorous political pushback. It is of fundamental importance that expected outcomes be achievable and that these expectations be clearly expressed to all stakeholders at the outset. Managing expectations requires a commitment to considering the political economy around the IAD system and taking into account the considerations discussed above to ensure its effectiveness. Participatory consultations in the design phase and the clear communication of objectives and expected results will help manage expectations and sustain the credibility of the system over time. Most public attention is focused on the discussions leading up to the drafting of new IAD legislation, when expectations are extremely high. Exaggerated statements about the ability of new programs to “wipe out corruption” can extinguish the goodwill associated with anticorruption campaigns, particularly when promises of swift and comprehensive outcomes are not met.

2. Elements of an Income and Asset Disclosure System

The administration of an income and asset disclosure (IAD) system depends on the following elements:

- The statutory and regulatory frameworks
- The institutional arrangements necessary for the implementation of the system
- The scope and coverage of the system
- The administrative functions and institutional capacities necessary for the system to operate

The design of an IAD system will depend on the system objectives. As explained in chapter 1, there are two general models of an IAD system linked to two distinct objectives: (a) the identification and prevention of conflicts of interest and (b) the detection and prevention of illicit enrichment. However, countries focused exclusively on one model or the other are in the minority. Most countries use a combination of these models to meet governance objectives associated with a financial disclosure regime. In the early stages of designing or overhauling an IAD system, decisions about resources and procedures should be tied to these system objectives. The chief consideration in determining the optimal arrangements for an IAD system is to ensure that the system is able to achieve its goals, and that the implementing agency has the independence and the necessary resources and authority to fulfill its mandate. These arrangements may also impact the implementing agency's ability to coordinate with other institutions, a vital element in the enforcement of the system.

2.1 Regulatory Frameworks

A successful asset declaration law does not exist in a vacuum. Rather, the objectives of an asset disclosure system—improving public integrity and maintaining the confidence of citizens in government institutions—are best achieved when the disclosure requirement is “anchored” in a set of legal norms obligating public officials to behave in a certain manner. Such norms are commonly set out in administrative, civil, and status laws; in criminal laws; and in ethics codes.¹³

13. Article 52(5) of the United Nations Convention against Corruption (UNCAC) also contains a specific provision for income and asset disclosure: “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.”

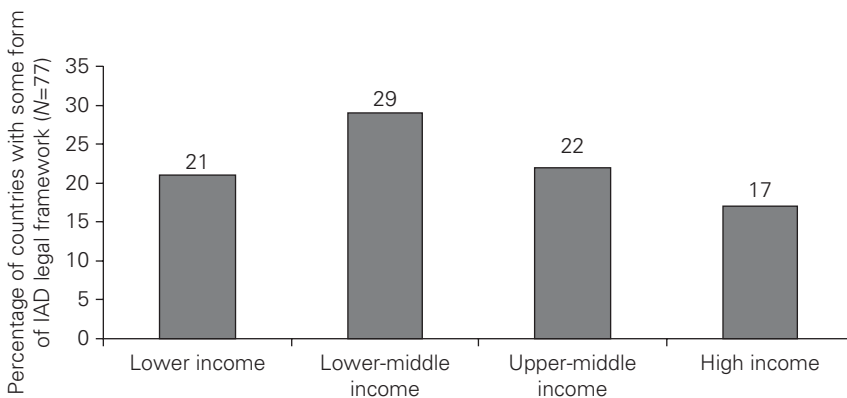
Provisions requiring declarations of public officers have usually been incorporated in one of two ways. They are included in a comprehensive set of anticorruption laws or are adopted as stand-alone legislation or as a code of conduct. Whatever the approach, a clear nexus between an ethics code or a criminal code and the IAD system provides the following advantages:

- *“Anchoring” asset disclosure to norms in a code of conduct provides the official with additional motivation to complete the form in a timely, complete, and accurate manner.* For their part, ethics codes can function as a professional statement, expressing the public service’s commitment to a specific set of ethical standards. They also make it more likely that officials will view asset disclosure as a duty-bound act rather than an empty bureaucratic exercise.
- *Linking the IAD system with an ethics, civil, administrative, or criminal code provides technical IAD parameters.* For example, if a policy decision, as reflected in an ethics or other code, only prohibits the acceptance of gifts by officials above US\$50, the declaration form would not need to require disclosure of any smaller amounts. “Anchoring” would thus improve consistency between implementation of the IAD system (that is, what is actually required on the forms) and its legislative or regulatory mandate, and would provide clear guidance to the implementation agency on a system’s priorities.
- *Anchoring provides legitimacy for the enforcement of IAD laws by creating an explicit link between disclosure obligations and sanctions resulting from prohibited unethical or criminal behavior.* For example, a public official’s spouse inherits a large holding of stock in an oil company while the official has an official position in an energy regulatory agency. Without a code that emphasizes the problem of using public office for private gain, a request to divest based on his or her disclosure would seem petty and illogical. Any such rule would appear all the more arbitrary were it not grounded in an ethical or behavioral norm. Where the sanction is justified, however, and explicitly identified in relation to a violation of an ethical rule (for example, do not use your private office for public gain), the system gains legitimacy because the official more clearly understands why his or her transgression is unacceptable. This legitimacy, in turn, encourages compliance and respect for the rule of law. Further, in the case of criminal penalties, these sanctions provide an added, strong deterrent effect owing to the stigma associated with criminality and to the more severe sanctions carried by criminalized behavior.
- *A code provides the predicate for requiring disclosure of sensitive personal information.* By tying disclosure to a code, a filing official gains an understanding of why he or she must reveal sensitive personal information about his or her income or assets. Viewing this privacy encroachment in light of his or her ethical duty to serve the public interest, officials are more likely to comply with IAD obligations because they appreciate the reasonableness of the rule.
- *Anchoring asset disclosure in a code of ethics or criminal, civil, or administrative provisions permits the IAD system to continue to develop organically through the refinement of rules by judicial or administrative authorities.* Interpretation of criminal law provisions generally falls under the prerogative of a country’s judicial authorities. Ethical codes of conduct are commonly clarified through

advisory opinions issued by the regulatory body charged with the implementation of rules of ethics (as, for example, in the United States). The expanding body of rules emanating from these organs can thus ensure that the IAD system remains current, fair, and rooted in the legal and constitutional principles of the particular country.

The clear definition and codification of an IAD system—the legal description of its function, and its grounding in criminal, civil, and administrative rules and sanctions—is necessary to its success and effectiveness (Bigelow 1989, 44; de Michele 2001, 14; OSCE 2004, 135). The authority vested in those occupying positions of power, such as presidents, judges, and members of parliament and Congress, requires that IAD frameworks be both institutionalized in terms of behaviors and codified by law, with sufficient authority vested in the responsible body or agency to fully implement its provisions (Orentlicher, forthcoming). These authorities could include the ability of the agency to hold administrative hearings, make referrals to a special judicial body, or other direct or indirect mechanisms of removal from post or curtailment of official responsibilities of the official involved (for example, inability to vote or sign official documents or contracts). In the Public Accountability Mechanism (PAM) dataset, 88 percent of countries had some form of IAD legal framework in place; the remainder did not specify IAD requirements for any category of official. As shown in figure 2.1, fewer low-income countries regulate IAD for public officials and their family members, while lower-middle-income countries show the highest percentage of disclosure regulations, at close to 30 percent coverage in the sample. High-income countries tend to avoid disclosure regimes for all civil servants for several reasons, including the sheer volume of declarations that would be generated, or the lower risk of corruption posed by low-level and midlevel civil service positions.

FIGURE 2.1 Existence of IAD Legal Frameworks by World Bank Country Income Classification



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

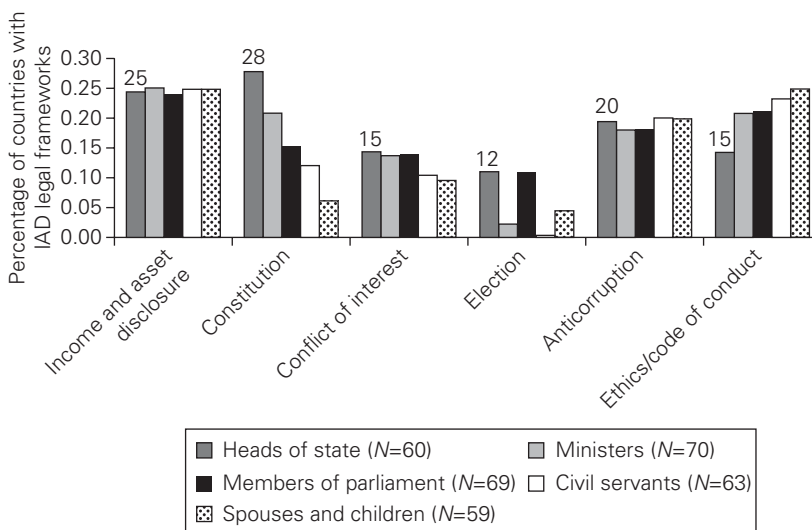
Note: For details on income classification, see <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>.

Constitutional provisions can help entrench IAD requirements in the legal framework, and can serve as the foundation for statutes and implementing regulations that provide the specific parameters of the responsible agency’s mandate and the procedures for administering the disclosure requirement. Constitutional IAD provisions are more common for heads of state, members of parliament, and ministers, and are rare for civil servants, a distinction that reflects the different duties to accountability of elected or politically appointed officials, and of career civil servants, whose ethical obligations are more likely to be covered by civil service laws. Twenty percent of countries in the PAM dataset have constitutional IAD requirements, but less than half of those countries have passed implementing regulations putting IAD systems into practice.

IAD laws are fairly common, though they occasionally coexist with other laws. Election laws for heads of state and members of parliament often contain prescriptions for IAD filing as part of the candidature process (this is common in Eastern Europe and some parts of Sub-Saharan Africa). Status laws, which are laws that pertain specifically to certain categories of public official (civil service laws, laws for members of parliament, laws on the presidency, and so forth), also can contain IAD provisions.

As shown in figure 2.2, a specific asset disclosure law is the most common arrangement for regulating disclosure requirements, though conflict of interest and anticorruption laws are prevalent in about 10 to 15 percent of cases. Very few countries use a code of conduct as the sole instrument to govern an IAD framework, and in those countries where it is used (Norway, the United Kingdom, the United States), only members of parliament or members of Congress are subject to its provisions. However, when combined with ethics regulations, codes of conduct are regularly applicable across all categories of filers.

FIGURE 2.2 Types of Laws as Applied to Different Categories of Filers



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

It is uncommon for a civil service law, or any status law, to serve as the only framework for IAD; often there is another law that lays out the general IAD architecture. IAD-specific laws are more prevalent for civil servants, while conflict of interest laws and anticorruption laws are more common for members of parliament. In fact, IAD for civil servants is occasionally regulated by a controlling anticorruption or financial disclosure law and buttressed with a civil service law, such as in Azerbaijan, the Slovak Republic, and Tajikistan.

Approximately 11 percent of countries in the PAM dataset used for this study pass implementing laws or decrees to put their IAD systems into practice. The remaining countries with functioning IAD systems rely on the implementing agency's internal guidelines and operating procedures. Implementing regulations allow a certain level of transparency but tend to be fairly inflexible, particularly when responding to deficiencies codified in law, or when the design needs to be modified to rapidly changing circumstances. Where possible and appropriate, ministerial or presidential decrees can also be used to modify implementing procedures, but this requires the engagement of senior-level officials in policy decisions about the implementation of the IAD framework. Internal guidelines, procedures, and manuals are much more adaptable in this respect, and may be more appropriate for new IAD systems that will invariably need to adjust the implementation process as it progresses. Major benefits of issuing regulations, however, are stability and legitimacy, ensuring that the implementation process is not obstructed by an unsupportive government or uncooperative agencies.

Internal operations manuals are sometimes used in lieu of implementing laws or to complement laws, such as in Indonesia, Jordan, and Rwanda. In Jordan, the instructions for organizing the IAD department are issued by the Council of Ministers according to the recommendations provided by the Ministry of Justice. An operational manual is then drafted and approved by the head of the IAD department, the head of the quality control department, the head of institutional policies and development department, and the deputy minister of justice in accordance with the IAD law and the instructions on organizing the IAD department. The Commission for the Prevention of Corruption in Slovenia issues implementing legislation as required by law, and also writes operating procedures that are posted on the agency website. Argentina; Hong Kong SAR, China; and the United States also use both regulations and operating manuals to implement their IAD frameworks, which reflects the federal nature of the system and the autonomy of agencies to issue their own administrative regulations in line with IAD laws.

2.2 Institutional Arrangements

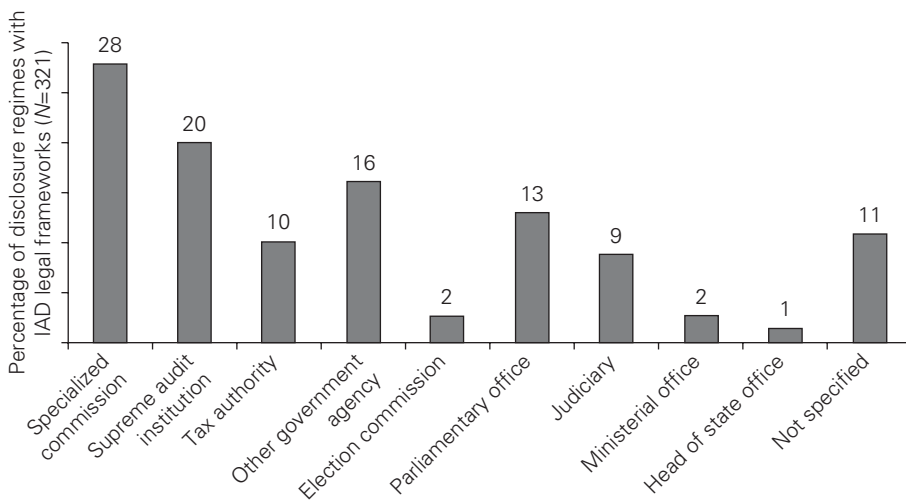
There is broad diversity in the type of agencies responsible for managing IAD systems around the world. This diversity derives, in part, from differences in the purpose of the systems, but also stems from the political circumstances and institutional environment in which they emerge. Federal systems might employ a different agency for different levels of government (as in Argentina), and different agencies may be charged with financial disclosure administration for different branches of government (as in Croatia,

for example, where most public officials file declarations with a parliamentary commission, while prosecutors and judges file with the human resources (HR) administration of the Ministry of Justice). The variety in the type of agencies designated by law to manage IAD administration is illustrated by figures 2.3 and 2.4 (showing a sample across 87 countries). While specialized commissions are assigned submission and enforcement functions more often than any other institutions, civil service agencies, supreme audit institutions, tax authorities, and parliamentary commissions may also be assigned functions within an IAD framework.

The decision of whether to have a single agency overseeing declarations by all branches of government can be difficult. Issues of capacity, logistics, and scale may be a consideration, but determining factors are more likely to be political. On the one hand, legislatures are often reluctant to enforce ethical rules against their own members. On the other hand, an agency controlled by the executive branch can be perceived as pliable to being used as a political weapon. There is no one right answer to this question. One option is to rely on different bodies for each branch, while ensuring that each is relatively independent. For instance, a legislature can create a nonpartisan, independent ethics body to administer its own IAD system. Regardless of the specific institutional design, the key is for policy makers to weigh the relative concerns of each branch.

IAD systems also vary in the degree to which the administration of declarations is centralized or has specific functions delegated to line agencies and other government

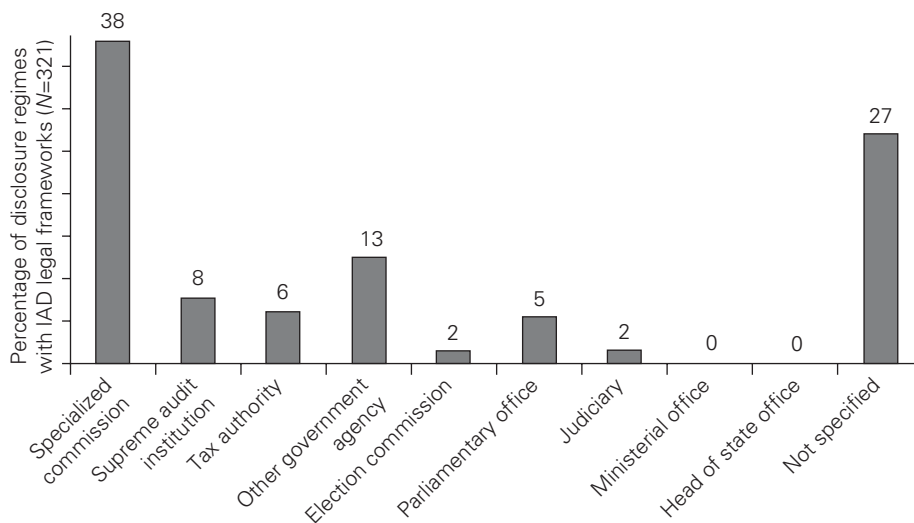
FIGURE 2.3 Types of Agency with Responsibility for Receiving and Managing Declarations



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

FIGURE 2.4 Types of Agency with Responsibility for Enforcing IAD Regulations



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

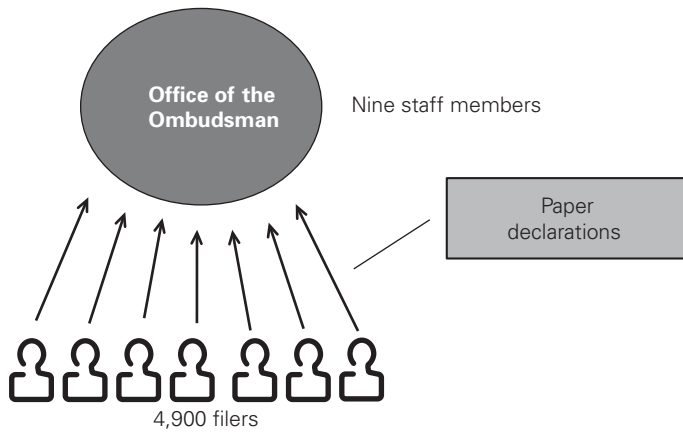
Note: There are 435 possible disclosure regimes, if all countries ($N = 87$) covered all categories of filer ($N = 5$): heads of state, ministers, members of parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

bodies, usually to HR departments or designated ethics officials, where these are used. There are many advantages to this approach, with the important caveat that the effectiveness of delegated functions may depend on close collaboration between the central IAD agency and the individual HR offices, and on the capacities of the latter. (Argentina and the United States are examples of systems where certain functions or responsibilities are delegated to HR offices or entrusted to designated ethics officials.) Figures 2.5, 2.6, and 2.7 illustrate examples of centralized and delegated submission systems.

Since conflict of interest (COI) systems tend to be focused on prevention and on adopting an advisory relationship with filers, it can be preferable that advisory and verification and enforcement functions are managed by separate units or separate departments within the same agency. This is particularly important if the system also monitors the wealth of officials to detect illicit enrichment.

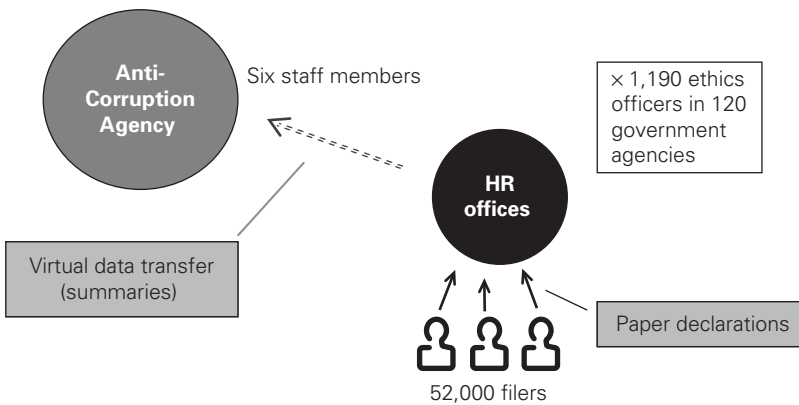
As figures 2.3 and 2.4 illustrate, the institutions responsible for IAD administration include specialized commissions, supreme audit institutions, tax authorities, and political bodies (such as parliamentary commissions and election authorities). When a responsible agency is not designated by law, there is a greater risk that the system will not be implemented in practice. Specialized anticorruption commissions are slightly more likely than other agencies to have designated IAD responsibilities. These commissions tend to have independent budgets and in some cases independent police powers and investigative capacities, which can help ensure that an IAD system is taken seriously. Parliamentary commissions, however, may be subject to greater

FIGURE 2.5 Centralized Submission System Using Paper Declarations—Example: Rwanda



Source: Authors' compilation.

FIGURE 2.6 Delegated Submission System Using Paper Declarations and Electronic Summaries—Example: Mongolia



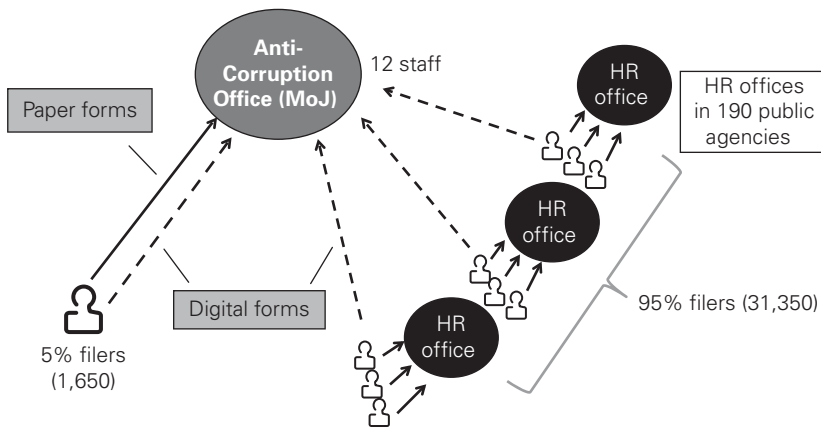
Source: Authors' compilation.

political pressures and have shown that they are (too) often misused for (party) political purposes and gains because of their institutional location within the political branch of government.

2.2.1 Splitting Functions across Institutions or Departments

Some systems house review and verification functions in a separate entity from the body that receives and stores declarations, or at least in a separate department within

FIGURE 2.7 Delegated Submission System Using Paper and Online Declarations—Example: Argentina



Source: Authors' compilation.
 Note: MoJ = Ministry of Justice

the same agency. This division of labor may help a fledgling system to build capacity, and can provide a useful check on the operations of the other agency. Creating separate units for monitoring filing compliance, providing COI guidance, and conducting preliminary investigations can also mitigate potential tensions between an agency's advisory and enforcement roles. It may also facilitate a better matching of qualifications and salary with responsibilities (box 2.1).

2.2.2 Delegating Functions to Line Agencies

As noted, systems where all functions are centralized and those where some are delegated to line agencies present very different challenges and benefits. Both administrative and substantive functions can be delegated to line agencies, usually to the HR administration office or to designated ethics officials within the agency. Administrative functions can include tasks associated with developing and maintaining the list of filers, notifying officials of the obligation to file, and receiving and storing declarations. Substantive functions can include reviewing or analyzing the content of declarations and providing filers with COI guidance. Delegating functions can be exceedingly helpful if the implementing agency faces constraints on its ability to handle the entire volume of work associated with managing submission compliance. (The Mongolian, Argentine, and U.S. systems provide examples of systems with delegated functions; see box 2.2.)

There are drawbacks, however, to this strategy: the implementing agency must ensure that each of the responsible offices or units in the line agencies reliably follows the rules and regulations, and provides reports regarding its activities, including on submission compliance rates. Uneven capacities across line agencies and the added difficulty of ensuring uniform approaches to enforcement may make it preferable to delegate administrative functions designed to alleviate the submission compliance burden on the implementing agency, rather than review or investigatory functions. The central implementing

BOX 2.1**Splitting IAD Functions across Institutions or Departments: Guatemala, Argentina, and the United States**

In Guatemala, where the IAD system is designed primarily to detect illicit enrichment, the role of IAD implementation falls on two separate units—the Departamento de Declaración Jurada Patrimonial and the Departamento de Análisis, Verificación e Investigación Patrimonial. In broad terms, the Departamento de Declaración Jurada Patrimonial maintains the register of officials obligated to submit declarations, ensures the timely and correct submission of declarations, levies fines for noncompliance, and manages the storage of declarations. In contrast, the Departamento de Análisis, Verificación e Investigación Patrimonial performs investigations of a sample of declarations selected from a high-risk pool (about 1 percent of the total), and compares assets declared on entry and on departure from office, to detect any suspicious increases.

Argentina, which focuses on both the prevention of conflicts of interest and illicit enrichment for the federal executive branch, has split submission compliance and verification functions and formal investigations between the Unidad de Control y Seguimiento de las Declaraciones Juradas (IAD Unit) and the Departamento de Investigaciones (Investigations Department), which handles all corruption-related investigations. There are separate offices within the IAD Unit responsible (a) for managing submission compliance and verifying declarations for illicit enrichment and (b) for verifying declarations for potential conflicts of interest and providing guidance in such cases. When the IAD Unit detects irregularities that suggest illicit enrichment, or confirms that a conflict of interest has existed, it refers the case to the Investigations Department, where a formal investigation is undertaken and, potentially, a criminal prosecution launched. The Investigations Department also requests access to declarations for ongoing investigations if these are required or useful as evidence.

In the United States, where the primary purpose of the federal-level IAD system is the detection and prevention of potential conflicts of interest, there is no distinct unit charged with verifying the accuracy of declarations. The implementing agency, the Office of Government Ethics, and designated agency ethics officials are primarily charged with the management of declaration forms, referring a case to prosecutorial agencies (the Inspector General’s Office, the Federal Bureau of Investigation, or the Public Integrity Section of the Department of Justice) when a complaint is received or an illegality is detected on the declaration.

agency may also want to develop mechanisms to facilitate oversight of the delegated functions. The double submission system in Argentina enables the central agency to delegate submission compliance functions to line agencies, and also to keep an eye on submission rates thanks to the electronic submission of declarations (see box 2.2). The appropriate approach or balance will depend on the needs and capacities in each country. Enabling public access to the content of verifications may also be more complicated when submission functions are delegated. If the data are to be published online by the central unit, this process will depend on the effective and timely transfer of data by the line agency. If public access is given to the hard copy of declarations, then there is a risk of nonstandardized public access practices by line agencies across the country.

BOX 2.2**Delegated IAD Submission Processes in Mongolia, Argentina, and the United States**

The delegation of IAD functions can take many forms.

In Mongolia the vast majority of the responsibility for the management and enforcement of the system lies in the hands of the Independent Agency against Corruption (IAAC). However, receiving and storing the declarations of civil servants is handled by designated ethics officials in each line agency, thereby requiring close collaboration between the anticorruption agency and the responsible officials in individual line agencies.

A designated asset declaration official in each agency maintains the list of individuals who must declare their assets and monitors whether they submit their declarations on time. Once a declaration is submitted, this official is responsible for transferring the data on the hard copy of the form to an electronic file, which is then transmitted to the IAAC, a vital step to permit oversight of the data by the central agency. All other functions of the IAD system are then handled by the IAAC itself. This approach was adopted as a direct result of the IAAC's inability to handle the workload of transferring the contents of over 52,000 hard-copy declarations to electronic files.

Argentina has also delegated certain functions to the HR administration offices of line agencies. Although the system is administered and enforced centrally, 95 percent of declarations (for about 33,000 filers) are physically received and housed in the 190+ line agencies in which officials are employed. Filers submit their declarations electronically (online and encrypted) to the central IAD Unit, print and sign a hard copy of the declarations, and submit this to their local HR office.

Local HR offices are responsible for reminding officials of the obligation to file, for providing support to filers, and for advising the IAD unit in the Anticorruption Office in the Ministry of Justice of changes in the register of obligated parties. They also archive the hard copies of declarations for record-keeping purposes. The most senior 5 percent of government officials submit their electronic and hard-copy declarations directly to the IAD Unit (see figure 2.7). Thanks to electronic submission, the central IAD Unit is able to monitor submission compliance remotely (which it does in coordination with HR offices). It can also handle all verification procedures using electronic data generated by the filers themselves. Electronic submission also facilitates coordination and communication between the IAD Unit and local HR offices, enabling the IAD Unit to track HR offices' performance in handling submissions by local staff and to provide support or guidance to HR offices where needed.

The United States devolves even greater responsibility to line agencies than do Mongolia or Argentina. There, each individual line agency has an ethics office that is responsible for administering its own IAD processes. The central Office of Government Ethics is primarily responsible for setting broad policies for each individual line agency to follow and assists them in implementing their own systems, which can vary somewhat in terms of support provided to filers and in the speed of enforcement actions. However, the Office of Government Ethics retains a strong regulatory function that enables it to provide significant guidance to the individual agencies.

In most systems, the enforcement of administrative sanctions and the criminal prosecution of IAD violations (where applicable) will be administered by agencies other than those directly responsible for receiving declarations and ensuring compliance with IAD requirements. When administrative sanctions such as fines are to be enforced, the IAD agency will typically notify the HR office of the line agency where the official is employed. For more serious violations, it may be a case of notifying administrative tribunals or, where criminal sanctions apply, of referring the case for formal investigation to the Prosecutor's Office or a specialized anticorruption investigation agency, depending on the institutional arrangements in the country. Good communication or coordination between the IAD agency and these administrative or enforcement bodies is therefore important.

2.3 Scope and Coverage of the System

The scope and coverage of an IAD system are determined by the following three policy parameters:

- Who is required to file
- What information filers are required to declare
- How often filers are required to declare

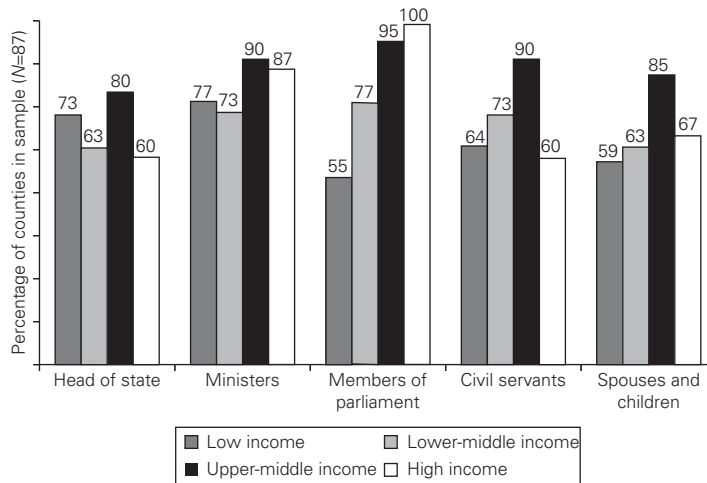
The scope and coverage of an IAD system is defined by law and will depend on the objectives of the disclosure regime. Systems vary widely in their scope and coverage, from those with small filing populations, required to submit brief or simplified declarations, to those with an extensive filing population and a comprehensive disclosure requirement. The frequency with which officials are required to submit or update declarations also varies widely.

New or emerging IAD systems or those undergoing reform can run the risk of becoming too ambitious in scope or coverage. The consequence may be that they adopt a mandate and objectives that exceed their institutional capabilities (Demmke et al. 2007, 132) or that are impracticable given existing constraints in the broader environment. Policy decisions that establish the scope and coverage of an IAD system should reflect careful consideration of the budget that will be devoted to implementing the system and the resources available to the implementing agency, including the demands and benefits of various degrees of electronic data management, from fully electronic submission processes to the manual transfer of data from declaration forms to searchable databases.

2.3.1 Who Is Required to File?

The scope and size of a filing population varies widely from country to country, from systems that require that all public officials submit a declaration to those that require

FIGURE 2.8 Coverage of IAD Legal Frameworks by World Bank Country Income Classification



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: For details on income classification, see <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>.

only that high-ranking officials disclose (see figure 2.8).¹⁴ Universal or very extensive coverage is often impractical and unnecessary, and few systems choose this approach. IAD systems that require all or a very large proportion of public officials to disclose their income produce massive amounts of sometimes very detailed information that is difficult and time-consuming to process and monitor (Chêne 2008, 3; Messick 2006, 2). IAD regimes that are overly ambitious in this respect must dedicate significant resources to monitoring filing compliance and will likely fall short in their ability to administer other elements of the system, and thereby risk its credibility. This is particularly burdensome for systems that do not (or cannot) delegate submission procedures (as discussed earlier in section 2.1).

Moreover, an IAD system with very broad coverage can appear to send a message that the authorities are taking a comprehensive approach to tackling corruption and instilling public ethics, while in effect ensuring that the system is unable to function. Limiting the scope of coverage to focus on high-level or high-risk positions can help ensure that the agency does not overstretch its capacity and is able to adequately implement all the functions associated with the disclosure requirement (Mukherjee and Gokcekus 2006, 325). Two broad criteria can be applied in limiting the scope of coverage: (a) a targeted approach to coverage based on *duties or function* or (b) a tiered focus to coverage based on *rank*.¹⁵

14. Although the range of officials obligated to declare varies widely, coverage may encompass heads of state, ministers and members of cabinet, members of parliament, senior staff members of government agencies, heads and senior staff members of publicly owned enterprises, senior civil servants, and judges and senior members of the judiciary (in some systems, judges and public prosecutors are covered under a separate system, as are the military and police). Some systems also cover candidates for elected office.

15. See also the discussion of these approaches in OECD (2011, 32–43).

Targeted Coverage Based on Duties or Function

Determining which public officials are subject to the requirement to file will depend in part on the objectives of the system. Filers may be classified by post or function. Classification by post would mean identifying filers by title (minister, director, and so forth); classifying by function would mean identifying filers according to their mandate (collecting revenues, administering procurements, granting benefits or licenses, and so forth). Systems oriented toward preventing conflicts of interest may require disclosure only by those in a position to abuse their office, such as through the granting of public contracts and concessions, the development of policy, or the drafting of legislation (OGE 2005, 7). Alternatively, if detecting illicit enrichment is a primary objective, it may be more effective to target positions likely to provide opportunities for illicit gain, such as those with the authority to handle public funds or to grant benefits on behalf of the government, such as licenses or building permits. This approach can result in a very broad coverage, however, given that the number of officials in “at risk” positions is likely to be large (Demmke et al. 2007, 132; OECD 2006b, 11). Taking the additional step of establishing a minimum threshold (relating to the value of transactions handled as part of official duties, responsibility for certain types of fiduciary oversight procurement, and so forth) can keep the size of the filing population within manageable limits. Establishing such a threshold will prevent the system from casting too wide a net that would generate a large administrative burden on the agency, and thereby impose an unnecessary requirement on junior officials to submit a declaration, for example, officials who process the payment of parking fines (Messick 2009, 7).

Tiered Coverage Based on Rank

Another approach is to target public servants who hold positions of a certain rank (Chêne 2008, 3; OECD 2011). This strategy is based on the assumption that high-ranking public officials may have more discretion and authority to abuse public office. One of the advantages of this strategy, since it is based on a pyramidal approach to coverage, is that the task of maintaining and updating the register of officials obligated to file is somewhat easier than an approach based on targeting positions of risk across several levels of government. This approach can also be adopted to facilitate the incremental rollout of a new or emerging system, whereby the requirement to disclose is successively rolled out to progressively lower tiers of officials, beginning with the most senior elected officials, while the agency develops both its credibility and its capacity to implement the system. A possible way of simplifying the task of identifying officials above a certain rank is to set a threshold based on salary. This is the approach used in Guatemala, for example, where the cutoff point for the requirement to submit a declaration is officials who earn more than 8,000 quetzales a month (approximately US\$1,000).

Declarations by Spouses and Children

Officials determined to misuse public office or to siphon public money for personal gain will seek ways to circumvent oversight mechanisms (see Transparency International 2004). Assets or illicit income can be hidden in the name of family members, including spouses and offspring. In an attempt to address this risk, some countries have extended the obligation to file to family members, typically to spouses and to minor

children, but in some cases also to close associates or household members. Kenya, Nigeria, Tanzania, and Uganda require separate declarations for spouses and children (Chêne 2008, 4). Other systems require that an official include in his or her declarations details of the income and assets of his or her spouse and minor children. In Slovenia, the declarations of the assets of spouses, children, and household members are only requested if there are reasonable grounds for suspicion that an official is concealing income or assets. Expanding coverage to household members and associates will provide an added layer of scrutiny, but will not necessarily deter a determined official from concealing assets elsewhere. In some countries, the requirement that spouses' and children's assets be declared has led to increased debate surrounding privacy rights.

2.3.2 What Information Are Filers Required to Declare?

Income and asset declarations vary considerably from one system to the next, in terms of the length of the form and the level of detail and complexity of the information it requires (see sample declaration forms in appendix A). In general, this variation should reflect the purpose of the system, the level of scrutiny it is intended to provide, and the agency's ability to handle detailed or complex information on income and assets. IAD systems tend to include the same basic categories of information on declaration forms: assets, liabilities, and income sources. It is the kind of detail required, and what is done with the information, that differentiates one system from another and will influence its effectiveness.

Although practices vary widely, two general principles are discernible with regard to the content of declaration forms:

- IAD systems focused on identifying and preventing conflicts of interest will emphasize the disclosure of *sources of income* and the *identification of business interests*, including (in many instances) membership on company boards and ownership of shares. COI systems may also require that the *value* of assets be declared, sometimes in the aggregate. Details of the provenance and value of *gifts* may also be included.
- Systems focused on monitoring changes in wealth with a view to preventing and detecting illicit enrichment will emphasize disclosure of the *value of assets* (either in the aggregate or within a certain band of value (that is, whether the total value of a category of assets falls within a range of US\$5,000 to US\$25,000 or US\$25,001 to US\$50,000, and so forth). Illicit enrichment systems usually require a greater degree of itemization of assets than do COI systems, including the make and model of cars, the value and identification of real estate, and so forth), and the *amount of income* officials earn from employment outside their formal duties (in countries where outside paid employment is allowed).

Dual objective systems will typically require both types of information. In systems that require declarations of income and assets of spouses and minor children, the same requirements will apply.

Achieving a compromise between enough detail to enable the system to serve its purpose and not so much that the requirement becomes prohibitively burdensome for the filer and the agency is preferable. Some systems (like the one used for the U.S. federal government) have succeeded in institutionalizing the use of lengthy and detailed declaration forms. In such cases, a key to the success of the system is the availability of agency staff members or ethics officers to assist officials in understanding and completing the form. Guidance and assistance can also help reduce resentment about lengthy paperwork and reduce the risk of incomplete or incorrectly filed declarations. This approach is possible due to the extensive resources dedicated to the implementation of the COI system in the United States, an approach that would be impracticable where resources are scarcer.

2.3.3 How Often Are Filers Required to Declare?

The frequency with which officials are required to submit a declaration should be determined on the basis of factors that include the following:

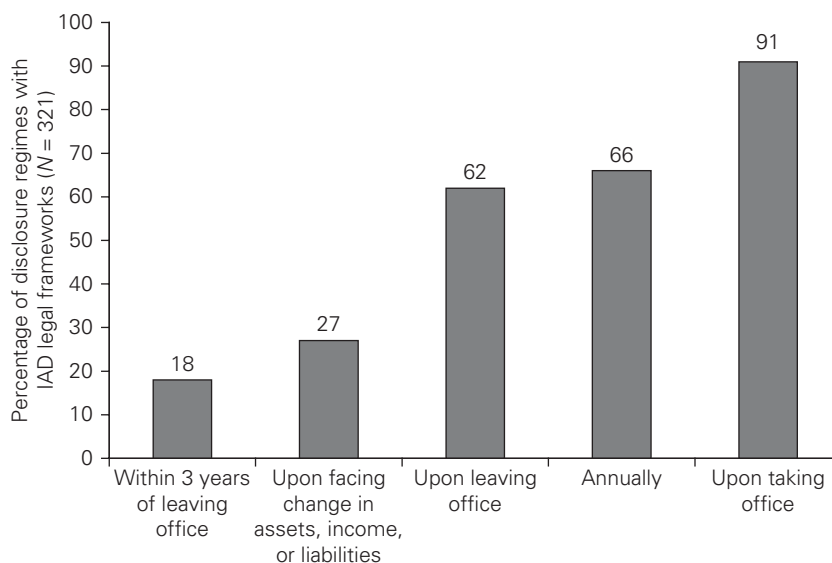
- The value of more up-to-date information in enabling the system to fulfill its mandate
- The agency's capacity to manage volumes of information
- The avoidance of an unduly onerous obligation on public officials, with its consequent risk of noncompliance

Entry and exit filing is a standard basic feature of most systems. This means that officials are required to submit a declaration upon taking up and leaving a post, usually within a fixed deadline (such as 30 days) following that date. Some systems also require declarations for a period after an official has left office (during the period in which former public officials are often prohibited from taking employment in sectors associated with their official duties), or in some cases for candidates running for election. Most systems also require that officials submit declarations while in office, either periodically—usually on an annual basis—or whenever there is a significant change in the value of their income or assets (ad hoc declarations). Systems that require ad hoc declarations place the onus for compliance on the filer. France¹⁶ employs this approach, as does Croatia, for example. Although this approach is fairly prevalent, the requirement that all officials submit a new or updated declaration at the same time annually appears to be the preferred approach (see figure 2.9).

One of the difficulties in making the ad hoc approach effective is in determining where to set the threshold for what constitutes a *significant change* in income or assets. There is a risk that if the threshold is placed too low, then the administrative burden on the agency and filer may increase unnecessarily, without enhancing the efficacy of the system; place it too high and the agency may appear to be insufficiently rigorous in monitoring changes

16. In the European Union, a majority of countries provide an exact schedule of disclosure requirements, although the specifics vary. Polish legislators, for example, must file a financial disclosure statement within 30 days of taking office, and annually thereafter. Germany requires each member to file at the beginning of their four-year term, but also requires officials to report any additional income, honorariums, or gifts during that period. Some countries, such as the Czech Republic and Ireland, merely require that members file annually (Demmke et al. 2007, 70).

FIGURE 2.9 Frequency of Filing Requirements



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries ($N = 87$) covered all categories of filer ($N = 5$): heads of state, ministers, members of parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

in wealth, thereby undermining its credibility. The optimal threshold will vary in each context depending on the types of behavior that the regime is seeking to target.

In jurisdictions with more limited resources, keeping the threshold for ad hoc declarations relatively high will mean less frequent filing requirements and may yield a more credible and effective IAD system than would a lower threshold. In either case, an ad hoc filing requirement presents a heightened risk of noncompliance, given the inherent difficulty of determining a failure of omission by officials who should have declared, meaning that the agency will also be unable to monitor and report on compliance rates. For resource-strapped systems, or systems that have not established a credible threat of detection and enforcement for violations, this could exacerbate public skepticism about the effectiveness of the IAD requirement as an anticorruption tool.

Some IAD systems require entry and exit declarations and an annual submission by all officials covered by the law. This is a fairly common approach and is used, for example, by Argentina, Slovenia, and the United States. In the United States, where approximately 25,000 public declarations and 250,000 confidential declarations are filed annually (and where the system requires that all declarations be reviewed and all filers receive guidance on potential conflicts of interest within 60 days of submission), there are ample personnel and technological resources to handle this requirement and the vast quantities of information submitted. In Argentina, it is likewise a decentralized and automated submission system that has made annual filing and targeted verification feasible for about 33,000 declarations annually.

A combination of entry and exit declarations and periodic updates while in office would appear to be preferable. Simplifying the periodic declaration requirement process as much as possible is important, because agencies will receive a large volume of declarations all at once, a challenge that all systems face with entry and exit declarations after elections. Giving filers the option of submitting an updated declaration, rather than a complete declaration every time, is one approach to simplifying periodic declarations. Indonesia, for example, has two declaration forms for this reason: one for the entry declaration upon taking up a post and another for updates while in office and upon leaving office. If an IAD agency is able to provide filers with a copy of their previous declaration(s), this can also help make the task easier for filers. Argentina, for example, is able to do this fairly easily thanks to its electronic data management procedures. Argentina also decided to adjust the timing of annual declarations to coincide with the tax declaration deadline, thereby alleviating some of the burden on filers by allowing them to prepare their tax and IAD declarations simultaneously.

In conclusion, the scope and coverage of an IAD system (meaning who files, how much information, and how frequently) should be designed with a view to optimizing the system's effectiveness given the capacity of the agency and the objectives of the system. IAD systems that require *all* public officials to disclose their income and assets produce massive amounts of sometimes very detailed information that is difficult and time-consuming to process and monitor (Chêne 2008, 3; Messick 2006, 2). Limiting coverage to high-ranking positions or high-risk functions (or rolling out coverage incrementally) can help ensure the ability of the agency to adequately implement and monitor the system, while building capacity and credibility (Mukherjee and Gokcekus 2006, 325).

2.4 Institutional Capacities

The institutional capacities of an IAD agency encompass its budget (both the funds at its disposal and its ability to manage its budget), human resources (including its hiring and training processes and the skills complement of its staff), facilities (and their importance for ensuring both the efficiency of the system and its secure management of information), and technology (with its range of applications as a tool for data management and access to information). These are discussed below.

2.4.1 Budget

Without adequate resources even the best-designed IAD system will function poorly. An IAD agency's budget needs to be sufficient, stable, and predictable to ensure its proper functioning. This requires effective budget forecasting, management, and reporting by the implementing agency and sufficient budgetary autonomy to limit interference in the availability of resources. Ensuring that the budget allocation is sufficient and predictable may, therefore, require that the IAD agency actively enlist leadership support and raise public awareness of its mandate. Another common challenge that IAD agencies face is the frequent gap between forecast and actual budgets. An unpredictable

resource flow will undermine the ability of an IAD agency's management to make credible commitments to staff members, vendors, and contractors.

As such, budgeting challenges present on two separate fronts: (a) setting the budget and (b) executing the budget. Although providing independent budget authority to the IAD agency can be an attractive option from the standpoint of predictability, budgets need to be contestable within the political system because budgeting is one of the key functions of both the executive and the parliament. To better enable the IAD agency to make the case for why it needs greater budgetary resources, detailed performance measurements can prove extremely helpful.

The indicators discussed in appendix B provide a starting point for IAD systems to carefully track their ability to perform their assigned functions and the impact of those functions. Systematically collecting these data can then enable the agency to highlight precisely why it needs greater budgetary support, ranging from needing more funding to enable the verification of a greater number of declarations to evidence of high turnover rates of personnel because of salary imbalances with other government agencies.

Regardless of the specific data point, the key consideration is to construct a fact-based accounting of the operation of the agency, which can then be used to make a persuasive case to the parliament, executive, and relevant stakeholders for why the IAD system requires a specific funding level. This approach to budgeting will facilitate tying resourcing to the agency's workload. The key is to ensure that the budgeting for an IAD system is sufficient and shielded from wild swings and from undue political maneuvering.

It is difficult to generalize about the budget needs for implementing an IAD system or to compare practices among countries. This is because of the limitations of available data and the variations in practice resulting from the different mandates and contexts of country systems. While all agencies require (at a minimum) sufficient funding to manage and monitor submission compliance, the mandate and context will determine the approach adopted for verification, oversight, public access, and enforcement procedures. In addition, some systems rely on paper submission and, therefore, spend most of their budget on staff salaries, while other systems may use electronic submission or data management, and therefore (potentially) require fewer staff members but have other significant overhead.

The key is to understand what resources are available and what the corresponding implications are for the scope of activities that can be undertaken. In a system subject to no cost constraints, one might prefer to be able not only to monitor the submission of every declaration, but also to perform an in-depth verification of the accuracy of every declaration. However, the resources required to achieve that outcome are likely beyond any system and are not cost-effective. It is, therefore, reasonable to focus the use of resources to maximize the agency's effectiveness, such as by targeting high-ranking positions for particular scrutiny, or positions that might pose the most risk for illicit enrichment or COI situations (such as employees of the customs

authority or procurement officials). In the research undertaken for this guide, many countries were found not to have collected data about costs and cost-effectiveness. Such monitoring would allow a country's IAD agency to monitor cost efficiency, and to assess whether changes in budget and spending are associated with changes in performance.

In addition to effective budget management, budgetary autonomy can also be a significant issue. For instance, Croatia's Commission for the Prevention of Conflicts of Interest does not have an independent budget; instead, it receives funds under the parliament's administrative budget. This lack of budget control, particularly given its direct oversight by parliamentarians, could hamper its real or perceived independence. Argentina's budget, coming from its constitutive ministry, is subject to similar risks. Guatemala's IAD unit receives its budget from the decentralized anticorruption agency, the General Comptroller's Office (Controlaría General de Cuentas, CGC). While this structure ensures its independence, the reliability of future funding is subject to the CGC's discretion. The CGC's budget itself has declined over the past few years and has constantly remained below the legally mandated 0.7 percent of gross domestic product.¹⁷ Slovenia's Commission for the Prevention of Corruption submits its budget proposal directly to the Ministry of Finance for approval by parliament. Indonesia's Corruption Eradication Commission has an independent budget that undergoes annual parliamentary review and approval. Despite significant resistance from members of parliament to the Corruption Eradication Commission's broad authority, the Commission—which collects and publishes data about its performance—has successfully gained approval for a budget increase in 2010 for hiring of new staff members. However, it has historically suffered from a shortfall between approved budgets and actual disbursements. Besides the obvious implications in terms of overall quality of operations, budgetary shortfalls also highlight the dependence and potential vulnerability of the implementing agency to political interference, again making the case for studiously collecting performance and operational data so that the IAD unit can make the most persuasive case possible for why it deserves greater budgetary support.

2.4.2 Human Resources

Managing an IAD system requires skilled professionals, comprehensive operating procedures, and ongoing training to ensure its success. Given the need for public and institutional legitimacy, staffing of IAD units should be achieved on the basis of competitive hiring and should provide reasonable pay with additional training provided upon hiring and on an ongoing basis (table 2.1).

Some countries have even chosen to prioritize anticorruption and IAD systems; staff members in Mongolia's IAAC, for example, receive higher salaries than do civil servants in the rest of the government with equivalent rank. This has facilitated recruitment of

17. This number does not suggest that units should have a legally mandated budget as a percentage of gross domestic product. As previously noted, the unit's budget should be linked to the agency's workload and objectives.

TABLE 2.1 Human Resource Management Practices in IAD Systems: Case Study Findings

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Competitive hiring	Yes	—	—	Yes	Yes	—	Yes	Yes	Yes	Yes	Yes
Use of temporary staff	Yes	Yes	—	—	—	—	—	—	—	—	—
Performance evaluations	Yes	—	—	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Training	Yes	—	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

Note: — = not available.

qualified individuals and has sent a message to the public regarding the government's priorities.¹⁸ Although such prioritization may help an agency hire qualified individuals, it is important that such a decision be made in the context of overall government policy. Wages for IAD staff in Slovenia, for example, are set according to the public wage system, which is not competitive with the private sector.

Special attention should be paid to the recruitment of a staffing complement possessing, as a group, the full range of skills required, including monitoring submission, verifying the accuracy of declarations, training filers, educating the public, and providing staff members with clear operating manuals and comprehensive training. For instance, they should receive training, depending on their exact job duties, on the relevant administrative processes, the laws and regulations governing income and asset disclosure, and on all relevant software and hardware. Indonesia's Corruption Eradication Commission, which houses the IAD unit, uses competitive recruiting to hire new staff members, requires them to have relevant work experience qualifications, conducts annual employee reviews to monitor performance, and provides individualized training and professional development to them. Further, the agency has job profiles for every position that clearly delineate staff member responsibilities and conducts thorough background checks as part of the hiring process.

To provide some context, in Argentina, the IAD staff of 12 includes lawyers, accountants, and political scientists (of whom two perform tasks associated with database management and the targeted selection of declarations for verification, four perform verification tasks to check declarations for consistency and accuracy, and one [a lawyer] analyzes declarations for potential conflicts of interest. The remaining staff members perform administrative tasks).¹⁹ Croatia's implementing agency has a permanent staff of two lawyers and two economists (for approximately 1,800 declarations), and hires up to 10 temporary staff members during the busy period after elections to transfer data onto the website of the Commission for the Prevention of Conflicts of Interest.

2.4.3 Facilities

Notwithstanding the advent in some jurisdictions of online submission of declaration forms, IAD systems produce very large quantities of paper documents that may need to be kept for several years (although many jurisdictions fail to specify how long records should be kept). And even with electronic submission processes, storing hard copies of the signed declarations may be required as well. Filing frequency also has an impact on storage requirements. As IAD systems mature, the scope of employees covered by disclosure laws may also widen, compounding the need for physical space in which to

18. See the Mongolia Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

19. See the Argentina Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). The Investigations Department has a team of 37; the IAD Unit has 12 people on its staff (7 of whom are civil servants, 5 of whom are contractors) that review approximately 4,000 asset declarations per year.

store declarations. In addition to paper and electronic storage requirements, IAD agencies need facilities to manage the various functions they are required to perform, such as receipt of declarations, submission compliance management, verification procedures, responding to technical inquiries from officials, or requests for information from the public (by phone but often in person, as well). To effectively carry out the operational activities of an IAD system, the implementing agency must have appropriate facilities (box 2.3).

BOX 2.3 Addressing Storage Capacity Issues in Mongolia, Argentina, and Rwanda

Storage capacity of asset declarations remains a problem for many countries.

In Mongolia, for example, the implementing agency has only limited on-site capacity for the storage of declarations. It therefore prioritizes the declarations of the highest-ranking 256 officials in the government, storing them on-site for two years and then transferring them to an archive for an additional three years. The remaining 50,000+ declarations are stored within the individual agencies where the filers work.^a However, those declarations can place a major burden on the individual line agencies, some of which must keep thousands of declarations on-site. Furthermore, it can be difficult for the central IAD agency to monitor the functioning of each agency to ensure that they are receiving and properly storing all required declarations.

Aside from the question of whether such a large filing population is optimal, Mongolia's approach to its storage requirements prioritizes the highest-ranking officials, who are likely to warrant the closest scrutiny and to attract the greatest public interest.^b Nonetheless, this approach presents a significant obstacle to making the large majority of the original declarations accessible to the public (although to date, no request for public access has ever been made regarding any official outside of the 256 highest-ranking officials). This situation could risk compromising the credibility of the system if citizens and public officials view filing as something with little or no risk of adverse consequences. Mongolia has addressed this concern, in part, by requiring the individual agencies to send summaries of each filer's declaration.

In Argentina, hard copies of declarations are mandated to be maintained for 10 years after an employee has left office.^c Officials report that available storage may soon become inadequate (the declarations of the top 5 percent of officials—around 1,600 out of a total of 33,000 in 2008—are stored in a vault of the Ministry of Justice building, while the remaining declarations are stored off-site by the HR departments of line agencies). The public versions of asset declarations (*anexos públicos*), when undergoing formal review or investigation, are stored in the offices of the Asset Declaration Unit or the Investigations Department in the Ministry of Justice, sometimes for indeterminate periods of time. The confidential private annexes (*anexos privados*) are stored in their sealed envelopes in a locked room.^d Space is very limited for staff members and for the storage of current declarations while they undergo review and verification. The Investigations,

(continued next page)

BOX 2.3 (continued)

Department in particular, has outgrown the office space available and reports that it has exceeded the building's safety limit for floor weight as a result of the accumulation of paper in the nine years since the department was created.

One way to manage these physical constraints is to establish online submission and electronic storage of all declarations rather than physical storage.^e Or, in cases where physical copies are kept (in addition to electronic copies) for security reasons, those copies may be stored in off-site archives thereby reducing the immediate strain on the responsible agency. In Argentina, for example, the recently implemented online filing system has facilitated the units' access to the 95 percent of asset declarations that are stored (in original hard copy) in the employer agencies of submitting officials.^f These declarations are accessed electronically by the central IAD Unit for the purpose of content verification. Were it not for the decentralization of submission management and storage, and the central unit's access to electronic versions of declarations, the IAD Unit would literally be awash with paper. An important caveat here is that electronic submission and storage of data is not in and of itself the answer; an effective data management strategy is essential to ensure that the data can be meaningfully searched and analyzed.

In addition to the physical plant of the relevant agencies, power supply can be an important variable that may influence the agency's performance. In Rwanda, the government mandates that all government agencies maintain back-up generators to ensure continuous electricity supply in the event of a loss of power from the standard electric grid. This requirement can be particularly important for countries where electricity supply is inconsistent but where there is a need to maintain the ability to access electronic records, accept electronic declarations, and maintain the integrity of their security systems.

a. See the Mongolia Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). b. The Kyrgyz Republic has also considered prioritizing the storage of political and special positions, maintaining the latter for an extended period of time. See the Kyrgyzstan Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). c. See the Argentina Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). d. Private annexes are kept under seal and stored under lock and key in the Asset Declaration Unit when current, after which they are sent to the archives in the Ministry of Justice for 10 years. See the Argentina Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). e. For example, Montgomery County in Maryland in the United States; see the U.S. Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). f. See the Argentina Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

Facilities need to be secure. The security of facilities is equally important for paper and electronic IAD systems. Electronic storage of asset declarations with effective back-up can reduce the risk of destruction or theft. The requirements for effective backup include considerations such as frequency of backup, distinct locations and equipment for storage of the original and backup data, and firewalls and other security requirements on both read access and read and write access. Monitoring and limiting physical access to the facilities is also important.

BOX 2.4**Ensuring the Security of IAD Data Storage in Macao SAR, China; Slovenia; and Argentina**

The system in Macao SAR, China, while not electronic, is planning to mitigate the risk of data loss for its paper-based system by providing declaration forms that produce carbon copies, which it will store in a separate building to protect against loss through fire or natural disaster.

Another dimension of security is the approach used for organizing an IAD archive. Maintaining paper declarations in locked facilities and electronic data on secure servers is an important requirement. How the data are organized is another consideration. For example, filing paper archives alphabetically would make it easier for a breach of physical security to result in a leak of potentially confidential information. Filing archives by unique identifier numbers is a way of mitigating this risk.

This is the approach used by Slovenia, for example, where only the personal information of filers is stored electronically; IAD forms are maintained in a locked room in locked cabinets. All filers are randomly assigned a number and all data are stored according to that number (both hard copy and electronically) and not by personal identifiers (birth date, agency, and so forth).

Argentina also uses unique identifier numbers to organize the storage of declarations and to facilitate the retrieval of any electronic data associated with a filer.

These requirements obviously have their analogues for paper storage systems. The risk of destruction or theft requires the same sorts of risk mitigation measures, regardless of whether the data are stored in hard copy or electronic form. In addition, the storage of IAD declarations in the same facility where filing officials are employed may raise questions about data protection and may create a risk of tampering with or removing forms that contain information that is sensitive or potentially damaging to the filer unless careful measures are taken to prevent unauthorized access to declarations (box 2.4).

2.4.4 Technology

IAD systems around the world rely on technology to varying degrees to achieve their objectives. IAD systems can range from entirely paper based to entirely electronic, with most falling somewhere in between. These differences are often a matter of choice or inertia rather than a consequence of budget, design, or the availability of the technology, as the United States' continuing use of paper declaration forms for some filers attests.

Benefits and Costs of Technology

Although there is little empirical evidence measuring the impact of IAD systems' technology in their respective jurisdictions,²⁰ different uses of technology in different

20. Quantitative metrics of IAD effectiveness tend to be limited to implementation of improved technologies, such as the cases of Argentina and Mexico; level of cooperation with the program, as in the Kyrgyz Republic; and operational activities, such as in the United States.

countries have shown that it *can* contribute significantly to the effectiveness of IAD systems, for example, in eliminating human error in submission compliance, in increasing the efficacy of verification processes, in enhancing public access, and in enabling better tracking and reporting of system performance by the responsible agency. Electronic systems are also seen as more secure than paper systems (Kossick 2002, 10).

The level and extent of technology relied upon by an IAD system can have major implications for the efficiency, operations, and cost of the system. The most comprehensive, technologically, are systems where income and asset declarations are submitted to the appropriate agency electronically. This type of system has the benefit of reducing the amount of time agency staff must spend monitoring the submission of declarations, it eliminates all or some of the need to transfer data from paper declarations to electronic forms or to database management systems (as is done in Croatia and Guatemala, for example), and it aids in the management and retrieval of data. Without the need to regularly destroy older records to make room for new ones, electronic declarations can be retained and consulted more easily for longer periods of time, as opposed to archiving and locating physical copies. Online submission may also increase compliance by reducing travel burdens and costs associated with physical presentation of the declaration (particularly where submissions must be received in person or the official is employed outside of the capital city where the implementing agency is located).

Technology that Facilitates the Submission of Declarations and the Monitoring of Submission Compliance

An electronic submission system is not necessarily costly to develop and may well cut costs once implemented (see box 2.5), but it does imply costs for maintenance, thereby potentially reducing its practicability in budget-constrained environments. It is important to understand both the up-front cost of developing the appropriate software and purchasing the necessary hardware, and the ongoing costs of maintaining the computers, servers, and storage capacity of this type of system. In Argentina, for example, where online submission has become the norm for the 33,000 officials who file income and asset declarations, the current hardware dates from the system's inception in 2000, which has resulted in ever slower processor speeds that hamper the anticorruption agency's management of its ever increasing IAD database.²¹ A more sophisticated system also requires trained technical experts to ensure proper functioning of data management systems, thereby raising the costs of such a system. Argentina's electronic submission system has paid enormous dividends in terms of the agency's ability to manage large numbers of declarations, and (despite some initial reluctance to cross the digital divide) has made the submission process easier for filers.

Mexico offers an example of a country that has transitioned to online declaration with the implementation of its *Declaranet* system (Kossick 2002), an experience that highlights some key considerations for countries transitioning to automated systems. Mexico does not have a fully mainstreamed digital culture, so public servants were initially

21. See the Argentina Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

BOX 2.5**The Impacts of Electronic Submission Processes in Argentina**

The Anti-Corruption Office in Argentina redesigned the financial disclosure system for the executive branch and transformed it from a paper-based system to one using electronic forms and user-friendly software. The improved system was introduced in 2000 as a response to the enormous logistical challenge of managing a paper system. The impacts were significant and rapid.

The declaration submission software (available for download on the Ministry of Justice website or on CD-ROM) requires the filer to complete all necessary fields before the form can be submitted, resulting in a significant reduction in the number of errors or incorrectly filled-out IAD forms. This contributes to an increase in compliance rates and a reduced burden on the implementing agency for contacting filers for clarification on incomplete or incorrectly filed declarations. The system also provides added safeguards for the privacy of personal information.^a

The electronic system caters to Argentina's dual submission process (of private and public annexes).^b In the year following implementation, submission compliance rates increased from 67 percent to 96 percent and the estimated cost to the government per form decreased from US\$70 to US\$8. In addition, the number of conflict of interest investigations increased from 40 to 331, and the number of financial disclosure information requests increased from 66 to 823.^c These disclosure requests come from the media, nongovernmental organizations, and public officials. In fact, automating submission processes also facilitated the government's ability to collect data about the performance of the system, including this kind of impact.

a. OECD 2005, 66. b. Raille 2004, 9. c. de Michele 2001, 19; OECD 2005, 66.

reluctant to abandon paper-and-ink disclosure forms. To overcome this reluctance, the government created an online instruction portal, provided tutorial sessions, created a toll-free call center, and set up training centers to help filers declare their assets.

Despite its enormous potential for increased efficiency, the online submission of declarations is still not available in many economies, including Guatemala; Hong Kong SAR, China; and the United States. The reasons for this vary. Some economies lack the resources necessary to switch to an online system, while others have made a deliberate choice to remain paper based.

For the latter, the decision can be logical; in Hong Kong SAR, China, and in the United States, for instance, the IAD systems focus solely on preventing conflicts of interest. As a result, those economies have chosen to rely on designated ethics officials to examine individual IADs and to work with the declarants to identify any potential or actual conflicts of interest. As discussed, the emphasis of such systems is often on collaboration between ethics officials and filers, rather than on verifying the accuracy of declarations, thereby somewhat reducing the benefits of electronic submission, since an adequate staff needs to be on hand to provide guidance to filers. However,

these systems face potentially greater strains for tracking submission and for storage of paper declarations (table 2.2).

Technology that Facilitates Data Management and the Verification of Declarations

Even if online submission proves too costly or impracticable, technology can still facilitate the processing and analysis of declarations. For instance, Mongolia transfers the data from all 52,000 paper declarations to electronic spreadsheets so that the declarations can be stored, transmitted, and analyzed easily. The challenge, however, is that every declaration must be entered by hand into electronic files, significantly raising the labor costs. Croatia does the same for its 1,800 declarations, for which the Commission for the Prevention of Conflicts of Interest hires temporary staff during the busy period after elections to post the information on its website and store it electronically. Croatia's declaration form is brief, however, and the staff does not verify the declarations for accuracy or conflicts of interest; rather, it relies on public access to the website to serve that purpose. (Analyzing the declarations for potential conflicts of interest would require significantly more time and qualified staff.)

Regardless of the type of software used, electronic record keeping can be an important aspect of an efficient asset declaration system, because it allows for easy filing and cataloging and quick retrieval of records, streamlines the transfer of records between agencies (such as between the collection agency and the investigative agency), and decreases the risk that the asset declaration is lost or destroyed. Electronic records can also facilitate more efficient and targeted verification of the content of declarations. However, to manage a large number of declarations, particularly for verification purposes, the IAD agency needs to acquire or develop database management software.²²

Verification does not require electronic submission and data management systems, although these do multiply exponentially the range of options available. To facilitate verification, data storage, or public access, many paper systems undertake some sort of data transfer (from the paper declaration to an electronic database). Data transfer permits the rudimentary detection of irregularities and comparisons of income and assets over time, making it possible to detect certain kinds of red flags, which would be very difficult for exclusively paper systems. Finally, electronic systems can greatly enhance the implementing agency's ability to track performance data, report on the performance of the system, and obtain efficiency data on their own operation. See figure 2.10 for an approach to building data management capacity.

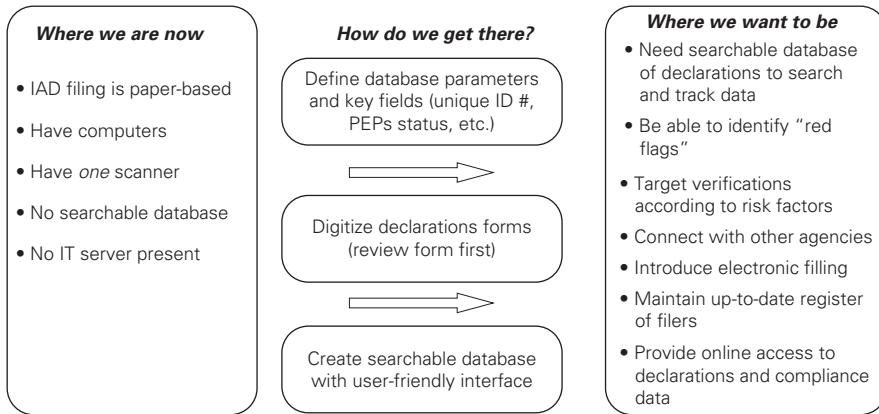
22. Research for this guide has not uncovered any tailor-made data management solutions that could be adapted for universal use by IAD systems. Countries that use electronic data management tend to build a sui generis system using standard office software or off-the-shelf database management programs. Developing a tailor-made software program for IAD submission processes, verification, and statistical reporting is an area that has garnered some interest among practitioners.

TABLE 2.2 Information and Communication Technology Use in IAD Administration in a Sample of IAD Systems: Case Study Findings

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Form available online	Yes	—	—	—	Yes	—	Yes	Yes	Yes	—	Yes
Online submission	Yes	—	—	—	—	—	—	—	—	—	Used in some agencies
Database management software used for verification	Yes	—	—	—	Yes	—	—	Yes	—	—	—
Electronic data storage—personal data	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	—
Electronic data storage—financial data	Yes	Yes	Yes	—	Yes	—	Yes	Yes	Yes	—	—
Online publication—IAD data	Yes	Yes	—	Yes	—	—	Yes	—	—	Yes	—
Online publication—compliance—data	Yes	—	—	Yes	—	—	Yes	Yes	Yes	Yes	Yes

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).
Note: — = not available.

FIGURE 2.10 Building Capacity in Data Management



Source: Authors' compilation.

Technology that Facilitates Public Access to Asset Declarations

For those systems that make declarations publicly available, digitization of income and asset declarations can facilitate public access by making it easier to make the content of declarations available online. Although there is wide variation in the manner in which countries make declarations available (see section 3.4 on managing public access to declarations), and some specifically choose not to make declarations available electronically even though they maintain digital records, making declarations available online can be an efficient method of providing public access. One example of this system is in Croatia: although submission is in hard copy, support staff of the Commission for the Prevention of Conflicts of Interest enters selected data on officials' assets on its website, allowing public access to that information.²³ (Access to the complete declaration is available to individuals who apply in advance and present themselves at the Commission by appointment). Although Argentina was one of the first countries to introduce automated submission and targeted verification systems in Latin America, Costa Rica and Mexico are also developing such systems.

23. See the Croatia Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

3. Implementing and Enforcing an Income and Asset Disclosure System

The procedures associated with the implementation and enforcement of an income and asset disclosure (IAD) system revolve around the following core functions:

- Managing submission compliance
- Verifying the content of declarations
- Managing public access to IAD information

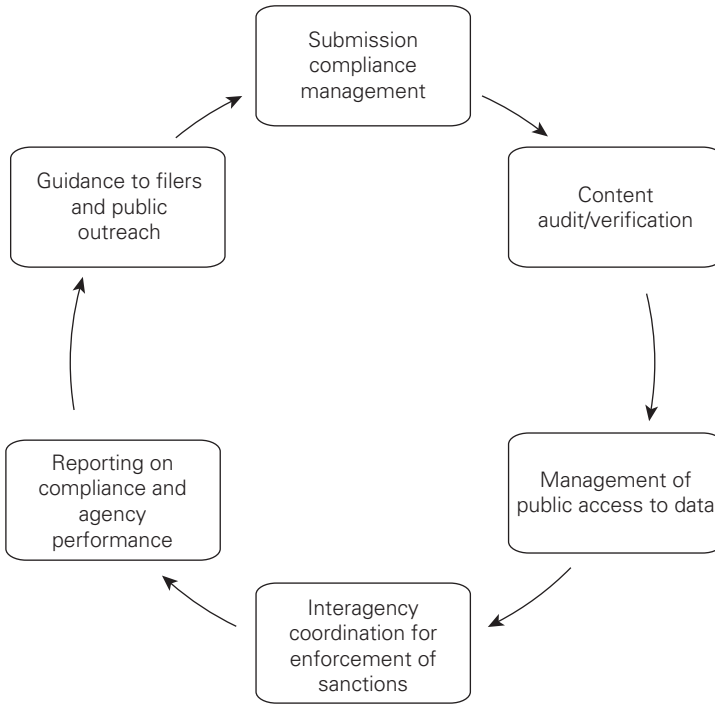
Not all IAD systems perform all three functions; in systems where there is no verification of declarations or no public access to the content of declarations, IAD agencies may serve only as submission compliance and depository agencies. However, whether or not verification or public access to declarations is part of the agency's mandate, a full spectrum of core functions performed by an IAD agency (as shown in figure 3.1) will need to include performing cross-cutting functions such as interagency coordination for effective enforcement (see section 3.3 on sanctions for IAD violations); reporting on the performance of the system; and communicating with the filers and the public (see section 3.4 on managing public access to declarations and information on IAD system performance). As described in section 2.2 on institutional arrangements, some IAD systems split these functions across institutions or across departments within the IAD agency.

3.1 Managing Submission Compliance

Ensuring that public officials who are required to submit a declaration do so on time and in accordance with the IAD laws or regulations will require that the IAD agency perform some or most of the steps described below (and shown in figure 3.2). This is a cyclical and iterative process the timing of which will be determined by election cycles and annual (or other periodic) submission deadlines. (See table 3.1 for an overview of the procedures for the submission and receipt of declarations used in a sample of IAD systems.)

An initial step for any new IAD agency will be to draw up the declaration form. The form should reflect statutory requirements as set out in the relevant laws and regulations. Attention should be given to ease of use (whether paper or online). In many systems, the form is made available online (for officials either to complete online and then print, or to print first and then complete and submit in hard copy). This can be useful even in systems that do not employ electronic submission. The agency should attach both instructions for completing the form and guidelines for submission. (See

FIGURE 3.1 Core Functions of an IAD Agency



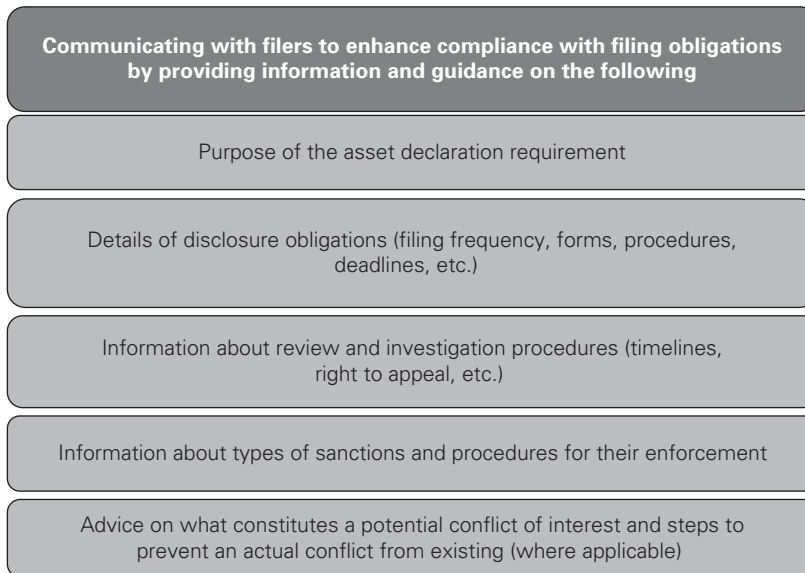
Source: Authors' compilation.

appendix A for examples of declaration forms.) The suitability and ease of use of the form should be reviewed by the agency periodically and after any changes to the law.

- *Creating and managing a register of officials obligated to file.* The size and composition of a filing population is determined by the IAD law or regulations (which typically identify filers by duty or function or by rank). Keeping track of the number and identities of officials who occupy those posts and functions is usually the responsibility of the IAD agency. A register of officials obligated to file needs, therefore, to be generated and kept up to date. This is typically done by the IAD agency in coordination with human resources (HR) administration offices in the government agencies or entities in which public officials are employed, since these are best placed to notify the IAD agency when an official takes up or leaves a post.

Establishing communication and coordination mechanisms with HR offices is a vital step in ensuring that the register of obligated parties is accurate and kept up-to-date. In some cases, this coordination is also necessary for the enforcement of sanctions (such as enforcing the suspension of salary for late filing, or dismissal from office for more serious violations). Where there may be capacity constraints in public HR administration, endowing the IAD agency with the capacity and the

FIGURE 3.2 Communicating with Filers to Facilitate Submission Compliance



Source: Authors' compilation.

remit to brief HR officials on IAD procedures and requirements, and to take steps in following up information requests or the enforcement of sanctions, could be an important contribution to IAD system effectiveness and interagency coordination. In Argentina, for example, the IAD Unit liaises with the more than 190 separate HR offices in government entities to ensure submission compliance.

- *Communication with filers to notify them of their obligation.* Depending on the structure of the system, either the IAD agency or the HR office will bear responsibility for notifying newly appointed officials of their obligation to submit a declaration. Ideally, this step also involves communicating to filers the purpose, procedures, benefits, and penalties associated with the IAD requirement (see figure 3.3).
- *Receipt of declarations.* This will typically entail a formal review of the declaration for completeness, internal consistency, or obvious filing errors. This step is not performed in systems where declarations are confidential and remain sealed unless an allegation is received. Checking declarations for completeness may be unnecessary in fully automated submission systems since these systems can prevent declarations being submitted when a field is left blank, as is the case in Argentina. (Automation can thus reduce incidences of incomplete filing, though not, of course, of incorrect filing).
- *Data transfer.* In most IAD systems, whether partially automated or not, the IAD agency will perform some form of data transfer from the declaration to a database to enable administrative functions associated with data retrieval, verification

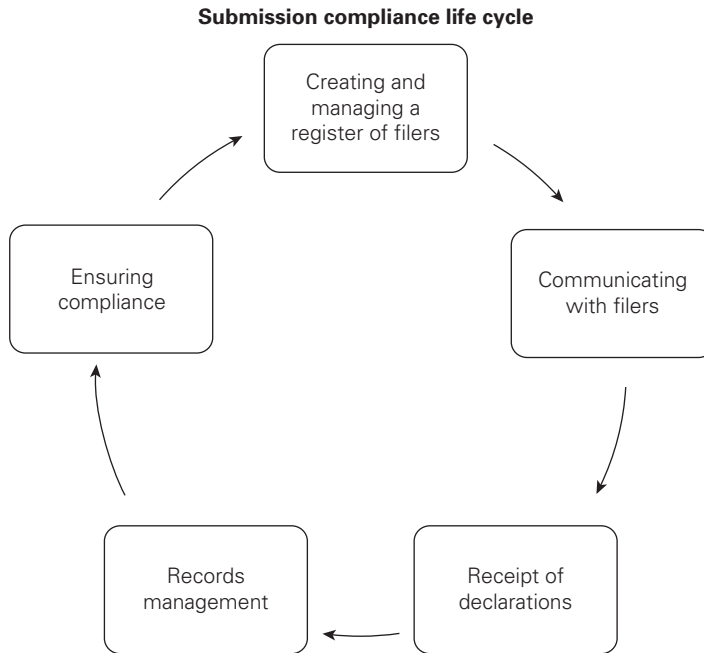
TABLE 3.1 Procedures for the Submission and Receipt of Declarations in a Sample of IAD Systems: Data from Case Studies

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Total number of declarations filed	36,000	1,800	12,000	—	116,451	4,117	18,000	52,800	4,900	6,300	19,000+
Administrative structure of submission process	Both	Centralized	Centralized	Delegated	Delegated	Centralized	Both	Delegated	Centralized	Centralized	Delegated
Availability of filing form in hard copy (H) and/or electronically (E)	E	E	H	H	E/H	H	E/H	E/H	E/H	E	E/H

Electronic submission of declaration through an online form	Yes	No	No	No	No	No	No	No	No	No	No
Type of IAD content stored electronically by agency	All information	None	All information	None	All information	Personal information	All information	Totals for categories	All content from audited cases	Personal information	Varies by agency
Whether IAD forms are subject to a check for completeness (upon submission)	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).
Note: — = not available.

FIGURE 3.3 Procedures Involved in Submission Compliance Management



Source: Authors' compilation.

procedures, data tracking and, where applicable, the publication of data on the Internet or other medium for public access. In most systems, this involves transcribing data from a hard copy declaration to a database management software program (as in Croatia and Guatemala).

In Croatia, the administrative support staff of the Commission for the Prevention of Conflict of Interest transfers information from hard copy paper declarations onto the Commission's website. Even though declarations are relatively brief, the Commission has to hire up to 10 additional temporary staff members during the busy periods following elections to perform this data transfer. In such cases, temporary staff members are unlikely to be trained in the detection of risk factors (for potential conflicts of interest). The IAD system in Croatia relies on public access to declarations to provide this kind of scrutiny.

Indonesia's IAD agency, the Corruption Eradication Commission, has a custom-built electronic IAD administration system. Declarations are submitted in hard copy (116,451 declarations were submitted in 2009); these are scanned for archival and retrieval purposes and data are entered by 80 personnel with line managers helping to validate data and provide guidance.

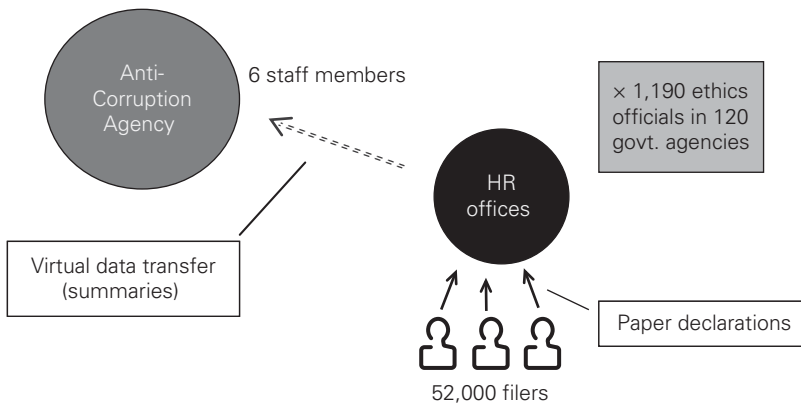
In systems where the receipt of declarations is delegated to other entities, such as the HR offices of the agencies in which officials are employed, the data transfer is performed by the HR office. In the case of Mongolia (see figure 3.4), local HR offices submit an electronic summary of declarations to the central IAD agency in the capital. In systems where declarations remained sealed and confidential (as in Jordan, for example), no data transfer is performed.

An important consideration in the data transfer process is ensuring the secure storage and easy retrieval of information. For filing purposes, some systems assign to each filer and to each declaration a unique identifier number. This number enables quick retrieval of all declarations submitted by a filer over time, can allow for the identity of the filer to be concealed during formal review and verification procedures, and eliminates potential error resulting from duplicate names (the approach used in Slovenia, for example). A unique identifier number is particularly useful for electronic data storage and retrieval purposes.

Effective filing needs to be handled on two fronts: filing of electronically stored data and archiving of hard copies of declarations and other documentation. Even in systems with fully automated electronic submission, such as Argentina’s, hard copies may also need to be retained if there is a legal requirement that an original signature accompanying the declaration be kept on file. Electronic signatures could obviate this need, but only if they are legally admissible. Archiving systems of hard copies of declarations vary from country to country.

- *Facilitating and enforcing compliance.* This includes
 - Reminding officials who have not submitted a declaration of their obligation to file within prescribed deadlines. This reminder may be done directly by the IAD agency, or indirectly in coordination with HR offices.

FIGURE 3.4 Data Transfer in Delegated Submission Systems Using Paper Declarations—Example: Mongolia



Source: Authors' compilation.

- Contacting filers to request that incomplete declarations be completed or that obvious errors or inconsistencies be corrected. Some systems provide a short grace period after the filing deadline to allow for corrections and clarifications.
- Applying sanctions for nonfiling as stipulated by law or—as is more likely to be the case—referring the matter to the relevant agency for the application of sanctions for nonfiling.

3.2 Verifying the Content of Declarations

Administrative procedures involved in the verification of declarations are undertaken in response to three broad considerations:

- Whether to verify the content of declarations—and how
- How many and which declarations should be verified
- What to look for in verifying the content of declarations

3.2.1 *Whether to Verify the Content of Declarations—and How*

As a general principle, if an IAD system is to establish *a credible threat of detection* of illicit enrichment and conflicts of interest, then some sort of scrutiny of declarations is required. There are various possible approaches to reviewing declarations to monitor for suspicious changes in wealth and to ensure that the income and assets declared are consistent with an official’s legitimate earnings and that they do not present any indicators of potential or actual conflicts of interest. These approaches include (a) checking individual declarations for internal consistency in responses, (b) comparing declarations to monitor changes over time, (c) cross-checking declarations with external sources and databases (land, auto, tax, banking, and so forth), (d) analyzing declarations for potential incompatibilities (or conflicts between private interests and official duties), and (e) conducting lifestyle checks (to verify that lifestyle is consistent with declared income).

Whether an IAD agency verifies the content of declarations depends first on a country’s laws and constitution, though other factors will also play a part in decisions about whether and how to verify the content of declarations. In some countries, privacy laws or the confidentiality of income and asset declarations precludes any possibility of content verification by the IAD agency (this is the case in Jordan, for example, where declarations can only be viewed by a judicial committee formed for that purpose if allegations against an official have been made and substantiated. In Argentina, only the “public annex” of declarations can be viewed for verification purposes; the “private annex,” containing bank account numbers, a copy of the individual’s tax declaration, and other personal financial information is kept sealed except by court order).

Verifying the accuracy of declarations by cross-checking declared income and assets against other sources of data such as land, auto, and property registries, or against bank and tax information, depends on those sources of information being available, accessible, and reliable. In many countries, the availability of such data sources is mixed; in

some, it is very patchy. As such, strategies for reviewing the content and verifying the accuracy of declarations should take into account the availability of data sources, and tailor review functions to make the most of data sources—or other review options—that are available.

Accessing a filer’s banking and tax information may be an option to corroborate a filer’s declaration, although in some countries this is only possible once an investigation has already been triggered, and not for preliminary verification purposes. In the absence of external data sources, what is an agency then to do? Adopting a combination of strategies may be advisable.²⁴ Since in most systems investigations are triggered either by an allegation of IAD violations (or of corruption more broadly), or when a suspicious finding or inconsistency is found during the initial review of a declaration, facilitating public scrutiny of declarations to encourage the use of complaint mechanisms, and ensuring that the IAD agency is able to effectively monitor declarations for consistency or changes over time, become all the more important.

In some cases (Mongolia, Nigeria, the Philippines, Romania, Rwanda), the IAD agency carries out lifestyle checks as part of its standard verification approach, or when an allegation of corruption or a violation of the disclosure requirement is received from the public. A lifestyle check consists of cross-checking a filer’s declared income and assets against his or her apparent income and assets. A lifestyle check is likely to encompass the living standards of a filer’s household (and sometimes close associates), increasing the likelihood of detecting assets that may have been concealed by a filer under a family member’s or associate’s name.

Undertaking lifestyle checks as a standard verification approach is likely to be resource intensive for an IAD agency. If lifestyle checks are to yield more reliable findings than other forms of cross-checking in a particular context, then having an effective public complaints mechanism and allowing public access to the content of declarations become particularly important because they allow interested citizens, civil society organizations, and the media to exercise a kind of scrutiny that may be beyond an agency’s capabilities and can help in triggering investigations. While public access to IAD information offers various benefits (discussed in section 3.4), if an IAD system is to rely solely on public scrutiny to provide a credible threat of detection, then the existence of capable and interested civil society organizations and an independent media become more important for the system to be effective.

24. In Argentina, for example, where the IAD agency has a comprehensive approach to verification (targeting declarations for review on the basis of risk factors, analyzing declarations for potential conflicts of interest, and reviewing declarations for accuracy), the IAD agency has online access to a real estate registry for the city of Buenos Aires but not beyond, meaning that only property owned in the capital can be verified. The registry is available online and is easy to consult (and the IAD agency has unfettered access to the information, which is not otherwise available to the public without legal justification). The IAD agency uses cross-checking of data as one among a combination of review procedures (including comparing declarations for changes or inconsistencies over time, checking for internal consistency in declarations, and following up allegations of violations).

Since comprehensive verification is unlikely to be cost-effective or practicable, depending on the context, a combination of these approaches may be useful. A fundamental consideration for all IAD systems is how to balance the need for detailed scrutiny of a selection of declarations with broad monitoring of a large body of declarations. See table 3.2 for the verification approaches of selected countries.

3.2.2 Which Declarations to Verify—and How

Since verifying all declarations would rarely be cost-effective, IAD systems must determine how to select which declarations to verify. The preferred approach is usually to prioritize the declarations of officials whose post or function represents a greater risk of corrupt behaviors. Random verification is also an option, but random verification alone can expose an IAD agency to perceptions that political influence is interfering in its enforcement procedures. To ensure a credible threat of detection, and to avoid undermining the perceived independence of the agency, using a combination of approaches is recommended. Ensuring that the approach used is clearly defined and consistently applied is also important to the credibility of the system as a whole. A targeted approach to verification can be based on the following general criteria (depending on the nature of the system, other approaches are, of course, possible):

- *Prioritizing verification of the declarations of high-ranking officials.* Targeting officials above a certain rank is one way of limiting the scope of verification and targeting higher-risk and higher-visibility individuals. In Argentina, for example, the IAD Unit systematically verifies the declarations of the most senior filers, (approximately 1,690 filers, or about 5 percent of the filing population of over 33,000). Having verified all of the declarations of the top 5 percent of filers, the IAD Unit then verifies a sample of the remaining declarations, which are selected on the basis of other risk factors (function, agency, or those whose declarations show significant changes in wealth). This approach requires that the agency be able to effectively identify and track the rank and duties of officials, usually as part of the process of maintaining the register of obligated parties.
- *Prioritizing verification of the declarations of officials from certain agencies.* Focusing on officials who work in particular ministries or government agencies (such as tax, customs, and so forth) can be an effective and fairly straightforward way of reducing the size of the target population and of increasing attention on individuals whose function is likely to present a higher risk of corrupt behaviors (although another level of triage—such as targeting particular functions—may be required to reduce the size of the target population further). This approach relies on the agency having an accurate register of obligated parties that identifies the agency in which officials work.
- *Prioritizing verification of the declarations of officials with particular duties or functions.* Targeting officials who perform certain kinds of duties, regardless of the agency in which they work, is another possibility (this might include officials with responsibilities for managing state funds, procurement, or with roles that involve the granting of permits or licenses, or handling transactions with the private sector and the public). This approach is a little more complicated because it

TABLE 3.2 Approach to Verification of Selected IAD Systems: Case Study Findings

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Does the agency analyze declarations for conflicts of interest?	Yes	No	No	Yes	No	No	No	No	No	Yes	Yes
Does the agency systematically verify declarations for accuracy?	Yes	No	Yes	No	Yes	No	No	No	Yes	Yes	No
What is the method of selection for verification: Targeted or random?	Targeted	—	Targeted	—	Targeted	—	—	—	Targeted / Random	Random	—
Are declarations verified for accuracy upon complaint?	Yes	Yes	No	No	Yes	Yes	No	Yes	No	Yes	No
What is the total percentage of declarations that are systematically verified for accuracy (2008/09)?	7%	0%	0%	0%	1–5%	0%	0%	2%	6%	33%	0%

(continued next page)

TABLE 3.2 Approach to Verification of Selected IAD Systems: Case Study Findings (continued)

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
What is the ratio of total number of declarations to number of declarations automatically verified for accuracy?	36,000:2,520	1,800:0	—	—	116,456:1,000–6,000	—	—	52,800:1,056	4,900:294	6,300:2,079	—
Does the system provide an opportunity for civil society to access declaration content?	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

Note: — = not available.

requires that the register of filers also identify the roles of public officials according to clearly established criteria and keep track of public officials' roles as they evolve or as the officials are promoted or transferred.

- *Targeting the verification of an individual's declarations in which "red flags" have been detected.* This approach presupposes that the agency has the means to detect potential red flags among the whole body or a sample of declarations. Red flags might consist of significant changes in wealth from one declaration to the next. (Figure 3.5 provides an example of how this kind of red flag is detected using the IAD's database management system in Argentina.) This approach requires that the agency be able to compare basic data elements (such as asset and income totals) across a whole sample of declarations, and across an official's declaration over time. Picking up nonnumerical irregularities (for example, changes in makes of cars and location of real estate) cannot be automated; effective verifications will always require some degree of hands-on scrutiny by qualified staff members.
- *Verifying the declarations of officials about whom allegations of misconduct have been received.* Some systems rely on allegations as the sole criterion for verification. In these systems (for example, Croatia and Jordan), making the content of declarations publicly available is the only way of ensuring that violations of the disclosure requirement can be brought to the attention of the implementing agency.

FIGURE 3.5 Screenshot of Argentina's Database Search Function for the Selection of High-Risk Declarations for In-depth Verification: Comparing Changes in Assets over Time

PLANILLA DE EVOLUCION PATRIMONIAL						
APELLIDO	NOMBRE	Nro. DOCUM	ORGANISMO	CARGO		
Moy...	JUAN CARLOS	9.999.999	AFIP DGA. ADUANA	OFICINA		
	Año	2004	2005	Monto Diferencia	% Diferencia	
	Tipo	Anual	Anual			
	Valor muebles	13.000	12.500	(-500)	(-4)	
	Valor inmuebles	17.912	24.540	6.628	37	
	Valor títulos	0	0	0	0	
	Participación sociedades	0	0	0	0	
	Acreencia pesos	0	0	0	0	
	Acreencia dolares	0	0	0	0	
	Acreencia euros	0	0	0	0	
	Depositos en Pesos	2.000	600	(-1.400)	(-70)	
	Depositos en Dolares	0	0	0	0	
	Depositos en Euros	0	0	0	0	
	Rentas anuales	0	0	0	0	
	Ingresos anuales	39.185	50.986	11.801	30	
	Deudas en pesos	9.780	3.684	(-6.096)	(-62)	
	Deudas en dolares	0	0	0	0	
	Deudas en euros	0	0	0	0	
	Patrimonio Total en Pesos	23.132	33.956	10.824	47	

Source: Anti-Corruption Office, Ministry of Justice Argentina.

- *Performing random verification of a selection of declarations based, for example, on officials' initials or on unique identifier numbers associated with filers or declarations.* In systems that are automated, this approach, whether alone or in combination with other targeted forms of selection, can provide a basic threat of detection without appearing to be subject to arbitrary or political interference.

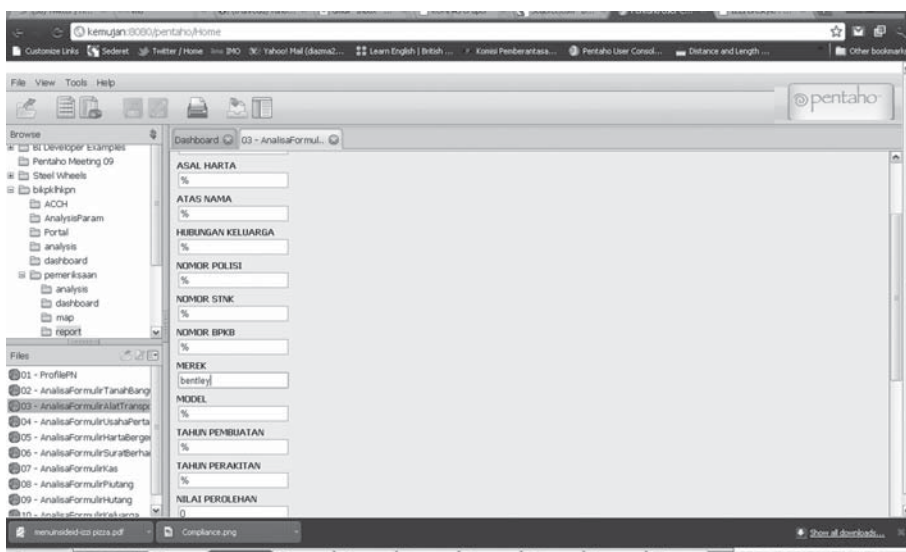
Paper systems are more limited in their ability to *target* declarations for verification on the basis of categories other than agency, post, or function. The steps involved in verifying the content of declarations are also significantly more onerous without electronic data management capacities. Even without any data transfer, however, paper systems can still prioritize the verification of certain categories of filers (based on rank, agency, function), as long as the register of filers enables them to reliably identify these categories. What is important is that paper-based systems be as strategic as possible in deciding which declarations to verify.

Indonesia has introduced enhanced analysis and reporting using data warehouse and business intelligence tools that provide targeted verification options, statistics, and trends, enabling agency staff to analyze data across a number of dimensions (see figure 3.6).

3.2.3 What to Look for in Verifying the Content of Declarations

What to look for in verifying the content of declarations will depend on the type of system, and on the information captured by the declaration form. As noted, declarations can vary widely from country to country, even for systems with a similar mandate. Conflict of

FIGURE 3.6 Data-Mining Tools for Verification of Assets, Including Searches for Numerical and Nonnumerical Data, Indonesia



Source: Wealth Declarations Department, Corruption Eradication Commission, Indonesia.

interest (COI) and illicit enrichment systems differ with respect to the focus and method of verification. COI systems are more likely to look for potential *incompatibilities* between *an official's personal and financial interests and their official duties*. Illicit enrichment systems will seek to detect *changes or irregularities in the value of assets and income over time*, or to verify the accuracy of declared assets by detecting *inconsistencies* between assets declared and other sources of data about an official's income and assets (table 3.3).

3.2.4 What to Look for in Verifying the Content of Declarations: COI Systems

A system that focuses exclusively on detecting potential conflicts of interest will analyze declarations to look for information about business interests; ownership of shares; ownership of property or other significant assets; membership on company boards; sources of income, including gifts; and any potential incompatibility between an official's interests and activities and official duties. Potential incompatibilities come in two basic forms: (a) individual transactions (for example, procurement decisions, dispute resolutions, other adjudications of individual cases) and (b) policy actions (for example, issuance of policies or regulations).

The potential for *individual transactions incompatibilities* arises when an official is in a position to influence either the selection of a vendor (in a procurement decision) or the terms of a transaction in which that official also has an interest in one or more of the parties directly affected by that transaction.

The potential for *policy actions incompatibilities* arises when an official is in a position to influence the parameters of a policy action (policy, regulation, procedure), while also having an interest in any assets or income streams likely to be affected by that policy action. An incompatibility is also used in some countries to define the prohibition against officials holding more than one position (although said position may not present any conflict of interest). Verification of declarations for potential or actual conflicts of interest requires close reading by a qualified individual. It may also require corroboration of declared interests with external data sources (verifying that a company for which an education official sits on the board of directors deals in furniture, for example, and not in school textbooks, and that said company does not have a history of contracts with the public school system). It is worth remembering that the focus of COI systems is on advising officials on how to avoid potential conflicts of interest before they occur. Verification should be undertaken to demonstrate that the agency is able to detect potential conflicts of interest and to advise the necessary corrective action, or to enforce sanctions when an actual conflict of interest existed or exists.

3.2.5 What to Look for in Verifying the Content of Declarations: Illicit Enrichment Systems

A system that focuses on illicit enrichment will focus on monitoring changes in a public official's wealth over time as a potential red flag for corrupt behavior. This involves

TABLE 3.3 Purpose and Methods of Verification in Selected IAD Systems: Case Study Economies

	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Check for incompatibilities of function.	Yes	—	—	Yes	—	—	—	—	Yes	Yes	Yes
Check for internal consistency within one declaration.	Yes	—	—	—	Yes	—	—	Yes	Yes	Yes	—
Compare over time two or more declarations from the same filer.	Yes	—	—	—	Yes	—	—	Yes	Yes	—	—
Cross-check declarations with external records (vehicle and land registries, tax authority, etc.	Yes	—	—	—	Yes	—	—	Yes	Yes	Yes	—
Conduct lifestyle checks.	—	—	—	—	—	—	—	Yes	Yes	—	—
Use public access and allegations/complaints to trigger an investigation.	Yes	Yes	—	—	Yes	—	—	—	—	—	—

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

Note: — = not available.

monitoring changes over time in the value of movable and unmovable assets, income, and liabilities. And it involves checking the accuracy of the declared value and the characteristics of assets by comparing declared information with other available sources of data about an official's income and assets, including, for example, land or property registries, automobile registries, and tax and banking records. The availability of these data sources varies widely from country to country, and within a country can vary between states or municipalities. (In Argentina, for example, property registries are available for Buenos Aires, but not outside the capital, so that landownership elsewhere is more difficult to corroborate.) The availability of tax and bank account information may also be limited by banking and other secrecy laws. The agency may also encounter difficulties coordinating with other government agencies to get access to databases.

All these factors can impinge on an agency's ability to verify the accuracy of declarations. Relying on public access to declarations can provide an additional layer of scrutiny in these cases, allowing for the possibility for public (and sometimes confidential) allegations of violations to alert the agency to officials whose declarations may warrant a closer look or investigation. Lifestyle checks can also serve as a gauge for testing the likelihood that an official is declaring all of his or her income and assets, and are more likely than other means of verification to help detect whether an official has concealed corrupt proceeds under the names of family members or associates not covered by the disclosure requirement.²⁵ If the IAD agency is cross-checking declarations against external databases, whether these are available online is a significant consideration, because online availability will significantly reduce processing times and verification costs. In Argentina, for example, where auto and real estate registries are verified online, this process takes about 20 minutes per verification. Box 3.1 provides an overview of Argentina's approach to IAD administration procedures.

3.3 Sanctions for IAD Violations

If the necessary conditions are in place for an IAD system to detect illicit behavior, the final test of an IAD regime lies in its ability to establish *a credible threat of consequences for violations of IAD requirements*. It is important that countries craft appropriate and proportionate sanctions and that these sanctions be enforced consistently. To meet this standard, sanctions and their effects need to be considered across the following multiple axes:

- What failures should face sanctions?
- What types of sanctions should be available—fines, administrative sanctions, criminal sanctions?
- How are violations substantiated, and is there an appeal mechanism?
- How severe should sanctions be for different types of offenses?
- How do these sanctions reinforce the specific objectives of the IAD system as a whole?

25. Thanks to Rick Messick of the World Bank, INTOP/PRMPS, for guidance on lifestyle checks.

The IAD Unit in Argentina's Ministry of Justice performs IAD administration procedures across all three functions: (a) managing submission compliance, (b) verifying declarations, and (c) managing public access to information about declarations. These functions are split across separate offices within the unit, and are performed in the following sequence:

Managing Submission Compliance

The IAD unit

- 1. Maintains an up-to-date register of officials obligated to file.** This is done in coordination with individual HR offices in the 190+ line agencies or government entities that provide the names of new or departing officials required by law to submit a declaration.
- 2. Receives the envelopes of the top-tier officials** (approximately 5 percent of the filing population) whose declarations are stored centrally (initially in the unit and then in the archives of the Ministry of Justice). The declarations of all other officials are stored by the HR offices of the 190+ government agencies in which they are employed (all declarations are legally required to be stored for 10 years).
- 3. Monitors that all officials obligated to file have submitted their declaration within the required deadline.** This is done in coordination with the HR offices of the government entities where these officials submit their declarations in hard copy (when officials complete the form online an encrypted electronic copy is automatically sent to the central IAD unit). Officials can consult the IAD unit or their local HR office for assistance in completing the form.

Verifying the Content of Declarations

The IAD unit

- 4. Formally reviews all of the declarations of the top-tier officials to detect any irregularities** (errors, omissions, indicators of unjustified increases in wealth), and either seeks clarification from officials or makes corrections where obvious errors are detected.
- 5. Formally reviews all of the declarations of top-tier officials to detect any potential conflicts of interest,** and seeks clarification or offers guidance to remove the conflicts of interest in such cases.
- 6. Steps 4 and 5 are then repeated with a targeted selection of all the remaining declarations** (approximately 2,500 are checked annually). These are selected on the basis of risk factors including high-risk posts or functions (for example, targeting officials in high-risk agencies such as customs

(continued next page)

BOX 3.1 *(continued)*

and tax administration), or the presence of a significant change in wealth from one declaration to the next (electronic versions of the declarations make this data-mining approach possible).

- 7. Refers cases of suspected illicit enrichment or conflicts of interest to the investigations department of the Ministry of Justice**, where a formal investigation is undertaken, potentially leading to a criminal prosecution.
- 8. Receives and responds to allegations of IAD violations or of corruption from the public** (in such cases performing steps 4 and 5 with the relevant declarations, or referring cases not specifically pertaining to IAD violations directly to the investigations department).

Managing Public Access to Declarations and Information about Compliance Rates

The IAD unit

- 9. Manages public access to declarations** (in person in the offices of the IAD unit) and publishes and maintains a list on its website of officials who have not complied with the filing requirement.

- Are the sanctions enforceable?
- How will appropriate sanctions reinforce the credibility of the system?

Regardless of the emphasis of the enforcement and sanction regime, the implementing agency's ability to effectively define, communicate, and administer asset disclosure requirements is the cornerstone of any successful asset disclosure system. Without it, submission compliance is irregular, the system may fail to act as a deterrent of illegal activity, and the process becomes an empty bureaucratic exercise. In addition, if filers do not receive sufficiently clear and objective instructions backed by the "teeth" of meaningful sanctions, they may be tempted to obscure prohibited activity by submitting a declaration with omissions or vague answers. A regime in which outcomes are unpredictable undermines confidence in the system, both among the public that sees few results, and among filers who may feel emboldened to lie or to ignore the requirement to file.²⁶

26. Guatemala's experience is relevant here. An internal recommendation soon to be implemented is that fines for noncompliance be tied to income levels. Currently, because fines (calculated cumulatively by each day of late filing) are often disproportionately high in relation to civil servant incomes, most fines are challenged; some are reduced and, on rare occasions, eliminated.

3.3.1 Interagency Coordination for Effective Enforcement of Sanctions

In many countries, the agency in charge of implementing the IAD system is separate from the enforcing agency and is therefore not ultimately responsible for ensuring successful enforcement or eventual prosecutions. In such cases, the IAD agency is usually charged with reporting violations to the prosecutor's office or other law enforcement agencies for further action for the enforcement of criminal sanctions, or to the responsible public authority for the enforcement of administrative sanctions. Such reports become part of the official record and can lead to or support subsequent or larger investigations. The effectiveness of the IAD regime depends, therefore, on interagency collaboration. This can take time to establish, is often politicized, and depends on political will and a general culture of acceptance within the government that an effective IAD system is indeed important. It also depends on the legal framework surrounding the IAD system and whether it forbids, allows, encourages, or requires information sharing across key agencies. Legal restrictions on information sharing can be a major challenge that undermines the credibility and functioning of an IAD system.

Types of Sanctionable Offenses

The first area to consider is which offenses warrant punishment. Sanctionable offenses generally fall into two categories: those associated with compliance with the requirement to declare in a timely fashion and those associated with the veracity of submissions. These goals need not be incompatible or mutually exclusive. (Sanctions for any corrupt behaviors, including conflicts of interest, that are detected through these mechanisms usually fall beyond the scope of the IAD regime.) The offenses identified in the case studies conducted for this guide include late filing, nonfiling, incomplete declarations, and false declarations. The first two are focused on the submission process while the second two are focused on the content of declarations. Figure 3.7 provides a graph of sanctions stipulated for filing violations across World Bank country income classifications.

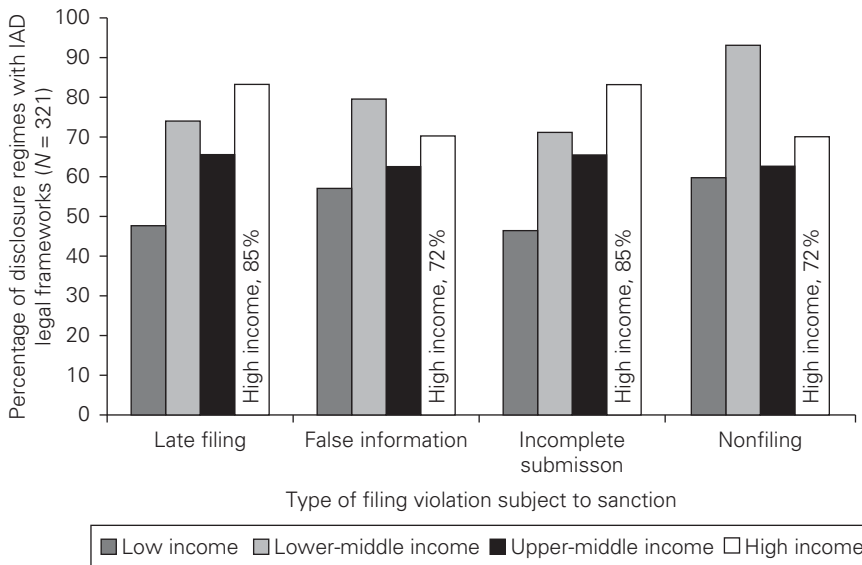
Types and Severity of Sanctions

A range of sanctions should be considered when designing an IAD system to ensure that they are proportional and enforceable. The range of appropriate sanctions will depend on the behaviors the IAD system is seeking to detect and prevent. These sanctions can include

- Administrative sanctions: from light to severe (reprimand, fines, temporary suspension of salary or fraction of salary, demotion, suspension from office, removal from post or office, barred from public service)
- Criminal sanctions: prison term (for serious offenses)
- Reputational penalties: publication of names of late filers and nonfilers in the official gazette or agency website; publication of administrative and other sanctions as part of the agency reporting and communications administration

As seen in figure 3.8, across the 87 countries examined in the Public Accountability Mechanism (PAM) dataset, administrative sanctions are the most likely type of sanction to be prescribed by law in cases of nonfiling for all categories of officials, with fines the second-most-likely sanction, and criminal sanctions the least frequently authorized

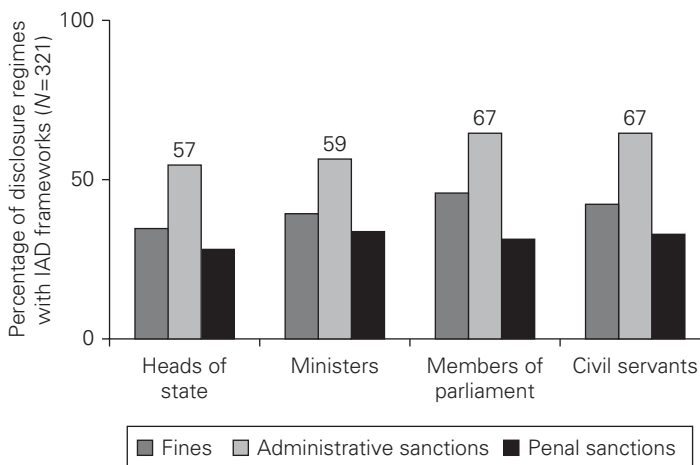
FIGURE 3.7 Sanctions Stipulated by Law for Filing Violations across World Bank Country Income Classifications



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries ($N = 87$) covered all categories of filer ($N = 5$): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

FIGURE 3.8 Sanctions Stipulated for Nonfiling by Category of Public Official



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries ($N = 87$) covered all categories of filer ($N = 5$): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

type of sanction. The key point to consider when establishing a sanctions regime for an IAD system is how effectively the sanctions will be enforced. A timely and consistent response to filing failures can be more important than the severity of a sanction. As such, administrative sanctions may be more appropriate than criminal penalties if they are more likely to be seen as reasonable and actually enforced.

Clear procedures for substantiating findings or allegations of IAD violations are very important for the system to have credibility with filers and the public, and to avoid the risk that the system be perceived as a tool for politically motivated persecutions. Mechanisms for officials to contest allegations and appeal the findings of the IAD agency are also important. In Croatia, for example, public officials against whom allegations of IAD violations have been made have an opportunity to provide clarification or present witnesses or other evidence to assist the Commission for the Prevention of Conflicts of Interest in its deliberations. If an allegation is substantiated by the Commission, then the finding and the applicable sanctions are communicated to the relevant public authority for enforcement (fines are levied in the case of nonfiling). (The IAD law in Croatia was recently amended to include dismissal from office as a sanction for filing false information, and being barred from public office for two to five years for officials who have been dismissed.)

Sanctions should be proportionate to the offense. The legal frameworks of the 87 countries examined for the PAM dataset (see appendix A) reveal a pattern whereby IAD regimes tend to use fines and administrative sanctions in cases of nonfiling and late filing, but tend to rely on criminal sanctions for false statements. Some of the systems examined in the in-depth case studies use escalating sanctions based on the type of offense. For instance, late filing may result in a lesser charge than making a false declaration. And in cases of incomplete filing, the majority of IAD laws provide for a “second chance,” meaning the declarant is allowed to submit additional information within a certain time frame.²⁷ Indeed, the severity of sanctions is a key consideration and needs to be calibrated both to its enforceability and to its potential for deterring noncompliance. In other words, a prison term could be as ineffective as a small fine if it is unlikely to be enforced (see figure 3.9 on key considerations regarding sanctions for IAD violations).

In Argentina, where the IAD system includes the possibility of very serious consequences for officials convicted of filing failures, these tough sanctions may actually be undermining the effectiveness of the law.²⁸ Backlogs in the courts and a perceived

27. Mongolia’s experience offers some insight on this front. If covered officials fail to declare their assets in a timely fashion, they are given one opportunity to explain their failure and to immediately comply. If they have a reasonable explanation, then they may only be suspended from office briefly. If, however, their failure is deemed willful or if they continue not to comply, they are dismissed from office. The Independent Agency against Corruption now records a 99.9 percent submission compliance rate.

28. Penalties include a prison sentence of 15 days to two years for failing to submit a declaration or willfully omitting or falsifying information therein. In addition, officials convicted under this law may be barred for life from public service. Costa Rica also uses as a sanction the disqualification from reappointment where a departing official has left public service without submitting a final declaration (OAS 2004a, 20).

FIGURE 3.9 Sanctions for IAD Violations: Key Considerations

<p>A violation of the IAD requirement should result in sanctions. <i>These should be</i></p>	Proportional	A range of sanctions (administrative and criminal) should be applicable and proportional to the offense.
	Enforceable	Sanctions should be enforceable and consistently enforced. A range of serious administrative sanctions may be preferable in countries where the courts are slow or unwilling to prosecute corruption charges.
	Visible	Data on the enforcement of sanctions should be communicated to filers and to the public.

Source: Authors' compilation.

reluctance by judges and prosecutors, according to corruption investigators, to impose prison sentences on officials accused of false filing, mean that the system is falling short in terms of enforcement. The law requires that the prosecution prove that any inaccurate information on a declaration was submitted with the intent to conceal income or assets, a requirement that is usually difficult to satisfy. Investigators agreed that had the law contemplated a range of administrative sanctions for noncompliance, including severe administrative penalties for false filing, this could have resulted in a greater number of successfully enforced sanctions.

Guatemala's sanctions regime, however, demonstrates the challenges posed by a system in which administrative sanctions (fines) become unenforceable in practice. The head of the IAD unit exercises discretion in the enforcement of fines that are seen as overly onerous by filers, in response to appeals from filers. To address this concern, the agency has recommended that fines for noncompliance be based on a matrix tied to income levels. Whether or not such an approach is practicable, most of the fines are challenged and many are eventually reduced, and on rare occasions eliminated.

Administrative Sanctions and Fines

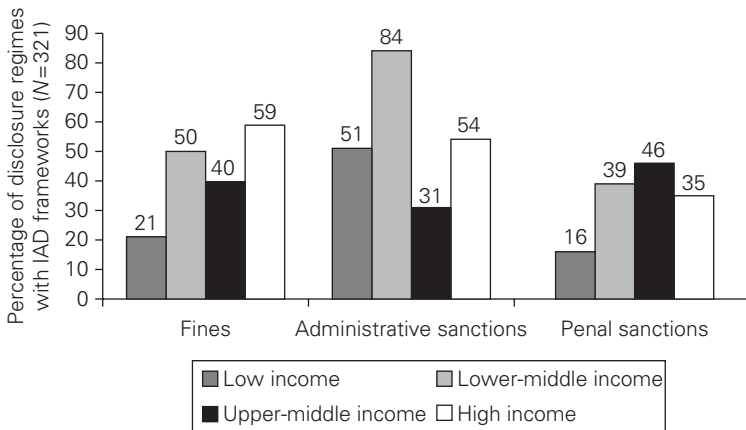
Administrative sanctions appear to hold the greatest promise of ensuring compliance in countries where the courts are slow to enforce. Administrative sanctions can consist of fines, official reprimands, and suspension of salary for late filing; suspension without pay; and removal from post. The use of fines and administrative sanctions as disciplinary measures needs to be gauged to have a sufficiently meaningful impact on

compliance (particularly if no other sanctions are available), though not to be so excessive as to become unenforceable. The effectiveness of this approach may vary widely depending on the relative weight of the financial penalty in different country contexts. Indeed, it is interesting to see the differences in the use of different types of sanctions in low-income, middle-income, and high-income countries. As seen in figure 3.10, lower-middle-income countries have a much higher incidence of administrative sanctions than do other countries.

Serious administrative sanctions, such as suspension and dismissal, may apply in cases of failure to file. Dismissal for failure to abide by the regulations governing employment in the civil service or for holding elected office can be an appropriate and compelling remedy. Different categories of officials may, however, require the use of different administrative sanctions. Members of Parliament, ministers, and heads of state cannot generally be dismissed from office, reprimanded, or suspended from duty in the same manner as civil servants. A special set of issues applies in these cases, as they do with members of the judiciary.

Some administrative sanctions may carry a personal reputational or political cost that can provide an effective means of compelling compliance. This result can be achieved by publishing names of noncompliant officials, for example (which could be done irrespective of whether the content of declarations are made public), or by linking compliance to individual performance assessments. The effectiveness of a reputational approach, however, relies on there being a generalized culture of compliance and a public and professional stigma attached to violations.

FIGURE 3.10 Sanctions Stipulated for Nonfiling across World Bank Country Income Classifications



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.
 Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

The mechanisms for sanctions to create reputational risks can be varied. First, by linking compliance to individual performance assessments, individuals may be more inclined to comply. From an organizational perspective, linking employee compliance to their supervisor's performance evaluation can add a layer of pressure on the individual employees and encourage managers to buy into the system. This logic can flow upward throughout the organization and can be leveraged by publishing results of compliance. The increased deterrent effect of this approach is that it may pose a clear threat to an official's career prospects and, depending on how salaries are set, to his or her earnings. However, such a system of reputational risk combined with administrative sanctions is predicated on there being a generalized acceptance and enforcement of the standards and, ideally, for government officials to see the IAD requirement as a normal and regular part of their job.

Administrative sanctions and fines have been used to great effect in numerous countries and in different ways. For instance, some countries have enacted sanctions that can be used after an individual has been removed from his or her position, such as in Germany, where up to 30 percent of a retirement pension may be withheld (OECD 2005, 56).

In Mongolia, officials who fail to declare their assets face immediate dismissal from office; the IAD unit has been able to implement this sanction in each of the three years in which it has received declarations.²⁹ In 2009, 64 individuals submitted their asset declarations late, and 37 failed to submit their declarations (out of 52,800 filers). All 37 who failed to file were dismissed from their jobs, and the majority of the 64 individuals who submitted their declarations late were also fired. If a valid reason is presented for the tardiness of submission, the individual may only face suspension of pay for a few months. However, most late filers will be dismissed from the public service for their failure to abide by the deadline. Mongolia's system has achieved remarkable submission compliance rates in very little time. However, it is important to consider the sanctions used within Mongolia's context. These sanctions could be viewed as excessive in other countries, or may be difficult to enforce consistently and would, therefore, likely not achieve the same results.

Criminal Sanctions

The IAD law and the criminal code may also provide criminal sanctions for serious offenses under the IAD regime. In some countries, lying on an official document constitutes a criminal offense. Moreover, the potential for prosecuting someone for intentionally lying on an asset declaration is particularly important if underlying acts of corruption are suspected and difficult to prove.

In these circumstances, it is vital that general perjury laws encompass lying on an asset disclosure or that a specific criminal sanction be provided for false statements on an asset disclosure. Reliance on criminal sanctions may be fraught with challenges if the

29. See the Mongolia Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

broader legal system cannot be relied on to enforce the sanctions. Without the ability to prosecute violations, such sanctions would become meaningless and undermine the credibility of the system.

As a general rule,

- A system designed to prevent and detect illicit enrichment can function on the basis of criminal sanctions or on severe administrative sanctions (dismissal or barring from public office, for example, for lying on the form or failure to submit a declaration), and less severe administrative sanctions (for example, for late filing) to ensure truthful and on-time declarations.
- A system focused almost exclusively on identifying and preventing potential conflicts of interest will tend to rely on a more collaborative approach between the administering agency and the declarant. Severe or criminal sanctions for false statements are still appropriate, but the approach to reviewing irregularities should not impede open communication between the responsible agency and the filer.³⁰

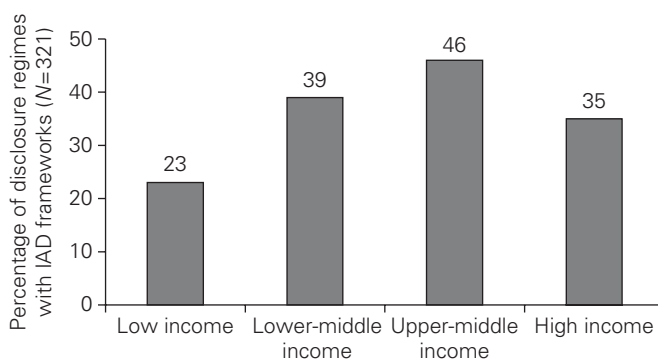
There is a wide variation of practice in different contexts. For instance, the failure to disclose income and assets is considered a criminal offense in Austria, France, Ireland, Italy, the Republic of Korea, and the Slovak Republic. Criminal sanctions can also apply for false filing, a breach that may be easier to prove and to prosecute than the underlying act of corruption the omission may have sought to conceal. As seen in figure 3.11, the criminalization of lying on an IAD form is still relatively uncommon, even among high-income and upper-middle-income countries, raising questions about the efficacy and impact of these systems. This situation is, however, somewhat mitigated by the fact that COI systems are less likely, as noted above, to focus on criminal sanctions and instead emphasize collaboration to prevent the rise of a COI situation.

The design of a sanctions regime needs to be tailored to achieve specific objectives within the political and economic context of the country. Identifying the behavior change desired may require deciding on a hierarchy of behaviors and focusing incrementally on these as implementing capacity and acceptance of the system improve. For instance, with the initial creation of the system, the emphasis may need to be on guaranteeing that all covered individuals submit their declarations completely and on time. Then, once this has largely been achieved, and the agency's capacity for verifying the content of declarations has been assured, the system can expand its focus to ensuring compliance with the accuracy and veracity of declarations. By including sanctions that are enforceable and proportionate, a country will gradually increase the credibility of the system with both the public and the filers.

30. An official will typically be reticent to inquire about the probity of his or her actions or about potential conflicts of interest to the same agency charged with investigating or prosecuting those actions. Some governments provide separate agencies for guidance and enforcement (Canada), or separate departments (Hong Kong SAR, China).

FIGURE 3.11

Penal Sanctions Stipulated for Provision of False Information across World Bank Country Income Classifications



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries ($N = 87$) covered all categories of filer ($N = 5$): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

3.3.2 Broader Applications of IAD Enforcement

IAD systems have broader applications in the enforcement of anticorruption programs beyond the enforcement of sanctions for IAD violations. IAD systems can provide investigators and prosecutors with a valuable tool, improving the odds of both the detection and prosecution of corruption. There are several mechanisms by which income and asset declarations can serve as tools in the investigation and prosecution of corruption cases, depending on the anticorruption and financial disclosure laws in place in a given country. These mechanisms can be summarized as follows:

1. *In countries where lying on an income and asset declaration constitutes a criminal offense*, the declaration itself can provide the basis for prosecution (proving that an official has provided false information on a declaration can often be easier than proving the underlying act of corruption that was concealed by the lie, improving the odds of conviction in corruption trials).
2. *In countries where illicit enrichment is classified as a criminal offense*, and the system is equipped to detect discrepancies between an official's income and asset declaration(s) and other sources of information about his or her income and assets, an "unjustified increase in wealth" provides the basis for a prosecution. Box 3.2 provides a description of illicit enrichment as a criminal offense.
3. In countries where there are no criminal penalties for false filing, but the IAD system is capable of detecting irregularities in declarations (either unusual increases in wealth, potential conflicts of interest, or both), these irregularities in officials' declarations usually serve as a trigger for a review, and potentially for a corruption investigation. An official's declaration(s) may then potentially serve as evidence in a prosecution if a corruption case goes to trial. In these cases, although the violation of the IAD regulation itself may only have resulted in a fine or other

BOX 3.2 Illicit Enrichment as a Criminal Offense

The United Nations Convention against Corruption (UNCAC) codifies illicit enrichment as one of the measures to prevent and criminalize corruption, promotes international cooperation, and facilitates the recovery of stolen assets. The crime of illicit enrichment was established in an effort to make it easier for states to prosecute individuals for corruption and, in some jurisdictions, for organized crime. Under more conventional approaches to prosecuting corruption, a link between an illicit act and the benefit received would normally have to be established by the prosecution. The criminalization of illicit enrichment allows, instead, for a *prima facie* case of corruption to be established simply by determining that an individual's wealth is disproportionate to his or her legitimate income.

Establishing illicit enrichment as a category of criminal offense thus directly addresses one of the intrinsic difficulties of anticorruption law enforcement: the requirement that the prosecution provide evidence of the criminal activity from which the individual has profited. Illicit enrichment prosecutions thus shift the burden of proof from the prosecution to the accused, who must prove the legitimate source(s) of his or her wealth. In countries where illicit enrichment is a criminal offense, income and asset declarations can provide a vital tool for exposing discrepancies between an official's wealth and his or her legitimate income. Irregularities on an income and asset declaration can prompt an indictment and, potentially, an illicit enrichment prosecution. Article 20 of UNCAC recommends that state parties adopt the offense of illicit enrichment. It states:

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.

Note: For more information on illicit enrichment, see StAR (forthcoming).

administrative sanction, the IAD system can help trigger or support corruption investigations.

IAD Systems and Politically Exposed Persons

Politically exposed persons (PEPs) are senior public officials—and the family members and close associates of senior public officials—whose official position, duties, and contacts present a heightened risk for corruption.³¹

31. While there is no internationally agreed-upon definition of a PEP, these are the generally accepted criteria. The Financial Action Task Force 40 Recommendations describe PEPs as follows: “Politically Exposed Persons’ (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.” (FATF/OECD 2010, 17)

International conventions, standard setters, policy-making bodies, and anticorruption initiatives³² have heightened attention on the need for financial institutions to exercise due diligence in doing business with PEPs, as a preventive mechanism against money laundering and other illicit financial transactions. Such initiatives provide a framework for financial institutions to exercise enhanced due diligence when doing business with PEPs, such as implementing systems for the identification of PEPs, enhanced due diligence procedures at account opening, ongoing monitoring, and reporting of suspicious transactions. Such measures can assist in the detection of illicit flows, provide an audit trail and, ultimately, facilitate the recovery of stolen assets.

IAD systems can contribute to enhanced scrutiny of PEPs by financial institutions, as follows:³³

- In countries where the names of officials obligated to file an income and asset declaration are published or made available for this purpose, financial institutions can use this list to help assess whether a customer is a PEP.
- In countries where the IAD system requires that family members and sometimes close associates of public officials submit an income and asset declaration, the register of filers can help financial institutions “know their customers” and identify associates who may be acting as shields for the PEP.
- In countries where the content of declarations is publicly available, declarations can assist financial institutions in determining the source of PEPs’ wealth or funds. Where the content of declarations is not accessible to the public but is made available to financial institutions for due diligence purposes, maintaining the confidentiality of the information is a priority. Public officials doing business with financial institutions could also be asked to provide a copy of their declaration to assist with due diligence.
- Regulatory authorities can assess how financial institutions are managing their PEPs risk by looking at how (if at all) a bank is using income and asset declarations.
- Financial investigation units can use the information in income and asset declarations to improve their analysis of suspicious transaction reports, with the same confidentiality considerations as above.

IAD Systems and the Prosecution of Illicit Enrichment

While the term “illicit enrichment” is used in this volume to refer to the focus of IAD systems that monitor the wealth of public officials (see section 1.2), in certain jurisdictions the term has other uses as a legal category of criminal offense.³⁴ Some jurisdictions

32. See UNCAC, Article 52(1). In addition, the Financial Action Task Force, an intergovernmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing, requires additional diligence for PEPs in Recommendation 6 of the 40 + 9 Recommendations.

33. For more information on PEPs, see Greenberg et al. 2009 and Rossi et al. (forthcoming).

34. As such, illicit enrichment serves as the “legal expression of [the] economic right of the people to control and dispose of their wealth and resources” (Kofele-Kale 2002, 157).

have adopted legal provisions for the criminal prosecution of “illicit enrichment”—also referred to as fraudulent enrichment or unexplained wealth—both to help prevent corruption and as a tool for redress against public officials who have violated their fiduciary responsibility (for more detail, see box 3.2). In countries where this legal provision exists, the crime of illicit enrichment is deemed to have occurred when there is a discrepancy between an individual’s perceived wealth and his or her legitimate income. This discrepancy alone serves as the basis for a criminal investigation, requiring that the accused demonstrate that their wealth or assets were legitimately acquired. This represents a significant shift in the burden of proof for a criminal investigation, placing the burden on the accused rather than on the public prosecutor’s office. A charge of illicit enrichment can also serve as the trigger for an investigation to determine whether the underlying causes for unexplained wealth are related to other criminal activities such as bribery and embezzlement, leading potentially to additional criminal sanctions for corruption offenses.

Income and asset declaration systems that are equipped to detect unusual changes in wealth, or discrepancies between perceived and declared income and assets, can assist in the detection of illicit enrichment and may be used as *prima facie* evidence in such cases.

IAD Systems and Stolen Asset Recovery

Recent focus on the global economic impacts of corruption and the challenges of tracing and recovering stolen assets³⁵ has intensified interest in the links between effective financial disclosure mechanisms and the prevention, detection, investigation, and prosecution of asset theft. “Asset recovery” refers to the process used to recover for the state, for the victims of corruption, or for duly designated third parties property acquired through the commission of offenses established especially under the United Nations Convention against Corruption (UNCAC). IAD systems can play a role in triggering corruption investigations, or if irregularities are detected in an official’s declaration(s), in providing evidence to justify the seizure of assets, or in supporting a request for mutual legal assistance (if foreign assets, or assets held abroad, are involved). The Convention lays out a comprehensive framework of legal instruments to support international asset recovery, including the use of income and asset declarations, where relevant.^{36,37}

35. For more information on stolen asset recovery, see the Stolen Asset Recovery (StAR) Initiative website; http://www1.worldbank.org/publicsector/star_site/index.html.

36. Article 52(5) of the UNCAC contains a provision regarding the potential use of income and asset declarations in asset recovery: “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 State Parties when necessary to investigate, claim, and recover proceeds of offenses established in accordance with this Convention.”

37. “Stolen Asset Recovery: Towards a Global Architecture for Asset Recovery”; http://www1.worldbank.org/publicsector/star_site/documents/global_architecture/GlobalArchitectureFinalwithCover.pdf.

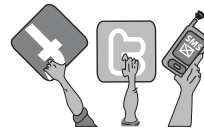
FIGURE 3.12 The Role of Civil Society in IAD Enforcement

In countries with an independent media and a vibrant civil society, CSOs may be able to conduct lifestyle checks that are beyond the resources and capacity of what the implementing agency can realistically achieve.

"Infomediaries" serve a pivotal role in keeping civil society informed by providing access to forms, databases, and summaries.

"Infomediaries"

- Can be NGOs, village politicians, news media, etc.
- Synthesize, translate, simplify, and direct information on behalf of others
- Convert passive information into "actionable" awareness
- Help create a knowledgeable and active civil society



Sources: Authors' compilation. See <http://www.opensecrets.org> for an example of an "infomediary" in the United States. Note: CSOs = civil society organizations; NGOs = nongovernmental organizations.

3.4 Managing Public Access to Declarations and Information on IAD System Performance

Some authors have argued that the effectiveness of an IAD system is related to the public's ability to access disclosed information (Mukherjee and Gokcekus 2006, 3; OECD 2008; Williams 2006, 2). Public disclosure of IAD information enables an IAD system to enlist civil society in scrutinizing declarations, potentially enhancing enforcement, and thereby increasing the credibility of the system, as well. In certain contexts, the IAD agency can draw on the readiness and ability of nongovernmental organizations (NGOs), the media, or both to conduct lifestyle checks that lie beyond their resources and capacity (see figure 3.12). Public disclosure can thus work as an added deterrent to the abuse of office, given the additional scrutiny it can afford.

Public access to declarations cannot entirely substitute for effective monitoring and verification by the responsible agency, because NGOs or the public typically do not have access to data sources (property registries or tax or banking databases) that are useful in the verification of declarations.³⁸ One caveat should also be noted with regard to public access. In systems that are developing their capacities, there is a possibility

38. In some countries, these sorts of databases may be very limited in any case, thereby increasing the relevance of public access, since the agency has a very limited scope of scrutiny. Access to information is one part of the equation; the other is how to interpret the declarations for possible irregularities, particularly in COI systems. COI analysis is a specialized task that requires legal knowledge, usually beyond the abilities (or budgets) of most NGOs. The real value of public access may lie less in its potential to contribute to the verification functions of the system than in the reinforcement of the message that a public official's duty to accountability is in the public's interest.

that public access may have a detrimental impact on the credibility of the system in the short term, by exposing the deficiencies of the system and thereby diminishing public confidence in government accountability (OSCE 2004, 39). Rather than weighing against the benefits of public access, however, this possibility underscores the importance of building capacity incrementally and of managing public expectations about what the system can achieve. The credibility of an IAD system needs to be considered on several fronts simultaneously. An IAD system needs to establish a *credible threat of detection*, whether through close review, targeted verification, and public access to declarations, or a combination of these. It also needs to establish a *credible threat of consequences* for violations, hence, the importance of communicating about compliance rates and the enforcement of sanctions in cases of noncompliance.

Access to the content of declarations is only part of the equation. Public awareness about the IAD agency's mandate and procedures is an indispensable ingredient for an effective IAD regime. Putting information in the public domain allows citizens to make informed decisions at the ballot box and to pressure their elected representatives to address any concerns raised by that information (Aaken and Voigt 2009, 5; Djankov et al. 2008, 4). Public awareness of an IAD system's mandate and procedures can encourage civil society engagement in anticorruption policies and programs and can increase the likelihood of public attention to the ethical conduct and lifestyles of public officials. Public awareness of the disclosure requirement coupled with an effective public complaints mechanism can increase an agency's effectiveness in detecting ethical violations, by allowing public allegations of corruption to trigger a review of officials' declarations. See table 3.4 for a comparison of public access to declarations in selected countries.

Effective communication on IAD system performance needs to be targeted to different groups of stakeholders: administrators, senior managers in government agencies, filers, policy makers, and citizens. For this purpose, IAD agencies need to develop mechanisms to track the results, both for reporting to policy makers and legislators as part of annual budget and policy review processes and for building awareness about the agency's mandate and the disclosure requirement, as well as to enhance the credibility of the system (see figure 3.13).

3.4.1 Balancing Privacy and the Public's Right to Know

The debate that has arisen in some countries about granting public access to income and asset disclosure information and an official's right to, or concerns about, privacy has been controversial, even in countries where IAD systems are generally perceived to be robust. Although citizen privacy is accepted in some countries as a fundamental individual right, privacy rights may hinder the effectiveness of certain aspects of disclosure systems, particularly those that lack rigorous verification procedures and, therefore, depend all the more on public scrutiny for effective enforcement. As a result, a successful disclosure framework faces the challenge of striking a sensible balance between enabling public scrutiny to assist in the fight against corruption and protecting the privacy of those required to declare their wealth. In many contexts, concerns about the invasion of privacy are coupled with officials' concerns about personal security.

TABLE 3.4 Features of Public Access to Declarations and to Data in Selected IAD Systems: Case Study Findings

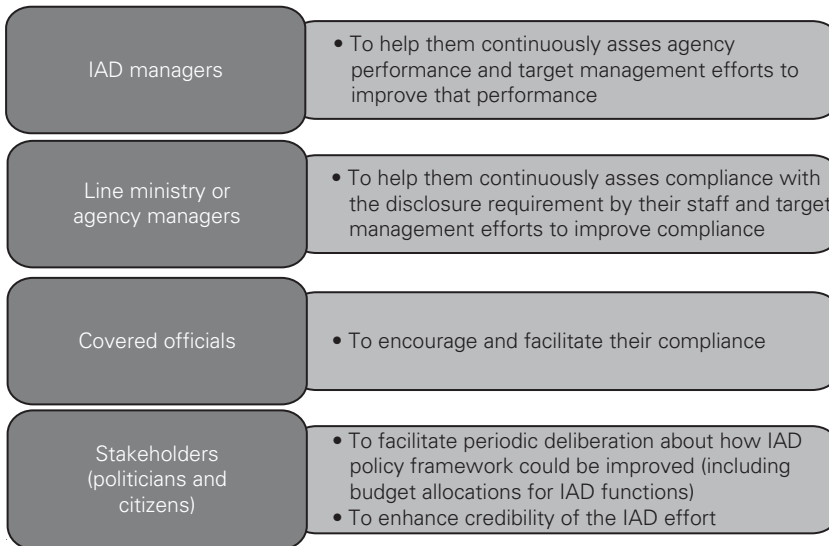
	Argentina	Croatia	Guatemala	Hong Kong SAR, China	Indonesia	Jordan	Kyrgyz Republic	Mongolia	Rwanda	Slovenia	United States
Is the content of declarations made publicly available?	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes
How much declaration content is made publicly available?	All ^a	Summary (totals)	—	—	Summary (totals)	—	Totals	Totals	—	—	All ^a
What is the method of access to declaration content?	In person	Online and in person	—	In person	Official gazette	—	Online, gazette, in person	In person	—	Online	In person
Are disclosure compliance statistics made publicly available?	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
What is the method of access to compliance data?	Biannual reports, MoJ website	Official gazette	Official gazette	Annual report	Online and official gazette	—	Mass media	Annual report	Annual report	Annual report	Annual report

Source: Companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

Note: a. All content is released except for home address, tax information, and bank account numbers. MoJ = Ministry of Justice. — = not available.

FIGURE 3.13 Communicating Results and Reporting on IAD Agency Performance

Whom to provide information to and why:



Source: Author's compilation.

Public disclosure can work to reduce the incentives for public officials to abuse the power entrusted to them (Aaken and Voigt 2009, 5). Who monitors disclosure and how the information gained is kept and communicated are important questions to answer to ensure robust accountability of an official's interests and professional actions (Williams 2006, 2). However, allowing public access to disclosure information in the absence of careful monitoring of declarations can cause the process to have neither impact nor credibility (OSCE 2004, 39). Moreover, relying on public access to provide scrutiny of declarations depends on there being an active civil society or NGO sector and independent media to serve that function, as well as effective complaints mechanisms for interested citizens to report allegations or complaints. Mongolia's system, for example, though still credible, relies heavily on public access to the declarations, but there has been very little public interest in monitoring declarations. In part, this is due to a relatively underdeveloped civil society. The result has been an increased perception that the IAD system does not detect or combat corruption.

It is conceivable that an IAD system can be robust in a country where the public does not have access to IAD forms, but where there is a credible rule of law and corruption cases are pursued in court. For example, asset declarations are not publicly available in Rwanda, but the IAD agency performs both random and targeted audits that have resulted in criminal investigations and prosecutions both for failures to properly declare assets and for underlying corrupt acts.

The debate about whether to make information in income and asset declarations accessible to the public often involves concerns about security and privacy. In countries where public officials may be targeted for kidnapping or violence, it is conceivable that publicizing certain types of content of declarations (for example, home address, make and model of car, and so forth) could put the official and his or her family at risk (this study has found no evidence, however, of declarations being directly correlated to such types of violence). In the age of globalized information, there are many sources of information on people's assets and residences, making declarations a fairly minor cause for concern. Nonetheless, security fears are a frequent concern among filers and can be addressed by a variety of means, as described below.

Granting Public Access to Certain Categories of Disclosed Information

In an attempt to resolve the debate between public availability and privacy, some experts suggest that a distinction be made between different categories of information contained in a financial disclosure, thus allowing access only to a subset of that information (Demmke et al. 2007, 67). It appears that some version of this model could satisfy most of the concerns on both sides of the debate. The agency's capacity to implement a dual approach (with different types of information categorized as private or public) would be key to its success, allowing potentially sensitive personal information to be protected from public access, while still allowing the public to gain a comprehensive picture of an official's financial situation and interests.

In Argentina, the system only grants access to the *public annex* of asset declarations. The *private annex*, which contains more sensitive or personal information (the name of a bank or financial institution where assets are held, account numbers, information identifying the location of real estate, a copy of the tax declaration), remains sealed except by court order.

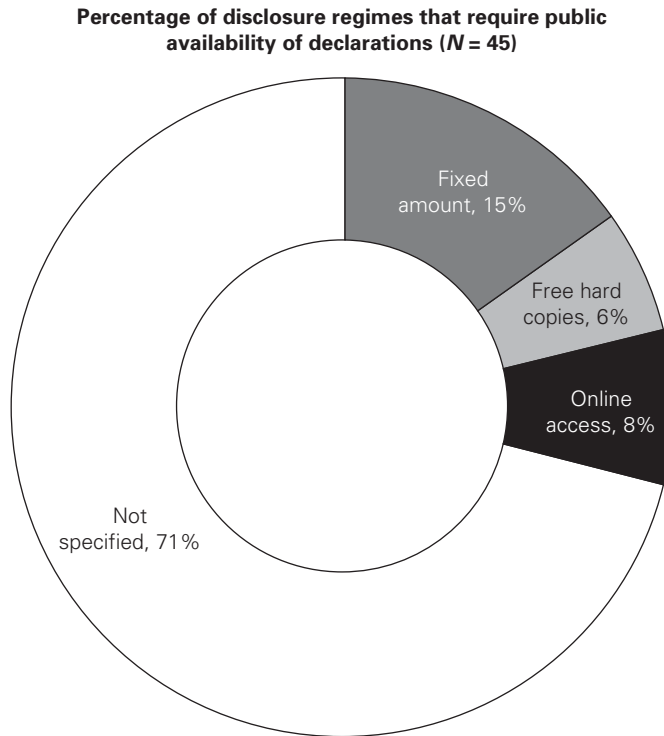
Similarly, the Kyrgyz Republic's Civil Service Agency only publishes summaries of 1,389 high-level officials on its website and in its official bulletin.³⁹ These summaries redact such information as the filer's address, account numbers, and the specific names of the assets. Instead, totals for asset types are provided to the public. This kind of compromise can help address privacy concerns, but if the information provided is sufficiently vague, it may not be much better than simply keeping the declarations private.

Placing Restrictions on the Use of and Access to IAD Information

Some countries nominally make declarations publicly available, but they erect barriers to access by charging fees or allowing access only to individuals who make requests for appointments in person and in situ. These approaches can mitigate concerns about access for frivolous or criminal purposes. An important caveat is that these restrictions not deter or hinder the interested public from gaining access. Clearly delineated and published guidelines are important to avoid abuse of such restrictions. Within the PAM sample of countries, only 14 percent specify that access to disclosed information be

39. See the Kyrgyz Republic Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). (Note that the case study was conducted in 2009; recent events in the Kyrgyz Republic may mean that case study findings no longer accurately reflect current practice.)

FIGURE 3.14 Fees for Public Access to Declaration Content, as Specified by Law



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

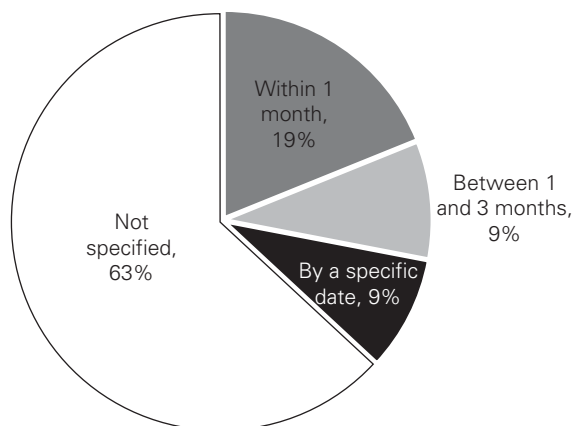
Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

provided free of charge, either online or in hard copy. Seventy-one percent of countries do not specify the fees to be charged for access to declaration content, which could result in excessive charges by individual agencies (figure 3.14). Over half of the countries in the sample specify a location at which declaration content may be accessed. As figure 3.15 shows, only 40 percent specify a timeline for posting or publicizing the declaration data.

Although there is a clear preference in the IAD literature for the free and easy provision of access to declarations, some countries require that interested parties physically visit the site where the declarations are held to access them, rather than making them available to the media, publishing them online, or publishing them in the official gazette of the government. For instance, the United States has chosen to use this approach, forswearing the posting of declarations online in favor of requiring individuals (be they members of the press or private individuals) to visit the Office of Government Ethics and identify themselves so that the person whose file they inspect can know who has accessed their declaration. This may increase the comfort level of filers, but it also has the potential to create a chilling effect if individuals worry that there could be negative consequences for their having accessed these files.

FIGURE 3.15 Timing of Public Availability of Declaration Content, as Specified by Law

Percentage of disclosure regimes that require public availability of declarations (N = 45)



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

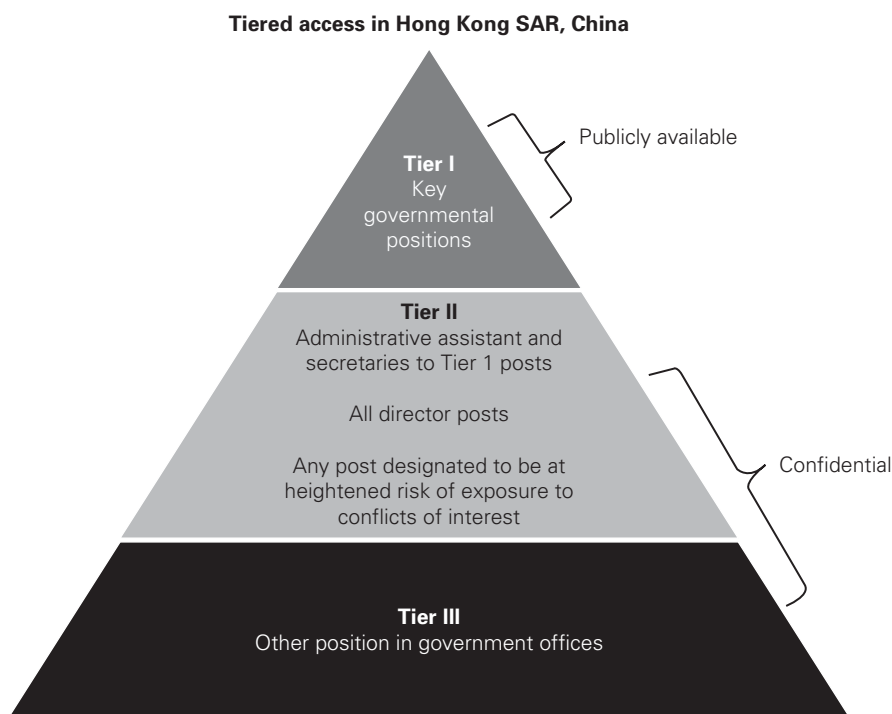
Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

However, other countries have adopted variants of the strategy employed above. For instance, Croatia has a system where asset declarations are deemed to be public information. A subset of that information is made available online, and the public can view the original form in person at the office of the Commission for the Prevention of Conflicts of Interest. When such a request is made, the agency collects information about who is making the request, thereby introducing a hurdle that may dissuade casual observers from accessing declarations.

In Argentina, the asset declaration agency does not publish declarations online, but accepts requests for appointments to view the hard copies of the public annex of declarations in person at the agency. These appointments can be requested by phone and by e-mail. The individual making the request is obligated to appear in person to collect the requested copy. Requests can be turned down, though this very rarely happens in practice, if they are considered counter to the purpose of the law, and there are penalties for the improper use of information obtained from an IAD form, such as for commercial or criminal purposes. Similarly, the Kyrgyz Republic's Civil Service Agency only publishes asset declaration summaries of 1,389 high-level officials on its website and in its official bulletin.⁴⁰ These summaries redact such information as the filer's address, account numbers, and the specific names of the assets. Instead, totals for asset types are provided to the public.

40. See the Kyrgyzstan Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012). Note that ongoing events in the Kyrgyz Republic mean that these findings may no longer reflect current practice.

FIGURE 3.16 Limiting Public Access to the Declarations of Certain Categories of Official—Example: Hong Kong SAR, China



Source: Authors' compilation.

Granting Public Access to the Declarations of Certain Categories of Officials

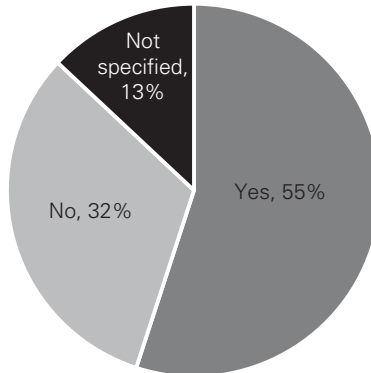
Some countries have, instead, opted to make the declarations of only certain high-ranking officials public. Typically, this approach covers elected officials and political appointments. The rationale for this is that these officials have chosen to expose themselves to greater public scrutiny because of the nature of their position and making their declarations publicly available is, therefore, a reasonable component of this public scrutiny. In fact, it is generally recognized that the public interest weighs more heavily against the right to privacy of elected officials than of civil servants (OECD 2006b, 41).

Indeed, Hong Kong SAR, China (see figure 3.16); Mongolia; and Kyrgyzstan employ a tiered public access model, granting public access depending on the rank of the declaring official. The higher the rank of the position, the more likely disclosure will be mandated. In Hong Kong SAR, China, declarations for Tier I officials (posts that are centrally designated by the government and consist of 24 key government positions) are made publicly available, while the declarations of Tier II officials remain confidential.⁴¹ Tier I asset

41. See the Hong Kong SAR, China, Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

FIGURE 3.17 Public Availability of Declaration Content, as Specified by Law

Percentage of disclosure regimes with IAD legal frameworks (N = 321)



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

declarations are not, however, available on the Internet; instead, interested parties are required to request a copy in person.

In several countries, the declarations filed by civil servants are protected under privacy provisions, possibly because they are not elected officials, or because they are less likely to be in positions that would allow them to significantly influence policies or divert public funds for personal gain. This is also true of the asset and income information provided by spouses and children (see figure 3.17).

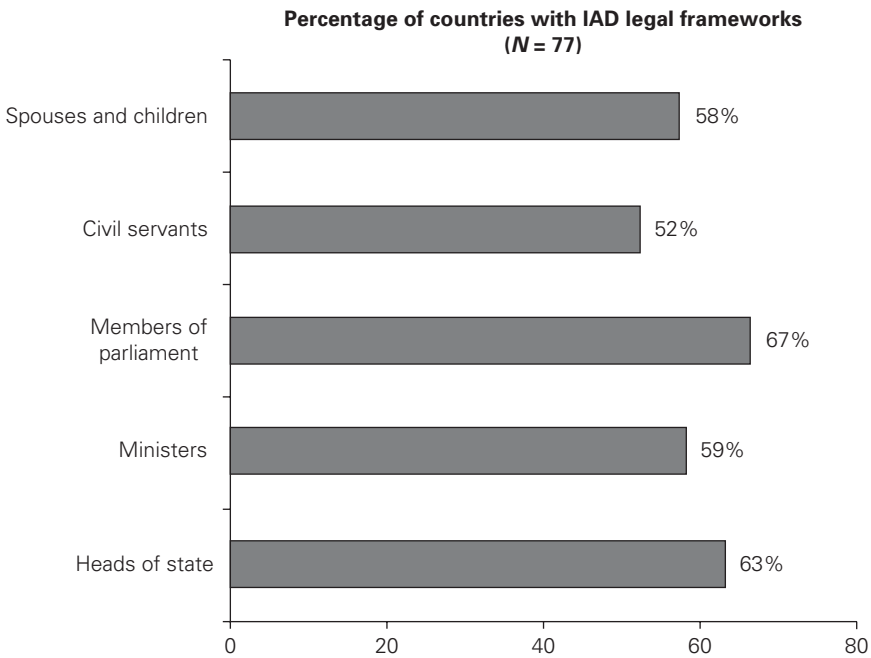
Keeping Declarations Entirely Confidential

There are numerous countries with confidentiality laws that prohibit the publication of declarations. For instance, Guatemala's Probity Law ensures complete confidentiality of asset declarations, except by court order.⁴² This includes a prohibition against revealing information contained in an IAD to other government entities, such as the Prosecutor's Office investigating acts of corruption. Belize's IAD system is also confidential, requiring all its IAD system officials to swear to a duty of confidentiality before a magistrate or justice of the peace (OAS 2004b, 10). Certificates of submission are, however, published in its official gazette. In Jordan declarations are kept under seal unless allegations of corruption against an official have been substantiated.

In those countries where declarations are not publicly available, thereby precluding an opportunity for civil society to hold public officials accountable through the IAD framework, there may exist credible governmental mechanisms for content verification and

42. See the Guatemala Case Study in the companion volume, *Income and Asset Disclosure: Case Study Illustrations* (World Bank/StAR 2012).

FIGURE 3.18 Public Availability of Declaration Content by Category of Filer, as Specified by Law



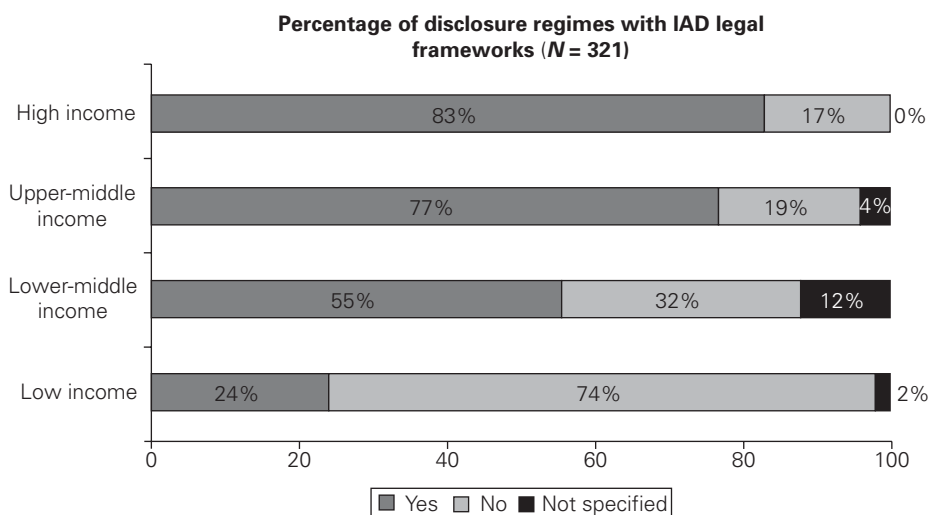
Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

prosecution of corrupt activities. Such is the case in France and Macao SAR, China, where declarations can and are used in the course of an investigation into an underlying crime, or when suspicious findings arise.

In Afghanistan, where the High Office of Oversight is still an emerging institution, the law provides for public access only “where needed” or “when required.” The omission of any criteria setting out the trigger for publication, therefore, may preclude any public access. The High Office of Oversight in Afghanistan, however, has expressed an intention to publicize the reports of key senior national leaders, such as the president, in order to demonstrate the importance of the system to top national leadership. Providing the High Office of Oversight with such wide-ranging discretion could, however, create opportunities to protect political allies and to punish political enemies.

Total confidentiality of income and asset declarations can severely undermine the capacity of the public sector to address illegal enrichment by government officials and employees by making it extremely difficult to use those declarations to identify potential problems. Instead, the declarations become tools only for the prosecution of other underlying crimes.

FIGURE 3.19 Public Availability of Declaration Content by Income Classification, as Specified by Law



Source: World Bank PAM dataset of 87 countries, 2010; <https://www.agidata.org/pam>.

Note: There are 435 possible disclosure regimes, if all countries (N = 87) covered all categories of filer (N = 5): heads of state, ministers, members of Parliament, civil servants, and spouses and children. In the PAM sample, there are only 321 disclosure regimes covered by IAD legal frameworks.

3.4.2 Public Access in Practice

Despite the general endorsement of public access by IAD specialists, the use of public access across many countries is limited or lacking. A 2008 study of IAD practices among parliamentarians in 174 sample countries revealed that less than a third make all disclosures of members of Parliament available to the public (Djankov et al. 2008, 1). A separate data set (the PAM data set upon which this guide builds) covering 87 countries and a range of public officials have found that 55 percent of countries legally require that income and asset declarations of some public officials be made publicly available, though the figure may be smaller in practice (see figure 3.18).

Across the entire 87-country sample of the PAM data set, however, the incidence of public availability differs significantly across income categories. Although 55 percent of lower-middle-income, 76 percent of upper-middle-income, and 83 percent of high-income countries are required by law to make the content of declarations available, only 24 percent of low-income countries have this requirement (see figure 3.19).

3.4.3 Public Access to Compliance Rates and Other Aspects of IAD System Performance

Public access to information about the performance of an IAD system can help drive improvements and influence policy. Specialized NGOs can play a valuable role in

reviewing disclosure requirements and monitoring and reporting on the performance of an IAD system. For example, The Center for Public Integrity, an NGO in the United States, has been monitoring and reporting on the implementation of income and asset declaration requirements at the state level in the United States since 1999. The Center for Public Integrity publishes a report, “States of Disclosure,” and has developed a ranking system, both of which have contributed to policy changes, including increases in the categories of information officials are required to disclose in different states.⁴³

43. http://www.publicintegrity.org/investigations/states_of_disclosure.

Appendix A. Methodology and Indicators Used for the Guide

The findings in this guide are based on country case studies, desk research, and the analysis of data gathered as part of the World Bank's Public Accountability Mechanisms (PAM) Initiative, using data on the legal frameworks for income and asset disclosure (IAD) systems in 88 economies (table A.1). Detailed country studies were conducted in 11 economies: Argentina; Croatia; Guatemala; Hong Kong SAR, China; Indonesia; Jordan; the Kyrgyz Republic; Mongolia; Rwanda; Slovenia; and the United States. Country studies were conducted by means of in-depth interviews with practitioners, academics, and representatives of civil society in each of these economies. The case studies are contained in the companion volume of this guide, *Income and Asset Disclosure: Case Study Illustrations*.

The PAM Initiative

To meet the demand for more effective monitoring of the policies and institutions that contribute to governance outcomes, the PAM Initiative is a work in progress that provides information on the transparency of governments and the accountability of public officials.⁴⁴ The initiative is focused on four types of public official: heads of state, ministers and cabinet members, members of Parliament, and civil servants as defined by the individual countries. Spouses and children of each category of public official are also included. The field of inquiry covers five types of transparency and accountability regimes:

- Income and asset disclosure
- Conflict of interest
- Freedom of information
- Immunity protections
- Ethics training

The PAM Initiative publishes detailed and regularly updated data on efforts to enhance the transparency and accountability systems in a sample of 88 countries worldwide.⁴⁵ It also involves the creation of a pool of relevant indicators that can be used in monitoring the implementation of reform efforts. For both of these goals, the PAM Initiative develops Actionable Governance Indicators that provide insight into how governance sub-systems function and which actions may produce better outcomes.

44. This is part of a larger project to develop such Actionable Governance Indicators, which is described in this appendix.

45. This is part of a larger project to develop such Actionable Governance Indicators, which is described in this appendix.

TABLE A.1		Economies for which IAD and COI Legal Framework Data Have Been Collected as Part of the AGI Initiative	
Economies			
High-income (14)	Czech Republic	Italy	Slovak Republic
	Estonia	Japan	Slovenia
	France	Norway	United Kingdom
	Germany	Poland	United States
	Hungary	Russian Federation	
Europe and Central Asia (19)	Albania	Kazakhstan	Serbia
	Armenia	Kyrgyz Republic	Tajikistan
	Azerbaijan	Latvia	Turkey
	Bosnia and Herzegovina	Lithuania	Ukraine
	Bulgaria	Macedonia, FYR	Uzbekistan
	Croatia	Moldova	
	Georgia	Romania	
East Asia and the Pacific (14)	Cambodia	Palau	Timor-Leste
	Fiji	Papua New Guinea	Tonga
	Indonesia	Philippines	Vanuatu
	Lao PDR	Solomon Islands	Vietnam
	Mongolia	Taiwan, China	
Latin America and the Caribbean (6)	Argentina	Honduras	Mexico
	Bolivia	Guyana	
Middle East and North Africa (2)	Dominican Republic	Morocco	
	Jordan		
South Asia (5)	Bangladesh	Nepal	Sri Lanka
	India	Pakistan	
Africa (28)	Angola	Guinea	Nigeria
	Benin	Kenya	Senegal
	Botswana	Madagascar	Sierra Leone
	Burkina Faso	Malawi	South Africa
	Burundi	Mali	Tanzania
	Congo, Rep.	Mauritania	Uganda
	Congo, Dem. Rep.	Mauritius	Zambia
	Ethiopia	Mozambique	Zimbabwe
	Gambia, The	Namibia	
	Ghana	Niger	

Source: Authors' compilation.

Actionable Governance Indicators (AGIs)

AGIs measure the direct impacts of institutional reform efforts on how particular governance subsystems function. These *actionable* indicators are narrowly circumscribed and clearly defined, and focus on relatively specific aspects of governance rather than on broad dimensions. They provide greater clarity regarding the actions that governments can take to achieve better results on assessments of certain areas of governance. They include the following:

- *Institutional arrangements* (aka “rules of the game”), which are the formal and informal rules governing the actions of agents involved in the operation of a given governance system. These rules (a) assign responsibilities and authority across relevant agents or actors; (b) specify permitted, required, and forbidden activities by those agents or actors; and (c) establish procedures governing the activities and behavior of those agents or actors. These rules create (better or worse) incentives for agents to perform their roles.
- *Organizational capacity features*, which are characteristics of the resources employed by the relevant agents or actors assigned responsibilities under the legal framework. Such indicators typically capture (a) the magnitudes of particular resources (money, personnel, equipment, facilities and buildings, and so forth), and (b) the quality of those resources (for example, types of technology employed, quality of staff, and so forth).
- *Governance system performance*, which captures information on the practices of the agents assigned particular asset declaration implementation responsibilities. The variance of the organizational behavior and practices sheds light on whether practices are likely to advance the underlying objectives of the asset declaration legal framework (figure A.1).

Legislative AGIs

In the PAM Initiative, legislative indicators capture information on the formal institutional arrangements or rules of an accountability mechanism. They are fact-based assessments of legislation and related laws, decrees, and codes of conduct that are externally reviewed by country technical experts. They are based on the content analyses prepared by lawyers regarding the country legal frameworks. These legislative indicators capture data on the characteristics of legal frameworks of accountability within countries.

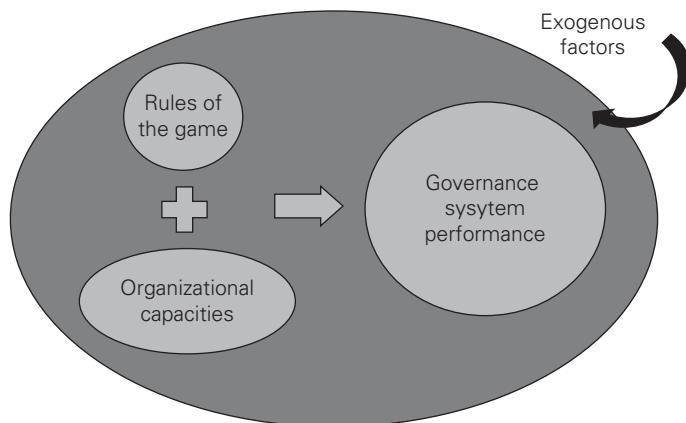
Selection of Primary Sources

Data sources for legislative indicators consist of laws, decrees, or codes of conduct that relate to the mechanism under study.

Analysis of Legal Frameworks

Primary source documents (for example, laws, decrees, codes) are used to complete the analyses, in the original language if possible. All relevant legislation is included in the

FIGURE A.1 Actionable Governance Indicators



Source: PAM Initiative.

analysis, even if not specifically part of the mechanism framework; that is, if the civil service law contains some sanctions for noncompliance, it is included in the analysis. No secondary sources are used in the analysis of country legal frameworks (see table A.2).

Reliability Checks

Data for each mechanism were collected using primary sources and were peer reviewed by the team. Both the data and the summaries of each characteristic were then sent to an external reviewer in country for feedback. This reviewer is intended to have either in-depth legal knowledge of the mechanism being examined in a specific country or expertise in a related field. Once feedback was received, the changes were incorporated into the data set for the country. To minimize both reliability and validity problems, data were also sent to World Bank country offices for feedback.

Implementation AGIs

Implementation indicators are focused on all three categories: (a) informal institutional arrangements or rules, (b) organizational capacity, and (c) performance of a governance system (that is, accountability mechanism). These indicators are fact-based assessments of implementation processes, with data gathered by governments, World Bank country teams, and civil society organizations. The broad functional categories for the mechanisms are as follows:

- *Management and accountability* arrangements, capacities, and practices of the agents responsible for ensuring implementation of each mechanism. Such management and accountability indicators capture characteristics of the accountability, financial, and human resource management systems of the agents responsible for implementing a given public accountability mechanism (for example, income and asset disclosure).

TABLE A.2	Legal Framework Indicators for Income and Asset Disclosure
1	Legal framework
2	Laws regulating income and asset disclosure
3	Constitutional requirement
4	Coverage of public officials
5	Head(s) of State
6	Ministers/cabinet members
7	Members of parliament (MPs)
8	Civil Servants
9	Spouses and children
10	Scope of declarations content
11	<i>Head(s) of state</i>
12	Assets, liabilities, and income items covered are explicitly defined
13	Real estate must be disclosed
14	Movable assets must be disclosed
15	Cash must be disclosed
16	Loans and debts must be disclosed
17	Earned income must be disclosed
18	Unearned income must be disclosed
19	<i>Ministers/cabinet members</i>
20	Assets, liabilities, and income items covered are explicitly defined
21	Real estate must be disclosed
22	Movable assets must be disclosed
23	Cash must be disclosed
24	Loans and debts must be disclosed
25	Earned income must be disclosed
26	Unearned income must be disclosed
27	<i>Members of parliament (MPs)</i>
28	Assets, liabilities, and income items covered are explicitly defined
29	Real estate must be disclosed
30	Movable assets must be disclosed
31	Cash must be disclosed
32	Loans and debts must be disclosed
33	Earned income must be disclosed
34	Unearned income must be disclosed
35	<i>Civil servants</i>
36	Assets, liabilities, and income items covered are explicitly defined
37	Real estate must be disclosed

(continued next page)

TABLE A.2	Legal Framework Indicators for Income and Asset Disclosure (continued)
38	Movable assets must be disclosed
39	Cash must be disclosed
40	Loans and debts must be disclosed
41	Earned income must be disclosed
42	Unearned income must be disclosed
43	<i>Spouses and children</i>
44	Assets, liabilities, and income items covered are explicitly defined
45	Real estate must be disclosed
46	Movable assets must be disclosed
47	Cash must be disclosed
48	Loans and debts must be disclosed
49	Earned income must be disclosed
50	Unearned income must be disclosed
51	Filing frequency
52	<i>Head(s) of state</i>
53	Filing required upon taking office
54	Filing required upon leaving office
55	Filing required annually
56	Filing required within 3 years of leaving office
57	Filing required upon change in assets
58	Verifiable declaration (not oral)
59	<i>Ministers/cabinet members</i>
60	Filing required upon taking office
61	Filing required upon leaving office
62	Filing required annually
63	Filing required within 3 years of leaving office
64	Filing required upon change in assets
65	Verifiable declaration (not oral)
66	<i>Members of parliament (MPs)</i>
67	Filing required upon taking office
68	Filing required upon leaving office
69	Filing required annually
70	Filing required within 3 years of leaving office
71	Filing required upon change in assets
72	Verifiable declaration (not oral)
73	<i>Civil servants</i>
74	Filing required upon taking office

75	Filing required upon leaving office
76	Filing required annually
77	Filing required within 3 years of leaving office
78	Filing required upon change in assets
79	Verifiable declaration (not oral)
80	Sanctions
81	<i>Head(s) of state</i>
82	Sanctions stipulated for late filing
83	Fines stipulated for late filing
84	Administrative sanctions stipulated for late filing
85	Criminal sanctions stipulated for late filing
86	Sanctions stipulated for incomplete submission
87	Fines stipulated for incomplete submission
88	Administrative sanctions stipulated for incomplete submission
89	Criminal sanctions stipulated for incomplete submission
90	Sanctions stipulated for nonfiling
91	Fines stipulated for nonfiling
92	Administrative sanctions stipulated for nonfiling
93	Criminal sanctions stipulated for nonfiling
94	Sanctions stipulated for providing false information
95	Fines stipulated for providing false information
96	Administrative sanctions stipulated for providing false information
97	Criminal sanctions stipulated for providing false information
98	<i>Ministers/cabinet members</i>
99	Sanctions stipulated for late filing
100	Fines stipulated for late filing
101	Administrative sanctions stipulated for late filing
102	Criminal sanctions stipulated for late filing
103	Sanctions stipulated for incomplete submission
104	Fines stipulated for incomplete submission
105	Administrative sanctions stipulated for incomplete submission
106	Criminal sanctions stipulated for incomplete submission
107	Sanctions stipulated for nonfiling
108	Fines stipulated for nonfiling
109	Administrative sanctions stipulated for nonfiling
110	Criminal sanctions stipulated for nonfiling
111	Sanctions stipulated for providing false information
112	Fines stipulated for providing false information

(continued next page)

TABLE A.2	Legal Framework Indicators for Income and Asset Disclosure (continued)
113	Administrative sanctions stipulated for providing false information
114	Criminal sanctions stipulated for providing false information
115	<i>Members of parliament (MPs)</i>
116	Sanctions stipulated for late filing
117	Fines stipulated for late filing
118	Administrative sanctions stipulated for late filing
119	Criminal sanctions stipulated for late filing
120	Sanctions stipulated for incomplete submission
121	Fines stipulated for incomplete submission
122	Administrative sanctions stipulated for incomplete submission
123	Criminal sanctions stipulated for incomplete submission
124	Sanctions stipulated for nonfiling
125	Fines stipulated for nonfiling
126	Administrative sanctions stipulated for nonfiling
127	Criminal sanctions stipulated for nonfiling
128	Sanctions stipulated for providing false information
129	Fines stipulated for providing false information
130	Administrative sanctions stipulated for providing false information
131	Criminal sanctions stipulated for providing false information
132	<i>Civil servants</i>
133	Sanctions stipulated for late filing
134	Fines stipulated for late filing
135	Administrative sanctions stipulated for late filing
136	Criminal sanctions stipulated for late filing
137	Sanctions stipulated for incomplete submission
138	Fines stipulated for incomplete submission
139	Administrative sanctions stipulated for incomplete submission
140	Criminal sanctions stipulated for incomplete submission
141	Sanctions stipulated for nonfiling
142	Fines stipulated for nonfiling
143	Administrative sanctions stipulated for nonfiling
144	Criminal sanctions stipulated for nonfiling
145	Sanctions stipulated for providing false information
146	Fines stipulated for providing false information
147	Administrative sanctions stipulated for providing false information
148	Criminal sanctions stipulated for providing false information

149	Monitoring and oversight
150	<i>Head(s) of state</i>
151	Enforcement body explicitly identified
152	Depository body explicitly identified
153	Some agency assigned responsibility for verifying submission
154	Some agency assigned responsibility for verifying accuracy
155	<i>Ministers/cabinet members</i>
156	Enforcement body explicitly identified
157	Depository body explicitly identified
158	Some agency assigned responsibility for verifying submission
159	Some agency assigned responsibility for verifying accuracy
160	<i>Members of parliament (MPs)</i>
161	Enforcement body explicitly identified
162	Depository body explicitly identified
163	Some agency assigned responsibility for verifying submission
164	Some agency assigned responsibility for verifying accuracy
165	<i>Civil servants</i>
166	Enforcement body explicitly identified
167	Depository body explicitly identified
168	Some agency assigned responsibility for verifying submission
169	Some agency assigned responsibility for verifying accuracy
170	Public access to declarations
171	<i>Head(s) of state</i>
172	Public availability
173	Timely posting
174	Clearly identified location
175	Reasonable fees for access
176	Length of records maintenance is specified
177	<i>Ministers/cabinet members</i>
178	Public availability
179	Timely posting
180	Clearly identified location
181	Reasonable fees for access
182	Length of records maintenance is specified
183	<i>Members of parliament (MPs)</i>
184	Public availability
185	Timely posting

(continued next page)

TABLE A.2	Legal Framework Indicators for Income and Asset Disclosure (continued)
186	Clearly identified location
187	Reasonable fees for access
188	Length of records maintenance is specified
189	<i>Civil servants</i>
190	Public availability
191	Timely posting
192	Clearly identified location
193	Reasonable fees for access
194	Length of records maintenance is specified
195	<i>Spouses and children</i>
196	Public availability
197	Timely posting
198	Clearly identified location
199	Reasonable fees for access
200	Length of records maintenance is specified

Source: PAM Dataset 2009.

- *Enforcement* arrangements, capacities, and practices of the agents responsible for ensuring implementation of each mechanism. Such enforcement indicators capture information on the production technologies employed to implement or enforce the requirements of a particular mechanism. Examples of the sorts of features to be captured might include regulatory capacities and practices, activities aimed at ensuring compliance with the mechanism rules and procedures, verification and investigations practices, interagency collaboration efforts, advisory activities, and monitoring and reporting of results.
- *Immediate impact* indicators capture the extent to which particular, well specified, immediate objectives of the accountability mechanism are being achieved. These intermediate outcome indicators do not capture performance in the sense of ultimate outcomes, such as reduced corruption, reduced state capture, or more ethical behavior of civil servants. Instead, these immediate impact indicators aim to capture compliance with the legal framework (by the officials covered by the legislation), indicative of government commitment to enforcement of legal provisions and the extent to which the information covered by that legislation is being accessed by citizens or organized groups of citizens (that is, evidence that access to that information has, in practice, been improved).

Data on implementation efforts were collected through collaboration with country governments, World Bank country offices, and civil society organizations. In most cases, data were collected through interviews with relevant government officials and civil society representatives and through site visits to government offices. Additional communication with relevant officials was conducted for clarification of data. (See table A.3.)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required

Section 1: Measurement and Accountability

1.1	Facilities	
	Is a physical space designated for IAD/COI activities?	R
	What is the ratio of desks to personnel?	C
	Is the computer hardware less than 10 years old? (desktop, laptops, and/or monitors, etc.)	C
	Is the computer software less than 5 years old? (word processing, spreadsheet, and/or email software, etc.)	C
	What is the ratio of computers to personnel?	C
	Is basic office equipment (computers, Internet access, photocopier machines, and/or printers) available for IAD/COI purposes?	C
	How often is Internet access available? (Always, Sometimes, Rarely, Never)	C
	Was outdated or broken office equipment replaced?	P
	Was outdated or broken computer hardware replaced?	P
	Was outdated or nonfunctional computer software replaced?	P
	Were all new permanent employees provided a computer and workstation?	P
	1.2	Data management
Which agency is obligated to store the hard copies of completed declarations?		R
Is there a procedure for storing the content of declarations electronically?		R
Is oversight of the IAD/COI data management system assigned to a particular individual?		R
Please identify the person who is responsible for data management.		R
Is a physical space available for storing the hard copies of completed declarations?		C
Is the physical space for storage of completed declarations capable of storing all hard copies securely?		C
Are IAD/COI personnel aware of record-keeping procedures?		C
Were declarations and related documents stored in the designated space?		P
If not, please explain why.	P	

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	Was information from declarations stored electronically, hard copy, or both? (please select below)	
	Personal background information of declarant	P
	Financial information of declarant	P
	Aggregate data for individuals	P
	Aggregate data for groups of public officials	P
	Did oversight of the records policy ensure that documents are properly kept?	P
	If not, please explain why.	P
1.3	Human resources	
	Which staff member in the IAD oversight agency is responsible for overall IAD management?	R
	Which staff member is responsible for management of IAD/COI issues in line agencies?	R
	Is there an accurate organigram of IAD/COI staff in the oversight agency?	R
	Are IAD/COI operating manuals available to staff in the oversight agency?	R
	Are IAD/COI operating manuals available to staff in the line agencies?	R
	How many individuals are responsible for IAD/COI tasks in the oversight agency?	C
	How many individuals are responsible for IAD/COI tasks in the line agencies?	C
	How many individuals responsible for IAD/COI obligations are contract employees?	C
	How are IAD/COI-related positions filled? (competitive recruitment, political appointments, both)	C
	What is the percentage of nonadministrative IAD/COI staff members having at least 4 years of postsecondary education?	C
	Did personnel receive training in IAD/COI principles and/or regulations?	P
	Did personnel receive performance evaluations?	P
	How many staff members have left their positions in the past 5 years?	P

1.4	Financial management	
	Is the oversight agency required to submit a budget proposal for its IAD/COI-related activities, or to include specific IAD/COI line items in its budget proposal?	R
	Does the oversight agency have a statutorily defined budget for IAD/COI activities?	R
	Does the oversight agency receive IAD/COI funding from an oversight agency or directly from Treasury?	R
	What is the budget for IAD/COI-related activities?	C
	What is the wage bill for IAD/COI (IAD/COI-dedicated budget/IAD/COI personnel)?	C
	How are IAD/COI-related funds allocated? (e.g., at the beginning of the fiscal year, in tranches throughout the year, based on performance, etc.)	C
	Did the agency assess its budgetary needs to fulfill its IAD/COI obligations as part of the annual budget cycle?	P
	Were the following costs calculated as part of the annual budget cycle?	
	Salaries/wages	P
	Facilities and equipment	P
	Training and capacity	P
	Public awareness/promotion	
1.5	Policy and regulatory management	
	Is the oversight agency responsible for issuing implementing regulations?	R
	Are the line agencies responsible for issuing implementing regulations?	R
	Do IAD/COI policy and guidelines exist?	R
	Is there a procedure for communicating IAD/COI policy and guidelines to obligated parties?	R
	How does the national archives policy affect IAD/COI policy at the agency level?	R
	Does the agency have the resources to disseminate plans, policies, or guidelines to all public officials?	C

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	If not, please explain why	C
	Does the agency have the resources to disseminate plans, policies, or guidelines to the general public?	C
	If not, please explain why	C
	Do senior-level agency officials participate in strategic planning processes for IAD/COI?	P
	Did the agency's strategic planning process incorporate IAD/COI-specific goals, objectives, and outcomes?	P
	Did the agency create internal regulations to fulfill its IAD/COI obligations?	P
	If yes, please describe the nature of these internal regulations.	P
	How did the agency make internal regulations available to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P
	Brochures, pamphlets, or other printed materials	P
	Other (please specify)	P
	Were IAD/COI plans, policies, and guidelines revised?	P
	If yes, please explain why the IAD/COI plans, policies, or guidelines were last revised.	P
	Did the agency disseminate plans, policies, or guidelines to all <i>public officials</i> ?	P
	How did the agency disseminate these plans, policies, or guidelines to public officials? (please select below)	
	Agency website	P
	Media (radio, television, newspapers)	P
	Brochures, pamphlets or other printed materials	P
	Other (please specify)	P
	Did the agency disseminate plans, policies, or guidelines to <i>the public</i> ?	P
	How did the agency disseminate these plans, policies, or guidelines to the general public? (please select below)	

	Agency website	P
	Media (radio, television, newspapers)	P
	Brochures, pamphlets, or other printed materials	P
	Other (please specify)	P
Section 2: Implementation		
2.1	Submission compliance	
	Who is obligated to file declarations?	
	President	R
	Members of Parliament (deputies, members, senators, lords, etc.)	R
	Ministers	R
	Senior civil servants	R
	Judges	R
	Other (please list)	R
	What type of information must be disclosed on the filing form?	
	Assets (real estate, vehicles, jewelry, etc.)	R
	Earned income (wages from primary and secondary employment, etc.)	R
	Cash (domestic or foreign bank accounts, cash in hand, etc.)	R
	Investments (shares in companies, stocks, bonds, etc.)	R
	Other (please specify)	R
	How frequently are obligated parties required to file declarations?	
	Upon starting employment	R

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	Upon leaving employment	R
	Annually	R
	Within 1–3 years after leaving employment	R
	Upon change of assets	R
	Other (please specify)	R
	What agency is assigned responsibility for receiving IAD/COI forms?	R
	Is there a procedure requiring the creation and maintenance of a register of filers?	R
	Is the administrative structure of the submission process centralized or delegated to line ministries?	R
	Is there a procedure for receiving IAD/COI forms?	R
	Does the procedure for receiving IAD/COI forms require a check for completeness upon submission?	R
	Are IAD/COI personnel aware of the procedures for receiving declarations?	C
	What is the ratio of personnel to declarations regarding the check for completeness?	C
	If line agencies are responsible for checking declarations for completeness, how many employees are responsible per agency?	C
	Does the agency have the resources to maintain an updated register of obligated parties?	C
	If not, please explain why.	C
	Which of the following methods are available to public officials for submission of IAD/COI forms? (please select below)	
	In-person delivery of hard copy	C
	Delivery of hard copy by mail	C
	Electronic submission via email	C
	Electronic submission via online form	C
	Other (please specify)	C

	Is software available for the submission process?	C
	How does software assist IAD/COI personnel in the submission of declarations? (please select below)	
	To receive information in an online form	C
	To store personal information (name, address, identification number, etc.)	C
	To store financial information	C
	Was the procedure for receiving declarations followed?	P
	If not, please explain why	P
	How was the declaration form made available? (electronically or hard copy or both)	
	Downloadable form on website	P
	Online form (cannot be downloaded)	P
	Via email	P
	Hard copy	P
	Was the register of obligated parties updated?	P
	If not, please explain why.	P
	Did obligated parties receive official notices regarding submissions?	P
	Did obligated parties receive official notices regarding investigations?	P
	How many working days were required to check all declarations for completeness?	P
	What was the average number of working days required to check one declaration for completeness? (number of working days needed to check all declarations for completeness / number of declarations)	P
2.1.1	Sanctions	
	Which agency has the authority to apply sanctions on public officials for filing failures? (late submission or complete failure to file a declaration)	R

(continued next page)

TABLE A.3

Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	If the IAD/COI oversight or line agency <i>is not authorized</i> to apply sanctions, are they authorized to recommend sanctions?	R
	Is the agency authorized to apply/recommend <i>administrative</i> sanctions for filing failures? (late submission or complete failure to file a declaration)	R
	What kind of administrative sanctions is the agency authorized to apply for filing failures? (late submission or complete failure to file a declaration)	
	Banned from practice or office	R
	Dismissals	R
	Suspensions	R
	Warnings / Censure	R
	Is the agency authorized to apply/recommend <i>finer</i> for filing failures? (late submission or complete failure to file a declaration)	R
	What is the minimum fine that the agency is authorized to apply/recommend for filing failures? (late submission or complete failure to file a declaration)	R
	What is the maximum fine that the agency is authorized to apply/recommend for filing failures? (late submission or complete failure to file a declaration)	R
	Is the agency authorized to apply/recommend <i>criminal</i> sanctions for filing failures? (late submission or complete failure to file a declaration)	R
	What was the percentage of cases subject to administrative sanctions for filing failures in which the sanction was enforced?	P
	What was the total amount in fines that were collected for filing failures?	P
	What was the percentage of cases subject to fines for filing failures in which the sanction was enforced?	P
	What was the percentage of cases subject to criminal sanctions for filing failures in which the sanction was enforced?	P
2.2	Content verification	
	What is the focus of the disclosure system? (Conflict of interest, Illicit enrichment, Dual)	R
	Are IAD/COI personnel aware of procedures for verifying the content of declarations?	C

	What is the ratio of personnel to declarations regarding the content verification?	C
	If content verification/incompatibilities review is performed by the line agencies, how many employees are responsible per line agency?	C
	What is the ratio of IAD/COI personnel to total number of declarations received?	C
	What is the ratio of IAD/COI personnel to the number of declarations subject to content verification or incompatibilities review?	C
	Is software available for content verification or incompatibilities review?	C
	How does software assist IAD/COI personnel in content verification or incompatibilities review? (please select below)	
	To store information (personal or financial)	C
	To analyze data from the declaration	C
	To compare data from external sources to data in the declaration	C
2.2.1	Conflict-of-interest function	
	Is there a procedure for reviewing declarations for incompatibilities between public function and private interests?	R
	What agency is assigned responsibility for reviewing declarations for incompatibilities?	R
	Is the agency authorized to review <i>all</i> declarations or a <i>sample</i> of declarations for incompatibilities?	R
	What is the policy for selection of declarations for incompatibilities review? (please select below)	R
	All declarations	
	Targeted verification (risk-based selection)	R
	Tiered verification (only high-ranking officials)	R
	Random verification	R
	Upon complaint	R
	Does the agency have the authority to access information on public officials from the following institutions? (please select below)	

(continued next page)

TABLE A.3

Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	Banks	R
	Tax agency	R
	Land registry	R
	Vehicle registry	R
	Private sector corporate entities	R
	Which agency is authorized to advise remediation for identified conflicts of interest?	R
	What are the types of remediation that the agency is authorized to advise? (please select below)	
	Divestiture of the investments/interests that pose a conflict of interest	R
	Cessation of further acquisition or divestiture of the investments/interests	R
	Freezing any investment transaction for a specified period of time	R
	Placement of the investment in a blind trust (without the requirement to first divest from current investments)	R
	Cessation from handling cases with the potential for a conflict of interest with the individual's investment	R
	Assignment of duties that may give rise to a conflict of interest situation to another officer	R
	Was the procedure followed for reviewing declarations for incompatibilities between public function and private interests?	P
	If not, please explain why.	P
	How many declarations were reviewed for incompatibilities?	P
	What is the percentage of all declarations received that were reviewed for incompatibilities?	P
	In how many instances were the following types of remediation advised? (please insert figures below)	
	Divestiture of the investments/interests that pose a conflict of interest	P
	Cessation of further acquisition or divestiture of the investments/interests	P
	Freezing any investment transaction for a specified period of time	P

	Placement of the investment in a blind trust (without the requirement to first divest from current investments)	P
	Cessation from handling cases with the potential for a conflict of interest with the individual's investment	P
	Assignment of duties that may give rise to a conflict of interest situation to another officer	P
	How many working days were needed to review all selected declarations for incompatibilities?	P
	What was the average number of working days required to review for incompatibilities per declaration? (number of working days needed to verify all declarations chosen for incompatibilities review/number of declarations chosen for incompatibilities review)	P
2.2.2	Sanctions	
	Which agency has the authority to apply sanctions on public officials for failure to adhere to remediation obligations?	R
	If the IAD/COI oversight or line agency <i>is not authorized</i> to apply sanctions, is that agency authorized to recommend sanctions for failure to adhere to remediation obligations?	R
	Is the agency authorized to apply/recommend <i>administrative</i> sanctions for filing failures? (late submission or complete failure to file a declaration)	R
	What kind of administrative sanctions is the agency authorized to apply for failure to adhere to remediation obligations? (please select below)	
	Banned from practice or office	R
	Dismissals	R
	Suspensions	R
	Warnings/Censure	R
	Is the agency authorized to apply <i>finer</i> for failure to adhere to remediation obligations?	R
	What is the minimum fine that the agency is authorized to apply for failure to adhere to remediation obligations?	R
	What is the maximum fine that the agency is authorized to apply for failure to adhere to remediation obligations?	R
	Is the agency authorized to apply <i>criminal</i> sanctions for failure to adhere to remediation obligations?	R

(continued next page)

TABLE A.3

Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	What was the percentage of cases subject to administrative sanctions for failure to adhere to remediation obligations in which the sanction was enforced?	P
	What was the total amount in fines that was collected for failure to adhere to remediation obligations?	P
	What was the percentage of cases subject to fines for failure to adhere to remediation obligations in which the sanction was enforced?	P
	What was the percentage of cases subject to criminal sanctions for failure to adhere to remediation obligations in which the sanction was enforced?	P
2.2.3	Illicit enrichment function	
	Is content verification mandated by law?	R
	What agency is assigned responsibility for verifying the content of declarations?	R
	Is there a procedure for verifying the content of declarations?	R
	What is the policy for selection of declarations for verification? (please select below)	
	Targeted verification (risk-based selection)	R
	Tiered verification (only high-ranking officials)	R
	Random verification	R
	Upon complaint	R
	What is the method of content verification? (please select below)	
	Check for internal consistency within one form	R
	Compare over time 2 or more forms from the same filer	R
	Cross-check declarations with external records (registries, banks, tax agency, etc.)	R
	Conduct lifestyle checks	R
	Does the agency have the authority to access information on public officials from the following institutions? (please select below)	

	Banks	R
	Tax agency	R
	Land registry	R
	Vehicle registry	R
	Private sector corporate entities	R
	Was the procedure followed for verifying the content of declarations?	P
	If not, please explain why.	P
	How many declarations were subjected to content verification?	P
	What is the percentage of declarations that were subjected to content verification?	P
	In how many instances were filers asked for additional information or documents for clarification purposes?	P
	How many working days were needed to verify the content of declarations?	P
	What was the average number of working days required for content verification per declaration? (number of working days needed to verify all declarations chosen for verification/number of declarations chosen for verification)	P
2.2.4	Sanctions	
	Which agency has the authority to apply sanctions on public officials for false disclosure on a declaration?	R
	If the IAD/COI oversight or line agency <i>is not authorized</i> to apply sanctions, is that agency authorized to recommend sanctions for false disclosure?	R
	Is the agency authorized to apply administrative sanctions for false disclosure on a declaration?	R
	What kind of administrative sanctions is the agency authorized to apply for false disclosure on a declaration? (please select below)	
	Banned from practice or office	R
	Dismissals	R
	Suspensions	R

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	Warnings/Censure	R
	Is the agency authorized to apply fines for false disclosure on a declaration?	R
	What is the minimum fine that the agency is authorized to apply for false disclosure on a declaration?	R
	What is the maximum fine that the agency is authorized to apply for false disclosure on a declaration?	R
	Is the agency authorized to apply criminal sanctions for false disclosure on a declaration?	R
	What was the percentage of cases subject to administrative sanctions for false disclosure in which the sanction was enforced?	P
	What was the total amount in fines that was collected for false disclosure?	P
	What was the percentage of cases subject to fines for false disclosure in which the sanction was enforced?	P
	What was the percentage of cases subject to criminal sanctions for false disclosure in which the sanction was enforced?	P
2.3	Investigations	
	Which agency has the authority to conduct investigations in the event of suspicious findings?	R
	Which staff member is responsible for management of investigations?	R
	Are IAD/COI personnel aware of procedures for either applying sanctions or referring cases to other agencies for sanctions?	C
	Are IAD/COI personnel aware of procedures for conducting investigations?	C
	How many employees are responsible for conducting investigations?	C
	What is the ratio of IAD/COI personnel to the number of investigations?	C
	Was the procedure for conducting investigations followed?	C
	If not, please explain why.	P
	How many cases were subject to investigation?	P
	How many cases were forwarded to the police/prosecutor for further action?	P
	How many cases that were forwarded to the police/prosecutor have been resolved?	P

2.4	Information access	
	Is the agency authorized to release declaration content to the public?	R
	For which ranks/categories of public official is the agency authorized to release declaration content? (please select below)	
	All filers	R
	High-ranking public officials	R
	Senior civil servants	R
	Members of parliament	R
	Head of state	R
	Is there a communications policy for the agency regarding the publication of IAD/COI procedures, policies, and statistics to citizens?	R
	Is there a policy requiring proactive disclosure of IAD/COI content?	R
	Which of the following information must be proactively released?	
	Disclosure IAD/COI compliance statistics	R
	Names of individuals that violated IAD/COI compliance requirements	R
	Content verification data	R
	Names of individuals investigated for nondisclosure or false disclosure of IAD/COI information	R
	Efficiency data on IAD/COI performance	R
	Are IAD/COI personnel aware of procedures for proactively disclosing information?	C
	Are the following methods available to the agency for purposes of proactively disclosing information? (please select below)	
	Agency website	C
	Media (radio, television, newspapers)	C
	Brochures, pamphlets, or other printed materials	C

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	Other (please specify)	C
	What was the average number of days between the time a request was made for IAD data and the time the data were provided?	P
	What was the average number of days between the time a declaration was filed and the time it was made publicly available?	P
	Were disclosure compliance statistics released to the public?	P
	How were disclosure compliance statistics released to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P
	Published materials in hard copy (e.g., Annual report, Official gazette, etc.)	P
	Other (please specify)	P
	Upon request	P
	Were names of individuals that violated compliance requirements released to the public?	P
	How were the names of individuals that violated compliance requirements released to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P
	Published materials in hard copy (e.g., Annual report, Official gazette, etc.)	P
	Other (please specify)	P
	Upon request	P
	Were aggregate data on content verification/incompatibilities review released to the public?	P
	How were aggregate data on content verification/incompatibilities review released to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P

	Published materials in hard copy (e.g., Annual report, Official gazette, etc.)	P
	Other (please specify)	P
	Upon request	P
	Were IAD/COI efficiency data from oversight agency or line agencies released to the public?	P
	How were IAD/COI efficiency data from oversight agency or line agencies released to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P
	Published materials in hard copy (e.g., Annual report, Official gazette, etc.)	P
	Other (please specify)	P
	Upon request	P
	Were the names of individuals investigated for nondisclosure or false disclosure of IAD/COI information released to the public?	P
	How were the names of individuals investigated for nondisclosure or false disclosure of IAD/COI information released to the public?	
	Agency website	P
	Media (radio, television, newspapers)	P
	Published materials in hard copy (e.g., Annual report, Official gazette, etc.)	P
	Other (please specify)	P
	Upon request	P
Section 3: Immediate Impacts		
3.1	Filing compliance	
	What is the total number of declarations received?	IM
	What was the percentage of declarations received on time?	IM

(continued next page)

TABLE A.3 Implementation Indicators for Income and Asset Disclosure and Conflict of Interest, Declaration Required
(continued)

	What was the percentage of filing failures? (late submission or complete failure to file a declaration)	IM
	What was the percentage of incomplete declarations received?	IM
	What was the final submission compliance rate? (percentage of declarations received from all obligated parties)	IM
	What is the percentage of all filers that were prima facie subject to administrative sanctions for filing failures? (late submission or complete failure to file a declaration)	IM
	What is the percentage of all filers that were prima facie subject to fines for filing failures? (late submission or complete failure to file a declaration)	IM
	What is the percentage of all filers that were prima facie subject to criminal sanctions for filing failures? (late submission or complete failure to file a declaration)	IM
3.2	Disclosure integrity	
	What is the percentage of declarations in which the filer failed to adhere to COI remediation obligations?	IM
	What is the percentage of declarations in which suspicious findings were identified?	IM
3.3	Public engagement	
	What is the average number of requests for declaration data per month?	IM
	If IAD/COI data are proactively made available online, what is the average number of visits to the webpage per month?	IM
	What is the average number of complaints filed with the IAD/COI agency per month, regarding the content of declarations?	IM

Sources: PAM Unit; authors' compilation.

Note: IAC/COI = income and asset disclosure/conflict of interest. R = Rules (legal and policy framework and/or institutional arrangements): Baseline assessment. C = Organizational Capacities (resources): Baseline assessment and/or annual evaluation. P = Organizational Performance: Annual and/or demand-based evaluation. IM = immediate impacts.

Products

The PAM Initiative generates several interrelated products for assessing the quality of each of the institutional mechanisms listed. Simplified quantitative data are available through the AGI Data Portal at <https://www.agidata.org>. More detailed qualitative data are available at <https://www.agidata.org/pam>, along with the following laws, links, and statistics:⁴⁶

- *Library of laws*, containing the relevant primary legislation; all legal citations are also made available with the data.
- *List of contributors*, consisting of local technical experts in each area of public accountability who provide guidance and reliability checks on the legislative data.
- *Country contexts*, provided through historic timelines, descriptions of country economic and political environments, and specification of legal systems (civil, common, customary, and so forth).
- *Links to country-specific institutions* that are responsible for the enforcement of accountability mechanisms.
- *AGIs* that capture data on (a) the characteristics of the legal framework governing each institution, (b) the capabilities and performance of organizations responsible for implementing the legislation, and (c) the immediate impacts on behavior of targeted agents. These data will be available in *summaries* of the data associated with each characteristic, with citations to the appropriate legislation, if relevant.
- *Descriptive statistics* that showcase patterns across countries, across regions, and globally, with respect to legislative indicators.

46. Internal World Bank users may access these websites at <http://agidata> and <https://www.agidata.info/pam>. Additional materials are made available to World Bank employees only.

Appendix B. Tracking the Results of IAD Systems

Goal setting and results measurement are critical to the achievement of mandates and the successful functioning of an income and asset disclosure (IAD) system. Goals and results become more intricately connected as systems evolve, creating a continuous feedback loop that informs strategic plans, action plans, and results management. Clearly, targets must be set appropriately to avoid overextension of IAD agencies. Targets can be used to create conditions for success, by encouraging an agency to meet expectations and setting beneficial incentives for staff. Moreover, as stated in chapter 2, results management can contribute to improving the allocation of budgetary funds across functions, based on workload and performance, and can provide evidence to request additional funding if targets cannot be met with available resources. Data on the capacities, performance, and impacts of an IAD system must be collected regularly and used appropriately, because they not only shed light on the nature of an IAD system's challenges, but also provide insight into the best way to further improve the effectiveness of the system.

Setting Targets

A straightforward approach to setting targets is to envision the stages and tasks involved in the implementation of specific functions (such as submission compliance administration, management of public access to declarations, verification of declarations, and enforcement of sanctions). Chapters 1 and 2 of this volume provide helpful guidance for setting targets, because they illuminate priorities within an agency or department that can then be distilled into tasks and targets. Indicators for some of these tasks can be found within the Public Accountability Mechanisms (PAM) Actionable Governance Indicators (AGI) in appendix A.⁴⁷

Table B.1 provides examples of tasks, targets, and indicators for the submission compliance function of an IAD system. A similar exercise can be conducted for other functions of an IAD system, such as content verification and monitoring and reporting. The particular tasks, targets, and indicators will depend on the nature and goals of the system, since no IAD systems are alike.

47. Appendix A explains the PAM methodology and provides a list of indicators developed for IAD systems.

Table B.1 Examples of IAD Results Indicators for Submission Compliance Functions

Submission compliance functions		
<i>Implementing agency effectively defines, communicates, and enforces the obligation to comply with the IAD system</i>		
Task/Function	Target	Indicator
Create declaration form based on regulatory requirements.	<i>Provide electronic version of filing form to XX percent of filers.</i>	Filing form clearly reflects statutory requirements (can also include additional requirements as specified by agency)
Draw up a register of declarants. Develop mechanisms for keeping the register up-to-date.	<i>Register of declarants is updated at least every XX months.</i>	Frequency with which registry of obligated parties is updated
Develop materials and mechanisms for notifying filers of the obligation to file, of the purpose of the system, of sanctions for noncompliance, and of filing deadlines.	<i>Declarants are notified of requirements and deadlines XX weeks or months beforehand.</i>	Obligated parties receive official notices regarding submission, amendments, consultations, and investigations in advance of deadlines
Establish secure storage for the declaration forms and data. Develop mechanisms to ensure that all declarants are complying with submission requirements.	<i>XX percent of declarants submit a declaration on time.</i>	Percentage of covered public officials who actually file a declaration in a given time period Fraction of declarations that were filed within the required deadline
Develop mechanisms to ensure that all declaration forms are complete when submitted.	<i>Declarations forms are checked for completeness within XX weeks of submission.</i>	Percentage of asset declarations subject to a check for completeness (i.e., check that all required fields have been filled in and that reported data are internally consistent)
Develop processes for responding to informational requests.	<i>Response rate to informational requests is XX%.</i>	Response rate to informational requests regarding disclosure process
	<i>Requests for information are responded to within XX days.</i>	Lag time between request and agency response

Source: Authors' compilation.

Measuring the Performance of the IAD System

Once initial goals are established for all functions, continuing goals for the performance of a system should be put in place, along with the means of tracking results. Because performance is based on a combination of design and capacities, it is important to take all components of an IAD system into consideration when establishing goals and their tracking mechanisms (table B.2). Essentially, performance is the ability of an organization to

Component of IAD System	Applicable to...	Explanation of Role in Measurement
Design	Guidelines Procedures Operating manuals Job descriptions	Design refers to the institutional arrangements that provide the parameters and guidelines for implementation.
Capacities <i>(Resources)</i>	Facilities Technology Human resources Budget	Capacity refers to the resources that underpin the performance of tasks and functions.
Performance	Submission Verification Investigations Interagency collaboration Monitoring and oversight	Performance refers to the system's ability to perform the tasks and functions outlined in the regulations, internal procedures, or operating manuals, using available capacities.
Immediate impacts <i>(Intermediate outcomes)</i>	Filing compliance Public engagement	Immediate impacts are the intermediate results that reflect the potential contribution of system performance to broader outcomes.
Governance outcomes	Reduced corruption (or perceptions of corruption) ^a Improved culture of ethics	Outcomes indicate the impact of governance and anticorruption reforms on broad governance themes. However, a myriad of elements contribute to governance outcomes, making it extremely difficult to isolate the effects of single reforms.

Sources: PAM Unit; authors' compilation.

a. This situation is particularly difficult for anticorruption reforms, where the objective is the absence of certain kinds of behavior, meaning that anticorruption programs tend to rely on perceptions of corruption as a way of gauging success.

“do its job”—that is, the ability to use structures (design) and resources (capacities) in combinations that will achieve the best performance, given the tasks that are assigned.

Design

Indicators that capture design features may be used to provide information on the structures or inputs of IAD systems, and to monitor straightforward, fairly quick reforms in IAD frameworks. However, inappropriate levels of attention may be placed on design indicators, since changes to rules and laws are much easier to achieve than improved outcomes from IAD processes. Data must be collected on all three aspects of performance in order to determine how to modify IAD institutional frameworks or processes. See the IAD legislative AGIs in appendix A for more details on design indicators.

Capacities (Resources)

Indicators that capture information on the organizational capacities of IAD systems help to ensure appropriate levels and qualities of resources employed. They provide information on the resources (personnel, facilities, technology, and so forth) used by IAD agencies or individuals assigned responsibilities under the IAD framework. Robust capacities indicators capture both the magnitudes of particular resources (for example, money, personnel, equipment, facilities and buildings, and so forth), and the quality of those resources (for example, types of technology employed, quality of staff, and so forth). These types of indicators facilitate improvements in processes that directly contribute to efficient IAD system performance. See the income and asset disclosure/conflict of interest (IAD/COI) implementation AGIs (*Management and Accountability*) (tables A.1 and A.2) in appendix A for more details on capacities indicators.

Performance

Indicators that capture data on performance provide information on the practices and results of IAD systems, that is, the implementation of rules, laws, budgets, and so forth. Rather than providing information on the design or capacities of IAD systems, performance-based indicators demonstrate how well IAD systems are performing. Note, however, that IAD systems performance indicators should not be confused with indicators that measure outcomes (such as reduced corruption, increased public sector integrity, and so forth). Moreover, processes must be instituted to collect relevant data so that indicators provide regular information about IAD agency performance. See the IAD/COI implementation AGIs (*Management and Accountability & Enforcement*) (tables A.1 and A.2) in appendix A for more details on performance indicators.

Immediate Impacts (Intermediate Outcomes)

One means of assessing the impact of IAD systems may be to estimate the impact of reforms on the elements that contribute to reduced corruption. In this case, we would ask how, if at all, IAD systems contribute to a culture of integrity, increased transparency,

reduced incentives for corrupt behavior, and reduced opportunities for corruption.⁴⁸ IAD systems can contribute to at least three of these goals:

- *Reduced incentives.* An effective IAD system will present a credible threat of detection and a credible threat of appropriate sanctions. Both of these outcomes significantly reduce the incentives for corrupt behavior. Assessing the filing compliance of declarants provides insight into whether the credibility of sanctions is effective. However, care must be taken in assuming it is the threat of punishment that compels declarants to comply with submission requirements. In some contexts, or with certain individuals, the adherence to a set of ethical norms in public service may be exercising influence over the decision to file a declaration form. This is particularly evident in contexts where disclosure of finances is completely voluntary.
- *Strengthened culture of integrity.* An IAD system also strengthens a culture of integrity in the public service, by reminding officials of their duty to serve the public interest, rather than their own personal ends. It also helps to instill confidence in the government through the monitoring of both the finances and interests of public officials responsible for management of public funds and services. As stated above, filing compliance may be an indication of the influence of ethical norms over individuals, and not simply a sign that penalties are effective. Agencies may be able to capture the influence of norms over individuals by conducting surveys of public officials to ascertain the reasons behind filing compliance, the perception of integrity within government, or the influence of ethical norms on behavioral decisions.
- *Increased transparency.* Increased transparency includes both provision of information and level of engagement of the public with this information. An IAD system often makes declaration content available for review by the public, and in cases where these data remain confidential, compliance and verification data can provide insight into the behaviors of public officials while in office. When the public, through civil society or otherwise, is capable of accessing, analyzing, and acting on the data through public channels, transparency lends itself to broader anticorruption efforts. Indicators that capture data on how often the public is accessing IAD data and what is being done with the data may indicate whether transparency of corruption issues is being enhanced.

See the IAD/COI implementation AGIs (*Immediate Impacts*) (tables A.1 and A.2) in appendix A for more details on capacities indicators.

Challenges in Interpreting Performance Data

Performance indicators can present challenges when it comes to interpreting the meaning of data in a specific context (that is, accounting for events that occur outside the IAD

48. The most effective means of reducing opportunities for corruption are through improved institutional efficiency and transparent government processes.

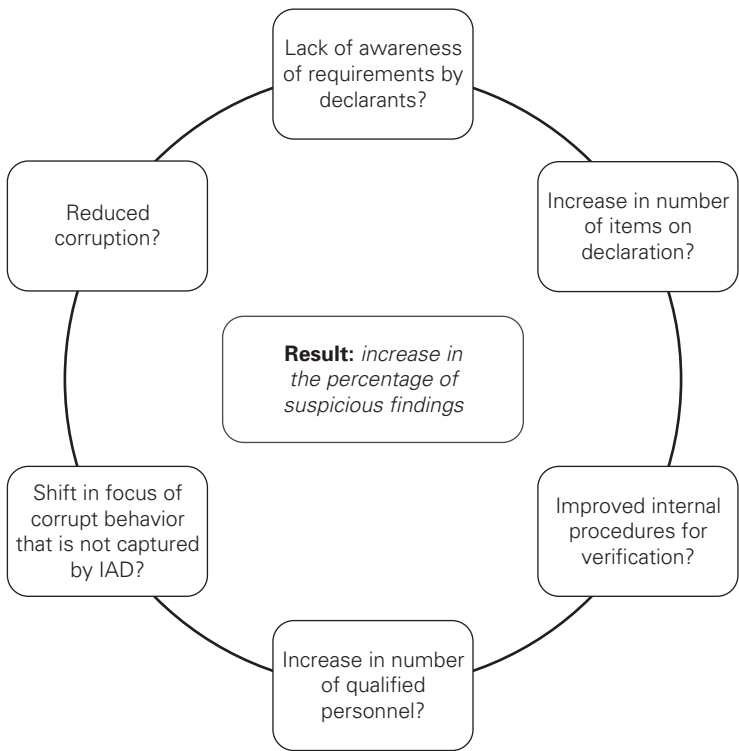
system but that have an impact on its performance), or when benchmarks have not been established. Care must be taken to establish the validity of indicators at the outset, and to ensure that indicators are in fact measuring what they are supposed to measure. It is important to understand the reasons for changes in data values, so that false conclusions are not drawn about the extent of progress. Tracking design features and capacities facilitates a more precise understanding of what is underpinning changes in performance measures, while an awareness of shifts in exogenous factors helps to contextualize data.

Figure B.1 provides a good example of potentially multiple interpretations of a single finding. For example, using the number of suspicious findings detected in a declaration form as an indicator for the system’s effectiveness may simply capture other variables that have no relation to absolute changes in incidences of corrupt behavior.

Using Indicators for Cross-Country Comparisons

Cross-country comparisons of governance systems can generate data that are helpful in improving the design and implementation of governance systems. Data from one

FIGURE B.1 Variable Interpretations of Performance Data



Source: Authors’ compilation.

Table B.3 Productivity Indicators That May Be Useful for Cross-Country Comparison

Section 2: Implementation		
2.1	Submission compliance	
	What is the ratio of personnel to declarations regarding the check for completeness?	C
	What was the average number of working days required to check one declaration for completeness?	P
2.1.1	Sanctions	
	What was the percentage of cases subject to administrative sanctions for filing failures in which the sanction was enforced?	P
	What was the percentage of cases subject to fines for filing failures in which the sanction was enforced?	P
	What was the total amount in fines that were collected for filing failures?	P
	What was the percentage of cases subject to criminal sanctions for filing failures in which the sanction was enforced?	P
2.2	Content verification	
	What is the ratio of personnel to declarations regarding content verification?	C
2.2.1	Conflict-of-interest function	
	What is the percentage of all declarations received that were reviewed for incompatibilities?	P
	What is the percentage of declarations reviewed in which the following types of remediation were advised? (please insert figures below)	
	Divestiture of the investments/interests that pose a conflict of interest	P
	Cessation of further acquisition or divestiture of the investments/interests	P
	Freezing any investment transaction for a specified period of time	P
	Placement of the investment in a blind trust (without the requirement to first divest from current investments)	P
	Cessation from handling cases with the potential for a conflict of interest with the individual's investment	P
	Assignment of duties that may give rise to a conflict of interest situation to another officer	P
	What was the average number of working days required to review one declaration for incompatibilities?	P

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Table B.3 Productivity Indicators That May Be Useful for Cross-Country Comparison <i>(continued)</i>		
2.2.2	Sanctions	
	What was the percentage of cases subject to administrative sanctions for failure to adhere to remediation obligations in which the sanction was enforced?	P
	What was the total amount in fines that was collected for failure to adhere to remediation obligations?	P
	What was the percentage of cases subject to fines for failure to adhere to remediation obligations in which the sanction was enforced?	P
	What was the percentage of cases subject to criminal sanctions for failure to adhere to remediation obligations in which the sanction was enforced?	P
2.2.3	Illicit Enrichment function	
	What is the percentage of declarations that were subjected to content verification?	P
	What was the average number of working days required to perform content verification on one declaration?	P
2.2.4	Sanctions	
	What was the percentage of cases subject to administrative sanctions for false disclosure in which the sanction was enforced?	P
	What was the total amount in fines that was collected for false disclosure?	P
	What was the percentage of cases subject to fines for false disclosure in which the sanction was enforced?	P
	What was the percentage of cases subject to criminal sanctions for false disclosure in which the sanction was enforced?	P
2.3	Investigations	
	What is the percentage of cases that were subject to investigation due to suspicious findings?	P
	What is the percentage of cases that were forwarded to the police/prosecutor for further action?	P
	What is the percentage of cases forwarded to the police/prosecutor have been resolved?	P
2.4	Information access	
	What was the average number of days between the time a request was made for IAD data and the time the data were provided?	P
	What was the average number of days between the time a declaration was filed and the time it was made publicly available?	P

	Were disclosure compliance statistics released to the public?	P
	Were names of individuals that violated compliance requirements released to the public?	P
	Was aggregate data on content verification/incompatibilities review released to the public?	P
	Was IAD/COI efficiency data from oversight agency or line agencies released to the public?	P
	Were the names of individuals investigated for nondisclosure or false disclosure of IAD/COI information released to the public?	P
Section 3: Immediate Impacts		
3.1	Filing compliance	
	What was the percentage of declarations received on time?	IM
	What was the percentage of filing failures? (late submission or complete failure to file a declaration)	IM
	What was the percentage of incomplete declarations received?	IM
	What was the final submission compliance rate? (percentage of declarations received from all obligated parties)	IM
	What is the percentage of all filers that were prima facie subject to administrative sanctions for filing failures? (late submission or complete failure to file a declaration)	IM
	What is the percentage of all filers that were prima facie subject to fines for filing failures? (late submission or complete failure to file a declaration)	IM
	What is the percentage of all filers that were prima facie subject to criminal sanctions for filing failures? (late submission or complete failure to file a declaration)	IM
3.2	Disclosure integrity	
	What is the percentage of declarations in which the filer failed to adhere to COI remediation obligations?	IM
	What is the percentage of declarations in which suspicious findings were identified?	IM
3.3	Public engagement	
	What is the average number of requests for declaration data per month?	IM
	If IAD/COI data are proactively made available online, what is the average number of visits to the webpage per month?	IM
	What is the average number of complaints filed with the IAD/COI agency per month, regarding the content of declarations?	IM
Sources: PAM Unit; authors' compilation.		
Note: C = Organizational Capacities (resources): Baseline assessment and/or Annual evaluation. P = Organizational Performance: Annual and/or Demand-based evaluation.		

country can be compared to another country, region, or income grouping, illuminating patterns about system performance and their possible connection to other contextual factors. Cross-country comparisons also shed light on areas for improvement by identifying the achievement of goals in particular countries. Processes, procedures, and arrangements that function well in certain contexts may also function well outside those environments, if tailored appropriately.

However, a direct comparison of particular features of an IAD system may generate unrealistic assumptions about what is possible in a given context. The mandate of each IAD system will determine the allocation and use of resources, making certain kinds of cross-country comparisons impracticable, or even unhelpful.

Examples of productivity indicators that are helpful for cross-country comparison are provided in table B.3. Many of these indicators are expressed as ratios, making it possible to collect comparable data. However, care should be taken to consider the context in which the data were collected (that is, whether the mandate of the system is to detect and prevent conflicts of interest, to detect illicit enrichment, or both), since the resources, capacities, procedures, and objectives are different for each.

Appendix C. Key Characteristics of a Sample of IAD Systems

Economy	Type of system	Type of agency	Frequency of filing	Total number of filers (year)	Centralized or delegated submission process?	Use of ICT in procedures	Public access to compliance information	Verification procedures	Public access to IAD content	Sanctions for noncompliance
Argentina	Dual objective system	Department in Ministry of Justice (MoJ)	Entry, exit, annually	36,000 (2008)	Delegated: Top 5 percent file centrally Other 95 percent file with HR offices	Electronic submission, verification and data storage	All compliance data published on MoJ website	Yes: Formal review (100 percent) Targeted verification (approx. 7 percent)	Yes ("public annex" only), by request and in person	Criminal penalties apply for nonsubmission and false declarations
Croatia	Conflict of interest	Parliamentary Commission	Entry, exit, ad hoc	1,800 (2008)	Centralized: All declarations submitted to the Commission	Paper submission; data transfer for online publication and storage	Noncompliance may be published in official gazette	No	Yes (aggregate data), online and in situ	Fines for late filing; publication/ reprimand in official gazette; dismissal for false filing
Guatemala	Illicit enrichment	Integrity Department within Comptroller's Office (CGC)	Entry, exit, ad hoc	12,000 (2008)	Centralized: All declarations submitted to the CGC	Paper submission Data transfer for online publication and storage	Official gazette	Targeted verification of declarations upon leaving office	No	Fines for late or nonfiling; irregularities referred for investigation
Hong Kong SAR, China	Conflict of interest	Civil Service Bureau	Entry + annually	—	Delegated	Limited data storage	Official reports	None – analysis for conflicts of interest only	Yes	Administrative sanctions for filing failures, criminal for false filing

Indonesia	Illicit enrichment	Specialized Corruption Eradication Commission	Entry, exit, and on request by Corruption Eradication Commission	116,451 (2009)	Partially delegated	Form available online; submitted in hard copy; electronic verification and storage	Official gazette and online	Yes: formal review (100 percent); verification of accuracy (1 to 5 percent)	Yes (summary available in official gazette)	(Unspecified) administrative sanctions for late or nonfiling
Jordan	Illicit enrichment	Department in MoJ	Entry + exit + semiannually	4,117 (2009)	Centralized	Paper submission; electronic registry of filers	No	No: verification only upon an investigation triggered by a complaint	No	Criminal sanctions for late, non- and/or false filing
Kyrgyz Republic	Dual objective system	Civil Service Agency (CSA) (renamed State Personnel Service)	Entry + exit + annually	18,000 (2008)	High public officials submit to CSA; civil servants submit to their agencies	Paper submission	Official bulletin, CSA website	No	Yes, only summaries	No, for high public officials Yes, for civil servants
Mongolia	Illicit enrichment	Independent Anti-Corruption Commission	Entry + annual + ad hoc	52,800 (2008)	Delegated	Paper submission Electronic storage and limited electronic verification	Annual Report + press articles	Verification upon complaint filed against individual	Yes	Administrative sanctions only

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Economy	Type of system	Type of agency	Frequency of filing	Total number of filers (year)	Centralized or delegated submission process?	Use of ICT in procedures	Public access to compliance information	Verification procedures	Public access to IAD content	Sanctions for noncompliance
Rwanda	Illicit enrichment	Ombudsman (Anti-Corruption Authority)	Entry + exit + annually	4,900 (2009)	Centralized	Limited in verification and storage Electronic filing coming	Annual Report	Targeted verification and limited random audits	No	Administrative sanctions for deadline failure Criminal for lying
Slovenia	Dual objective system	Independent Anti-Corruption Agency (Commission for the Prevention of Corruption)	Entry + exit + annually + ad hoc	14,000 (2010)	Centralized	Basic personal information stored electronically	Annual report + CPC website + media reports	Random audits using external databases (approx. 33%)	Online, but limited to income and assets acquired during an official's mandate	Fines for non-compliance and false disclosure; Removal from office upon finding of unsubstantiated increase in wealth
United States	Conflict of interest	Ethics Agency (Office of Government Ethics)	Entry + exit + Annually	~25,000 public filers (2010)	Delegated	Electronic submission available for some agencies	Annual Report	None, analysis for conflicts of interest only	Yes	Administrative sanctions for filing failures Criminal sanctions for lying

Source: Authors' compilation.

Note: IAD = income and asset disclosure. ICT = information and communication technology. — = not available.

Appendix D. List of People and Agencies Consulted for this Volume

Name	Title	Organization/Institution
Argentina		
Gerardo Serrano	Director de Planificación de Política de Transparencia	Anticorruption Office, Ministry of Justice
Nestor Baragli	Subdirector de Planificación de Política de Transparencia	Anticorruption Office, Ministry of Justice
Claudia Sosa	Director, Investigations Department	Anticorruption Office, Ministry of Justice
Martin Montero	Investigations Department	Anticorruption Office, Ministry of Justice
Patricio O' Reilly	Coordinator of Investigations, Investigations Department	Anticorruption Office, Ministry of Justice
Maximiliano Flamma	Coordinator of Intake, Investigations Department	Anticorruption Office, Ministry of Justice
Luis Arocena	Investigator	Anticorruption Office, Ministry of Justice
Haydee Tramontana	Head, Income and Asset Declarations Administration Department,	Anticorruption Office, Ministry of Justice
Manuel Garrido	Director	Centro para la Implementación de Políticas para la Equidad y el Crecimiento (CIPPEC)
Croatia		
Zeljko Jovanovic	President	National Council for Monitoring the Implementation of the National Anti-Corruption Program, Croatian Parliament
Mate Kacan	President	Commission for the Prevention of Conflicts of Interest
Adranka Kolarevic		Office of the Parliamentary Commission for the Prevention of Conflicts of Interest
Zorislav Antun Petrovic		Office of the Parliamentary Commission for the Prevention of Conflicts of Interest
Vlaho Bogišić		Office of the Parliamentary Commission for the Prevention of Conflicts of Interest
Duro Sessa	Justice	State Judicial Council
Vesna Siklic Odak		Central State Office for Administration

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Name	Title	Organization/Institution
Dinko Cvitan	Head of the Office	State Attorney's Office, Office for the Suppression of Corruption and Organised Crime
Natasa Durovic	Deputy Head of the Office	State Attorney's Office, Office for the Suppression of Corruption and Organised Crime
Fulvio Bianconi	Attaché, Customs, Taxation and Anti-Corruption Policy	Delegation of the European Union to the Republic of Croatia
Zorislav Antun Petrovic	President	Transparency International, Croatia
Sandra Pernar	Program Coordinator	GONG (NGO for Electoral System, Participatory Democracy, Civil Society and International Cooperation)
Dubravka Prelec	Project Coordinator / Key Expert	British Council
Mirna Santro	Governance Projects Manager	British Council
Alan Uzelac	Professor	University of Zagreb
Guatemala		
Walfred Orlando Rodriguez Tortola	Director, Dirección de Probidad	Contraloría General de Cuentas de la República de Guatemala
Alex Pellecer		Contraloría General de Cuentas de la República de Guatemala
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Income and asset disclosure (IAD) systems are gaining recognition as an important corruption prevention and anticorruption enforcement tool. However, experiences with the implementation and enforcement of financial disclosure requirements are very mixed globally, and there is little information available to assist policy makers and practitioners in addressing the challenges of establishing or strengthening these systems. *Public Office, Private Interests: Accountability through Income and Asset Disclosure* seeks to address that gap.

Income and asset disclosure is intended to prevent and help detect the use of public office for private gain, and to help build a climate of integrity in public administration. This volume examines the objectives, design features, and implementation approaches that can contribute to the effectiveness of an IAD system in a variety of contexts. This publication explores a range of options relating to the institutional arrangements and regulatory frameworks for IAD systems, as well as the institutional capacities required for implementing agencies to fulfill their mandates. Drawing on extensive data and detailed case studies, the book looks at the core design features and implementation challenges of an IAD regime in terms of the scope and coverage of the disclosure requirement, monitoring and facilitation of compliance, verification of content, enforcement of sanctions, and the public availability of information.

