

Document: EB 2018/125/R.6  
Agenda: 3(d)  
Date: 31 October 2018  
Distribution: Public  
Original: English

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Investing in rural people

## Revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations

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Executive Board — 125<sup>th</sup> Session  
Rome, 12-14 December 2018

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For: **Approval**

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IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations

## **Recommendation for approval**

The Executive Board is invited to approve the revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations as contained in the annex.

# **Revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations**

## **I. Introduction**

1. The adverse effects of corruption and bribery on the achievement of development objectives are recognized in the Sustainable Development Goals, one of whose targets is to “substantially reduce corruption and bribery in all their forms”. Under the Agreement Establishing IFAD, the Fund has a fiduciary duty to “make arrangements to ensure that the proceeds of any financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and social equity”. The Fund is committed to promoting and adhering to the highest standards of probity and accountability in the use of its financing and will not tolerate the diversion or waste of the resources entrusted to it by its Membership through fraud or corruption.
2. In 2005, the Executive Board adopted a zero-tolerance policy towards fraud and corruption in IFAD-financed and/or IFAD-managed activities and operations (EB 2005/85/R.5/Rev.1). Since then, the Fund’s business model and legal framework have evolved, and new best practices for the prevention and mitigation of fraud and corruption have emerged in other United Nations entities and international financial institutions (IFIs). To reflect this changed context, some elements of the 2005 policy need to be revised. The objective of the proposed revision is to reaffirm the Fund’s and its Member States’ continued commitment to the prevention and mitigation of fraud and corruption in IFAD-financed and/or IFAD-managed operations and activities and to ensure that the Fund has adequate safeguards and measures in place to this end.

## **II. Overview of the proposed policy revision**

3. The following modifications are the main components of the proposed revision of the 2005 policy:
  - (i) Updating the definitions of Prohibited Practices (i.e. fraudulent, corrupt, collusive and coercive practices) and including obstructive practices as an additional element in the category of prohibited practice in order to strengthen the Fund’s anticorruption framework and better align it with best practices at other United Nations entities and IFIs;
  - (ii) Strengthening the due diligence obligations of borrowers and grant recipients in relation to downstream partners. In particular, borrowers and grant recipients would be required to include clauses in procurement documents and contracts that would establish an obligation for bidders and contractors to disclose information relating to: (i) relevant criminal convictions, administrative sanctions and/or temporary suspensions, (ii) the agents engaged in connection with a procurement process or the execution of a contract, including the commissions and fees paid or to be paid, and (iii) any actual or potential conflicts of interest in connection with a procurement process or the execution of a contract;
  - (iii) Allowing the Fund to unilaterally recognize public debarments imposed by other IFIs if those debarments meet the requirements for mutual recognition

under the Agreement for Mutual Enforcement of Debarment Decisions.<sup>1</sup> In addition, prior to selecting a bidder or entering into a contract, borrowers and grant recipients would have to ensure that the bidder or potential contractor is not cross-debarred by any of the IFIs that are signatories to the Agreement for Mutual Enforcement of Debarment Decisions;

- (iv) Strengthening the responsibilities of borrowers and grant recipients in regard to the receipt of allegations of prohibited practices and the action taken in response to such allegations. In particular, governments would be encouraged to have in place confidential reporting channels and whistleblower protection measures and would be expected to conduct their own investigations into potential fraud or corruption in IFAD projects;
- (v) Requiring borrowers and grant recipients to include clauses in procurement documents and contracts that inform implementing partners of IFAD's jurisdiction to conduct investigations and impose sanctions for prohibited practices; and
- (vi) Clarifying that the Fund may share information and evidence relating to an ongoing or completed investigative, sanctioning or disciplinary process with other multilateral organizations or local authorities on a confidential basis.

### **III. Proposed revision of the General Conditions for Agricultural Development Financing**

- 4. The proposed revision of the 2005 policy would make it necessary to revise the General Conditions for Agricultural Development Financing (the "General Conditions"). A revised version of the General Conditions that reflects the proposed changes to the 2005 policy is being submitted separately to the Executive Board for its consideration and approval.

### **IV. Follow-up actions**

- 5. If the Executive Board approves the revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations, the Project Procurement Guidelines of the Fund and any other legal or policy documents affected by the proposed revision will be revised accordingly.
- 6. To facilitate the implementation of the revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations, an implementation plan is being developed, which includes a plan for training and strategic outreach.
- 7. Efforts to pursue memorandums of understanding with other United Nations entities, IFIs and local authorities will be reinforced in order to facilitate and regulate the confidential exchange of information and evidence.

### **V. Executive Board decision**

- 8. The Executive Board is invited to approve the revised IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations.

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<sup>1</sup> The Agreement for Mutual Enforcement of Debarment Decisions was signed by the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the World Bank Group in April 2010.

# **IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations**

## **I. Introduction**

1. The Fund recognizes that the prevention and mitigation of fraud and corruption in its activities and operations are core components of its development mandate and fiduciary duties. The Fund does not tolerate the diversion or waste of its resources through the practices defined in paragraph 6 below.
2. The objective of this policy is to establish the general principles, responsibilities and procedures to be applied by the Fund in preventing and addressing prohibited practices in its activities and operations.
3. This policy takes effect on the date of its issuance. It supersedes and replaces the IFAD Policy on Preventing Fraud and Corruption in its Activities and Operations (EB 2005/85/R.5/Rev.1) dated 24 November 2005.

## **II. Policy**

### **A. General principles**

4. The Fund has no tolerance towards prohibited practices in its activities and operations. All individuals and entities listed in paragraph 7 below must take appropriate action to prevent, mitigate and combat prohibited practices when participating in an IFAD-financed and/or IFAD-managed operation or activity.
5. The Fund endeavours to ensure that individuals and entities that help to prevent or report, in good faith, allegations of prohibited practices are protected against retaliation and to protect individuals and entities that are the subject of unfair or malicious allegations.

### **B. Prohibited practices**

6. The following practices are considered to be prohibited practices when engaged in connection with an IFAD-financed and/or IFAD-managed operation or activity:
  - (a) A "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value in order to improperly influence the actions of another party;
  - (b) A "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation;
  - (c) A "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including improperly influencing the actions of another party;
  - (d) A "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party in order to improperly influence the actions of that or another party;
  - (e) An "obstructive practice" is: (i) deliberately destroying, falsifying, altering or concealing evidence that may be material to an investigation by the Fund or making false statements to investigators in order to materially impede an investigation by the Fund; (ii) threatening, harassing or intimidating any party in order to prevent that party from disclosing its knowledge of matters relevant to an investigation by the Fund or from pursuing such an investigation; and/or (iii) the commission of any act intended to materially impede the exercise of the Fund's contractual rights of audit, inspection and access to information.

## C. Scope

7. This policy applies to all IFAD-financed and/or IFAD-managed operations and activities and to the following individuals and entities:
  - (a) IFAD staff and other persons working for IFAD as non-staff personnel ("IFAD staff and non-staff personnel");
  - (b) Individuals and entities holding a commercial contract with the Fund and any of their agents or personnel ("vendors");
  - (c) Public entities receiving IFAD financing or financing managed by the Fund and any of their agents or personnel ("government recipients") and private entities receiving IFAD financing or financing managed by the Fund and any of their agents or personnel ("non-government recipients") (all collectively referred to as "recipients"); and
  - (d) Individuals and entities, other than those referred to above, that receive, apply to receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of proceeds from IFAD financing or financing managed by the Fund, including, but not limited to, implementing partners, service providers, contractors, suppliers, subcontractors, sub-suppliers, bidders, consultants and any of their agents or personnel. (All such individuals and entities are collectively referred to as "third parties".)

## D. Responsibilities

### (i) Responsibilities of the Fund

8. The Fund endeavours to prevent, mitigate and combat prohibited practices in its operations and activities. This may include adopting and maintaining:
  - (a) Communication channels and a legal framework designed to ensure that this policy is communicated to IFAD staff and non-staff personnel, vendors, recipients and third parties and that it is reflected in procurement documents and contracts relating to IFAD-financed and/or IFAD-managed activities and operations;
  - (b) Fiduciary controls and supervisory processes designed to support adherence to this policy by IFAD staff and non-staff personnel, vendors, recipients and third parties;
  - (c) Measures relating to the receipt of confidential complaints, whistle-blower protection, investigations, sanctions and disciplinary measures which are designed to ensure that prohibited practices can be properly reported and addressed; and
  - (d) Measures designed to ensure that the Fund can report individuals and entities that have been found to have engaged in prohibited practices to other multilateral organizations which may be exposed to similar actions by the same individuals and entities and to local authorities in cases where local laws may have been violated.

### (ii) Responsibilities of IFAD staff and non-staff personnel, vendors and third parties

9. When participating in an IFAD-financed and/or IFAD-managed operation or activity, IFAD staff and non-staff personnel, vendors and third parties will:
  - (a) Refrain from engaging in prohibited practices;
  - (b) Participate in due diligence checks and disclose, as required, information relating to themselves or any of their key personnel concerning relevant criminal convictions, administrative sanctions and/or temporary suspensions; information concerning agents engaged in connection with a procurement process or contract, including the commissions or fees paid or to be paid; and

- information concerning any actual or potential conflicts of interest in connection with a procurement process or the execution of a contract;
- (c) Promptly report to the Fund any allegations or other indications of prohibited practices that come to their attention by virtue of their involvement in an IFAD-financed and/or IFAD-managed operation or activity;
  - (d) Fully cooperate with any investigation conducted by the Fund, including by making personnel available for interviews and providing full access to any and all accounts, premises, documents and records (including electronic records) relating to the relevant IFAD-financed and/or IFAD-managed operation or activity, and by having such accounts, premises, documents and records audited and/or inspected by auditors and/or investigators appointed by the Fund; and
  - (e) Maintain strict confidentiality regarding any and all information received as a consequence of their participation in an IFAD investigation or sanctioning process.
10. When participating in an IFAD-financed and/or IFAD-managed operation or activity, vendors and third parties will maintain all accounts, documents and records relating to that operation or activity for an adequate period of time, as specified in the relevant procurement documents or contract.

**(iii) Responsibilities of recipients**

11. When participating in an IFAD-financed and/or IFAD-managed operation or activity, recipients will take appropriate action to prevent, mitigate and combat prohibited practices. In particular, they will:
- (a) Adopt appropriate fiduciary and administrative practices and institutional arrangements in order to ensure that the proceeds of any IFAD financing or financing managed by the Fund are used only for the purposes for which they were provided;
  - (b) During selection processes and/or prior to entering into a contractual relationship with a third party, conduct appropriate due diligence checks of the selected bidder or potential contractor, including by verifying whether the selected bidder or potential contractor is publicly debarred by any of the IFIs that are signatories to the Agreement for Mutual Enforcement of Debarment Decisions<sup>2</sup> and, if so, whether the debarment meets the requirements for mutual recognition under the Agreement for Mutual Enforcement of Debarment Decisions;
  - (c) Take appropriate action to inform third parties and beneficiaries (defined as "persons whom the Fund intends to serve through its grants and loans") of the present policy as well as the Fund's confidential and secure e-mail address for the receipt of complaints concerning prohibited practices;
  - (d) Include provisions in procurement documents and contracts with third parties which:
    - (i) Require third parties to disclose, in the course of a procurement process and any time thereafter, information relating to themselves or any of their key personnel concerning relevant criminal convictions, administrative sanctions and/or temporary suspensions; information concerning agents engaged in connection with a procurement process or the execution of a contract, including the commissions or fees paid or to

<sup>2</sup> The Agreement for Mutual Enforcement of Debarment Decisions, dated 9 April 2010, was signed by five of the leading IFIs, namely, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the World Bank Group.

- be paid; and information concerning any actual or potential conflicts of interest in connection with a procurement process or the execution of a contract;
- (ii) Require third parties to promptly report to the Fund any allegations or other indications of prohibited practices that come to their attention by virtue of their involvement in an IFAD-financed and/or IFAD-managed operation or activity;
  - (iii) Inform third parties of the Fund's jurisdiction to investigate allegations and other indications of prohibited practices and to impose sanctions on third parties for such practices in connection with an IFAD-financed and/or IFAD-managed operation or activity;
  - (iv) Require third parties to fully cooperate with any investigation conducted by the Fund, including by making personnel available for interviews and by providing full access to any and all accounts, premises, documents and records (including electronic records) relating to the relevant IFAD-financed and/or IFAD-managed operation or activity and to have such accounts, premises, records and documents audited and/or inspected by auditors and/or investigators appointed by the Fund;
  - (v) Require third parties to maintain all accounts, documents and records relating to an IFAD-financed and/or IFAD-managed operation or activity for an adequate period of time as agreed with the Fund;
  - (vi) Inform third parties of the Fund's policy of unilaterally recognizing debarments imposed by other IFIs if such debarments meet the requirements for mutual recognition under the Agreement for Mutual Enforcement of Debarment Decisions; and
  - (vii) Provide for early contract termination or suspension by the recipient if such termination or suspension is required as a consequence of a temporary suspension or sanction imposed or recognized by the Fund;
- (e) Promptly inform the Fund of any allegations or other indications of Prohibited Practices that come to their attention;
  - (f) Fully cooperate with any investigation conducted by the Fund, including by making personnel available for interviews and by providing full access to any and all accounts, premises, documents and records (including electronic records) relating to the relevant IFAD-financed and/or IFAD-managed operation or activity and to have such accounts, premises, documents and records audited and/or inspected by auditors and/or investigators appointed by the Fund;
  - (g) Maintain all accounts, documents and records relating to an IFAD-financed and/or IFAD-managed operation or activity for an adequate period of time, as specified in the relevant financing agreement; and
  - (h) Maintain strict confidentiality regarding any and all information received as a consequence of their participation in an IFAD investigation or sanctioning process.
12. Where the Fund finds that prohibited practices have occurred, recipients will:
- (a) Take appropriate corrective measures in coordination with the Fund; and
  - (b) Give full effect to any temporary suspension or sanction imposed or recognized by the Fund, including by not selecting a bidder, not entering into a contract or suspending or terminating a contractual relationship.
13. Prior to the implementation of an IFAD-financed and/or IFAD-managed operation or activity, government recipients will inform the Fund of the arrangements that

they have made for receiving and taking action in response to allegations of fraud and corruption relating to the IFAD-financed and/or IFAD-managed operation or activity, including by designating an independent and competent local authority to be responsible for receiving, reviewing and investigating such allegations.

14. When participating in an IFAD-financed and/or IFAD-managed operation or activity, government recipients will, in consultation with the Fund, take timely and appropriate action to launch a local investigation into allegations and/or other indications of fraud and corruption relating to the IFAD-financed and/or IFAD-managed operation or activity; inform the Fund of the actions taken in any such investigation at such intervals as may be agreed upon by the recipient and the Fund on a case-by-case basis; and, upon the completion of such investigation, promptly share the findings and results thereof, including the supporting evidence, with the Fund. Government recipients will work with the Fund to coordinate any actions other than investigations that they may wish to undertake in response to an alleged or otherwise indicated prohibited practice.
15. Government recipients are encouraged to have in place, in accordance with their laws and regulations, effective whistle-blower protection measures and confidential reporting channels in order to appropriately receive and address allegations of fraud and corruption relating to IFAD-financed and/or IFAD-managed operations and activities.

## **E. Process**

### **(i) Reporting**

16. A designated confidential and secure e-mail address for the receipt of allegations of prohibited practices is available on the Fund's website.
17. In the event of uncertainty as to whether or not an act or omission constitutes a prohibited practice, the designated confidential and secure e-mail address may be used to seek guidance.
18. The Fund treats all reported allegations with strict confidentiality. This means that the Fund does not normally reveal the identity of a reporting party to anybody outside of the investigative, sanctioning or disciplinary process without the consent of the reporting party.
19. The Fund endeavours to provide protection from retaliation to any individuals or entities that have helped prevent or have reported to the Fund, in good faith, allegations or other indications of prohibited practices. IFAD staff and non-staff personnel are protected from retaliation under the Fund's Whistle-blower Protection Procedures.

### **(ii) Investigations**

20. Where the Fund has reason to believe that prohibited practices may have occurred, the Fund may decide to review and investigate the matter, irrespective of any investigative actions launched or planned by the recipient.
21. The purpose of an investigation conducted by the Fund is to determine whether an individual or entity has engaged in one or more prohibited practices in connection with an IFAD-financed and/or IFAD-managed operation or activity.
22. Reviews and investigations conducted by the Fund are, inter alia:
  - (a) Strictly confidential, meaning that the Fund does not disclose to anyone outside of the investigative, sanctioning or disciplinary process any evidence or information relating to the review or investigation, including the outcome of a review or investigation, unless such disclosure is allowed under the Fund's legal framework;
  - (b) Independent, meaning that no authority is allowed to interfere with an ongoing review or investigation or to otherwise intervene in, influence or stop

such a review or investigation; and

- (c) Administrative, as opposed to criminal, in nature, meaning that reviews and investigations conducted by the Fund are governed by the Fund's rules and procedures, not by local laws.
23. The office within the Fund that is mandated to conduct reviews and investigations into alleged or otherwise indicated prohibited practices is the Office of Audit and Oversight (AUO). Without prejudice to paragraphs 9(d) and 11(f), AUO may agree not to disclose to anybody outside of AUO any evidence or information that it has obtained on the condition that such evidence or information may be used solely for the purpose of generating new evidence or information, unless the provider of the evidence or information consents.

## **F. Sanctions and related measures**

### **(i) Temporary suspensions**

24. During the course of an IFAD review or investigation, or pending the conclusion of a sanctioning process, the Fund may decide, at any time, to temporarily suspend payments to IFAD non-staff personnel, non-government recipients, vendors or third parties or to temporarily suspend their eligibility to participate in IFAD-financed and/or IFAD-managed operations and activities for an initial period of six (6) months, subject to a possible extension of that suspension for an additional six (6) months.
25. IFAD staff may be temporarily suspended from their duties in accordance with the applicable human resources framework.

### **(ii) Sanctions**

26. If the Fund determines that IFAD non-staff personnel, non-government recipients, vendors or third parties have engaged in prohibited practices, the Fund may impose administrative sanctions on such individuals or entities.
27. Sanctions are imposed on the basis of: (i) the findings and evidence presented by AUO, including mitigating and exculpatory evidence; and (ii) any evidence or arguments submitted by the subject of the investigation in response to the findings presented by AUO.
28. The Fund may apply any of the following sanctions or a combination thereof:
- (a) Debarment, which is defined as declaring an individual or entity ineligible, either indefinitely or for a stated period of time, to: (i) be awarded any IFAD-financed contract; (ii) benefit, financially or otherwise, from any IFAD-financed contract, including by being engaged as a subcontractor; and (iii) otherwise participate in the preparation or implementation of any IFAD-financed and/or IFAD-managed operation or activity;
  - (b) Debarment with conditional release, which is defined as a debarment that is terminated upon compliance with conditions set forth in the sanction decision;
  - (c) Conditional non-debarment, which is defined as requiring an individual or entity to comply with certain remedial, preventive or other measures as a condition for non-debarment on the understanding that a failure to comply with such measures within a prescribed period of time will result in an automatic debarment under the terms provided for in the sanction decision;
  - (d) Restitution, which is defined as a payment to another party or the Fund (with respect to the Fund's resources) of an amount equivalent to the amount of the diverted funds or the economic benefit obtained as a result of having engaged in a prohibited practice; and
  - (e) Letter of reprimand, which is defined as a formal letter of censure for the

actions of an individual or entity which informs that individual or entity that any future violation will lead to more severe sanctions.

29. The Fund may extend the application of a sanction to any affiliate of a sanctioned party even if the affiliate has not been directly involved in the prohibited practice. An affiliate is defined as any individual or entity that is: (i) directly or indirectly controlled by the sanctioned party; (ii) under common ownership or control with the sanctioned party; or (iii) acting as an officer, employee or agent of the sanctioned party, including owners of the sanctioned party and/or those who exercise control over the sanctioned party.
30. For the purposes of IFAD-financed and/or IFAD-managed operations and activities, the Fund may consider as debarred individuals and entities that have been debarred by another IFI where: (i) that IFI is a signatory to the Agreement for Mutual Enforcement of Debarment Decisions; and (ii) such debarment meets the requirements for mutual recognition under the Agreement for Mutual Enforcement of Debarment Decisions.<sup>3</sup>

### **(iii) Disciplinary measures**

31. If the Fund finds that IFAD staff have engaged in prohibited practices, the Fund may apply disciplinary measures and may require restitution or other compensation in accordance with the applicable human resources framework.

## **G. Referrals and information-sharing**

32. The Fund may, at any time, refer information or evidence relating to an ongoing or completed investigative, sanctioning or disciplinary process to the local authorities of a Member State. In determining whether such a referral is appropriate, the Fund takes into consideration the interests of the Fund, the affected Member States, the individuals or entities under investigation and any other persons, such as witnesses, who are involved in the case.
33. If the Fund obtains information or evidence indicating potential wrongdoing in connection with the operations and/or activities of another multilateral organization, the Fund may make such information or evidence available to the other organization for the purposes of its own investigative, sanctioning or disciplinary processes.
34. In order to facilitate and regulate the confidential exchange of information and evidence with local authorities and multilateral organizations, the Fund seeks to conclude agreements which establish the rules for such an exchange.

## **H. Operational responses to Prohibited Practices**

### **(i) Rejection of an award of contract**

35. The Fund may refuse to give its no-objection to the award of a contract to a third party if it determines that the third party, or any of its personnel, agents, subconsultants, subcontractors, service providers, suppliers and/or their employees, engaged in a prohibited practice while competing for the contract in question.

### **(ii) Declaration of misprocurement and/or ineligibility of expenditures**

36. The Fund may, at any time, declare a misprocurement and/or the ineligibility of any expenditures associated with a procurement process or contract if it determines that a third party or a representative of the recipient has engaged in a prohibited practice in connection with the procurement process or contract at issue and that the recipient has not taken timely and appropriate action, satisfactory to the Fund, to address such practices when they occur.

<sup>3</sup> The Fund may, in the future, decide to also recognize debarments imposed by entities that are not signatories to the Agreement for Mutual Enforcement of Debarment Decisions.

**(iii) Suspension or cancellation of loan or grant**

37. If the Fund determines that a recipient has not taken timely and appropriate action, satisfactory to the Fund, to address prohibited practices when they occur, the Fund may suspend or cancel, in whole or in part, the loan or grant affected by such practices.