

**TRANSPARENCY INTERNATIONAL SECRETARIAT**

**Corruption Risk Assessment Tool  
for the**

**European Economic Area and  
Norway Financial Mechanism  
2009-2014**

**User's Manual**

**STAGE II: RISK RANKING**

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## **Abbreviations**

BS	Beneficiary State
EEA	European Economic Area
EFTA	European Free Trade Area
FM	Financial Mechanism
FMC	Financial Mechanism Committee
FMO	Financial Mechanism Office
MoU	Memorandum of Understanding
NFP	National Focal Point
NMC	National Monitoring Committee
NMFA	Norwegian Ministry of Foreign Affairs
NPE	“National Public Entity”
PO	Programme Operator
PP	Project Promoter
RFRM	Risk Filtering and Ranking Method
SC	Selection Committee
TI-S	Transparency International Secretariat

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## **PART I: INTRODUCTION AND BACKGROUND**

### **OUTLINE OF THE MANUAL**

The following manual describes the process of applying the corruption risk assessment tool, which has been developed in the context of the framework co-operation agreement between Transparency International Secretariat (TI-S, Berlin) and the Financial Mechanism Office (FMO, Brussels). The latter is responsible for managing the European Economic Area and Norway Financial Mechanisms 2009-2014. Within this framework, TI-S agreed to develop a methodology and a tool for assessing the corruption risks affecting the Financial Mechanism (FM) which can also be applied to all Beneficiary States (Art. 2-1).<sup>1</sup>

In accordance with this assignment, the tool aims to identify and prioritise corruption risks concerning the in-country grant management process of the FM in the 15 Beneficiary States (BS). The tool shall eventually serve the purpose of suggesting adequate risk mitigation measures.

Based on a holistic methodology, the “Risk Filtering and Ranking Method” (FRFM), the corruption risk assessment shall be carried out in two stages, by using a corruption risk filtering tool and a corruption risk ranking tool sequentially for each BS. The risk filtering tool shall identify those FM programmes in a BS which face an increased risk of corruption. Regarding these critical programmes, the risk ranking tool shall then be used to conduct an enhanced operational assessment of particular corruption risk scenarios.

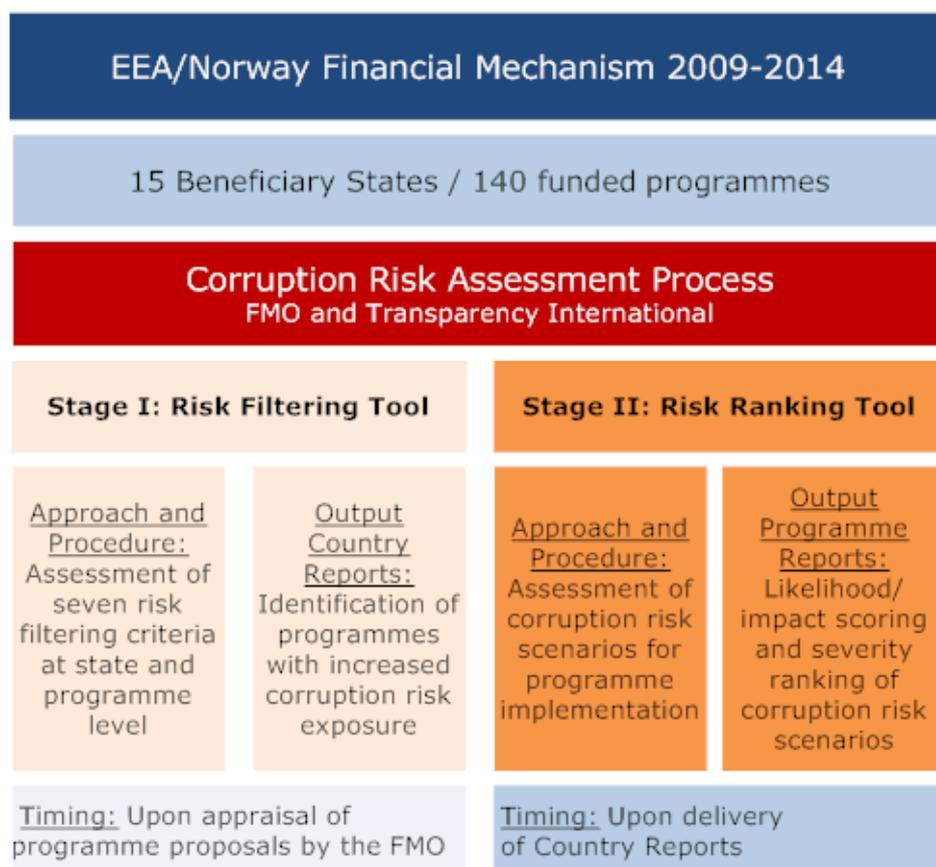
The figure on the following page provides an overview of the entire corruption risk assessment process, with the risk ranking in stage two highlighted in orange.

The risk filtering tool is meant to be applied by a single entity assigned by TI-S with the task of executing the first stage of the corruption risk assessment process. The output of this stage shall be reports which, for each BS, contain a substantiated classification of the individual programmes within a country’s programme framework, as being at low, medium or high risk of corruption during the implementation phases.

Research for a country report can be conducted when a significant majority of the programme proposals are received at the FMO for appraisal. The final country report will be submitted when all programmes have been reviewed within stage one.

Based on the country reports for each BS, the risk ranking tool in stage two shall then be applied on a national level by independent experts appointed by TI-S. The output of the second stage shall be reports on each filtered-out programme assessing and ranking specific corruption risk scenarios related to the initial implementation phases of “calls for proposals”, “selection of projects”, and “subcontracting and procurement”.

Figure 1: Overall design of the corruption risk assessment process



In order to be able to apply the risk filtering tool and the risk ranking tool sequentially by different users, as lined out above, the manual is delivered in two separate documents. The manual for each stage contains the necessary background information about the Financial Mechanism and the risk assessment methodology plus a detailed guidance through the risk filtering or the risk ranking process, respectively.

The present manual concerns the tool for Stage II: Risk Ranking, and is organized as follows.

**PART 1 Background information about the EEA/Norway Financial Mechanism 2009-2014**

This part provides a concise summary of the general characteristics of the grants scheme, including references to relevant regulations and an overview of the organisational structure. It then introduces the methodology which has been pursued in order to develop the corruption risk assessment tool, namely the Risk Filtering and Ranking Method (RFRM).

**PART 2 Risk Ranking Tool**

This part provides detailed guidance on the process of conducting the risk assessment in stage two, the risk ranking procedure, in order to prioritise corruption scenarios which may pose a major risk to the implementation of those programmes which were filtered out before in the first stage of the process. This part also contains instructions on how to rate the likelihood and impact of each corruption risk scenario, and how to combine these scores to a ranking of all corruption risk scenarios concerning a programme.

### *PART 3 Risk Assessment Report*

This part provides some suggestions on how to present the results of the risk ranking procedure in the programme reports.

## **BACKGROUND TO THE FINANCIAL MECHANISM**

Within the framework of the European Economic Area (EEA) and Norwegian Financial Mechanisms for the period 2009-2014, the EEA EFTA states Iceland, Liechtenstein and Norway will provide a total of EUR 1.79 billion to 15 Beneficiary States (all member states of the European Union), including Bulgaria, the Czech Republic, Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, and Spain (in Greece, Portugal and Spain funding is limited to the EEA Financial Mechanism).

The overall objectives of the grants are to contribute to the reduction of economic and social disparities in the European Economic Area and to strengthen bilateral relations between the Donor States and the Beneficiary States. The EEA grants amount to EUR 988.5 million and are financed by Iceland, Liechtenstein and Norway (95 %). The grants within the Norwegian Financial Mechanism comprise EUR 800 million and are being exclusively financed by the Norwegian state.

The EEA/Norway FM 2009-2014 will fund projects in 32 programme areas and eleven priority sectors. The priority sectors for the EEA grants include Environmental Protection and Management, Climate Change and Renewable Energy, Civil Society, Human and Social Development, Protecting Cultural Heritage, Research and Scholarship. The Norway grants will support programmes in the priority sectors Carbon Capture and Storage, Green Industry Innovation, Decent Work and Tripartite Dialogue, Research and Scholarship, Human and Social Development, and Justice and Home Affairs. Information about the programme areas within these sectors can be obtained on the EEA/Norway grants website.<sup>ii</sup>

The Donor States and each Beneficiary State agree on the specific funding of different programmes by signing a Memorandum of Understanding (MoU), one for the EEA grants and a second for the Norway grants. The MoU also describes how the implementation of the programmes will be organised and managed in each BS. All MoU are available on the website of the EEA/Norway grants scheme and are essential background documents for the application of the corruption risk assessment tool as described in this manual.<sup>iii</sup>

The preceding reference documents on which all MoU are based, are the “Regulation on the implementation of the European Economic Area Financial Mechanism 2009-2014” and the “Regulation on the implementation of the Norway Financial Mechanism 2009-2014”.<sup>iv</sup> The two regulations differ with respect to the funded programme areas (within the aforementioned priority sectors) and some organisational features. It should be noted that the EFTA states established a Financial Mechanism Committee (FMC) to manage the EEA grants, whereas the Norway grants are managed by the Norwegian Ministry of Foreign Affairs (NMFA). The day-to-day management of both financial mechanisms is, however, operated by the Financial Mechanism Office (FMO), located in Brussels (*see organisational chart below in figure 2*).

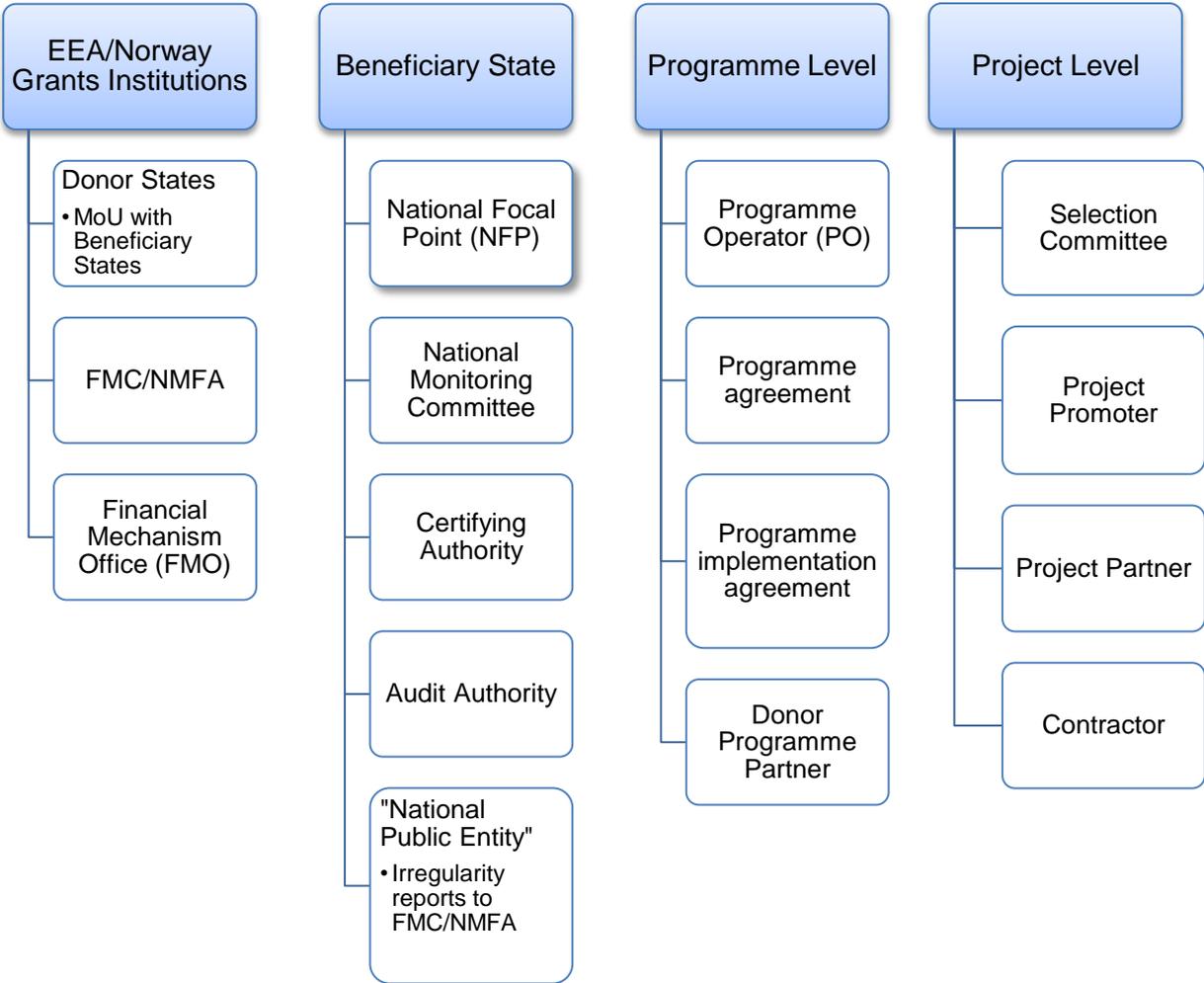
The two regulations are similar in their anti-corruption provisions, which are also highly relevant for the design of the risk filtering and ranking stages of this corruption risk assessment tool. In that context, the two separate regulation documents will hereinafter be referred to as the “Regulation”. Also, Liechtenstein, Iceland and Norway will generally be denoted as the “Donor States”.

The Donor States are aware of corruption risks that affect the FM. The “Principles of implementation” (Art. 1.6) stipulate the “highest degree of transparency, accountability and cost efficiency” in all implementation phases of the FM. The Donor States state that they

“exercise zero-tolerance towards corruption”. Other articles within the Regulation address possible “conflicts of interest” regarding the selection of projects (Art. 6.6), and corruption risks affecting the project procurement (Art. 7.16). Chapter 11 concerns all kinds of “irregularities” which might compromise the implementation of the FM in a BS, including corruption, fraud, bribery or embezzlement (see Annex 1 for Transparency International’s definition of corrupt practices).

The awareness of corruption risks is also related to the new programme approach which represents one of the key features of the EEA/Norway FM 2009-2014. As determined in the Regulation, the Beneficiary States shall primarily be responsible for the management and control of programmes (Chapter 4). A National Focal Point (NFP, see *figure 2*) in each country is assigned the overall responsibility for implementing the MoU (Art. 4.3), and is expected to demonstrate the set-up of “management and control systems” of the Programme Operators (see below) covering in particular “the system for preventing, mitigating, detecting, reporting on and remedying irregularities” (Art. 4.8).

Figure 2: Organisational structure of the EEA/Norway Financial Mechanism 2009-2014



The NFP shall also establish a Monitoring Committee (MC), including representatives from relevant ministries, local and regional authorities, civil society, the social partners, and the private sector (Art. 4.4). The 'stakeholders' assembled in the MC shall review progress made towards achieving the objectives of the FM. The MC's role is, however, not envisaged as being established as an independent monitoring entity specifically mandated to assess corruption risks.

The critical new actor within the EEA/Norway grants scheme is the institution of the Programme Operator (PO). While the NFP retains oversight of all programme areas, the Programme Operators are *de facto* in control of the implementation of programmes, including project selection, subcontracting, procurement and financial management. The extent to which the PO might be the entry point for corrupt practices affecting the FM, is therefore of particular concern.

It should be mentioned that the FM establishes donor partnerships at the programme and project level (Art. 3.2). These donor partnerships serve the declared strategic goal of strengthening bilateral relations between the Donor States and the Beneficiary States, as defined in the MoU. The direct involvement of selected donor institutions in implementing programmes and projects may reduce corruption risks affecting the respective programme areas in the BS. However, if corrupt practices nevertheless occurred when implementing these programmes, the negative effect on the reputation of the FM, regarding compliance with good governance standards, and the bilateral relations between the Donor States and the BS in question, may be regarded as being particularly high.

## **Corruption Risk Context**

The users of both tools for the corruption risk assessment process should be aware that they are facing an already highly regulated grants scheme structure, including sophisticated anti-corruption mechanisms, which can be mostly regarded as 'best practice' for grant management. According to the FMO, the contents of the FM Regulation are based on experience and insight from previous grant mechanisms. The challenge for developing and applying the risk assessment tools in this regulated environment consists of understanding the critical elements of the Regulation, identifying possible weaknesses and assessing the risks of these weaknesses being exploited by potential perpetrators of corruption (who might also know the Regulation well).

The corruption risk assessment approach is tailored to the requirements of the EEA/Norway FM. Apart from looking into the integrity of legal procedures, a strong emphasis is placed on undertaking *integrity due diligence* regarding the people involved in the operation and implementation of the programmes, and the nature of relevant personal relationships. While compliance with agreed formal rules and 'codes of conduct' is a key foundation of clean processes, the assessment approach pursued here specifically considers the risks that can arise from hidden personal connections and the opportunities for corrupt practices provided by these connections. (see [Annex 2](#) for further details on this approach).

As a starting position, the corruption risk context differs at both the level of Beneficiary States (BS) and at the level of single programmes within Beneficiary States (BS). Therefore, all users of the risk assessment tools should take notice of the following fundamental context variables.

### Beneficiary State level

It is assumed that corruption risks affecting the FM might vary considerably from BS to BS. A general assessment of country corruption risks is compiled by Transparency International's *Corruption Perception Index 2011* (CPI).<sup>v</sup> Detailed studies on the extent and causes of

corruption in the respective countries as well as the effectiveness of national anti-corruption efforts are provided by Transparency International's comprehensive *National Integrity System (NIS) Assessments* (see [Annex 3](#) for detailed information about the state of NIS reports).

Moreover, the total amount of grants provided to the BS range from EUR 4.5 million for Malta to EUR 578.1 million for Poland. The more grants are available in a country, the greater the incentives and opportunities for corrupt practices might become. At the same time, the BS differ in population size, between 400.000 in Malta and 46,7 million in Spain, which suggests comparing the amount of grants per capita available in the BS too. A smaller population size – nine of the BS have less than ten million people – could imply a higher density of personal and public relationships, which may provide more opportunities for collusive behaviour with respect to the implementation of FM programmes.

### Programme level

The exposure of single programmes to corruption risks may also vary considerably, depending on the grants allocated to the programmes, the sector to which they belong, and also on whether they involve large procurement procedures.<sup>vi</sup> It is assumed that programmes receiving higher levels of funding are more at risk than those programmes receiving lower levels, and that programme areas facing higher sector-specific risks will usually be included within the set of programmes which are granted more funding.<sup>vii</sup>

While programmes are normally implemented beginning with an open “call for proposals” and a competitive “selection of projects” phase, there are also so-called pre-defined projects which are partly exempted from these procedures. Programmes including pre-defined projects may be differently exposed to corruption risks, depending on the specification of and the process leading to the identification of such projects.

Finally, the corruption risks for each BS must be assessed with respect to the compliance of the programmes' operation with the FM's anti-corruption regulations generally, and the measures taken to ensure the integrity of the implementation process specifically.

Given the heterogeneity of the BS, the expected different exposure of the FM to corruption risks in these countries, and the existing uncertainty regarding the integrity of the programme approach for 2009-2014, the following methodology for the corruption risk assessment process has been applied.

## **THE RISK FILTERING AND RANKING METHOD**

Pursuing a risk-based approach generally means focusing on major risks, which is common practice when analytical and/or managerial resources are limited. In a nutshell, major risks come with those harmful actions and events that may occur more often and can cause greater damage, if they happen. Concentrating on major risks, also for the purpose of effective risk management and mitigation, implies that minor risks may remain unchecked and will have to be tolerated.

The method of choice for corruption risk assessment within the given context is known as the “Risk Filtering and Ranking Method” (RFRM).<sup>viii</sup> This two stage assessment procedure is best suited for identifying and prioritising risks within complex settings such as the EEA/Norway FM.

The following are the two stages of the risk assessment process according to the RFRM:

- (1) The *risk filtering* procedure serves to reduce complexity and to identify and focus on the most important risk issues. Based on the assessment of defined risk filtering criteria applicable to all objects in question, various levels of risk exposure for each object can be determined. The objects in question within the EEA/Norway grant scheme are the funded programmes in the BS. Those programmes with a higher exposure to corruption risks require enhanced scrutiny and will be included in the following risk ranking stage.
- (2) The *risk ranking* procedure comprises the operational assessment of defined corruption risk scenarios applicable to the implementation phases of all programmes selected in stage one. For each programme, the likelihood and possible impact of each corruption risk scenario need to be assessed and rated. Combined, the likelihood and impact assessments will allow for ranking the respective corruption risk scenarios as being extreme, high, moderate, or low risk.

The present tool manual document provides guidance for conducting the second stage which is the risk ranking procedure.

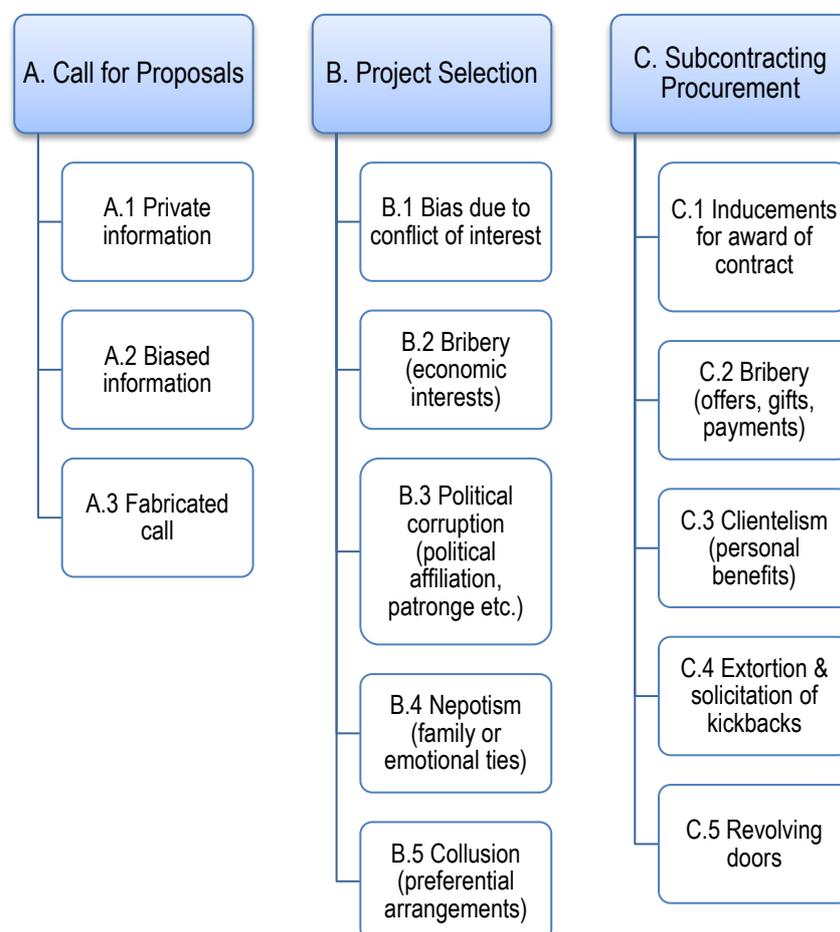
## PART II: RISK RANKING TOOL

The risk ranking tool aims to assess operational corruption risk scenarios for those programmes that warrant enhanced integrity due diligence (following and based on the results of the risk filtering procedure in stage one).

### 2A. RISK SCENARIOS FOR PROGRAMME IMPLEMENTATION PHASES

The risk ranking process takes a scenario-based approach to assessing corruption risks. The single *corruption risk scenarios* are linked to the initial implementation phases of a programme and project cycle, from (A) Call for proposals, (B) Project selection to (C) Subcontracting and Procurement, as presented in *figure 3*.

*Figure 3: Corruption risk scenarios linked to the initial programme implementation phases*



For the purpose of rolling out the corruption risk assessment tool, the focus rests on these initial phases (see [Annex 4](#) for general coverage of corruption risks affecting the financial management of the projects until their completion.)

The corruption scenarios listed within the individual phases in *figure 3* are based on a general audit of possible corrupt practices in relation to the FM, which was conducted during the development of this tool. The result was that all relevant potential corrupt practices are either explicitly referred to in the Regulation or can be extracted from formulations used in the Regulation.

A general list of corrupt practices as defined by Transparency International - including those presented in *figure 3* - is attached to this manual (see [Annex 1](#)).

## **2B. RISK RANKING PROCEDURE**

The risk ranking procedure is designed to enable the user of this tool to assign a specific risk rating of corruption scenarios to each programme. Given the goal to offer a more in-depth analysis of where the priority risks lie, it is required to translate qualitative risk research provided for each scenario (Step 1) into individual likelihood of occurrence scores as well as potential impact scores (see Step 2). The likelihood and impact scores will eventually be combined to an overall ranking of extreme/high/moderate/low risk corruption scenarios.

Key reference documents for the research process include the country report from the risk filtering procedure (stage one), as well as relevant regulations and agreements within the FM, as mentioned in the following guidance.

### ***Step 1: Guided Research***

For each programme, the user should answer the qualitative questions around each corruption scenario. When answering the research questions, references should be made to the sources used. Where information is based on discreet interviews, references need to pay respect to the usual confidentiality requirements. Should limited information not allow for giving a substantial answer, this should also be reported by the user.

The set of scenarios for each of the three phases of the initial programme implementation process is structured as follows.

- The main criterion against which scenarios should be benchmarked
- Detailed research questions to be answered, including justifications for the answers given. (Note: this is required for the final report)
- The risk rating guidance which serves to understand the implications of the answers given, in particular regarding the likelihood and impact assessment for each risk scenario
- Additional supporting information which will help to assign scores in step 2
- Suggested sources to assist the user in starting the research process

<b>A. Corruption scenarios for call for proposals</b>	
<b>Main criterion:</b> Compliance of call for proposal with FM Regulation (Art. 6.3)	
<b>Research question:</b> Does the call fulfil the criteria set out in the Regulation, or are there any indications of the corruption risk scenarios below:	<b>Answers and justification</b>
<b>A.1:</b> Is the information provided in a selective manner, implying that private information may be conveyed to certain applicants?	
<b>A.2:</b> Is the information biased in such a way that certain applicants might unduly be given an advantage, or other applicants unduly be discriminated against?	
<b>A.3:</b> Are there any indications surrounding the call that its formulation might be fabricated, based on hidden collusion involving PO staff and applicants, unduly favouring pre-arranged proposals and compromising fair competition between the potential projects?	

**Risk rating guidance** (Likelihood/impact):

The Regulation is clear about the information that needs to be included in the call; any violation of the information requirements will increase the likelihood of the aforementioned corruption risk scenarios. If information inconsistencies exist, this might either be due to a disregard of the requirements or to attempts of manipulation. Therefore, information inconsistencies warrant further investigation of the matter, also taking into consideration a possible scheme for preferential or discriminatory treatment of applicants. Since such a scheme would, in most cases, be based on collusive behaviour involving several parties. The potential impact on the integrity of the programme would be very negative.

**Supporting information:**

The rules according to which the PO should design the calls for proposals are very detailed<sup>ix</sup>. Any manipulation of the rules would already increase the likelihood of subsequent corrupt practices at this stage. Since the FMC/NMFA and the NFP will be informed about the calls for proposals before publication, the risk of selective and biased information (A.1, A.2) seems to be reduced. However, a risk of collusion for the purpose of a 'fabricated call' (A.3) still exists in hidden communication channels which might connect the PO to potential applicants, also called 'Project Promoters' (see figure 2).

Applicants eligible for projects include any entity, public or private, commercial or non-commercial and non-governmental organisations, established as a legal person, as well as International Organisations operating in the Beneficiary States. Natural persons are eligible for scholarships and in the case of cultural exchange<sup>x</sup>. Any corruption risk assessment should be aware of the potential variety of opaque connections between the PO and applicants, who may be seeking to create an opportunity to benefit from the FM.

**Sources:**

Regulation, documentation of calls for proposals; in case of information inconsistencies, discreet interviews with stakeholders possessing expertise in the programme area concerned.

<b>B. Corruption scenarios for project selection</b>	
<b>Main criterion:</b> Compliance with Art. 6.6 of the Regulation regarding the prevention of “conflicts of interest” that might “influence the impartial and objective performance of the person involved in the selection of projects”.	
<b>Research question:</b> How great is the exposure of the project selection procedure to corruption risk scenarios resulting from conflicts of interests?	<b>Answers and justification</b>
<b>B.1:</b> Has the PO set up and enacted a system to control for and manage possible conflicts of interest concerning any parties involved in the project selection process, including the PO, applicants, reviewing experts, and members of the Selection Committee? <sup>xi</sup>	
<b>B.2:</b> Should evidence of economic conflicts of interests between any parties exist, have effective precautionary measures been taken that prevent bribery from occurring?	
<b>B.3:</b> Should evidence of political or national affinities between any parties exist, have effective precautionary measures been taken that prevent political corruption and patronage from occurring?	
<b>B.4:</b> Should evidence of family or emotional ties exist, have effective precautionary measures been taken that prevent nepotism from occurring?	
<b>B.5:</b> Should evidence of other shared interests exist, have effective precautionary measures been taken that prevent collusion from occurring?	

**Risk rating guidance** (Likelihood/impact):

Whether personal relationships between the parties involved in the project selection may raise the likelihood of corrupt behaviour, depends on the nature of these relationships, i.e. whether they involve conflicts of interest which can also be substantiated by sufficient evidence. However, even if the corruption risk increases due to such evidence, the eventual likelihood assessment for individual corruption risk scenarios needs to take into consideration whether effective precautionary measures might again significantly reduce the opportunities for the respective practices. As regards the potential impact, not all corrupt practices between the parties involved may cause the same damage<sup>xii</sup>. As a rule, the impact can be determined by the extent to which the corrupt practice observed could actually impair the fair competition between the applications. However, if the competition in selecting the projects was compromised, the impact would also discredit the entire programme. Clearly, corruption in the project selection phase would also affect the integrity of subcontracting and procurement during the programme implementation phase.

**Supporting information:**

The following paragraphs give an outline of the selection procedure (according to Art. 6.5 of the Regulation) and identify corruption scenarios that may exist despite the Regulation. The slightly paraphrased selection procedure below is guided by elaborate rules and a detailed sequence of steps. The key actors in the procedure are the Programme Operator, reviewing experts and a Selection Committee.

1. The PO reviews the applications for compliance with administrative and eligibility criteria. Rejected applicants have the opportunity to appeal that decision.
2. Each eligible application shall then be reviewed by two independent and impartial experts appointed by the PO. The experts shall separately score the project according to the selection

criteria published with the call for proposals. The average score will serve for ranking the projects. If the difference between the score is more than 30 % a third expert shall be commissioned and the average score of the two closest scores shall be used.

3. The PO shall provide the Selection Committee with a list of ranked projects. The FMC/NMFA will receive that list too.<sup>xiii</sup>
4. The Selection Committee may modify the ranking, but a justification shall be detailed in the minutes of the meeting. If the modification of the ranking results in the rejection of a project, the affected applicant shall be informed in writing about the reason for the modification. The list of recommended projects is then submitted to the PO.
5. The PO will make his decision based on the Selection Committee's decision, but also retains the right to modify this decision. In that case, the PO shall inform applicants affected and provide them with an explanation.<sup>xiv</sup>
6. Finally, the PO shall notify the applicants about the results of the selection process within a reasonable timeframe and publicise the results.

There are several issues attached to this procedure. The Selection Committee (SC) is established by the PO. At least three persons "possessing the relevant expertise" shall sit on the SC, one of them external to the PO. Due to the appointment procedure, there are doubts whether the members of the SC, including the external member, can always be regarded as being independent. It is true that the FMC/NMFA and NFP shall be invited to the meetings of the SC as observers, that the SC shall keep minutes of its meetings, and that the FMC/NMFA shall receive a summary of the minutes. But these provisions do not change the fact that the PO retains control over the selection process at any time and can even modify the recommendation made by the SC.<sup>xv</sup> It should also be noted that the critical influence on the selection process by the PO might even start with him appointing the reviewing experts.<sup>xvi</sup>

It appears that the PO is in the position to tolerate biased evaluations or even make biased decisions, that may be influenced by a conflict of interests (B.1). The risk of active or passive 'bribery' (B.2) is, however, not necessarily the most likely risk during the selection process. But there seems to be an increased risk of favouritism, including 'political corruption' (B.3), 'nepotism' (B.4) and 'collusion' (B.5). The Regulation itself does not completely eliminate critical opportunities for discriminatory or preferential treatment of proposals following from personal connections between the major players in the selection phase, namely the PO, the applicants, the reviewing experts and the members of the Selection Committee.

The assessment of the corruption risk scenarios linked to the project selection will depend on the risk management system, including self-control, that the PO will need to have put in place by the time the first calls for proposals are published. One word of caution should be remembered in that regard. A conflict of interest only leads to corrupt behaviour if it distorts the impartial and objective performance of the persons involved in the selection of the projects. If the conflict of interest is disclosed, the corruption risk can also be neutralized.

The user of the tool should therefore carefully check, on the one hand, for evidence of economic conflicts of interest, political affinities, family or emotional ties, and other shared interests between the people involved in the project selection phase. On the other hand, all precautionary measures taken to neutralize the possible influence of personal connections, e.g. by disclosing them and by meticulously documenting the relevant decision-making procedures, also need to be taken into consideration. Moreover, it is recommended to announce beforehand, that any winning Project Promoter will be double-checked in the course of the corruption risk assessment. This might work as a deterrent and thus effective preventive measure.

#### **Sources:**

NFP and PO websites; biographies of persons involved in the project selection; documented conflicts of interest if available; search in media sources for personal ties between key actors that may bias the selection procedure; discreet interviews with insiders, including stakeholders and external experts; ex-post analysis of connections between the winning Project Promoter and actors involved in the selection process.

<b>C. Corruption risk scenarios regarding project partners, subcontracting and procurement</b>	
<b>Main criterion:</b> Compliance of Project Promoters with Regulation regarding collaboration with project partners, subcontracting and public procurement (Art. 7.16)	
<b>Research question:</b> How great is the exposure of project contracting to corruption risk scenarios above and below specific financial thresholds? <sup>xvii</sup>	<b>Answers and justification</b>
<b>C.1:</b> Has the PO set up and enacted a risk assessment and mitigation system for controlling the Project Promoters, ensuring the application of adequate and effective means to prevent the occurrence of illegal and corrupt practices throughout the entire course of a subcontracting and procurement cycle? <sup>xviii</sup> Do the respective means address all kinds of inducements or rewards for the award or execution of contracts, which might impair a full and fair competition between providers and/or the optimal use of the FM resources? <sup>xix</sup>	
<b>C.2:</b> Does evidence of personal relationships between the PP and any project partners, contractors and/or suppliers exist that indicates a risk of bribery through possible offers, gifts and payments?	
<b>C.3:</b> Does evidence of personal relationships between the PP and any project partners, subcontractors and/or suppliers exist that indicates a risk of clientelism to the detriment of fair competition?	
<b>C.4:</b> Does evidence of personal relationships between the PP any project partners, subcontractors and/or suppliers, and/or in the documentation of pricing, exist that indicates a risk of extortion or solicitation of kickbacks?	
<b>C.5:</b> Does evidence from the past of the PP and/or projects partners, suppliers, and subcontractors exist that indicates risks originating from the 'revolving doors' effect?	

**Risk rating guidance** (Likelihood/impact):

In programme areas where projects entail large procurement processes, the incentives and opportunities for corrupt practices can be regarded as very high. Any deficiencies in the enforcement of proper procurement rules, in particular regarding fair and transparent tender procedures, raise the likelihood of the corruption risk scenarios mentioned above taking place<sup>xx</sup>. Notwithstanding the existence of a risk management system, close personal relationships between the PP and providers remain a matter of concern and would usually indicate an increased likelihood of corruption, unless the nature of these relations is voluntarily revealed. The impact of corruption affecting subcontracting and procurement can be serious enough to compromise the entire project. It might also concern the programme level if systemic deficiencies in the PO's management and control system of the Project Promoters become visible.

**Supporting information:**

Following the conclusion of the project contract between the PO and the Project Promoter (PP), the PP can sign partnership agreements with project partners who share a "common economic and social

goal” with the PP<sup>xxi</sup>. Even though the partnership agreement must be submitted to the PO, the collaboration with project partners might be induced by specific forms of corruption such as ‘bribery’ (C.2), ‘clientelism’ (C.3), ‘kickbacks’ ( C.4), or a practice called ‘revolving doors’ (C.5).

In that relation, and within the context of Chapter 7 of the Regulation concerning the “Eligibility of expenditures”, one should take into account Art. 7.3, listing the criteria for eligible direct expenditures. These include “costs entailed by other contracts awarded by a Project Promoter for the purpose of carrying out the project, provided that the awarding process complies with the applicable rules of public procurement and this Regulation”.

Procurement risks are treated in more detail in Article 7.16. Paragraph 5 explicitly mentions the corruption risks attached to the procurement process during the implementation phase of the programmes:

*The highest ethical standards shall be observed during the procurement and execution of contracts. The Programme Operator shall ensure the application of adequate and effective means to prevent illegal or corrupt practices. No offers, gifts, payments or benefits of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted.*

The corruption risk scenario ‘inducements for award of contract’ is also denoted as the general scenario C.1 in that phase. The assessment of this risk scenario will depend on the system established by the PO for the “application of adequate and effective means to prevent illegal and corrupt practices”.

The ‘Programme Operators Manual’, published on the EEA/Norway Grants website, requires the PO to set up his own risk management system<sup>xxii</sup>. More specifically, the PO is expected to conduct his own risk assessment regarding the threats facing the programme achievements and outcomes, including the assessment of the likelihood and impact of the risk factors identified and, based on that, to develop a risk mitigation plan.

The user of the tool should assess this risk management system with respect to its capacity to deal with procurement risks, including the corrupt behaviour that might emanate from personal connections between the Project Promoter and any project partner, contractor and supplier. With respect to that risk management system, the aforementioned corruption risk scenarios C.2 to C.5 need to be checked individually.

**Sources:** Regulation; national and EU procurement laws; risk management system at PO regarding the clean behaviour of PPs and subcontractors; procurement documentation, open source research into the nature of relationships between the PP and any subcontractors and providers, including biography checks; indications of non-compliance provided by complaints mechanism.

## **Step 2: Likelihood and Impact Assessment**

The next step is to translate the qualitative information gathered in Step 1 into likelihood and impact scores. The following paragraphs provide guidance and hypothetical examples for each of the programme implementation phases to illustrate how this can be done. *Tables 1 and 2* suggest how to present the likelihood and impact scores respectively. The tables have been completed with hypothetical scores for all three implementation phases of an exemplary Programme area (X), based on the examples provided.

### **i) Likelihood**

Likelihood estimates are scored as follows: frequent (5), likely (4), occasional (3), seldom (2), unlikely (1). The research questions in section Step 1 are formulated in such a way that giving the answers will allow the user to rate the respective scenario using these five values.

Generally, if the risk assessment reveals that all precautionary anti-corruption measures requested in the Regulation haven't been taken, the likelihood rating for the concerned corruption risk scenarios may be reduced from 'occasional' to 'seldom' or 'unlikely'; if, however, loopholes continue to exist, the likelihood assessment for this scenario may be raised to 'likely' or 'frequent'.

#### *Examples*

- *A. Calls for proposals phase:* If there is no evidence that a call for proposals contains selective information, the likelihood of an applicant gaining an advantage by receiving private information, A.1, can be assessed as being 'seldom' (score 2). The likelihood estimates are more robust if they also express the degree of confidence with which the assessment is made. That means in this case, even if a call seems to fully comply with the information requirements, one may not be confident enough to say that improper influence of private information is 'unlikely' (1). Instead, based on the research undertaken, the likelihood assessment of 'seldom' can be made with greater confidence.
- *B. Project selection phase:* Scenario B.3: "Should evidence of political or national affinities between any parties exist, have effective precautionary measures been taken that prevent political corruption and patronage from occurring?" If the answer is no, such measures do not exist, or the existing measures are not sufficient, or there is no evidence that existing measures are actually implemented, then the respective corrupt practices may be assessed as being 'likely' (4), depending on the information for which the answer is given and the confidence with which this likelihood estimate can be separated from 'occasional' (3) on the one side and from 'frequent' (5) on the other.
- *C. Subcontracting and procurement phase:* Scenario C.4: "Does evidence of personal relationships between the PP, any project partners, subcontractors and/or suppliers, and/or in the documentation of pricing, exist that indicates a risk of extortion or solicitation of kickbacks?" If the answer is yes, there is evidence of such personal relationships, with no adequate risk mitigation system in place (see research for C.1), then the likelihood that such relationships might involve kickbacks might be assessed as being 'frequent' (5). Again, the information available should allow for making the assessment with sufficient confidence.

Table 1: Template for likelihood assessment of corruption risk scenarios affecting programme implementation

Programme [...]		Likelihood				
Implementation phases & potential corrupt practices	Corruption risk scenario	1 <i>unlikely</i>	2 <i>seldom</i>	3 <i>occasional</i>	4 <i>likely</i>	5 <i>frequent</i>
<b>A.</b> <i>Calls for proposals</i>						
Private information	A.1		2			
Biased information	A.2		2			
Fabricated call	A.3			3		
<b>B.</b> <i>Project selection</i>						
Conflict of interest	B.1				4	
Bribery	B.2			3		
Political corruption	B.3				4	
Nepotism	B.4			3		
Collusion	B.5					5
<b>C.</b> <i>Subcontracting/Procurement</i>						
Inducements for award of contract	C.1					5
Bribery	C.2				4	
Clientelism	C.3					5
Kickbacks	C.4					5
Revolving doors	C.5			3		

## ii) Impact

The impact scoring for a corruption risk scenario should not only consider the potential financial damage following from the misuse of funds, but also the potential negative effect which corrupt practices might have on the strategic goals pursued by the FM and its programmes. These include, as mentioned above, the reduction of the economic and social disparities, and the strengthening of the bilateral relations, and the promotion of good governance. The impact grades are therefore denoted as follows: compromise of grants scheme (5), compromise of programme (4), compromise of project (3), loss of capability with some effect on a project (2), minor effect on a project (1). Since the assessment already concerns programmes with higher exposure to corruption, the negative impact of actual corrupt practices might generally be regarded as being high.

(Note: A useful guide for the impact assessments is the system of “financial corrections” with which the Regulation threatens to sanction actual corrupt practices, which might go as far as cancelling entire programmes and projects. However, it is not within the scope of this manual, nor for the external user of this tool, to determine which corrupt practices would qualify for specific sanctions. This is a concept which might be developed by the FMO.)

### Examples

- **A. Calls for proposals phase:** Any of the corruption risk scenarios A.1-A.3 really occurring during the ‘calls for proposals’ phase would ‘compromise the respective programme’ (score 4).
- **B. Project selection phase:** If ‘conflicts of interest’ (corruption risk scenario B.1) were actually allowed to distort the impartial and objective selection of projects,

indicating systemic deficiencies in the corruption risk management system, this might 'compromise the entire grants scheme' (5) in a BS. Serious cases of corrupt practices, as set out in the scenarios B.2-B.5, might, if of a systemic nature, also affect the integrity of the entire grants scheme; in this example, it is assumed that the impact of such practices would 'compromise the programme' (4).

- *C. Subcontracting and procurement phase:* Possible systemic deficiencies should also make a difference in assessing the impact of corrupt practices affecting the 'subcontracting and procurement' phase. The practices based on the corruption risk scenarios C.1-C.5 would usually be assessed as 'compromising the project' (3), unless they result from systemic problems in the programme management. In the example provided here, this has been assumed for conditions leading to scenario C.1 becoming reality, which has therefore been assessed as 'compromising the entire programme' (4).

*Table 2: Template for impact assessment of corruption risk scenarios affecting programme implementation*

Programme [...]		Impact				
Implementation phases & potential corrupt practices	Corruption risk scenario	1 minor effect on project	2 Loss of capability with some effect on project	3 Compromise of project	4 Compromise of programme	5 Compromise of grants scheme
<i>A. Calls for proposals</i>						
Private information	A.1				4	
Biased information	A.2				4	
Fabricated call	A.3				4	
<i>B. Project selection</i>						
Conflict of interest	B.1					5
Bribery	B.2				4	
Political corruption	B.3				4	
Nepotism	B.4				4	
Collusion	B.5				4	
<i>C. Subcontracting/Procurement</i>						
Inducements for award of contract	C.1				4	
Bribery	C.2			3		
Clientelism	C.3			3		
Kickbacks	C.4			3		
Revolving doors	C.5			3		

### iii) Risk scores

The severity of any corruption risk scenario is defined by the combination of its likelihood assessment with its impact assessment, technically by the multiplication of the likelihood score with the impact score. This will then generate an overall ranking of 'extreme risk', 'high risk', 'moderate risk', and 'low risk' corruption scenarios (with product scores ranging from 25 down to 1).

## 2C. PRESENTATION OF RESULTS

Once scores for the scenarios under the first programme implementation phase (A) have been reached, they should be entered into the generic risk assessment matrix displayed in *Table 3* below. This process should then be repeated for phases (B) and (C). ‘Extreme risk corruption scenarios’ are depicted by using the colour red, ‘high risk corruption scenarios’ by using the colour orange, ‘moderate risk corruption scenarios’ by using the colour yellow, and ‘low risk corruption scenarios’ by using a light grey shade.

The assessment of the corruption risk scenarios regarding the individual programme implementation phases will have to be executed for each programme separately and scores recorded in the same way.

*Table 3* has been completed with hypothetical scores for all three implementation phases of an exemplary Programme area (X), based on the examples provided in Step 2.

*Table 3: Reference matrix for ranking corruption risks affecting a FM programme*

PROGRAMME AREA X [...]					
Ranking of corruption risk scenarios	LIKELIHOOD				
	Unlikely (1)	Seldom (2)	Occasional (3)	Likely (4)	Frequent (5)
Compromise of grants scheme (5)				B.1	
Compromise of programme (4)		A.1 A.2	A.3 B.2 B.4	B.3	B.5 C.1
Compromise of project (3)			C.5	C.2	C.3 C.4
Loss of capability with some effect on a project (2)					
Minor effect on a project (1)					

## **PART III: RISK ASSESSMENT REPORT**

The results of the corruption risk ranking of the FM in each Beneficiary State shall be documented and summarized in separate programme reports, prepared by the independent experts. Each programme report shall take into account the respective country report on the risk filtering procedure delivered in stage one. Based on these results, the risk ranking report shall contain the assessment of the defined corruption scenarios affecting the initial implementation phases of the concerned programme.

On completion, the consecutive parts of a programme report (see below) are submitted to TI-S, which will then submit them to the FMO. The relevant National Focal Point and the relevant Programme Operator shall be given the opportunity to provide comments within a defined period of time. Upon consultation with the FMO, the finalised parts of the report will be shared with the Donor States, the National Focal Point and the Programme Operator.

In accordance with the framework co-operation agreement between TI-S and the FMO and national legal requirements, the major findings of each programme report will be made publicly available. The content of what is made publicly available is agreed between TI-S and the FMO.

Each programme report shall, apart from compiling the likelihood/impact scores for the corruption scenarios in the overview matrix, provide clear justification for the ranking and prioritisation of corruption scenarios for each implementation phase. Generally, the report should reflect the structure of the research guidance and contain concise qualitative answers to the individual research questions as a basis for assigning the numerical scores.

It is recommended to report the results of the risk ranking procedure for each programme in three parts, in line with the consecutive implementation phases of the individual programmes. The timing for producing the parts of the report will vary from programme to programme, but research should be completed as soon as there is sufficient information to carry out the risk assessment for each of the respective programme implementation phases. Each part of the programme report should be limited to max. 10 pages.

### **Part 1**

The first part can be prepared following the approval of the programme by the Donor States and the launch of the call for proposals (see section 2B.A. above).

- Introduction, including the mission statement with reference to this tool manual and basic information about the Beneficiary State's programme framework within the EEA/Norway FM 2009-2014. The introduction should also contain a summary of the risk filtering country report with particular emphasis on the results for the relevant programme.
- A brief consideration of the corruption risk scenarios affecting the three initial programme implementation phases, 'call for proposals', 'project selection', and 'subcontracting and procurement' (based on *Figure 3*).
- Summary of major findings of the assessment of the corruption risk scenarios A.1 to A.3, affecting the 'call for proposals' phase.
- Summary of the results in the risk ranking matrix displaying the combined likelihood and impact scores for the corruption risk scenarios A.1 to A.3.
- Documentation of the findings according to the research guidance
- Recommendations

## **Part 2**

The second part can be prepared by the time the system for selecting projects (see section 2B.B. above) has been set up by the PO. This part of the programme report will focus on the assessment of the corruption risk scenarios B.1 to B.5 for the actual project selection process.

- Summary of major findings of the assessment of the corruption risk scenarios B.1 to B.5, affecting the 'project selection' phase.
- Summary of the results in the risk ranking matrix displaying the combined likelihood and impact scores for the corruption risk scenarios B.1 to B.5.
- Documentation of the findings according to the research guidance
- Recommendations

## **Part 3**

The third part can be prepared by the time the project(s) have been set up, and in view of the risk management system that the Programme Operator is expected to operate in order to control the Project Promoter(s) (see section 2B.C. above).

- Summary of major findings of the assessment of the corruption risk scenarios C1. to C.5, affecting the 'subcontracting and procurement' phase.
- Summary of the results in the risk ranking matrix displaying the combined likelihood and impact scores for the corruption risk scenarios C.1 to C.5.
- Documentation of the findings according to the research guidance
- Recommendations
- Total summary of the results of Part 1 to 3 in the risk ranking matrix displaying the combined likelihood and impact scores for all corruption risk scenarios under consideration during the risk ranking procedure.
- Final conclusions and recommendations regarding the corruption risk management within the EEA/Norway Financial Mechanism 2009-2014.

The introduction and the consideration of corruption risk scenarios in Part 1 of the report, the summary of major findings and the summary of the results in the risk ranking matrix in each Part 1, Part 2, and Part 3, the total summary of the results in the risk ranking matrix and the final conclusions and recommendations in Part 3, will be made publicly available.

## ANNEXES

### Annex 1: Definition of corrupt practices

Source: *Anti-Corruption Plain Language Guide*, Transparency International Secretariat, Berlin, July 2009, [http://www.transparency.org/publications/publications/other/plain\\_language\\_guide](http://www.transparency.org/publications/publications/other/plain_language_guide)

Bribery	The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages (taxes, services, donations, etc.).
Clientelism	An unequal system of exchanging resources and favours based on an exploitative relationship between a wealthier and/or more powerful 'patron' and a less wealthy and weaker 'client'.
Collusion	A secret agreement between parties, in the public and/or private sector, to conspire to commit actions aimed to deceive or commit fraud with the objective of illicit financial gain. The parties involved often are referred to as 'cartels'.
Conflict of interest	Situation where an individual or the entity for which they work, whether a government, business, media outlet or civil society organisation, is confronted with choosing between the duties and demands of their position and their own private interests.
Corruption	The abuse of entrusted power for private gain. Corruption can be classified as <i>grand</i> , <i>petty</i> and <i>political</i> , depending on the amounts of money lost and the sector where it occurs.
Embezzlement	When a person holding office in an institution, organisation or company dishonestly and illegally appropriates, uses or traffics the funds and goods they have been entrusted with for personal enrichment or other activities.
Extortion	Act of utilising, either directly or indirectly, one's access to a position of power or knowledge to demand unmerited cooperation or compensation as a result of coercive threats.
Facilitation payments	A small bribe, also called a 'facilitating', 'speed' or 'grease' payment; made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement.
Fraud	The act of intentionally deceiving someone in order to gain an unfair or illegal advantage (financial, political or otherwise). Countries consider such offences to be criminal or a violation of civil law.
Grand corruption	Acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good.

Money laundering	The process of concealing the origin, ownership or destination of illegally or dishonestly obtained moneys by hiding it within legitimate economic activities.
Nepotism	Form of favouritism based on acquaintances and familiar relationships whereby someone in an official position exploits his or her power and authority to provide a job of favour to a family member or friend, even though he or she may not be qualified or deserving.
Patronage	Form of favouritism in which a person is selected, regardless of qualifications or entitlement, for a job or government benefit because of political affiliations or connections.
Petty corruption	Everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.
Political contribution	Here: any inappropriate contribution, made in cash or in kind, to support a political cause. Examples include gifts of property or services, advertising or promotional activities endorsing a political party, and the purchase of tickets to fundraising events.
Political corruption	Manipulation of policies, institutions and rules of procedures in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.
Revolving door	An individual who moves back and forth between public offices and private companies, exploiting his/her period of government service for the benefit of the companies they used to regulate.
Solicitation	The act of a person asking, ordering or enticing someone else to commit bribery or another crime.
State capture	A situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation's policies, legal environment and economy to benefit their own private interests.

## **Annex 2: Integrity due diligence approach**

The assessment of corruption risks affecting the FM requires a certain degree of personal background screening. The quest for transparency not only concerns the proper documentation of procedures, but also openness regarding personal relationships which might qualify as connections prone to abuse for private gain.

This approach to corruption risk assessment entails a potentially preventive effect. Making it known in advance that the set-up and the implementation of the programmes in a BS are monitored with tools also scrutinizing the risks emanating from close personal relationships, requires the people concerned to provide sufficient evidence to assure the Donors States and the public in the BS, that no corrupt practices, including collusive behaviour to the detriment of fair competition, exist.

The integrity of the Programme Operators (risk filtering crit. 7) is critical for the proper implementation of the programmes in each BS. Due to the diverse nature of the PO as well as their crucial role within the decentralized structure of the Financial Mechanism, an integrity assessment of the PO is a key element within the risk filtering procedure. Any issues attached to a PO might also entail corruption risks cascading from one programme implementation phase to the next

Thus, regarding programmes under scrutiny in the risk ranking stage two, the integrity due diligence approach is extended to investigating personal ties and conflicts of interests that might affect the call for proposals, the selection of projects, and subcontracting and procurement. The research guidance in this manual for the risk ranking procedure contains detailed information about how to assess corruption scenarios emanating from personal integrity risks.

**Annex 3: Information about *National Integrity System Assessments***  
(as provided by Transparency International Secretariat and National Chapters)

Country	Launch Date	Links to information / report	Information in English
Bulgaria	01.03.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a>	<a href="#">Full report</a> <a href="#">Methodology, findings and recommendations</a> <a href="#">Infographics</a>
Czech Republic	08.12.2011	<a href="#">NIS information on Chapter website</a> (in Czech) <a href="#">Direct Link to report</a> (in Czech)	<a href="#">Full report</a>
Estonia	06.06.2012	<a href="#">NIS information on Chapter website</a> Full report in Estonian downloadable <a href="#">here</a>	<a href="#">Executive summary</a> <a href="#">Recommendations</a> <a href="#">Infographics</a>
Greece	29.02.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a> (in Greek)	<a href="#">Executive summary</a> <a href="#">Infographics</a>
Hungary	08.03.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a>	<a href="#">Full report</a> <a href="#">Executive summary</a> <a href="#">Infographics</a>
Latvia	09.03.2012	<a href="#">NIS information on Chapter website</a> (in Latvian) <a href="#">Direct Link to report</a>	<a href="#">Full report</a> <a href="#">Infographics</a>
Lithuania	05.06.2012	<a href="#">Direct Link to report</a> (in Lithuanian)	<a href="#">Executive summary</a> <a href="#">Infographics</a>
Poland	05.03.2012	<a href="#">Partner website</a> Full report in Polish downloadable <a href="#">here</a> <a href="#">Infographics</a>	<a href="#">Executive summary</a>
Portugal	07.05.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a> (in Portuguese) <a href="#">Infographics</a> (in Portuguese)	<a href="#">Executive summary</a> <a href="#">Infographics</a>
Romania	26.02.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a>	<a href="#">Full report</a>
Slovakia	23.02.2012	<a href="#">NIS information on Chapter website</a> <a href="#">Direct Link to report</a> (in Slovak) <a href="#">Infographics</a>	<a href="#">Executive summary</a>
Slovenia	28.02.2012	<a href="#">NIS information on Chapter website</a> (in Slovenian) <a href="#">Direct Link to report</a> (in Slovenian) <a href="#">Infographics</a>	<a href="#">Executive summary</a> <a href="#">Key findings and Conclusions</a>
Spain	July 2012 (tbc)		

Transparency International's 'European National Integrity Systems Project' does not cover Cyprus and Malta.

#### **Annex 4: Corruption risks affecting the financial management of projects**

The Regulation stipulates that a “National Public Entity” (NPE) shall be responsible for the preparation and submission of so-called irregularity reports regarding the financial management of the grant scheme in a BS. Chapter 11 of the Regulation requires the BS and the PO to “make every effort possible to prevent, detect, and nullify the effect of any cases of irregularities”. Art. 11.2 of the Regulation mentions infringements such as “unjustified or disproportionate expenditure” or “reducing or losing revenue” under a programme or project. Moreover, Art. 11.4 refers to all suspected and actual cases of irregularities including “allegations of an act or omission which constitutes a criminal offence under the national legislation of the Beneficiary States such as corruption, fraud, bribery or embezzlement”.

In theory, the NPE should enjoy a special status, because irregularities as well as any measures taken by competent national authorities to prevent, detect, investigate, or remedy such irregularities, shall be reported directly to the FMC/NMFA. The practical relevance of this distinct line of reporting is, however, determined by the relationship between the NPE and the other grant management institutions in the BS, in particular the NFP. If there is no clear institutional and personal separation of functions, it is questionable whether the NPE will be in a position to independently watch and report possible cases of irregularities affecting the financial management, as required by the Regulation.

The status of the NPE is subject to the risk filtering procedure in stage one of the corruption risk assessment process (crit. 3 ‘Separation of functions within the FM’s management structure’). The user of the present tool should take the respective findings into account.

## Endnotes

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<sup>i</sup> <http://www.eeagrants.org/>. The cooperation agreement between TI and the FMO of the EEA/Norway grants is available at <http://www.eeagrants.org/id/2478>

<sup>ii</sup> <http://www.eeagrants.org/id/1937.0>

<sup>iii</sup> At the time of writing, MoU have been signed with all Beneficiary States except for Portugal and Romania. See documentation of the MoU on the EEA/Norway grants website, <http://www.eeagrants.org/id/2222>.

<sup>iv</sup> The entire legal framework, including both regulations, are available on the EEA/Norway grants website, <http://www.eeagrants.org/id/2563.0>.

<sup>v</sup> The Corruption Perception Index provides a general indication of the variation between countries; it is, however, not directly related to the management of the EEA/Norway grants in the respective Beneficiary States. TI's *Corruption Perceptions Index 2011*, published December 2011, is available at <http://cpi.transparency.org/cpi2011/>

<sup>vi</sup> Information about the grant allocation to each programme area is contained in the MoU.

<sup>vii</sup> Given that the corruption risk assessment tool shall be applicable to 15 heterogeneous countries with quite distinct programme setups, comparing sectoral corruption risks as a primary risk filtering criteria is in the case of the of EEA/Norway grants not fully feasible. Therefore, financial risk criteria such as size of programme grants and procurement were given priority within the context of this tool. This also seems to be a justifiable approach based on the preliminary observation that some of the relevant policy sectors and programmes areas, which are regarded as being particularly exposed to corruption, such as the health sector or police and justice affairs, will be covered by the financial risk criteria. For the purpose of cross-checking financial and sectoral risk variables, where applicable, users may consult TI's *Global Corruption Barometer 2010*, [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2010](http://www.transparency.org/policy_research/surveys_indices/gcb/2010); and TI's *National Integrity System Assessments* (see Annex 3).

<sup>viii</sup> Yacov Y Haimes: *Risk Modeling, Assessment, and Management*, 2<sup>nd</sup> ed., John Wiley: Hoboken, 2004 (pp. 276).

<sup>ix</sup> According to Art. 6.3 of the Regulation, calls for proposals must fulfil the following criteria: widely publicised, clear and reasonable deadline (two months); specification of deadline hour; specification of eligible applicants and any restrictions, limitations or exclusions; detailed selection criteria as well as a scoring chart; description of eligible activities and expenditures; description of the selection process and decision-making structure; link to application form and user guide, statement regarding the total amount available through the call, as well as the minimum and maximum amount of each project grant; provisions of the payment model; reference to further information; contact information for queries and timeframe for answering such queries.

<sup>x</sup> Programme Area 17 or small-grant schemes under Programme Area 16 (EEA FM Regulation Art. 6.2.2).

<sup>xi</sup> Such a mechanism might consist of asking all parties to sign a 'code of conduct' which aims to prevent corruption resulting from an economic conflict of interest, political affinities, family and emotional ties, or other shared interests of concern. This code of conduct should require all parties to disclose any conflicts of interest, in order to make sure that appropriate measures can be taken in order to prevent possible corrupt practices (see B.2.-B.5) from occurring. Moreover, procedures and results of the project selection process should be publicly documented. This might imply publishing the names and action records of all individuals in the position of influencing the project selection, including the reviewing experts.

<sup>xii</sup> As an example, an applicant colluding with reviewing experts, constituting a practice of favouritism, may have less impact on the distortion of fair project competition than a collusion between the PO and the applicant or the reviewing experts, since it is the PO who has the power to modify and finalise the eventual decision about the project selection.

<sup>xiii</sup> It is not clear whether the applicants will receive notification of their rank on the list, based on the expert scores, before the list is discussed and maybe modified in the Selection Committee.

<sup>xiv</sup> It appears, that the decision about the list taken by the Selection Committee actually qualifies as a recommendation.

<sup>xv</sup> It is in the strategic interest of the PO to have control over the project selection process.

<sup>xvi</sup> It is not clear whether the names of the reviewing expert will be published or at least made known to the applicants. The same holds true for the actual review and the scoring report. The anonymity of reviewers is often regarded as problematic, because it creates risks of arbitrary judgement and manipulated results. As a minimum requirement, the applicants should have the opportunity to appeal the review and resulting decisions.

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<sup>xvii</sup> The User should be aware of programmes with large public procurement budgets. Art. 7.16 of the Regulation refers to conditions and thresholds that make the *Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts*, applicable to Project Promoters. Public procurement rules also apply to project partners. Contracting below the national or EU thresholds for public procurement must still comply with best economic practices, fair competition between providers, and must ensure the optimal use of the FM resources.

<sup>xviii</sup> The procurement cycle comprises needs assessment, preparation of the procurement documentation, the awarding of the contract, the implementation and the final accounting of a completed contract.

<sup>xix</sup> Such a risk management system could be based on 'code of conduct' agreements, e.g. in analogy to TI Integrity Pacts, that require all parties to a project to document the observation of precise and transparent rules of procedure during the procurement cycle.

<sup>xx</sup> The non-existence or non-application of a risk management system which the PO is asked to establish in the PO Manual, might indicate a systemic problem implying high corruption risks.

<sup>xxi</sup> Art. 6.8 of the Regulation.

<sup>xxii</sup> PO Manual, Chapter 3 "Completion of programme proposal", Art. 3.7 "Risk and uncertainty".