

## **ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING POLICY**

### **Anti-money laundering and Anti-terrorist financing Policy and Procedures of the Micronesia Conservation Trust (MCT)**

Last review date:

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#### **POLICY STATEMENT**

These are the Anti-Money Laundering and Anti-terrorist financing (AML) Policy and Procedures adopted by the Micronesia Conservation Trust (MCT) designed to comply fully and completely with all applicable Federated States of Micronesia (FSM), United States, and international requirements that have been designed to prohibit and prevent both actual and potential money laundering, as well as other activities that facilitate money laundering and the funding of terrorists and/or other criminal activity. MCT will actively prevent and take measures to guard against being used as a medium for money laundering activities and terrorism financing activities and any other activity that facilitates money laundering or the funding of terrorist or criminal activities.

“Money Laundering” as defined in this policy refers to: (a) the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the crime to evade the legal consequences of his or her action; (b) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime; or (c) the acquisition, possession or use of property knowing at the time of its receipt that it is derived from a criminal offence.

The policy also aims to ensure full compliance with the Executive Order 13224 and the US Patriot Act., which effectively prohibits transactions with persons or entities who commit, threaten to commit or support terrorism. Before contracting with a person or entity, the MCT employee initiating the association must check the Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List” (OFAC SDN list) for potential matches (see Annex 1 for procedure).

This policy and associated procedures apply to MCT-related “activities”, which means any activity which is financed, administered or supported by MCT, either with its own resources or those of others, or any activity that materially affects or may affect or otherwise be relevant to MCT, and “partners”, which means any party that contributes to, executes, implements, bids for, benefits from, or in any way participates in, MCT-related activities, including but not limited to receiving, or being a beneficiary of a grant, sub-grant, loan or other form of financing or support from MCT.

To these ends:

- All MCT related activities shall be conducted in accordance with this policy
- Any allegations or suspicions of money laundering must be reported to MCT promptly
- MCT will ensure that individuals and entities sanctioned by any legal authority such as United States Federal Agencies or the United Nations Agencies<sup>1</sup> are not allowed to participate in MCT activities.
- MCT will investigate and take appropriate action of reported/suspected cases of money laundering. Investigations will follow the procedures and steps outlined in Sections 8-13 in MCT's **Fraud Prevention and Whistleblower Protection Policy** (prohibited practices as defined are included within the fraud policy, for any activity funded through the Green Climate Fund (GCF), MCT will directly reference the GCF's interim policy on prohibited practices. The list of prohibited practices is included in Annex 2)
- MCT reserves the right to sanction any individual or entity suspected of involvement in money laundering activities
- MCT reserves the right to recover funds provided to individuals or entities involved in money laundering
- Follow due process in selecting sub grantees, vendors and new employees, including performing due diligence procedures. The process should include checking that prospective partners are not in UN or US federal list of debarred individuals and entities
- Strictly adhere to MCT procurement and payment procedures

MCT's finance officer will act as the Money Laundering Reporting Officer (MLRO) to coordinate the policies and procedures of MCT.

All staff that meet or contact contractors, suppliers, or direct beneficiaries of MCT are required to acknowledge that the policy and procedures have been read and understood.

This policy will be presented to staff during the first staff meeting of every year, at which staff will sign confirming they have read the policy.

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<sup>1</sup> MCT will specifically undertake a check of the [United Nations Security Council Consolidated Sanctions List](#). The check entails looking for the name of individuals or companies included on the list and if affirmative, follow the procedures outlined in paragraph 2 of Annex 1.

The following form contains the names and signatures of members of the staff that have read the Anti-Money Laundering and Anti-Terrorist Financing policy and procedures of this practice.

Fill in MLRO name first then any staff members

NAME OF STAFF MEMBER	SIGNATURE	DATE

## ANTI-MONEY LAUNDERING and ANTI-TERRORIST FINANCING PROCEDURES FOR MCT

### 1. Due Diligence Procedures

*Who is checked:* Associates, Supporters, Entities, and Direct Beneficiaries in all MCT projects and programs.

*Definitions:*

- *Associates:* means employees, partners, suppliers, landlords, sub-grantees, contractors, direct beneficiaries, borrowers and donors with whom MCT has a formal association as indicated by the existence of a signed agreement. This includes persons (or entities owned or controlled by persons) that act for or on behalf of associates.
- *Support:* means, but is not limited to, the making or receiving of any contribution of funds, goods, or services including purchasing from, selling to, lending to, donating to or working/partnering with.
- *Entity:* means a partnership, association, corporation, or other organization, group, or subgroup.
- *Direct Beneficiary:* means any person or entity that receives over USD 10,000 of monetary benefit in any one year from MCT's programs.

*Guidelines for vetting*

- Frequently used suppliers that technically do not have a signed agreement with MCT, but who sell over USD 25,000 worth of goods and/or services to MCT over time, should also be vetted through the OFAC SDN list.
- MCT must vet sub grantees, who receive in any one year over USD 10,000 in support such as cash grants, loans or other significant material support aimed at benefiting a specific community, through the OFAC SDN even when a signed agreement with an individual beneficiary is not involved.
- Based on the amount of funds to be disbursed, the risk involved and the nature of the transaction or relationship, the Executive Director (ED) may also need to vet the individual persons or entities that own the assets or control the organizations with which MCT proposes to work. This may include board members of NGOs or individual owners of companies.
- When implementing competitive bids, MCT must include the following clause in the bid documents: "MCT complies with U.S. Executive Order #13224 on Terrorist

Financing issued by U.S. President George W. Bush on September 24, 2001, which effectively prohibits transactions with persons who commit, threaten to commit or support terrorism. Any person or entity that participates in this bidding process, either as a prime or sub to the prime, certifies that he or it is not on the OFAC SDN list nor any of the UN ineligibility or sanctions lists and is eligible to participate. Any bid received by a person or entity that is found to be on the list or otherwise ineligible will be discarded.”

The following wording must be included in all agreements issued by MCT:

1)“The Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Recipient to ensure compliance with these Executive Orders and Laws. This provision must be included in all contracts/subawards issued by the Recipient under this agreement.”

2)This agreement is null and void if it is determined that the Recipient has in the past or in the future fails to comply with the Executive Order, or it is determined that the Recipient and/or its agents, owners or partners are listed on the OFAC SDN list.”

MCT should comply with any specific approaches and meet the expectations of donors with respect to ensuring adherence to the Executive Order. MCT must get approval in writing from the donor for any vetting procedure that requires program description changes and/or budget modifications.

## **2. Know Your Client (KYC) Policy**

MCT has established a Know-Your-Client (KYC) policy to ensure that the identities of all new and existing associates, supporters, entities, and direct beneficiaries (partners) are verified to a reasonable level of certainty. First time partners will be subject to vetting prior to engagement with MCT. Due diligence clearances will be valid for up to five-years.

The following documentation may be presented by the individual:

### In person

- Either a passport, driver’s license, or government issued document featuring a matching photograph of the individual, and a full name and date of birth matching those provided.

### Not in person

As **in person** but additionally:

Any government issued document that provides the date of birth, tax number or other such government identifier.

- Other forms of identity confirmation, such as evidence of a long-standing relationship with the partner, or a letter of assurance from independent and reliable persons or organisations, who have dealt with the partner for some time, may also provide a reasonable level of certainty.

If MCT fails to verify the identity of a partner with reasonable certainty it will not establish a business relationship or proceed with the transaction. If a potential or existing partner either refuses to provide the information described above when requested, or appears to have intentionally provided misleading information, the business shall refuse to commence a business relationship or proceed with the transaction requested.

### **3. Risk Assessment and Ongoing Monitoring**

MCT shall take a risk-based approach in monitoring the financial activities of its partners This will be carried out during implementation of the contract, program, project, grant award etc.

MCT will actively not accept high-risk clients that are identified as follows:

- Partners with complex business ownership structures with the potential to conceal underlying beneficiaries.
- Partners based in or conducting business in or through, a high-risk jurisdiction, or a jurisdiction with known higher levels of corruption, organised crime or drug production/distribution.
- Situations where the source of funds cannot be easily verified.
- Money sent to or received from areas known to have high levels of criminality or terrorist activity.

### **4. Monitoring and Managing Compliance**

The MLRO will regularly monitor the following procedures to ensure they are being carried out in accordance with the AML policies and procedures of MCT:

- partner identity verification;
- reporting suspicious transactions;
- record keeping.

The MLRO will also monitor any developments in the AML Policy and the requirements of the AML supervisory body (the Board of Trustees). Changes will be made to the AML policies and procedures of MCT when appropriate to ensure compliance.

## **5. Record-Keeping**

Records of all due diligence checks will be maintained for up to five years after the termination of the relationship with MCT or five years from the date when the last transaction was completed. MCT will ensure that all documents, data or information held in evidence of partner identity are kept up to date.

All records will be handled in confidence, stored securely, and will be capable of being retrieved without undue delay.

## **Annex 1: Procedure for Checking OFAC SDN List**

All associates of MCT must be vetted by MCT through the “Specially Designated Nationals and Blocked Persons List” (SDN List) as prepared by the Office of Foreign Assets Control (OFAC) before MCT associates with; receives support from; provides assistance to; sponsors or provides financial, material, or technological support for, or financial or other services to, or in support of any individual, entity or group.

### **How to check a name:**

Go to OFAC site at <http://www.treas.gov/offices/enforcement/ofac>

Select Specially Designated Nationals List (SDN)

Chose the PDF option:

Control F (Find) or click on binoculars

Type in name (give it time to produce search results)

Click on PrtSC/sysRq button on the top right side of keyboard

Open Blank Word doc

Right Click and Select Paste

Print the Page

Sign and date the printed page

### **If you have a match on the OFAC site follow these steps:**

1. Is the “hit” or “match” against OFAC’s SDN list or targeted countries, or is it “hitting” for some other reason (i.e., “Control List” or “PEP,” “CIA,” “Non-Cooperative Countries and Territories,” “Canadian Consolidated List (OSFI),” “World Bank Debarred Parties,” “Blocked Officials File,” or “government official of a designated country”), or can you not tell what the “hit” is?

- If it’s hitting against OFAC’s SDN list or targeted countries, continue to 2 below.
- If it’s hitting for some other reason, you should contact the “keeper” of whichever other list the match is hitting against. For questions about:
  - The Denied Persons List and the Entities List, please contact the Bureau of Industry and Security at the U.S. Department of Commerce at 202-482-4811.
  - The FBI’s Most Wanted List or any other FBI-issued watch list, please contact the Federal Bureau of Investigation (<http://www.fbi.gov/contact/fo/fo.htm>).

- The Debarred Parties list, please contact the Office of Defense Trade Controls at the U.S. Department of State, 202-663-2700.
- The Bank Secrecy Act and the USA PATRIOT Act, please contact the Financial Crimes Enforcement Network (FinCEN), 1-800-949-2732.
- If you are unsure whom to contact, please contact your interdict software provider which told you there was a “hit.”

2. Now that you’ve established that the hit is against OFAC’s SDN list or targeted countries, you must evaluate the quality of the hit. Compare the name in your transactions with the name on the SDN list. Is the name in your transaction an individual while the name on the SDN list is a vessel, organization or company (or vice-versa)?

- If yes, you do not have a valid match.\*
- If no, please continue to 3 below.

3. How much of the SDN’s name is matching against the name in your transaction? Is just one of two or more names matching (i.e., just the last name)?

- If yes, you do not have a valid match.\*
- If no, please continue to 4 below.

4. Compare the complete SDN entry with all of the information you have on the matching name in your transaction. An SDN entry often will have, for example, a full name, address, nationality, passport, tax ID or cell number, place of birth, date of birth, former names and aliases. Are you missing a lot of this information for the name in your transaction?

- If yes, go back and get more information and then compare your complete information against the SDN entry.
- If no, please continue to 5 below.

5. Are there a number of similarities or exact matches?

- If yes, please notify your regional director who then will call the OFAC Hotline
- If no, you do not have a valid match.\*
- Print out all results for the file and update the OFAC spreadsheet

***Please keep all match results completely confidential***

## **Related Documents**

## **Websites**

<http://www.treas.gov/offices/enforcement/ofac/legal/eo/13224.pdf>

and an official clarification can be found at:

<http://www.treas.gov/offices/enforcement/ofac/legal/eo/13372.pdf>

## Annex 2: Adherence to the Green Climate Fund's Interim Policy on Prohibited Practice

As per [GCF Board decision B.12/31](#), MCT is committed to fulfill to the GCF's requirements for all counterparties and commits to:

- a) adhere to the highest ethical standards;
- b) take all appropriate measures to prevent or mitigate fraud, corruption, and other Prohibited Practices; and
- c) refrain from engaging in Prohibited Practices in connection with GCF-related Activities.

MCT's **Fraud Prevention and Whistleblower Protection Policy** emphasizes MCT's commitment to adhere to the highest ethical standards and outlines the procedures and processes to be taken to ensure appropriate measures to prevent and mitigate fraud, corruption and other prohibited practices are taken. The **Anti-Money Laundering and Anti-Terrorist Financing Policy** presented above ensures the active commitment of MCT to guard against being used as a medium for money laundering activities and terrorism financing activities and any other activity that facilitates money laundering or the funding of terrorist or criminal activities.

On top of MCT's own safeguards, MCT will ensure that for any GCF funded activity the Prohibited Practices<sup>2</sup> as defined in the GCF's interim policy will be adhered to:

1. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value (including but not limited to gifts, gratuities, favors, invitations, and benefits of any kind) to influence improperly the actions of another party.
2. "Fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit, or to avoid an obligation.
3. "Coercive practice" means the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
4. "Collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including to improperly influence the actions of another party.
5. "Obstructive practice" includes (i) deliberately destroying, falsifying, altering, or concealing evidence material to an investigation; (ii) making false statements to investigators in order to materially impede an investigation; (iii) failing to comply with requests to provide information, documents or records in connection with a GCF investigation; (iv) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (v) materially impeding the GCF's contractual rights of audit or access to information.

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<sup>2</sup> Inserted directly from GCF's [Interim Policy on Prohibited Practice](#) (last accessed May 26, 2018)

6. "Abuse" means theft, misappropriation, waste or improper use of property or assets related to GCF-related Activity, either committed intentionally or through reckless disregard.
7. A "conflict of interest" is any situation in which a party or any of its staff involved in the relevant decision-making process has interests that could, or could be deemed to, improperly influence its performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
8. "Retaliation against whistleblowers or witnesses" means any detrimental act, direct or indirect, recommended, threatened or taken against a whistleblower or witness, or person associated with a whistleblower or witness, in a manner material to a complaint because of the report or cooperation with a GCF investigation by the whistleblower or witness.
9. "Money Laundering" refers to: (a) the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the crime to evade the legal consequences of his or her action; (b) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime<sup>17</sup>; or (c) the acquisition, possession or use of property knowing at the time of its receipt that it is derived from a criminal offence.
10. "Terrorist Financing" means the act of, directly or indirectly, providing or collecting funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts