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Whistleblowing and Protection against Retaliation Policy and Procedure 2018

Introduction

The aim of this policy is to encourage the reporting of suspected wrongdoing when the wrongdoing implies significant corporate risk (i.e., harmful to the interests, reputation, operations, or governance of CEF) without fear of retaliatory action in order to enable CEF to take early action.

1. It focusses on the protection against retaliation accorded to whistleblowers who report suspected wrongdoing
2. It specifies the protection accorded to whistleblowers
3. It clarifies the responsibility of the administration
4. Consequently, this policy clarifies what constitutes whistleblowing and retaliation. It also lays out the essential principles of CEF's approach, starting with the underlying position that retaliation against whistleblowers is not tolerated in CEF and constitutes misconduct. Acts of retaliation violate the fundamental obligation of all staff members to uphold the highest standards of integrity and to discharge their functions and regulate their conduct with the interest of the Organization only in view.

5. This policy covers the reporting of (i) suspected wrongdoing that implies corporate risk, and (ii) actual or threatened retaliation. It describes the mechanisms in place to address suspected wrongdoing and how CEF protects whistleblowers from retaliation. This approach enables the establishment of a robust mechanism to prevent retaliation from occurring in the first place.

6. This policy applies to CEF staff members who report, in good faith, suspected wrongdoing of corporate significance at CEF and may be subjected to retaliation consequently.

7. This policy in its spirit and principles also applies to non-staff members who report suspected wrongdoing at CEF. This includes consultants, volunteers, and

interns, as well as third parties such as vendors, contractors or technical partners who may suspect wrongdoing within or affecting CEF. This policy will serve as a guide to devise effective measures on a case by case basis to address the specific circumstances of non-staff members and their vulnerability to retaliatory action.

8. This policy will be disseminated across the Organization and will be published on CEF's Internet Website for information. Related internal policies and procedures will be amended to reflect established protection mechanisms.

Reporting of suspected wrongdoing that implies a significant risk to CEF

9. This policy defines "whistleblowers" as individuals who report suspected wrongdoing that implies a significant risk to CEF, i.e. harmful to its interests, reputation, operations or governance. Therefore, this policy applies to but is not limited to reporting any of the following:

- Fraud, i.e. deliberate and deceptive acts with the intention of obtaining an unauthorized benefit, such as money, property or services, by deception or other unethical means;
- Corruption;
- Waste of resources;
- Sabotage;
- Substantial and specific danger to public health or safety;
- Sexual exploitation and abuse.

10. Accordingly, not every type of report of wrongdoing falls under this policy. For example, this policy is not intended to cover the following types of reporting:

- Information already in the public domain (e.g. published articles, publicly available reports);
- Unsubstantiated rumors and hearsay;
- Disagreements over policy or management decisions;
- Personnel issues where staff have a personal interest in the outcome;
- Harassment complaints and personal disagreements or conflicts with colleagues, or with one's supervisors.

11. Individual grievances, such as complaints regarding discrimination, harassment, or other conflictual interpersonal situations in the workplace are administered separately in accordance with the provisions detailed in the HR manual and code of conduct

Retaliation

12. Retaliation is defined as a direct or indirect adverse administrative decision and/or action that is threatened, recommended or taken against an individual who has:

- reported suspected wrongdoing that implies a significant risk to CEF; or
- cooperated with a duly authorized audit or an investigation of a report of wrongdoing.

13. Retaliation thus involves three sequential elements:

- a report of a suspected wrongdoing that implies a significant risk to CEF, i.e. is harmful to its interests, reputation, operations or governance;
- a direct or indirect adverse action threatened, recommended or taken following the report of such suspected wrongdoing; and

- a causal relationship between the report of suspected wrongdoing and the adverse action or threat thereof.

14. As such, the adverse action or actions that could constitute retaliation against a whistleblower includes without being limited to:

- Harassment;
- Discrimination;
- Unsubstantiated negative performance appraisals;
- Unjustified contractual changes: termination, demotion, reassignment or transfer;
- Unjustified modification of duties;
- Unjustified non-authorization of holidays and other leave types;
- Malicious delays in authorizing travel, or the provision of entitlements;
- Threat to the whistleblower, their family and/or property including threats that may come from outside CEF.

15. Retaliation constitutes misconduct in CEF and is subject to disciplinary action.

Malicious reporting

16. Malicious reporting of wrongdoing without evidence or reasonable suspicions with the intention of harming another person's integrity or reputation amounts to misconduct and is subject to disciplinary action. This is distinct from reports of suspected wrongdoing made in good faith based on the judgment and information available to the whistleblower at the time of their report, which may not be confirmed by an investigation. In such cases, whistleblowers are covered by this policy.

Obligation to report suspected wrongdoing

17. CEF staff members have a duty to report suspicions of wrongdoing. Individuals who report such cases in good faith are entitled to protection against retaliation in accordance with the provisions of this policy.

18. It is the duty of CEF to address suspected wrongdoing and to take:

    - effective measures to protect the whistleblower from retaliation;
    - appropriate corrective action to remedy any retaliation against whistleblowers; and
    - adequate disciplinary measures in cases of misconduct, including those making wrongful accusations.

Evidence of retaliation

19. Retaliation will be found to have happened unless the administration can demonstrate by clear and convincing evidence that the act which is suspected to be retaliatory would have occurred even if the whistleblower had not reported a suspicion of wrongdoing.
    Through its preliminary review.

Confidentiality

20. The identity of a whistleblower who comes forward for advice regarding the reporting of suspected wrongdoing is protected. Confidentiality will only be waived with their express consent, unless it is a case of clear and imminent danger to the individual in question or another person. Their name will not be revealed to the person(s) potentially implicated in the suspected wrongdoing or to any other person, unless the whistleblower personally authorizes the disclosure of their identity.

21. In a subsequent investigative process, strict confidentiality can only be maintained if the information provided confidentially can be corroborated independently.

Anonymity

22. Anonymous reports of wrongdoing are accepted either verbally through the external hotline or in writing through email. The whistleblower is provided with a reference number with which they can identify themselves for future reference in their interaction with investigative committee (IC).

23. Preliminary reviews and/or investigations can only be undertaken under anonymity if independent data can corroborate the information provided. It is therefore particularly important for anonymous reports of suspected wrongdoing to provide substantiated supportive evidence that allows confirmation of the background.

24. It is noted that protective measures cannot be applied if anonymity is maintained.

Protection measures/relief

25. IC may recommend appropriate measures to the board of trustees (BT) to safeguard the interests of and protect the whistleblower from retaliation at any time from the moment the whistleblower comes forward. Protection measures are recommended with the consent of the whistleblower and can include without being limited to the:

- temporary reassignment;
- transfer to another office or function for which the whistleblower is qualified;
- placement on special leave with full pay; or
- any other appropriate action on a case-by-case basis, including security measures.

26. Protection measures may also include temporary reassignment, transfer, placement on special leave or any other appropriate action on a case-by-case basis about the suspected retaliator.

Performance appraisal, vacancy selections, post reclassifications, reassignment and mobility

27. Care will be taken during staff performance appraisals, vacancy selections, post reclassifications, and reassignments (including during a mobility exercise) to ensure that whistleblowers suffer no adverse consequences in connection with their original report of suspected wrongdoing.

28. Accordingly, in cases where the whistleblower fears that the relationship with their supervisors may not be conducive to a meaningful performance appraisal, IC may recommend that the reporting lines for the whistleblower's performance appraisal be adjusted, for example by appointing a new or additional supervisor or in exceptional cases by requesting senior management to conduct the review directly.

Remedies

29. Where the investigation establishes that the whistleblower has been retaliated against and based on the conclusions of the IC investigation report, the BT will decide on the appropriate remedy. Any staff member who is found to have been adversely affected by a retaliatory action is entitled to a corrective remedy. Such remedies, with the consent of the whistleblower may include, but are not limited to, the rescission of the retaliatory action, or reassignment to another office or function for which the whistleblower is qualified. Remedies may also include the reassignment of the retaliator.

Disciplinary measures

30. In a case of alleged misconduct involving a staff member, if it is considered that the staff member's continued performance of functions is likely to prejudice the interests of the Organization, the staff member may be placed on administrative leave pending a conclusion on the allegation of misconduct. Such administrative leave may be with, or, exceptionally, without pay.

31. Based on investigation results, the BT may initiate disciplinary proceedings.

32. Disciplinary measures may take the form of any one or a combination of the following:

- written censure, to be retained in the staff member's personal record for five years, following which it will be removed;
- fine up to three months' net base salary;
- loss of up to three steps at grade;
- suspension with partial or no pay for up to one month;
- reduction in grade;
- dismissal;
- summary dismissal for serious misconduct.

33. Disciplinary measures may also be taken in the case of malicious reporting of wrongdoing.

Reprieve

34. If an individual is himself/herself implicated in the serious irregularities and decides to come forward and report these irregularities, this fact may constitute under certain conditions an extenuating circumstance in any ensuing disciplinary proceedings.

Reporting wrongdoing that implies significant corporate risk (i.e. "whistleblowing")

Individuals who suspect wrongdoing that implies a significant risk to CEF's interests, reputation, operations or governance and are neither concerned that their supervisor may be involved nor fear retaliation, can inform their supervisors through their normal supervisory line.

35. In all cases, supervisors or managers who receive a report of suspected wrongdoing must act to address it fully and promptly and either seek the guidance of IC for ethics advice or other specialized relevant mechanisms, or report to BT as applicable.

Ethics advice

37. In cases where individuals who suspect wrongdoing may require guidance or may fear retaliation, IC offers confidential and impartial advice and support in order to help them assess whether certain facts should be reported, and which informal and formal options are available. IC can be contacted directly through:

(i) ethics.office@cef-ss.org

Investigations

38. In cases where whistleblowers consider it prudent to bypass their normal supervisory line or where the normal communication channels may not be available, they may contact BT at BT.ethics@cef-ss.org

Measures to prevent retaliation

39. To encourage whistleblowers to speak up, and prevent retaliation from occurring in the first place, IC and BT have established specific measures to address cases that present a significant risk of retaliation against the whistleblower:

- BT systematically notifies IC of reports of suspected wrongdoing received by BT which may present a risk of immediate or future retaliation at any time during an investigation;
- IC assesses the level of risk of a whistleblower who may be retaliated against; and
- IC works with the whistleblower in full respect of confidentiality to mitigate the risk of retaliation. IC may recommend interim protection measures to the BT.

Reporting retaliation

40. Whistleblowers who believe that they are being subjected to retaliation must contact IC directly.

41. Retaliation can be reported directly to BT, IC, through the following means:

(i) ethics.office@cef-ss.org

(ii) BT.ethics@cef-ss.org

42. In cases where a whistleblower feels retaliated against, they must report the suspected retaliatory act as soon as possible. The report should be factual and contain as much specific and verifiable information as possible to allow for a proper assessment of the nature, extent and urgency of the preliminary review.

43. In order to help staff who are unsure whether certain facts should be reported, IC offers confidential and impartial advice and support to (potential) whistleblowers.

44. IC conducts the initial intake on individual inquiries about retaliation, provides advice, makes referrals, reviews complaints and may recommend measures to protect the whistleblower against retaliation.

Preliminary review

45. IC's preliminary review determines whether a causal relationship between the suspected retaliatory action and the previous reporting of wrongdoing can be established (referred to as a "prima facie" review). IC undertakes the preliminary review in the following sequence:

- IC acknowledges receipt of information reported internally and communicates with the whistleblower to define immediate next steps.
- IC gives the whistleblower within 30 days an indication of the period of time it considers reasonable and necessary to undertake the preliminary review.
- IC normally seeks to conduct a preliminary review within 90 days to determine whether there is a causal link between the whistleblower's report of suspected wrongdoing and the suspected retaliation.
- IC has access to all offices and staff members and to all records and documents except for medical records which can only be made available with the express consent of the staff member concerned.
- Should IC find that there is a credible case of retaliation, it will refer the case in writing to BT for investigation and will notify the whistleblower.

Interim protection of the whistleblower

46. Where IC considers that additional workplace harm could occur while suspected retaliation is either under preliminary review or under investigation, IC may

recommend during the investigation that the Executive Director take appropriate interim measures to safeguard the interests of the whistleblower. These measures include, but are not limited to, temporary reassignment, transfer to another office or function for which the whistleblower is qualified, or placement on special leave with full pay, or other appropriate measures on a case-by case basis – with the consent of the whistleblower.

Investigation of reports of retaliation

47. BT carries out the investigation to establish the facts related to the suspected retaliatory action. It normally seeks to submit the completed investigation report within 120 days from the date of referral by IC.

48. Should no credible case of retaliation be found, but an interpersonal problem within offices, or in between specific individuals, the complaint will be referred to another relevant mechanism in the Organization.

Conflicts of interest

49. Should an actual or potential conflict of interest exist, making it prudent for IC to recuse itself from undertaking the preliminary "prima facie" review of a case, IC will identify an alternative mechanism acceptable to the whistleblower.

50. Similarly, where there may be a conflict of interest in BT conducting the investigation of a given case, IC may recommend an alternative mechanism to the Chair of the board of trustees

Feedback

51. Whistleblowers are entitled to receive information about the status of their case:

- IC must acknowledge receipt of a report and communicate with the whistleblower to define immediate next steps. IC gives within 30 days of

the receipt of a report an indication of the period considered necessary to undertake the preliminary review (normally within 90 days from receipt of the report of retaliation).

- BT gives the whistleblower an estimate of the time considered necessary to conclude an investigation report and advance notice if the period of 120 days normally required is not enough.

52. IC keeps whistleblowers informed of the formal status of their case and of the conclusions of the preliminary review. Whistleblowers are entitled to receive feedback on the outcome of the investigation.

Reporting through external mechanisms

53. Protection against retaliation will be extended to a staff member who reports wrongdoing outside the established internal mechanisms (i.e. IC and BT), where the criteria set out in subparagraphs (i), **and** (ii) below are satisfied:

(i) Such reporting is necessary to avoid:

- a substantial and specific danger to public health and safety; or
- substantive damage to CEF's operations; or
- violations of national or international law;

and

(ii) The use of internal mechanisms is not possible because:

- The individual has previously reported the same information through the established internal mechanisms (and not on an anonymous basis), IC and BT have not taken action within their respective periods of time (as indicated under paragraph 54), and the whistleblower has received no response to a specific written feedback request on the status of the

matter to both IC and BT within 30 days from requesting this feedback; or

- At the time the report is made, the individual has grounds to believe that the person(s) they would report to pursuant to the established mechanisms will either subject them to retaliation or conceal or destroy the evidence relating to their case.

54. External reporting made in accordance with this policy shall not be considered as a breach of staff members' obligations about disclosure or use of CEF's nonpublic information, and in particular staff members' obligation of Discretion under CEF Staff Regulations.

55. The whistleblower cannot accept payment or any other benefit from any party for such report. External reporting cannot be used to express disagreement with advice previously provided by IC, or with the results of an BT investigation. Subsequent decisions regarding remedies or disciplinary action can be appealed by established appeal mechanisms in CEF.

Annual report

56. IC issues an annual report outlining a typology of actions taken pertaining to this policy. No names or facts are revealed in the report that could be traceable back to any individual.