**Board of Directors**

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**POLICY** **ISSUES**

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**MUSCCO** **ANTI-FRAUD** **AND** **ANTI-CORRUPTION** **POLICY**

**Note** **to** **the** **Board of Directors**

**This document is submitted to the Executive Board for approval**

The Unioninvites members of the Board who may have questions of a technical nature with regard to this document to contact MUSCCO staff focal point indicated below, preferably well in advance of the Board’s meeting.

Head, FHRA\*:

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Should you have any questions regarding matters of dispatch of documentation for the Board of Directors, please contact the same

FHRA\* Head of Finance, Human Resource and Administration

**Executive** **Summary**

Fraudulent, corrupt and/or collusive practices are contrary to MUSCCO’s core values. MUSCCO recognizes the adverse effect that such practices could have on its activities and operations, and is committed to preventing them and taking robust action where they are found to occur. In particular, MUSCCO is committed to preventing: i) fraud and corruption perpetrated by MUSCCO staff members and non-staff employees; ii) fraud perpetrated against MUSCCO by cooperating partners, suppliers or other third parties; and iii) any collusive practices among any such parties.

MUSCCO is committed to transparency and accountability in the management of its resources in order to ensure the effective fulfilment of its Strategic Objectives. To this end, this Policy seeks to prevent fraudulent, corrupt and/or collusive practices through: i) appropriate internal checks and balances; ii) staff training and awareness; iii) due diligence practices in the recruitment of MUSCCO staff members, non-staff employees and the hiring of contractors; and iv) effective internal and external auditing controls.

This Policy reflects the principles underlying the United Nations Convention against Corruption[[1]](#footnote-1) and the principles set out in MUSCCO’s Staff Regulations and Rules, the Financial Regulations and Rules, the Standards of Conduct for the MUSCCO Staff Officers, Regulations and Directives of the Financial Regulator, Private Donor Guidelines and the General Conditions of contract used by MUSCCO. The Policy is also consistent with other relevant internal rules and policies.

**RESOLUTION / DECISION\***

The Board approved “MUSCCO Anti-Fraud and Anti-Corruption Policy” (MUSCCO/BOD.1/2022/5/1

).

\* This a final decision adopted by the Board, please refer to the Decisions and Recommendations document issued at the end of the session.

**MUSCCO** **ANTI-FRAUD** **AND** **ANTI-CORRUPTION** **POLICY**

 *MUSCCO has a zero-tolerance stance to all forms of fraud, corruption, bribery and theft, and collusive practices both from within the Union and from external sources. Accordingly, does not, and shall not, tolerate any fraudulent, corrupt and/or collusive practices in the course of its activities or operations.*

* Reports of any such practices, or any attempts thereof, should be promptly reported to the Union on specified contact lines below.*

# Introduction

# This Anti-Fraud and Anti-Corruption Policy (the Policy) sets out MUSCCO’s commitment and policy and procedures relating to fraud, corruption and/or collusion. The policies and procedures outlined in this document are based on and reflect the principles set out in the Staff Regulations and Rules, the Financial Regulations and Rules, the Standards of Conduct for the MUSCCO Staff Officers, Regulations and Directives of the Financial Regulator, Private Donor Guidelines and the General Conditions of contract used by MUSCCO. This Policy also reflects the principles underlying the United Nations Convention against Corruption[[2]](#footnote-2).

# Fraudulent, corrupt and/or collusive practices are contrary to MUSCCO’s core values. MUSCCO recognizes the adverse effect that such practices could have on its activities and operations, and is committed to preventing them and taking robust action where they are found to occur. In particular, MUSCCO is committed to preventing: i) fraud and corruption perpetrated by MUSCCO staff members and non-staff employees; ii) fraud perpetrated against MUSCCO by cooperating partners, suppliers or other third parties; and iii) any collusive practices among any such parties.

# Given that fraudulent, corrupt and/or collusive practices may occur in the field, MUSCCO shall implement this Policy in each of its country offices and as well as at Headquarters.

# MUSCCO is committed to transparency and accountability in the management of its resources in order to ensure the effective fulfilment of its Strategic Objectives. To this end, this Policy seeks to prevent fraudulent, corrupt and/or collusive practices through: i) appropriate internal checks and balances; ii) staff training and awareness; iii) due diligence practices in the recruitment of MUSCCO staff members, non-staff employees and the hiring of contractors; and iv) effective internal and external auditing controls.

# AIM AND Principle and Objectives

1. MUSCCO does not, and shall not, tolerate any fraudulent, corrupt and/or collusive practices in the course of its operations.[[3]](#footnote-3)
2. The objectives of this Policy are to ensure that:
   1. MUSCCO takes robust measures to prevent fraudulent, corrupt and/or collusive practices;
   2. MUSCCO staff members and non-staff employees adhere to the highest standards of integrity;
   3. contractual arrangements and partnerships with suppliers of goods and services, other contractors and cooperating partners are not tainted by fraudulent, corrupt and/or collusive practices;
   4. fraudulent, corrupt and/or collusive practices are promptly detected and reported, and subjected to complete and independent investigation;
   5. any person or entity found to have engaged in fraudulent or collusive practices is the object of sanctions; and
   6. action to recover misappropriated funds or losses caused by fraudulent, corrupt and/or collusive practices is taken promptly.
3. This Policy is divided into the following sections:
   1. Measures to Prevent any Fraudulent, Corrupt and/or Collusive Practices;
   2. Roles and Responsibilities of MUSCCO Staff Members and Non-Staff Employees;
   3. Training and Disclosure Programme;
   4. Reporting Procedures;
   5. Investigation Procedures; and
   6. Actions Following Breaches of this Policy.

# Scope

1. This Policy applies to:

* all activities and operations of MUSCCO, including: i) any project funded by MUSCCO; and ii) any project implemented by MUSCCO and any government agency and/or cooperating partner.
* This Policy applies to all MUSCCO staff members and non-staff employees, including but not limited to: i) consultants; ii) temporary assistance unit personnel; iii) service contract and special service agreement holders; iv) author contract holders; v) assignment of limited duration contract holders; vi) junior professional officers; vii) interns, volunteers and United Nations volunteers; and viii) stand-by personnel.

1. Contractual arrangements between MUSCCO and cooperating partners, suppliers or other parties shall prohibit fraudulent, corrupt and/or collusive practices and refer to this Policy.

# Definitions

1. The following definitions shall apply to this Policy[[4]](#footnote-4):
   1. **Fraudulent practice** is any act or omission, including any misrepresentation, that knowingly misleads, or attempts to mislead, a party to obtain any financial or other benefit or to avoid any obligation.
   2. **Corrupt practice** is the offering, giving, receiving or soliciting, directly or indirectly, or attempts to do so, of anything of value to influence improperly the actions of another party.
   3. **Collusive practice** is an arrangement among two or more parties designed to achieve an improper purpose, including but not limited to, influencing improperly the actions of another party or engaging in price-fixing.

# Fraud: Is defined as follows:

A person is guilty of fraud, if he is in breach of any of the following:

Fraud by false representation, that is if a person:

(a) dishonestly makes a false representation  
(b) intends, by making the representation:  
(i) to make a gain for themselves or another  
(ii) to cause loss to another or to expose another to a risk of loss

Fraud by failing to disclose information, that is if a person:  
(a) dishonestly fails to disclose to another person information which they are under a legal duty to disclose  
(b) intends, by failing to disclose the information:  
(i) to make a gain for themselves or another  
(ii) to cause loss to another or to expose another to a risk of loss

Fraud by abuse of position; that is if a person:  
(a) occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person  
(b) dishonestly abuses that position  
(c) intends, by means of the abuse of that position:  
(i) to make a gain for themselves or another  
(ii) to cause loss to another or to expose another to a risk of loss

The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information.

In legal terms, these activities include:

* deception
* bribery
* forgery
* extortion
* corruption
* theft
* conspiracy
* embezzlement
* misappropriation
* false representation
* concealment of material facts, and
* collusion

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business and obtaining services dishonestly, personally or for another.

# Corruption: is the deliberate use of one’s position for direct or indirect personal gain.

“Corruption” covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

# Theft: is the physical misappropriation of cash or other tangible assets.

A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

# Money Laundering: is any process used by criminals to conceal the origins of illegally obtained money, through criminal activities, to appear to have come from legal and legitimate sources.

All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through emails. Detailed guidance is set out in the MUSCCO’s Anti-Money Laundering Policy.

# Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation.

The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction, then advice must be sought from the Union’s Money Laundering Reporting Officer (MLRO), Head of Finance (Officer).

To report any incidents, please complete a Customer Due Diligence (CDD) Pro-Forma which can be accessed in our Anti-Money Laundering Policy.

# Legal Services also have their own professional guidance in relation to money laundering which places a duty on solicitors to report any suspicions and these may override their legal professional privilege and confidentiality. All such suspicions must be reported to the Monitoring Officer (Chief Executive) and the MLRO.

# Bribery: Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes.

This applies to both individual staff and the Union corporately.

The Bribery Act introduces four main offences, simplified as the following:

* bribing another person: a person is guilty of an offence if he or she offers, promises or gives a financial or other advantage to another person
* offences relating to being bribed: a person is guilty of an offence if he or she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not
* bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person’s intention is to influence the foreign public official in their capacity, duty or role as a foreign public official
* failure of commercial organizations to prevent bribery: organizations, which include the Union, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business

Note: A ‘financial’ or ‘other advantage’ may include money, assets, gifts or services

# Prior to entering into any business arrangements, all Union officers and or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

# Measures to Prevent any Fraudulent, Corrupt and/or

**Collusive** **Practices**

## Internal Control Systems

1. Consistent with existing systems in place under applicable MUSCCO regulations, rules, manuals and policies, all offices of MUSCCO shall prevent and detect fraudulent, corrupt and/or collusive practices by:
   1. identifying areas of operations that are more vulnerable to the risks of fraudulent, corrupt and/or collusive practices;
   2. implementing and monitoring robust risk management and internal control systems that are easily accessible by internal and external auditors;
   3. monitoring risks on an ongoing basis and regularly assessing the effectiveness of the internal controls;
   4. maintaining on file records of transactions in accordance with MUSCCO requirements; and
   5. conducting staff and employee training on internal control systems to prevent, detect and report fraudulent, corrupt and/or collusive practices.

## External Audit

1. Pursuant to MUSCCO Financial Regulation and the Annex to the Financial Regulations on additional Terms of Reference governing External Audit, the External Auditor provides external oversight for MUSCCO. The External Auditor is under the obligation to report any cases of fraud or presumptive fraud or wasteful or improper expenditure of MUSCCO’s money or other assets, thereby contributing to the objectives of this Policy.

## Oversight Office

1. Under its Internal Audit Charter, the Internal audit and Risk Services (ARCS) ascertains that MUSCCO’s risk management processes are adequate, and that they function in such a manner as to provide assurance on the reliability of MUSCCO’s accounts, and the efficient use and adequate protection of its resources. The Oversight Office also ascertains that the actions of staff members and non-staff employees comply with MUSCCO’s regulatory framework.

## Procurement

1. In addition to the guidance provided by the MUSCCO Procurement Manual, MUSCCO staff members and non-staff employees involved in the procurement process shall:
   1. obtain accurate information on the business profile of any party involved in the procurement process;
   2. ensure that contractual agreements with suppliers of goods and services prohibit fraudulent, corrupt and/or collusive practices and refer to this Policy;
   3. exercise due diligence in verifying that any contractor has not engaged in, and is not engaging in, any fraudulent, corrupt or collusive practices;
   4. promptly report any practice that is, or is reasonably suspected of being, contrary to this Policy, at the telephone or fax numbers indicated above, or to the MUSCCO Confidential Hotline and
   5. immediately cease any dealings with any party who is acting contrary to this Policy.
2. Any cooperating partner, supplier and/or other third party entering into any contractual arrangement with MUSCCO, shall be required to:
   1. allow MUSCCO access to MUSCCO-specific records; and
   2. represent that it has not, and shall not, engage in, any fraudulent, corrupt or collusive practices.

## Due Diligence in Recruitment

1. Hiring managers5 shall, consistent with applicable staff rules and other provisions6, conduct due diligence and exercise due care during any recruitment processes for staff members and non-staff employees, regardless of rank or length of service.

5 For purposes of this Policy, a hiring manager is defined as: an official to whom the authority has been delegated to hire staff and non-staff employees. In country offices and regional bureau of MUSCCO, such authority normally lies with the country director and Regional Director.

# Roles and Responsibilities of MUSCCO Staff Members and Non- Staff Employees

1. Roles and responsibilities applicable to MUSCCO staff members and non-staff employees shall include the obligations to:
   1. adhere to the Standards of Conduct for the International Civil Service, the standards set forth in the Staff Regulations and Rules applicable to MUSCCO staff, the provisions of contractual agreements entered into with MUSCCO;
   2. act at all times in accordance with the highest standards of integrity;
   3. under no circumstances, engage in, condone or facilitate, or appear to condone or facilitate, any fraudulent, corrupt and/or collusive practices in the course of the activities and operations of MUSCCO;
   4. refrain from participating in any situation that may give rise to any conflict of interest;[[5]](#footnote-5)
   5. avoid any use of the funds, resources and/or assets of MUSCCO that is contrary to this Policy;
   6. detect, prevent and report any fraudulent, corrupt and/or collusive practices, or any attempts thereof, in accordance with this Policy;
   7. exercise due care in managing the funds, resources and/or assets of MUSCCO, applying established risk-control mechanisms to mitigate the risk of fraudulent, corrupt and/or collusive practices; and
   8. promptly report any practice contrary, or reasonably suspected of being contrary, to this Policy, or any attempts thereof, to the Office of the CEO, at the telephone or fax numbers indicated above, or to the MUSCCO Confidential Hotline
2. MUSCCO Managers[[6]](#footnote-6) shall be subject to the following obligations additional to those listed in paragraph 14:
   1. monitor and assess any internal and external risks of fraudulent, corrupt and/or collusive practices and employ existing risk-control mechanisms to prevent such practices or propose additional mechanisms where appropriate;
   2. raise awareness of risks of fraudulent, corrupt and/or collusive practices through on- going training of, and guidance to, staff members;
   3. adhere to the terms of this Policy in exercising their delegated authority to enter into contractual arrangements with any cooperating partners, suppliers and/or other third parties; and
   4. Take prompt and reasonable action to recover misappropriated funds or losses caused by fraudulent, corrupt and/or collusive practices.
3. Each MUSCCO manager, staff member and non-staff employee shall be accountable for: i) failing to satisfy his/her respective obligations pursuant to this Policy; or ii) knowingly condoning or facilitating any practice that is contrary to this Policy. Any such case shall be considered misconduct and result in administrative and/or disciplinary action.

# Training and Disclosure Programme

1. MUSCCO shall develop and conduct a training and disclosure programme aimed at: increasing awareness of the risks of fraudulent, corrupt and/or collusive practices; and
2. developing skills for understanding, detecting, preventing and reporting such practices. Participation in such programme shall be mandatory for all MUSCCO staff members and non-staff employees. In addition, MUSCCO shall implement ongoing employee training tailored to specific positions within MUSCCO, with the aim of enabling such employees to detect, prevent and promptly report any practices that are contrary to this Policy.

# Reporting Procedures

1. As stated above, all persons to whom this Policy applies shall report promptly any action or practice that is or may be in breach of this Policy, or any attempts thereof, in accordance with the procedures outlined in this Policy.
2. Each MUSCCO staff member and non-staff employee is required to report promptly any reasonably suspected case of any fraudulent, corrupt and/or collusive practices, or any related attempts of such practices, to his/her manager or to the Office of the CEO if confidentiality is desired. All managers shall report any such cases promptly to the Office of the CEO. Reports to the Office of the CEO shall be made at the telephone or fax numbers indicated above, or to the MUSCCO Confidential Hotline
3. In the event of uncertainty as to whether any act or omission constitutes a fraudulent, corrupt and/or collusive practice, the Office of Inspections and Investigations should be contacted for guidance.
4. Any person reporting in good faith pursuant to this Policy shall be protected from retaliation, in accordance with the MUSCCO Whistleblower Protection Policy.
5. In addition, the Office of Inspections and Investigations shall maintain confidentiality for any MUSCCO staff member or non-staff employee who reports in good faith pursuant to this Policy, in accordance with Chapter three of the Office of Inspections and Investigation Quality Assurance Manual and the Uniform Guidelines for Investigations.

# Investigation Procedure

1. The Audit and Risk Services (ARCS) shall review, analyse and conduct a preliminary investigation of allegations reported pursuant to this Policy to ascertain whether they are sufficiently founded to warrant a full investigation into the report. If they are, Management shall open an official investigation, ensuring confidentiality for the parties concerned and affording protection to any witnesses where required.
2. Any investigation pursuant to this Policy shall be conducted impartially, fairly and thoroughly, in accordance with the Audit and Risk Services Quality Assurance Manual and the Uniform Guidelines for Investigations and the MUSCCO Investigation Handbook.
3. In accordance with due process requirements, the Oversight Office shall report its findings to the Chief Executive Officer.12
4. The Chief Executive Officer may, where appropriate, constitute an ad hoc committee to advise on findings of the Oversight Office and follow-up measures. The committee shall report its findings to the Chief Executive Officer.

# Action Following Breaches of this Policy

1. The CEO may recommend that appropriate administrative, legal and/or disciplinary action be taken against any person or entity that is found to have violated this, Policy. Any such recommendation shall be included in a Final Report issued to management or the competent authorities, in accordance with the Office of Inspections and Investigations Quality Assurance Manual, the Uniform Guidelines for Investigations and the MUSCCO Investigation Handbook.
2. In addition, any reported cases pursuant to this Policy involving criminal activity may be referred to local law enforcement authorities. Any such referral shall be made following consultation with the Legal Office and, if necessary, after waivers of immunity have been obtained.
3. MUSCCO may seek recovery of MUSCCO funds and/or property using all means at its disposal, including through legal action.
4. MUSCCO shall issue a report on the cases dealt with and actions taken under this Policy.

1. Malawi ratified both the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption in late 2007 [↑](#footnote-ref-1)
2. Adopted by the General Assembly of the United Nations in Resolution 58/4; effective on 14 December 2005 [↑](#footnote-ref-2)
3. In accordance with: i) the principles of the United Nations Convention [↑](#footnote-ref-3)
4. 3 These definitions are based on those of: i) the *Uniform Framework for Preventing and Combating Fraud and Corruption*, agreed to in September 2006 by the leaders of seven International Financial Institutions; and (ii) the *United Nations Guide for Anti-corruption Policies*, issued by the United Nations Office on Drugs and Crime in November 2003. [↑](#footnote-ref-4)
5. [↑](#footnote-ref-5)
6. For purposes of this Policy, a MUSCCO manager is defined as: a person responsible for planning and directing the work of a group of individuals. [↑](#footnote-ref-6)