

SANTIAGO NETWORK

Guidelines on preventing potential and addressing actual and perceived conflicts of interest in relation to the Santiago network

Approved at the 3rd Advisory Board meeting

06 September 2024

I. Scope, purpose and applicability

1. These guidelines aim at preventing potential and addressing actual and perceived conflicts of interest in relation to the Santiago network (the guidelines), these include any conflicts of interest that may arise when organizations, bodies, networks and experts (OBNEs) are engaged in providing technical support to the Santiago network secretariat while responding to technical assistance requests, or when the host of the Santiago network secretariat is responding as an OBNE to technical assistance requests.¹
2. The guidelines apply to the host of the Santiago network, the Santiago network secretariat, Advisory Board members and representatives, and members of the Santiago network.²
3. The guidelines aim at preventing potential and addressing any actual and perceived conflict of interest which could impair the ability to carry out duties and responsibilities in the interest of the Santiago network or create an unfair advantage for the Host, the Santiago network secretariat, members of the Santiago network, and Advisory Board members and representatives.
4. Conflicts of interest of the personnel of the Host and those of the personnel of the Secretariat and members of the Santiago network will be addressed according to the policies, rules and regulations of the respective organizations.

II. Definitions

5. Covered Entities – these guidelines apply to the following entities, collectively referred to as “Covered Entities”: the Host, the Santiago network secretariat, and organizations, bodies, networks member of the Santiago network.
6. Experts - experts member of the Santiago network.
7. Host – the organization or consortium of organizations selected to host and support the functions of the Santiago network secretariat.
8. Secretariat – the hosted secretariat that facilitates the work of the Santiago network.³
9. Organizations, bodies, networks and experts - OBNEs covering a wide range of topics relevant to averting, minimizing and addressing loss and damage that may apply to become member of the Santiago network.
10. Members - OBNEs that have been designated as members of the Santiago network in accordance with the guidelines for the designation of organizations, bodies, networks and experts as members of the Santiago network.
11. Advisory Board members – members of the Advisory board referred to in decision 12/CMA.4, Annex 1 paragraph 8, endorsed in decision 2/CP.28.
12. Advisory Board representatives – representatives of the constituencies referred to in decision 12/CMA.4, Annex 1 paragraph 9, endorsed in decision 2/CP.28.

¹ Decision 6/CMA.5 paragraph 23, endorsed by decision 2/CP.28

² Decision 12/CMA.4 paragraph 3, endorsed by decision 11/CP.27

³ Decision 12/CMA.4, Annex 1 paragraph 3 (a), endorsed by decision 2/CP.28

III. Conflicts of interest

13. A Conflict of interest is, for the purpose of these guidelines, any personal or financial interest which could impair the ability to carry out duties and responsibilities in the interest of the Santiago network or any circumstance that creates an unfair advantage for a Covered Entity or Expert.
14. A conflict of interest may be potential, actual and perceived, defined as follows:
 - a. Potential conflict of interest - a conflict of interest that occurs when a Covered Entity or Expert is or could be in a situation that may result in a conflict of interest.
 - b. Actual conflict of interest - a conflict of interest that occurs when a Covered Entity or Expert faces a real and existing conflict of interest.
 - c. Perceived conflict of interest - a conflict of interest that occurs when a Covered Entity or Expert is or could be in a situation that may appear, according to a reasonable neutral third party observer, to be a conflict of interest, even if it is not an actual and potential conflict of interest.
15. In general, and without limitation, conflicts of interest may exist in the following situations:
 - a. when the Host receives an unfair advantage as a consequence of hosting the Secretariat;
 - b. when the Secretariat is in a circumstance or has an interest which could impair its ability to carry out its duties and responsibilities in the interest of the Santiago network, including when the Host is responding as Member to technical assistance requests through the Santiago network;
 - c. when Members are in a circumstance or have a personal or financial interest which could impair their ability to carry out their duties and responsibilities in the interest of the Santiago network or that creates an unfair advantage, including when Members are engaged in providing technical support to the Santiago network secretariat while responding to technical assistance requests;
 - d. when Advisory Board members and representatives have a personal or financial interest which may be affected by their deliberations or decision-making.
16. If an actual, potential and perceived conflict of interest arises, the Covered Entity or Expert concerned will promptly refer the matter in writing to the Conflict of Interest Committee for guidance.

IV. Preventing potential conflicts of interest

4.1 Preventing potential conflicts of interest of the Host

17. The Host shall implement these guidelines.⁴ The Host will not apply or seek to apply undue influence on the decision-making processes of the Secretariat and will not engage in any conduct that constitutes a potential, actual and perceived conflict of interest.

⁴ Decision 6/CMA.5, Annex 1, Paragraph 15, endorsed in 2/CP.28

18. When the Host provides technical support to the Secretariat in relation to a request for technical assistance it will not be eligible to respond to the same request for technical assistance.
- 4.2 Preventing potential conflicts of interests of the Secretariat
19. The Director will manage the personnel of the Secretariat in line with the terms of reference of the Santiago network. The reporting line of the personnel of the Secretariat will be separate from the Host.
20. The Director and the personnel of the Secretariat will discharge their functions solely with the interest and mandate of the Santiago network in view.
21. The personnel of the Secretariat will be made aware of their roles and duties under the Santiago network and will be required to conduct a behavior consistent with such roles and duties.
22. The Secretariat will have technologies and systems for exchanging, storing, and managing electronic documents and information that will ensure the confidentiality of its documents, including by preventing access by the Host and its personnel to relevant documents and information. The Director of the Secretariat may authorize access to specific documents when the Host or Members are providing technical support to the Secretariat as per paragraph 25 below.
23. The Secretariat, in implementing the guidelines and procedures for responding to request for technical assistance, will ensure the demand-driven nature of all requests for technical assistance submitted under the Santiago network, and safeguard against conflicts of interest in, or, as appropriate, the overconcentration of, the provision and delivery of technical assistance through or by specific OBNEs.⁵
24. When the Host is offering to respond to a request for technical assistance as Member⁶, the Secretariat will assess and select the proposals received in response to the technical assistance request by following a dedicated process that will be elaborated in the guidelines and procedures for responding to requests for technical assistance⁷ to ensure the impartiality and objectivity of the assessment and selection.
25. The Secretariat may receive technical support in the domain of averting, minimizing and addressing loss and damage from the Host and from Members, as needed.
26. The personnel of the Secretariat will follow the standards on conflicts of interest and confidentiality of applicable regulations, rules and policies of the Host as well as the terms and conditions of their respective legal arrangements with the Host, particularly those related to conflicts of interest and confidentiality obligations.
27. The Secretariat will maintain a monitoring and evaluation system to assess the timeliness, appropriateness and outcomes of the assistance provided by the Santiago network in accordance with relevant monitoring and evaluation policies of the Host. If the Host is responding to technical assistance requests as Member the monitoring and evaluation of the technical assistance will be performed exclusively by personnel of the Secretariat and external experts independent from the Host.

⁵ Decision 6/CMA.5, paragraph 26, endorsed by decision 2/CP.28

⁶ The Host can be designated as OBNEs member of the Santiago network.

⁷ Decision 12/CMA.4, paragraph 17, endorsed by decision 11/CP.27

4.3 Preventing potential conflicts of interest of Members

28. Members are eligible to respond to requests for technical assistance according to their expertise and the procedures outlined in the guidelines for responding to requests for technical assistance, and to develop, provide and disseminate knowledge and information on averting, minimizing and addressing loss and damage, including comprehensive risk management approaches.⁸
29. Members will commit to comply with these guidelines, in addition to their own conflict of interest and ethics policies, for activities involving the Santiago network and will be bound by the terms and conditions of their legal arrangements with the Secretariat, particularly those related to conflicts of interest and confidentiality obligations.
30. Members offering to respond to technical assistance requests will not apply or seek to apply undue influence on the decision-making processes of the Secretariat and will not engage in any conduct that constitutes a potential, actual and perceived conflict of interest.
31. Members offering technical assistance in response to a request will disclose any potential, actual and perceived conflict of interest, including any technical support that may have provided to the Secretariat in relation to the country in question and confirm that they did not have access to any privileged information in relation to that specific request for technical assistance.
32. Members engaged in providing technical support to the Secretariat⁹ in relation to a request for technical assistance will not be eligible to respond to the request for technical assistance in question.
33. Members providing support to the Secretariat in developing, providing and disseminating knowledge and information on averting, minimizing and addressing loss and damage may offer to respond to technical assistance requests without any limitation.
34. Members may provide technical support for the development of technical assistance requests. Members must disclose the technical support they provided to become eligible to respond to the request for technical assistance they supported.
35. When a request for technical assistance is submitted by a Member, that Member will not be eligible to respond to that request.

4.4 Preventing potential conflicts of interest of Advisory Board members and representatives

36. The Advisory Board provides guidance and oversight to the Secretariat on the effective implementation of the functions of the network in accordance with the terms of reference of the Santiago network.
37. The Advisory Board will prevent potential conflicts of interest of its members and representatives in accordance with the relevant provisions of the rules of procedure of the Advisory Board.

⁸ Adapted from Section 2.1 of the Guidelines for the designation of organizations, bodies, networks and experts as members of the Santiago network SNAB/2024/2/06.Rev.2.

⁹ As per paragraph 23 of these guidelines.

38. Advisory Board members must promptly disclose and recuse themselves from any deliberations or decision-making where their personal or financial interests may be affected, in order to avoid a conflict of interest or the appearance of one.

V. Addressing actual and perceived conflicts of interest

39. The Advisory Board will address any actual and perceived conflict of interest that will be brought to its attention by the Conflict of Interest Committee (the Committee) established by the Advisory Board pursuant to paragraph 23 of its Rules of Procedure.
40. The Committee operates under the overall authority and direction of the Advisory Board and will report to the Advisory Board on its activities.
41. The Committee will consider and provide guidance to the Advisory Board on issues of conflict of interest of the Santiago network. In fulfilling this role, the Committee will:
 - a. Oversee the implementation of, and compliance with, these guidelines, including by providing recommendations on any potential, actual and perceived conflict of interest;
 - b. Consider any other matters the Advisory Board deems appropriate.
42. The Committee will comprise of 4 members appointed by the Advisory Board from among its members, with the aim of achieving fair and balanced representation and giving due consideration to gender balance.
43. Except as decided otherwise by the Advisory Board, the Rules of Procedure of the Advisory Board apply mutatis mutandis to the conduct of business of the Committee.
44. The Committee will develop its terms of reference for consideration and approval by the Advisory Board.
45. Allegations of potential, actual and perceived conflicts of interest by any Covered Entity or Expert will be submitted in writing and in confidence to the Committee.
46. The Committee will promptly review the disclosures of potential, actual and perceived conflicts of interest and any conflict of interest the Committee has identified or that has been communicated to it.
47. The Committee may take, as appropriate, the following actions upon formally establishing, after due enquiry, the actual and perceived conflict of interest:
 - a. Formal warning to the Covered Entity or Expert concerned;
 - b. An instruction to the Covered Entity or Expert concerned; and/or
 - c. A recommendation to the Advisory Board to address the actual and perceived conflict of interest, in which case all relevant information will be provided to the Advisory Board.
48. A recommendation by the Committee to the Advisory Board as referred to in paragraph 48 (c) above may include, but is not limited to, a recommendation to:
 - a. terminate the legal arrangements between the Secretariat and the Member involved in such conflict of interest;

- b. terminate the membership of the Member to the Santiago network, indefinitely or for a limited period of time;
 - c. recommend to the governing body or bodies amendments to or the termination of the legal arrangements with the Host.
49. A Covered Entity or Expert against whom action has been taken by the Committee pursuant to paragraph 48 (a) and (b) above may appeal that action to the Board.
50. The procedures for handling potential, actual and perceived conflicts of interest may be amended by the Advisory Board, upon the recommendation of the Committee.
51. The Host will address any allegation of actual and perceived conflict of interest against the personnel of the Secretariat in accordance with the regulations and rules of the Host and provide periodic updates that the Secretariat will include in its annual report.
52. Members will address any actual and perceived conflict of interest of their personnel in relation to the Santiago network in accordance with their regulations and rules.
53. The Advisory Board will address actual and perceived conflicts of interest of members and representatives in accordance with its Rules of Procedure.

VI. Accountabilities for overseeing and implementing the guidelines

54. The Advisory Board is responsible for overseeing the implementation of these guidelines and addressing any actual and perceived conflict of interest.
55. The Director of the Secretariat is responsible for the implementation of these guidelines within the Santiago network and to ensure the compliance of the Secretariat with these guidelines under the oversight of the Advisory Board.
56. The Secretariat will include in its annual report information on the activities carried out in implementing these guidelines, including the reporting requirements referred to in paragraphs 51 above.
57. Compliance of the Secretariat with these guidelines will be part of the annual audit of the Santiago network secretariat.¹⁰
58. The Host and Members will be responsible for complying with these guidelines.

VII. Review and amendment

59. The Advisory Board will keep these guidelines under regular review and amend the guidelines, as necessary, to ensure that the highest ethical standards are applied to the Santiago network.

¹⁰ Pursuant to paragraph 27 of decision 6/CMA.5, Annex.