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Latest Insights from Anti-Corruption Monitoring Bodies”**  
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**Reinforcing a Culture of Integrity:  
Enhancing Asset Declaration System through Technology**

by

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[VIPS] Greetings and salutations.

Transparency and accountability are long-standing principles of good governance. These enduring values stand amidst changing world orders not because of its appeal to the expectant public but more because they form a double-edged sword vital in ridding nations of corruption. Transparency and accountability nurture and facilitate an informed public scrutiny which spawns confidence between government and society due to the provisions for review and feedback, thereby assuring a system of reporting back to the public on the whereabouts of their hard-earned taxes.

This confidence-building perspective on transparency diverges from a negative culture of reducing transparency in a system that merely elicits

unwarranted public inquiry, whereby information is only used to negatively criticize public officials and the institutions they represent. This destructive outlook is blind from the possibility that information cultivates understanding, co-existence and collaboration. This area of disconnect between the government and the public often casts doubt and suspicion which must be continually addressed by allowing transparency and accountability.

In the Philippines, transparency and accountability are nurtured at the very core of the work of the Office of the Ombudsman as the nation's premier anti-corruption agency. In so doing, there have been consistent efforts to not only promote transparency but to reinforce it by upgrading existing systems. While there is a wide array of transparency mechanisms, we look into "asset disclosure" as an effective tool in identifying corruption in the public sector. It becomes an entry point and a vital investigative tool to zero in on government officials and employees who tend to exploit and profit from public service by acquiring illicit wealth.

Allow me to share our experience on using asset disclosure as a focal point<sup>1</sup> and "seedling" contribution to the campaign against corruption.

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<sup>1</sup> The input on the background, gaps in the implementation and key challenges on asset declaration is largely based on a documented assessment prepared by the CPRM Consultants, Incorporated as commissioned by the Office of the Ombudsman through the World Bank-supported Project "Enhancing Assets Declaration in the Philippines." The agencies consulted to complete the policy and practices assessment include the central and sectoral offices of the Office of the Ombudsman, the Civil Service Commission, the Commission on Audit, Office of the President, the Department of Justice, the National Bureau of Investigation, the Department of Finance, the Department of Public Works and Highways, the Department of Health, the Department of Social Welfare and Development, and the Department of Budget and Management.

## **Asset Declaration in the Philippines**

As a State Party to the United Nations Convention against Corruption (UNCAC), the Philippines is committed to implement its provisions in the battle against this global crime at all fronts and beyond territorial borders. Article 8, Chapter II of the UNCAC provides that in order to fight corruption, each State Party shall promote, *inter alia*, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

More particularly, the Convention encourages each State Party, “where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, *inter alia*, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.” (*Article 8. Codes of Conduct for Public Officials, Section 5, Chapter II, UNCAC*).

Moreover, in order to address critical issues in public procurement and management of public finances, the Convention mandates each State Party to take the necessary steps to establish appropriate systems of procurement based on transparency, competition and objective criteria in decision-making that are effective in preventing corruption (*Article 9. Public Procurement and Management of Public Finances, Section 1, UNCAC*). Such systems may take into account, where appropriate, measures to regulate matters regarding personnel responsible

for procurement, including declaration of interest in particular public procurements. (*Article 9, Section 1, par. [e]*).

At the same time, the Convention urges each State Party to consider taking, conformably with the fundamental principles of its domestic law, disciplinary or other measures against public officers who violate the codes or standards established in accordance therewith. (*Article 8, Section 6, Chapter II, UNCAC*).

In the Philippine setting, two special laws, namely Republic Act No. 3019 or the “Anti-Graft and Corrupt Practices Act”<sup>2</sup> and Republic Act No. 6713 or the “Code of Conduct and Ethical Standards for Public Officials and Employees”<sup>3</sup> bolster the legal foundation of asset declaration which is being required for all public officials and employees, including their spouses and unmarried children below 18 years of age.

The SALN’s wealth-monitoring capacity also complements the provision under Republic Act No. 1379 or the Forfeiture Law which provides that “x x x the amounts or properties manifestly out of proportion to the public servant’s lawful income (*i.e.*, salaries, other legitimate income and legitimately-acquired properties) are *prima facie* unlawfully acquired.”

The Code of Conduct and Ethical Standards adopts the policy of the State to promote a high standard of ethics in public service. The Code reiterates the

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<sup>2</sup> Specifically Sections 7, 8, and 9

<sup>3</sup> Specifically Sections 8 [a, b, c and d], 9, 10, 11 and 12

fundamental principle that public office is a public trust and that public officials and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, and uphold public interest over personal interest (*Article XI, Section 1 of the 1987 Constitution of the Philippines*).

Indeed, the Philippine legal infrastructure provides a strong anchor for enjoining public officials to comply with the SALN declaration. Asset disclosure in the Philippines is enshrined in the 1987 Philippine Constitution. Article XI, Section 17 thereof clearly stipulates that “a public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth.”

Section 8 of the Code of Conduct and Ethical Standards states that public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

The same Code provides who are mandated to file their Statement of Assets, Liabilities and Net Worth (SALN) and Financial Disclosures, to wit: all public officials and employees, except those who serve in an honorary capacity, laborers, and casual or temporary workers, shall file under oath their SALNs and a disclosure of business and financial connections and those of their spouses and unmarried children under eighteen (18) years of age living in their household.

Public officials include elective and appointive officials and employees, permanent or temporary, whether in the career or non-career service, including military and police personnel, whether or not they receive compensation, regardless of amount.

Some of the data included in the SALN are information on the following:

- (a) real properties owned or registered under the name of the public official, his/her spouse, or child/children under 18 years of age living in their households, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal properties and their acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds and the like;
- (d) all financial liabilities, both current and long term; and
- (e) all business interests and financial connections.

Public employees are required to submit their SALN on three instances. *One*, an entry SALN reckoned as of the first day of service is required to be filed within 30 days after assumption of office. *Two*, an annual SALN reckoned as of the end of the preceding year to be filed on or before April 30. *Three*, an Exit SALN reckoned as of the last day of office to be filed within 30 days after separation from service. These instances are considered sufficient in monitoring major and questionable changes in the assets of public employees over a specified period of time.

The Office of the Ombudsman's national office is the repository of statements and disclosures filed by the President, Vice President and Constitutional Officials. Other high ranking officials such as Senators and Congressmen shall file the same with the Secretaries of the Senate and House of Representatives, respectively, while the Justices of the Supreme Court, with the Clerk of Court of the SC; Judges, with the Court Administrator; and national executive officials such as Members of the Cabinet, Undersecretaries and Assistant Secretaries, including the foreign service and heads of government-owned or controlled corporations with original charters and their subsidiaries and state colleges and universities, with the Office of the President.

Regional and local officials and employees, both appointive and elective, including other officials and employees of government-owned or controlled corporations and their subsidiaries and state colleges and universities shall submit their SALNs to the Deputy Ombudsman in their respective regions.

On the other hand, officers of the Armed Forces from the rank of Colonel or Naval Captain shall file their SALNs with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions. All other officials and employees shall submit the SALNs with the Civil Service Commission. A copy of one's SALN shall also on file with their respective offices or agencies.

Every official or employee shall also execute, within thirty (30) days from date of their assumption of office, the necessary authority in favor of the

Ombudsman to obtain, from all the appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their asset, liabilities, net worth, and also their business interests, and financial connections in previous years, including, if possible, the year when they first assumed office in the government.

Any and all SALNs including disclosures of business interests and financial connections filed with the appropriate government agencies shall be made available for public inspection at reasonable hours. Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law unless extended for meritorious reasons. The SALNS shall be available to the public for a period of ten (10) years after receipt of the statement. The statement may be destroyed after such period unless needed in an on-going investigation.

To determine whether the SALNs have been properly accomplished, the following shall have the authority to establish compliance procedures for the review of the statements.

- (a) In the case of Congress, the designated committees of both Houses of Congress subject to approval by the affirmative vote of the majority of the particular House concerned;
- (b) In the case of the Executive Department, the heads of the departments, offices and agencies insofar as their respective departments are concerned, subject to approval of the Secretary of Justice; and
- (c) In the case of the Constitutional Commissions and other Offices, the respective Chairman and members thereof, in case of the Office of the Ombudsman, the Ombudsman.



The above official shall likewise have the authority to render any opinion interpreting the provisions on the review and compliance procedures in the filing of SALNs and disclosures. In the event said authorities determine that statement is not properly filed, they shall inform the reporting individual and direct him to take the necessary corrective action. The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who after issuance of the opinion acts in good faith in accordance with it, shall not be subject to any sanction provided in the law.

### **Conflict of Interest and Divestment**

Furthermore, a public official or employee shall avoid conflict of interest at all times. Conflict of interest occurs when the official or employee is a substantial stockholder, or a member of the Board of Directors, or officer of the corporation, or an owner or has substantial interest in a business, or a partner in a partnership, and the interest of such corporation or business, or his rights or duties therein, are opposed to or affected by the faithful performance of official duty.

A substantial stockholder is any person who owns, directly or indirectly, shares of stock sufficient to elect a director of a corporation. This term shall also apply to the parties to a voting trust. A voting trust means an agreement in writing between one or more stockholders of a stock corporation for the purpose of conferring upon a trustee or trustees the right to vote and the other rights pertaining

the shares for certain periods and subject to such other conditions provided for in the Corporation Law.

When a conflict of interest arises, the official or employee involved shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his share-holdings or interest within sixty (60) days from such assumption. For those who are already in the service, and conflict of interest arises, the officer or employee must resign from his position in the private business enterprise and/or divest himself of his shareholdings or interest within the given periods, reckoned from the date when the conflict of interest had arisen. The same rule applies where the public official or employee is a partner in a partnership.

When the official or employee is a member of the Board of Directors and a conflict of interest occurs, divestment shall be mandatory for such official or employee even if he has resigned from his position in any private business enterprise. Divestment shall be to a person or persons other than his spouse and relatives within the fourth civil degree of consanguinity or affinity. The requirements for divestment do not apply to those specifically authorized by law and those who served the government in an honorary capacity nor to laborers and casual or temporary workers.

### **Administrative Disciplinary Action**

In addition to the grounds for administrative disciplinary action under existing laws, the acts or omissions of any official or employee, whether or not he holds office or employment in a casual, temporary, hold-over, permanent or regular capacity, declared unlawful or prohibited by the Code, shall constitute the grounds for administrative disciplinary action, and without prejudice to criminal and civil liabilities.

Violations of the provisions under the Code mandating the filing of SALN and disclosure of business interests and financial connections shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (₱5,000) or both, and in the discretion of the court of competent jurisdiction, disqualification to hold public office.

In a nutshell, the SALN is an annual declaration of all government employees who are required by law to submit such statement under oath. The SALN has been considered a very powerful tool to detect potential misuse of public office for self-enrichment and to allow disclosure of one's business interests and financial connection. This can be a very important instrument to build cases against erring public officials. In more ways than one, the SALN has played a crucial role in making the country triumph over impunity by public officials who commit disservice to the nation. In one particular high-profile case, the SALN has been instrumental in the removal from office of the former Philippine Chief Justice in 2012. In underscoring public accountability, the SALN system identifies conflict of interest, monitors unexplained accumulation of wealth.

A high-level process of asset declaration in the Philippines involves various agencies. It starts with the respective offices of the filers or filing agencies, which perform a warranted line of review and control prior to transmission to the repository agencies,<sup>4</sup> of which the Office of the Ombudsman is a part, and wherein each agency is responsible for the custody of the SALNs filed by a defined group of declarants. The top-level oversight is exercised by the Civil Service Commission which is mandated to be primarily responsible for the administration and enforcement of the “Code of Conduct and Ethical Standards for Public Officials and Employees,” while the Office of the Ombudsman is tasked to “likewise take steps to protect citizens who denounce acts or omissions of public officials and employees which are in violation of this Act.”

Needless to say, there are existing legal frameworks and institutional arrangements that cover a range of concerns including asset disclosure policy objectives, subject filers, scope, content and frequency of declarations, processing and verification of declaration, review and compliance procedures, sanctions for violations, and transparency or access by the public. The availability of these policies, frameworks and guidelines— and the extent of coverage—suggest that the administration of SALN is being aided well.

Just like any system in place, the SALN is a work in progress. It is not without a challenge, amidst the safeguards and provisions in place. This prompts us to reflect on what works and what does not.

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<sup>4</sup> Seven (7) institutions, namely the Office of the Ombudsman, the Civil Service Commission, the Office of the President, the Secretary of the Senate, the Secretary of the House of Representatives, the Clerk of Court of the Supreme Court and the Court Administrator, are specifically identified by law to function as the repository agencies.

## **Key Challenges of Financial Disclosure**

In 2015, an assessment of the performance of the income and asset declaration system was commissioned by and participated in by the Office of the Ombudsman with support from the World Bank. Consulting several agencies in assessing the policy, practice, process and procedures leading to asset declaration, it has been identified that the existing institutional arrangement is fragmented which is largely attributed to the disintegrated submission regulations and compliance procedures.

Asset declaration in the Philippines has been seen as hardly harmonized, given the multiple points of contact between the filers and administrative entities, non-standard disclosure formats, timelines, procedures and processes, and undefined roles, responsibilities and authorities for the different stakeholder entities involved in accessing information, assisting filers, monitoring compliance, and investigating and enforcing sanctions for irregularities. The absence of a central body which could have been administering the entire gamut of the asset declaration process divests the opportunity for streamlining and spawns varying practices and procedures among agencies. Consequently, it translates into an issue of standards in reporting and compliance procedure, which creates an imbalanced system that can be tolerant of misdeclaration and slanted application of regulations, which could undermine the very core of the asset declaration system.

Moreover, the inherent limitation of the SALN system to capture the full

picture of the financial position of a filer is also quite a challenge. While this limitation has been anticipated, the current SALN is not quite reflective of a “true, detailed sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year” as mandated in Section 7 of Republic Act No. 3019. Information on income and expense provides a significant link to assessing a declarant’s financial standing. Although the SALN is understood to provide just a snapshot of an individual’s financial standing, designing a concise but in-depth information categories in the SALN provides an opportunity to make it even more representative of an individual’s financial situation which is necessary for a more efficient way of identifying red flags and potential transgressions.

In terms of compliance monitoring and reporting, while this is understood to be carried out by filing agencies,<sup>5</sup> a mirrored monitoring is presumed to be similarly done at the oversight level, which allows for centrality of information. In practice, however, some filers provide a list of deficient filers to their respective repository agencies which may leave them with collective compliance information of agencies only under its jurisdiction. Even so, conscious compliance monitoring is not being carried out at both levels, either by the central oversight or the repository agencies, which may opine that compliance monitoring is outside of their mandated functions, especially since there is no policy clearly stating that compliance monitoring and reporting is part of a SALN custodian’s responsibility. This lack of policy for monitoring and reportorial responsibilities of a repository

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<sup>5</sup> Based on Memorandum Circular No. 10, s. 2006

agency becomes a challenge in terms of having an overview or a close representation of the number of deficient filers, which data is crucial in issuing notices or sanctions and taking management action to address this.

Further, there is a challenge in the administrative procedure of receiving SALN submissions. With a common allowance across different government agencies to deploy administrative officers to collect SALNs for bulk submission to the human resource (HR) unit, the point of a declarant's submission becomes vague in the absence of clear guidelines. There is no clarity on which date, between the submission to deployed officers or batch submission to the HR unit, will be considered valid. This uncertainty impacts on determining whether there was failure of filing on time. In connection with this, late filers resort to mailed submissions of their SALNs directly to repository agencies. Not only has this flipped a practice of diligence in public service but it also affects the performance of review and compliance procedures by their respective HR units.

Based on current guidelines, public officials and employees who failed to file or who submitted deficient SALNs are to be included in a list of concerned employees which will be reported by the personnel officer to the head of the office. The head of the office, in turn, is required, within five days, to issue an order to the listed employees directing them to either submit or correct their SALNs. In such instance, however, it is unclear whether these concerned employees, on their own, can rectify their deficient submission or non-submission since their action is called upon only if prompted by the head of office who, even by the slightest chance, might fail to issue such order. The scenario jeopardizes the employees who may be

held accountable for their failure or omissions in the SALN declaration. This unnecessarily exposes vulnerable members of the agency and discredits the supposed integrity of the disclosure system as an anti-corruption mechanism.

It has also been identified that repository agencies are not guided by a formal and standard policy on the records management of SALN submissions. Variations in the manner of receiving, storing, recording and retrieving are observed among the agencies. At the onset, non-uniformity in these procedures results in veering away from opportunities of applying good practices in data security and data accessibility. It may result in unfair and discretionary treatment of individual cases and may also expose the system to conflicts of interest. Ultimately, it hampers the speedy delivery of service and the administration of justice especially in light of the SALN's value in case build-up and investigation.

Other challenges to the SALN system traverse both policy and process gaps, such as considerable concerns on the existence of a potential conflict-of-interest situation in repository agencies, concerns on the provision on public access of the SALN, insufficient guidelines to financial reporting, lack of a process for policy review and update, and delayed issuance of guidelines on non-filing and misdeclaration.

With the foregoing concerns, the centralization and standardization of SALN administration is key to transforming the asset declaration regime in the Philippines into a system that effectively and efficiently achieves the objectives for which it was established. It becomes inevitable that lacking and/or insufficient



policies, processes, procedures, criteria, roles and responsibilities be defined in order that a comprehensive, uniform rules and regulations on SALN administration be established. Last month, the Inter-Agency Task Force on SALN, led by the Civil Service Commission and composed of all the repository agencies including the Office of the Ombudsman, met to discuss and address the policy and operational issues raised. Policy and process recommendations adopted by the Commission will be incorporated in a circular that it will issue soon.

Needless to state, one of the key measures to complement this effort is automation. In today's digital age, it is recognized as an equally important driver towards a more efficient and standard SALN administration. Given the legal constraint of having to operate with multiple repository agencies, at least in the short-term, a central reporting and visibility for oversight and other purposes could otherwise be made possible with the intervention of information technology.

### **The Philippine e-SALN: from paper-based to digital-based asset declaration system**

On this note, let me share the steps that we have taken in joining the trend in automating public disclosures. In 2013, the Office of the Ombudsman with support from the World Bank launched a three-year project entitled Enhancing the Asset Declaration System (EADS). The project aims to assist the Office of the Ombudsman in improving the efficiency, effectiveness, and credibility of the asset declaration system as a key institutional mechanism to combat corruption and promote accountability and ethical standards in the public service.

This endeavor specifically intends to transition the manual-based SALN to an electronic platform. It begins with a comprehensive assessment of the asset declaration regime involving several agencies to secure a participatory and inclusive process that can capture different systems and processes across departments. It also significantly informed the development of the electronic platform for SALN declaration which is a work in progress that continually captures existing and emerging process gaps. Series of policy discussions and user's validation workshops also aided the updating of the SALN system.

As a basic requirement, the use of the electronic SALN would require essentially two basic things, namely: *one*, internet connectivity; and *two*, any desktop or laptop computer, tablet, or mobile with a web browser. At a surface level, some of the advantages of the system include: **one**, paperless transaction as a response to greening the bureaucracy; **two**, server-based physical storage as an answer to space requirements for voluminous records; **three**, virtual file storage; **four**, quicker file retrieval as a record management approach; **five**, system-generated reminder to filers for a more efficient and documented compliance monitoring; **six**, reduced preparation time as cloning of previous year's entry is permitted; and ultimately, the task of the Review and Compliance Committee to review and determine whether the statement has been properly accomplished and filed on time, is transferred to the electronic System.

Collaborating with the Civil Service Commission and the Office of the President as two of the seven repository agencies, the electronic Statement of Assets, Liabilities and Net Worth or "e-SALN" has been launched three years

since the project inception through a signed a Memorandum of Understanding (MOU), which provides the framework for the implementation of the e-SALN on a pilot scale. The MOU also symbolizes the transition of the system from a project-based initiative into a comprehensive nationwide endeavor.

This commitment is included in the Philippine Development Plan (PDP) for bureaucracy-wide implementation in five years and is currently in its pilot implementation. To date, orientation/training on the system has been conducted to benefit a total of 3,245 participants from five constitutional agencies, one state university, one government corporation, thirteen executive departments, and eight local government units.

While the e-SALN will benefit from a streamlined overhaul of existing laws, it was deemed strategic to sidestep the political process of legislation for the meantime and anchor its development on existing rules. The idea is to, first, demonstrate that the system can fully function notwithstanding the limitations of current laws, and second, identify stakeholders who will champion and advocate the system until there is buy-in from all of its intended users.

With the e-SALN in place, a culture of conscientiousness in the disclosure of assets and liabilities is being placed. Declaration is already at the fingertips and may be even in the comfort of homes which should cement a zero-tolerance to late filing and delayed submissions.

There is an acknowledgment, however, that the e-SALN is not a panacea to

all issues identified under the asset disclosure system. The depth and breadth of the concerns call for the concerted effort of all stakeholder agencies to define the overall policy direction and highlight effective management or implementation. While e-SALN cannot directly answer for all these gaps, it can definitely inform reforms and innovation as it complements the limitation of the disclosure system. Because it is a strategic intervention, it may incrementally offer solutions to different issue points. As an example, the lack of substantial reviewing mechanism that goes beyond forms and technical compliance is key to an early determination of transgressions or red flags. The e-SALN does not directly cover for this, but the Review and Compliance Committee may potentially transition into performing a more in-depth analysis of the declarations, because the electronic system can already perform cursory review such as the use of correct form, timeliness of submission, and complete accomplishment of all information fields

### **Summing Up**

Overall, there are myriads of challenges that surround the asset declaration system in the Philippines and, most likely, even other countries with more advanced systems and technologies. This is so because it is a detailed process which touches on sensitive issues of personal data and financial movements. Thoughtfulness and careful decisions are required to arrive at an impartial system that is mindful of the demand of the public for necessary information with due regard to the just and permissible guarantees for the public declarants. This is in recognition that a defective asset declaration system impacts not just on one but both of these sectors. On the one hand, the public may be denied of the truth and a

just government, and on the other, public employees may also fall victim under a failed disclosure system that is neither efficient nor credible.

Indeed, an efficient and functioning asset declaration system promotes accountability. It should not be undermined as a simple compliance procedure because it has the capacity to extend beyond its defined purposes. It is a powerful source of information to prevent corruption and can be a standing evidence of transgressions which may potentially support asset recovery and anti-money laundering programs. Further, the SALN system instills ethics in public service and reinforces a culture of integrity.

Powerful as it is, a document can either make or break an honest and credible civil service. This is why apart from fortifying systems of income disclosure, a good portion is dedicated to enjoining the government employees to a mindful and truthful declaration. The use of confidence-building perspective on public disclosure frees oneself from being overly consumed by personal reservations on possible examination and premature judgments on a truthful declaration. A show of confidence on an honest declaration should be effective enough to eliminate doubts and help build public trust.

After all, declaring one's wealth that is rightfully, honestly and credibly owned should merit neither fear nor hesitation.

Thank you.