



# Transparency International New Zealand

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# Members' Update

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*Transparency International is a not-for-profit, non-government organisation, which aims to counter corruption in international and national business transactions and government decision making.*

*Transparency International is politically non-partisan and does not undertake direct investigation of alleged corruption or expose individual cases.*

*There are over 90 National Chapters of TI worldwide. Each chapter is an autonomous body supported by a global Secretariat based in Berlin*

## Global Financial Issues

### TI New Zealand's Activity

In early October 2008, when we all first began understanding the possible full impact of the financial collapses in the USA and Europe, TINZ's Chairman Gerald McGhie, wrote to the Chairman of Transparency International, Huguette Labelle, asking that Transparency International take an urgent and active part in international discussions to ensure rescue packages and long-term solutions considered our concerns with regard to international financial transparency and accountability. As a result of that letter the matter was immediately placed on the TI Board's Agenda and also included in the TI Annual Members' Meeting Agenda.

TINZ actively pursued the issue at the Annual Members' Meeting in Athens at the end of October and Gerald has continued to be part of an international group of TI chapter representatives who have been considering policy and communication strategies.

As leaders from the Group of 20 nations prepare to meet on 2 April to determine steps to counter the economic crisis, Transparency International (TI) seeks to ensure that transparency, accountability and integrity are at the top of their agenda.

### Comments and Issues raised during TI-NZ's Discussion with TI Secretariat in preparation for the TI letter to Gordon Brown and G20 leaders (see P2)

#### Gerald McGhie

*While there has been a massive amount of information bouncing around economic performance indicators there has been a huge gap between information and understanding. The latter requires judgement and draws on moral issues especially wisdom, courage and common sense. Have we not been just a bit too happy to hand over key roles in the economy to those who were prepared to take colossal risks with it?*

*It is of course easy to dismiss such comments as a bit wishy washy and too difficult to define. Perhaps. But there appears to be an intellectual failure and a lack of attention to basic ethics among the key players in this crisis. We might also look at the role of expensive public relations agencies in managing the public's perception of the situation before the crisis and after.*

*This may also be a crunch time for Transparency International. To me it is important that we maintain a constant review our own perceptions and operation and that we are, as an NGO, prepared to state some unpleasant truths. My assumption is of course that we would do so in a balanced and intelligent way. I recall that some time ago in an article entitled "The Limits of Transparency" Jacqueline Best said;*

- *by focusing on transparency we start to believe that information on its own will solve our problems. In doing so, we risk ignoring other more profound problems.*
- *the promise of transparency assumes that we can eliminate the uncertainties that are part of our political and economic systems*

*Perhaps there is also a need for us to place greater emphasis on the enormity and complexity of the current crisis and recognize that no one meeting will produce a solution although we do recognize that the G20 has a vital role to play in contributing to the restoration of a viable and effective world economy.*

#### Murray Petrie

**Rescue measures;** *there is a need for a new form of consolidated reporting by governments. In many countries the bail-outs involve actions by both the central bank and the fiscal authorities, and also involve a mix of interventions (e.g. loans convertible to equity, exchange of assets, government guarantees). It will be very difficult for anyone to understand the full picture if the central bank reports on its actions, and the government separately reports on its actions. The sheer scale of these operations involving public resources necessitates some form of consolidated reporting of the expected and contingent financial impact on the public*

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sector as a whole and its different components. There is currently no established methodology or good practice for making the full, consolidated direct and indirect financial impacts of these operations transparent and such a methodology needs to be developed.

**Corporate governance** - There are three key, systemic issues.

- the effectiveness of Board oversight, beyond the issue of the expertise of individual board members. The more fundamental question is whether Boards have adequate processes and structures in place to exercise effective oversight of risks that management is exposing the corporation to.
- whether CEOs/senior management teams have sufficient information on risks, and whether they realised that parts of the institution were taking on risks that could sink the firm. It appears that in at least some cases undue pressure was brought to bear by traders on those responsible for risk assessment, to change their assessment, or that the warnings of risk assessors were submerged or watered down. There is a need to review the arrangements within financial institutions to ensure that risk assessment is given sufficient exposure and attention.
- the design of performance pay, and the incentives created for excessive risk taking, need to be re-examined. The time period over which performance is assessed for bonuses, and perhaps the possibility of including, in contracts, claw-backs of bonuses in specified circumstances, would be issues to look at.

**International cooperation** between regulators. There is in many countries a need for consolidated regulatory supervision across different parts of the financial sector. This also applies to the need to consider more consolidated monitoring at the international level because of the linkages between national financial systems.

**Public Safety Net:** There is a crucial need, once this crisis is resolved, to try to establish a new understanding, ex ante, of the scope and nature of the public safety net, of which types of institution are likely to be too big to fail, and of how much risk these entities will be allowed to take on. A new, transparent regulatory framework needs to be put in place.

#### **Trevor Roberts**

One fact stands out amongst the plethora of information, comment and blame. When you look at the abuses and the collapses right through the finance services industries (and that includes merchant and transactional banking, insurance, broking and financial advisory services), there is a common factor in almost every case, and that is the high degree of intermediation that characterises the system.

If this is a regulatory and transparency issue then there is a necessity to regulate intermediaries, or at least supervise them, and also to ensure that there are absolute obligations of disclosure. What we have seen to a remarkable extent is the brightest people in the market being remunerated according to their ability to draw resources from the market almost at will and to be rewarded according to the volume of transactions that they intermediate, and not according to either the overall result or the exposure to risk, which by and large they do not carry at all. Such things as Credit Default Swaps, Securitised Mortgages and various synthetic securities that have been peddled around the market follow that process.

## **Letter from Transparency International to Gordon Brown**

The following letter has been sent from Huguette Labelle to the United Kingdom Prime Minister and host of the 2 April meeting of the Group of 20. Similar letters have been sent from individual chapters to other leaders attending the G20 meeting:

Dear Prime Minister,

As Transparency International looks to the forthcoming meeting of the leaders of the Group of 20, we are heartened that the starting points – the last G-20 Summit Communiqué and many key statements from national leaders – have emphasised the vital importance of ensuring greater transparency and accountability in all aspects of economic and financial policy-making and implementation by all institutions, both public and private, in the immediate period ahead. We write to you on behalf of the members of more than 90 national chapters and partner organisations of Transparency International, 17 of which are in G-20 countries.

We have every confidence that you, together with your G-20 Summit colleagues, recognise not only the importance of heightened transparency and accountability, but also the need to assure the public that all action is grounded in integrity. Failure to restore trust will condemn the prospects of national economic stimulus programmes, however well-intentioned they may be.

The comprehensive programme that we urge the G-20 countries to adopt and promote on a global scale must be founded in transparency, accountability and integrity from the start. Concrete measures have to be taken in order to fight the current crisis and prevent similar ones in the future. All measures must relate to enhancing transparency in areas where a lack of it directly caused, or failed to counter, the global crisis.

Transparency International formulated the following constructive recommendations that we ask you to bring to the attention of your fellow leaders.

### **Regulation and supervision**

Secure greater transparency, public accountability and integrity in order to restore public trust, and adopt a far more consistent and internationally coordinated framework of regulation and supervision of all financial institutions.

- Undertake a comprehensive inventory of all types of risks taken by banks and other financial actors which led to the crisis. Without this inventory suspicion will remain. Ensure that the ongoing activities of official agencies with responsibilities in this area are much more frequently, fully and effectively reported to the general public. International cooperation between these agencies should be fortified and those in leadership positions should recognise their explicit responsibilities for public accountability.
- Increased cross-border coordination of accounting standards in the financial area is crucial, with all countries requiring disclosure of all forms of derivative products and off-the-book entities of financial institutions.

### **Rescue measures**

Ensure effective safeguards, with transparency and accountability at the forefront, in all aspects of public management of taxpayers' funds in support of efforts to restore the sound functioning of financial institutions and markets.

- Report all public funds used in "bail-out" programmes for all financial service and other firms to the public at the time at which funding decisions and disbursements are made – there needs to be full public disclosure of all terms

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and conditions.

### **Offshore havens and other non-cooperative financial centres**

Halt evasion of all taxes and the facilitation of illicit activities through the use of offshore havens and other non-cooperative financial centres, and ensure that these centres cooperate fully with other national and international authorities on the exchange of information.

- Initiate actions that make clear to all financial service firms that their licenses are at risk in the world's leading financial markets if they act intentionally to use foreign centres to evade full reporting of their clients' accounts to the tax, customs and judicial authorities of the leading mature economies. Official supervisory authorities should ensure that global banks make certain their units in offshore havens are audited properly for consolidation purposes; and that the goals pursued and the material risks incurred by their activities in offshore havens are disclosed in their annual reports. They should not maintain units or activities in black-listed territories.
- As appropriate, the leading countries in global finance should establish national registries of all trusts and investment funds with investor relationships under their jurisdiction. In the case that parent companies are incorporated in offshore havens or other non-cooperating financial centres, then these registries should detail for public inspection the identities of the founders of the trusts and the beneficiaries, as well as the names and qualifications of the trustees themselves. In policing and monitoring these financial entities, every effort should be made to strengthen cross-border cooperation between judicial authorities and ensure that channels of communications between judges in different jurisdictions are made more efficient.
- With the leadership of the governments of the mature economies, action should be taken to end tax evasion through offshore accounts, promote international coordination to deter financial crimes using these centres, and raise penalties for all actors who are found to have facilitated the placement of illicitly obtained proceeds in offshore bank accounts, including those who help to realise such placements: lawyers, accountants and asset managers. In addition, efforts should be made to strengthen the work of the IMF, FATF and other international governmental organisations by publishing information and assessments of countries' compliance with anti-money laundering and transparency standards, and require that financial institutions take this information into account.
- An important step in the fight against abuses of non-cooperative financial centres is to update a credible list of non-cooperative jurisdictions. In this regard, the OECD initiative to evaluate state practices through its standards must be supported.

### **Governance**

Build stronger corporate governance in financial service firms with an emphasis on executive compensation, risk management and disclosure of financial products, including greater accountability of boards of directors. Extend whistleblowing procedures and protection to anonymous information on ex-

cessive risk-taking.

- Ensure all national stock exchange regulatory authorities and all other authorities responsible for the oversight of financial service firms require companies to report publicly (via the Internet and not in low circulation technical documents) on the qualifications of all members of the boards of directors of publicly listed financial service firms and fully disclose to the public compensation committee decisions, the full compensation to senior corporate officers, any and all shareholdings owned by directors, and any stock transactions of directors and senior officers. This is a standard practice in some countries which should become the norm globally.

### **Conflicts of Interest**

Take measures to prevent conflicts of interest in the activities of credit rating agencies and auditing firms, and in relationships between financial firms and the public sector.

- Establish or strengthen regulatory authorities, with publicly accountable mandates and transparent approaches, to oversee the activities and the products of the rating agencies and accounting firms with regard to the world's largest 50 public financial services firms and other public corporations, and adopt the standards thus established across the international financial sector. Without such actions, public questioning of the integrity of current practices will persist.

### **Investigations and Sanctions**

Pursue appropriate criminal investigations, in compliance with existing laws and regulations, and impose strong sanctions where corruption, insider trading and other abuses are found.

- All governments should strengthen the resources they are currently deploying to investigate and prosecute fraud and corruption, and report as fully and swiftly as is practicable on the initiation of major investigations to make the heads of supervisory authorities far more accountable.

### **Aid**

Take urgent action to address rising global poverty resulting from the current crisis by increasing trade opportunities and official development assistance to these countries, with particular emphasis on those in greatest need and with the necessary transparency and accountability mechanisms in place. It is essential that all donor commitments, including pledges to support development in Africa, are maintained.

To conclude, Transparency International calls on the G-20 to strengthen the ability of the UN Convention Against Corruption (UNCAC), to be used as one of the major global instruments to promote transparency in the business world, through the ratification of the UNCAC by all G-20 countries and successful establishment of an effective review mechanism in 2009. All measures and reforms undertaken should be globally coordinated to ensure future growth stability and equitable development for people around the world.

Yours sincerely,

**Huguette Labelle,**

**Chair of Transparency International**

## **Fiscal crisis an opportunity to fight corruption, head of UN business alliance says**

*From UN News Centre, 26 February 2009*

During the world economic downturn, corporate engagement with ethics, trust and the fight against corruption is growing, the head of the United Nations alliance for responsible business said today.

“In times of crisis and loss of confidence it is even more important to restore trust, and how do you do this from a corporate angle?” Georg Kell, Executive Director of the UN Global Compact ([UNGC](#)), said at a press conference that followed an anti-corruption meeting for the initiative, which was created by the world Organization in 2000.

“Clearly,” he said, “the issue of values and principles in restoring trust and confidence is today more important than ever and the key component of this is indeed the work on anti-corruption, which is an integral part of our corporate citizenship agenda.”

The Compact pledges participating businesses – now numbering some 5,000 in over 100 countries – to observe principles regarding human rights, labour rights, environmental sustainability as well as the fight against corruption.

Mr. Kell was joined at the press conference by Ntombifuthi Mtoba, Chair of the Board of Deloitte, South Africa; **Jermyn Brooks, Director of Global Private Sector Programmes of Transparency International**; and Eckart Sunner, Chief Compliance Officer of the corporation BASF AG.

Today’s meeting was attended by international experts from all continents, leading institutional actors and corporate participants, said Ms. Mtoba, whose task team focused on anti-corruption reporting.

Corruption education, business resources for the fight against corruption and media engagement on the issue were other components of the effort, she added.

From the corporate angle, Mr. Sunner said reporting on anti-corruption efforts was more difficult than most issues, so the comprehensive guidance being by the group was very valuable.

Mr. Brooks, whose organization focuses on the fight against corruption, said that another purpose of the meeting was to mobilize Global Compact participants as a lobby to get States to take the UN convention against corruption seriously.

So there would probably be some sort of signed outcome document from the meeting going to Member States, perhaps via the Secretary-General, he said.

There was some possibility that there was new, illegal financial activity because of the crisis, Mr. Brooks added, but there was also the phenomenon of various kinds of corruption, such as Ponzi schemes, collapsing because of the lack of cheap, ready credit.

In addition, he noted that a discussion had started on whether some practices were corrupt even if not strictly illegal, such as the insistence of senior bankers on their generous contractual payments, even when their banks were losing huge sums of money.

“That debate is now raging in full,” he said.

## **TI Calls for Mandatory EU Lobbying Register**

Transparency International (TI) has called for a total review of the EU voluntary register of lobbyists, following the very disappointing results of the current register launched in June 2008. To be effective - i.e. to provide transparency on who is lobbying whom, with which financial means and for what purpose - TI is urging that an EU lobbyist register should satisfy the following criteria:

- *Mandatory and common registration of lobbyists to the Commission, Parliament and Council;*
- *A definition of ‘interest representative’ should include public affairs consultancies, corporate lobbyists, law firms, NGOs and think tanks;*
- *Naming of individual lobbyists with information where the person has worked before;*
- *Disclosure of financial data in precise ranges of all lobbyists;*
- *Disclosure of financial details on income from clients;*
- *Information displayed in a comparable way;*
- *Creation of a strict, standardised and effective reporting and sanctioning mechanism;*
- *A strong, detailed and properly enforced code of conduct;*
- *Clear guidelines on how to register and how to calculate lobby expenses.*

Fewer than 1000 lobbyist entities have registered since the launch of the voluntary Commission register in June. Many big lobby companies and all major law firms have completely ignored the register and data, when provided, is often irrelevant.

“Making lobbyists sign-up to a register is only part of real lobbying transparency. Of equal importance is guaranteeing the quality, reliability and *comparability* of the data and sanctioning those who do not sign up or have exerted undue influence,” said Miklos Marschall, TI’s Director for Europe and Central Asia.

## Transparency International Priorities

TI has defined five global priorities in the fight against corruption:

- Corruption in Politics
- Corruption in public contracting
- Corruption in the private sector
- International anti-corruption conventions
- Poverty and development

TI also continues to focus its attention on the following thematic issues:

- Access to information
- Advocay and Legal Advice Centres (ALAC)
- Corruption in the water sector
- Education
- Health
- Humanitarian assistance
- Judiciary

For further information visit

[http://www.transparency.org/global\\_priorities](http://www.transparency.org/global_priorities)



## Member Comments

We would like to include your comments and suggestions in next month's Members' Update.

Comments and suggestions are, of course, always welcome and will be included as background papers for Transparency International (New Zealand)'s Board consideration.

Matters on which we would particularly like your comments are;

- Global fiscal crisis - do you have any response to the comments from Trevor, Gerald and Murray in this month's newsletter? Is the letter to the G20 effective and appropriate?
- Local Body reporting standards - are local bodies reporting to their shareholding public in a truly transparent and accountable manner? What changes should we be promoting?
- Public tendering processes - should we be following overseas trends and expect greater financial disclosure of tenders?
- Lobbying registers - who, and how, are people lobbying our elected representatives?
- Public companies - should we expect higher levels of public reporting from companies involved in public private transactions?

Please email comment to [executive@transparencynz.org.nz](mailto:executive@transparencynz.org.nz)