



"Office of the Secretariat"

Liberia Extractive Industries
Transparency Initiative

4th Floor Ministry of Finance ■ Broad Street ■ Monrovia, Liberia

LEITI Regulation # 001/11/09

Enforcement of Compliance with LEITI Disclosure and Reporting Requirements

1.0 INTRODUCTION

1.1 The mineral and other natural resources of Liberia can contribute immensely to poverty reduction and consequent economic and social development of the Country. In order to realize the potential contributions of these resources, the Government and people of Liberia have agreed to establish the Liberia Extractive Industries Transparency Initiative (LEITI), which has the mandate to lead implementation of the Principles and Criteria of the international Extractive Industries Transparency Initiative (EITI) by requesting, receiving and publishing (1) all payments made to the government by all oil, mining, forestry and agricultural companies and (2) the corresponding revenues received from the companies by relevant agencies of the Government.

1.2 Successful implementation of the EITI demands that its requirements are equally applied to and binding on all companies and relevant agencies of Government, as required by the LEITI Act of 2009 ("The Act"). The failure or refusal of some companies or agencies of Government to submit LEITI required report(s) undermines the completeness and credibility of LEITI annual report(s) and has the additional negative effect of discouraging others from continuing compliance.

1.3 To address instances of non compliance, Section 6.3(h) of the Act authorizes and empowers the LEITI Multi-stakeholders Steering Group ("LEITI MSG") to determine the sanctions to be applied against any company and/or agency of Government failing to submit a report required by LEITI, or otherwise comply with requirements of LEITI. This Policy has been established pursuant to Section 6.3(h) of the LEITI Act of 2009.

2.0 Non Compliance Defined

2.1 Non compliance with the LEITI shall consist of one or more of the following acts or omissions:

- i. failure or refusal to submit payments or revenues data at the time and in accordance with the procedures approved by the LEITI MSG;
- ii. failure or refusal to conduct prior audit, review and attestation of payments or revenues data submitted for preparation of annual LEITI Reports;
- iii. Failure to (a) answer the queries of LEITI Administrator/Reconcilers, (b) provide requested documentation in connection with submitted data, and (c) cooperate with the Reconciler in verifying the accuracy, completeness and credibility of submitted payments or revenues data submitted;
- iv. Refusal to commit to the LEITI and/or implement any of its requirements as established by law or adopted by the LEITI MSG; and

- v. Failure to respond to invitation(s), demand(s) or warning(s) extended or given by or on behalf of the LEITI MSG.

3.0 Progressive Sanctions to address non compliance

2.1 **Adoption of a Regime of Progressive Sanctions:** In respect of every act or instance of non compliance with LEITI's reporting obligations and other requirements, LEITI shall implement a regime of progressive sanctions (RPS) as established herein.

2.2 **Range of Actions comprising the RPS:** The Regime of Progressive Sanctions (RPS) established herein shall consist of the following specific discrete actions listed in the order of (1) sequencing of application and (2) increasing magnitude:

a. **A Demand to Comply:** Following unsuccessful written Invitations to a company by the LEITI Secretariat and upon the approval of the LEITI MSG, the LEITI Chairperson shall serve a written demand to comply on a company that is found to be in a state of non compliance with LEITI requirements/obligation. The written demand shall state, inter alia, the time period within which the company is required to become compliant.

b. **Public Censure:** A non compliant company which fails to honor a written demand to comply shall be subject to public censure by publication of its name and fact of non compliance with LEITI in one or more local dailies along with any other statement the MSG may deem necessary to highlight the unacceptable nature of the non-compliant conduct and the consequence of its continuance.

c. **Notice of Intent to Affect Operations:** A non compliant company which remains unresponsive to a written demand to comply and subsequent public censure shall be served a **Notice of Intent to Affect Operations** unless it comes into compliance within a specified time. The Notice of Intent to Affect Operations shall be served on behalf of LEITI by the Government of Liberia through the head of the line agency of Government responsible for the sector or by the Chairperson of the LEITI MSG, where necessary.

d. **Imposition of Fine:** the first substantive action against operations of a company shall be a fine of at most US\$1, 000.00 (One Thousand United States Dollars) on the non compliant company. The fine shall be imposed by the Government of Liberia through its line agency or ministry responsible for the sector, and shall be paid into the treasury of the Government of Liberia.

e. **Legal Action:** In the event that a non compliant company fails to come into compliance after being served a demand to comply and other measures, including the imposition of fine, the LEITI through the Government of Liberia shall institute an appropriate legal action in a Liberian court of competent jurisdiction to suspend or revoke the license and/or operations of the non compliant company. The institution of legal action against a company shall be a last resort measure to ensure full compliance with the Act.

2.3 **Non Compliance by Agency of Government:** In the event of non compliance by an agency of the Government, the non compliance will be attributed to the head of the agency who will also be a subject of the RPS established herein. The range of progressive actions to be taken against a non compliant head of agency shall include (1) A Demand to Comply, which shall be served by the LEITI

Chairperson or the Co-chairperson in case the non compliant agency is the that of the Chairperson; (2) A Written Warning for continuing non compliance; and (3) Removal from office of the officer concerned by the Government of Liberia.

2.4 **Fair and Consistent Application of Action(s):** Each and all of the actions comprising the RPS shall be fairly and consistently applied to all persons covered by the LEITI Act.

2.5 **Reasonable Opportunity to Comply:** Prior to initiating or moving to any of the actions comprising the Regime of Progressive Sanctions provided herein, the MSG shall give the stakeholder concerned adequate notice and reasonable opportunity to comply with the LEITI requirement(s) in question. What is reasonable notice shall be determined by the MSG on a case by case basis prior to the taking of each of the actions/measures comprising the RPS.

2.6 **Objectives of Policy:** The sole objective of this policy is to promote due compliance with all LEITI requirements by all mining, oil, forestry and agricultural companies and relevant agencies of government.

2.7 **Adoption of Policy:** This Policy was adopted at a regular meeting of the LEITI MSG held on Thursday, November 12, 2009 in the City of Monrovia, Republic of Liberia.

2.8 **Effectiveness of Policy:** This Policy shall become effective as of its publications in one or more local dailies, and it shall remain effective until revoked in writing by the LEITI MSG.