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## Call for public inputs on Programme of Activities (PoA)

Honorable Members of the CDM Executive Board,

TÜV NORD takes the opportunity to thank the CDM Executive Board's numerous efforts on continuously improving CDM related procedures and requirements, and would like to contribute to this public call for inputs on Programme of Activities (PoA) with regards to the following topics:<sup>1</sup>

### 1. Barriers in the current rules

Current rules regarding PoA have been improved as per EB 55; however, liability issues as per the "Procedures for review of erroneous inclusion of a CPA" (version 02, EB55 Annex 37) (hereinafter referred to as "CPA Review Procedures") still remain to be a challenge for DOEs for the following reasons:

- 1) The requirement of paragraph 10 that the review shall be conducted by another DOE that has not performed any services to the underlying PoA is not in line with international common practice of other accreditation systems. Due to the competitive relation among the DOEs, a DOE cannot be considered neutral in assessing another. Risks are high that the current review system fosters misuse to obtain sensible business data of the other DOE for the own market benefit. Furthermore, a DOE could trigger a huge review process in order to weaken the position of competitors in the

<sup>1</sup> Note: TÜV NORD fully endorses the DOE Forum letter to this call for public input. Due to time constraints of involved personnel the following input could not be harmonized with the consolidated DOE Forum input.

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CDM market that may lead to harm of the system itself. This shall not be the intended consequences under the current PoA regulation. In the view of TÜV NORD these negative effects can only be avoided when UNFCCC follows an approach similar to other accreditation bodies. Thus reviews need to be performed by the UNFCCC assessment teams or an independently established panel by the CDM EB, in order to enable an independent and objective review. Furthermore, it needs to be clear that the reviewed DOE shall only bear the costs of such review if the inclusion proves to be erroneous;

- 2) Paragraph 15 requires the DOE to transfer over issued CERs within 30 days of the exclusion of the CPA to CDM cancellation account. This obligation is imposed on DOEs regardless whether the DOE is responsible for the over issuance or not. Due to this uncommon liability mechanism it is almost impossible for DOEs to obtain a suitable insurance cover at all or at least on commercially viable conditions. Taking aforementioned uncertainties regarding the actual liability period account, the possible financial risk to be borne by a DOE becomes a threat for the DOE. Additionally the financial benefit of PoA projects lies not with the DOE but with the PP/CME. Thus the risk / benefit ratio is unbalanced. Bearing in mind that PoA related activities are for most entities acknowledged as DOE are only one part of their business field, PoA activities turn out to be even less attractive not to put the entity itself at risk.  
Considering the fact that so far only the DOEs are responsible for the erroneous inclusion, while the issued CERs can be kept and utilized by the PP/CME, it may create a “perverse incentive” for the PPs / CME to propose CPAs which do not meet the PoA specific CDM requirements intentionally. Instead of this, the Board may consider that the PP/CME of the PoA to whom these “erroneously included” CPAs belongs, shall be excluded from further issuances of CERs to their account, as long as their other CPAs/CDM projects generated CERs equal the amount of the over-issuance, i.e., the generated CERs shall be directly transferred to the cancellation account. The Board may consider an alleviation of the DOE liability burden to a level which allows the DOEs to reduce the corresponding transaction costs, esp. due to the necessary insurance premiums.
- 3) Paragraph 16, the extension of reviews of “all included CPAs” indicates an open-ended liability to all CPAs included in a PoA, regardless of whether it has passed the request for review period given in paragraph 5: “one year after the inclusion of CPA into a registered PoA or renewal of the crediting period of the CPA, or within six (6) months after the first issuance of CERs for that CPA, whichever is the latter”. The phrase “all included CPAs” is also ambiguous about those CPAs that have already ended their crediting period or are still under the older version of PoA design if the erroneous CPA is found at the stage of renewal of crediting period. All the indistinct wording may still lead to tremendous risks of up to 28 years liabilities. This is still the biggest hurdle for DOEs to take CPA inclusions. Therefore, a clear and adequate liability period for CPA inclusions is essential, i.e., the CPAs that have passed the request for review period of one and half year (maximum) shall be excluded from the review list, or the review shall only affect “all CPAs that are still within the request for review period”. Furthermore, it should also be made clear that only such CPAs which have been included by the same DOE can be reviewed and affected by an erroneous inclusion.

- 4) The CPA Review Procedures also do not specify the level of evidences based on which the decision can be made for an erroneous inclusion, as well as not have an appropriate clause regarding appeal procedures for DOEs against the decision on erroneous inclusion or the review process itself, which leads to an unfair and unhealthy system. Therefore, TÜV NORD suggests that the information which might trigger reviews need to at least give reasonable evidence that an inclusion is erroneous. A proper appeal procedure with corresponding independent authorities needs to be implemented within the UNFCCC.

## **2. Rules that are not existing or are missing and should be there.**

The Board may consider drafting the following missing rules as soon as possible to enable a more transparent and efficient system for PoA registration and issuance:

1. Guidelines on “additionality demonstration at the PoA level and use criteria for inclusion of the CPA in the PoA to establish additionality at the CPA level” as per EB meeting report 54 paragraph 44;
2. “Guidelines for determining the eligibility criteria related to the inclusion of CPAs in registered programmes of activities” as per EB 57 meeting report, paragraph 10;
3. Clarification or revision on the unquantifiable leakage emission requirements under PoA sections in current approved small-scale methodologies, e.g.,
  - a. AMS. I.C “49 (c) In case the project activity involves the replacement of equipment, and the leakage from the use of the replaced equipment in another activity is neglected, because the replaced equipment is scrapped, an independent monitoring of scrapping of replaced equipment needs to be implemented. The monitoring should include a check if the number of project activity equipment distributed by the project and the number of scrapped equipment correspond with each other. For this purpose scrapped equipment should be stored until such correspondence has been checked. The scrapping of replaced equipment should be documented and independently verified.”
  - b. AMS.II.G “15. The use of this methodology in a project activity under a programme of activities is legitimate if the following leakages are estimated, if required on a sample basis using 90/30 precision for selection of samples, and accounted for: (a) Use of non-renewable woody biomass saved under the project activity to justify the baseline of other CDM project activities can also be potential source of leakage. If this leakage assessment quantifies a portion of non-renewable woody biomass saved under the project activity that is used as the baseline of other CDM project activity then By is adjusted to account for the quantified leakage. (b) Increase in the use of non-renewable woody biomass outside the project boundary to create non-renewable woody biomass baselines can also be potential source of leakage. If this leakage assessment quantifies an increase in use of non-renewable woody biomass outside the project boundary then By is adjusted to account for the quantified leakage.”
4. A version of the standardized format for monitoring reports applicable to Programme of Activities (PoA) as per EB 54 meeting report paragraph 72.
5. A dedicated interface on the UNFCCC website for publishing CPA monitoring reports and submitting issuance request covering all CPAs included in consequent monitoring periods.
6. Further guidance for sampling methods that will be used by DOEs to perform CPA inclusion and CPA verification;

7. Applicable guidelines to PoAs/CPAs as per EB 57 meeting report, paragraph 12, such as, “Procedures for notifying and requesting approval of changes from the project activity as described in the registered PDD” and “Procedures for revision of registered Monitoring Plan”. It is unclear so far that with automatically included CPAs, how to apply changes to the registered PoA-DD, generic CPA-DD in case that whole programme design has been changed, and respectively for each included real case CPA-DD when only individual CPA implementation has been changed;
8. As per footnote 5 of the PoA Procedures, “ ... a DOE (who has performed validation/inclusion/renewal of crediting period activities for the PoA) may also undertake the verification if this has been approved in advance by the CDM EB”. Considering small scale PoAs with SSC CPAs like normal SSC CDM project activities, the Board shall consider to approve DOEs who performed validation/inclusion/renewal of crediting period activities for the SSC PoA to conduct verification for the same SSC PoAs, applying the same procedure as per paragraph 20 of the Simplified modalities and procedures for small-scale clean development mechanism project activities (decision 4/CMP.1, Annex II). This approach will also enable a more thorough and consistent validation/inclusion and verification performance of the DOEs for an SSC PoA against relatively low transaction costs for the PP/CMEs. After all, such approval procedures shall also be established with corresponding forms and regulations.

Considering the growing market demand and the approaching 2012 deadline for PoA registration/ Issuance request, TÜV NORD is looking forward to the Board’s further procedural revision and guidance on a more transparent, practical and streamlined PoA validation and verification process.

P.S. TÜV NORD expresses its interest in participating the PoA workshop that will be organized by the UNFCCC in order to further contribute inputs on streamlining PoA registration and issuance process. Please kindly contact Mr. Rainer Winter ([rwinter@tuev-nord.de](mailto:rwinter@tuev-nord.de)) and Mrs. Jun Wang ([jwang@tuev-nord.de](mailto:jwang@tuev-nord.de)).

Kind regards,



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