Ref. No. LUP 2025-3

Annex 3 – Exclusion grounds and mandatory requirements

Procurement: Technology Funds

Fondtorgsnämnden
Swedish Fund Selection Agency

1. Introduction

This annex summarises all of the exclusion grounds and a number of mandatory requirements not found elsewhere in the Procurement Documents. Whether or not the requirements set out in this annex are fulfilled is indicated by answering the questions in sections 2.1 and 2.2 of the Request for Proposal, Annex 1.

2. Exclusion grounds

2.1 Criminal offences

FTN shall exclude a Fund Manager from participating in the procurement process if FTN becomes aware in any way that the Fund Manager or Investment Manager, through a legally binding judgement, has been found guilty of any of the following offences:

1. any criminal activity as referred to in Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime,

2. corruption as defined in Article 3 of the Council Act of 26 May 1997 establishing, on the basis of Article K.3 (2) (c) of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, corruption as defined in Article 2 (1) of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector, or corruption under national law,

3. fraud within the meaning of Article 1 of the Convention established on the basis of Article K.3 of the Treaty on European Union, on the protection of the financial interests of the European Communities,

4. money laundering or terrorism financing, as defined in Article 1 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, in its original version,

5. terrorist offences or offences linked to terrorist activities, as defined in Articles 3 and 5 to 12 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, in its original wording, or inciting or aiding and abetting or attempting to commit an offence within the meaning of Article 14 of that Directive, or

6. human trafficking as defined in Article 2 of Directive 2011/36/EU of the

European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, in its original wording.

If the Fund Manager or, where applicable, the Investment Manager is a legal entity, the Fund Manager shall be excluded if a person who is a member of the administrative, management or supervisory body of that Fund Manager or Investment Manager has been found guilty of such an offence. The same is applicable if the person found guilty of the offence has powers of representation, decision or control in relation to the Fund Manager or Investment Manager.

2.1.1 Time limit for exclusion for criminal offences

FTN may not allow a judgement that was announced more than five years ago to form the basis for a decision to exclude a Fund Manager on, as provided for under Criminal offences above.

2.2 Unpaid taxes and social security contributions

FTN shall exclude a Fund Manager from participation in a procurement process if it becomes aware in any way that the Fund Manager or the Investment Manager is in breach of their obligations regarding the payment of taxes or social security contributions in their own country or in the country where the procurement process is taking place, and this has been determined by a judicial or administrative decision that has become legally binding.

FTN may exclude a Fund Manager from participation in a procurement process if FTN is able to demonstrate by any other appropriate means that the obligations referred to in the first paragraph have not been fulfilled.

2.3 Other misconduct relating to the activities of a Fund Manager

FTN may exclude a Fund Manager from participation in a procurement process if:

1. FTN is able to demonstrate that the Fund Manager or Investment Manager has failed to comply with applicable environmental, social or labour law obligations,

2. The Fund Manager or Investment Manager
a) is bankrupt or is subject to insolvency or winding-up proceedings,
b) is subject to compulsory management,
c) has entered into an arrangement with creditors, or
d) has ceased its business activity or is in a similar situation arising from a procedure under national laws and regulations similar to those referred to in items a) to c),

3. FTN is able to demonstrate that the Fund Manager or Investment Manager is guilty of serious professional misconduct which calls into question the integrity of the Fund Manager or Investment Manager. This may , for example, be the case if a Swedish or foreign authority responsible for the supervision of financial undertakings (such as the Swedish Financial

Supervisory Authority (Sw:Finansinspektionen)) has taken action against breaches of regulations, imposed sanctions or similar,

4. FTN has sufficiently plausible indications that the Fund Manager or Investment Manager has entered into agreements with other providers with a view to distorting competition,

5. The Fund Manager or Investment Manager has demonstrated serious or persistent failure to comply with any material requirement of a previous agreement with FTN or the Swedish Pensions Agency and this has resulted in premature termination of the previous agreement, or in damages or comparable sanctions,

6. FTN is unable to avoid distortion of competition or is unable to guarantee equal treatment of Fund Managers due to disqualification and this cannot be remedied by less intrusive measures other than exclusion of the Fund Manager,

7. FTN is unable to remedy distortion of competition by less intrusive measures other than exclusion of the Fund Manager due to the Fund Manager's prior involvement in the preparation of this procurement process,

8. The Fund Manager has, to a serious extent
a) provided incorrect information that may be required to verify that there are no grounds for excluding the Fund Manager from participation in the procurement process, or
b) has withheld such information,

9. The Fund Manager or the Investment Manager has

a) improperly attempted to influence FTN's decision making process or to obtain confidential information that could give the Fund Manager undue advantages in the procurement process, or
b) negligently provided misleading information that could have a material influence on decisions made during the procurement process regarding the exclusion of Fund Managers, the selection of Fund Managers who be awarded agreements, and the awarding of agreements in general.

2.3.1 Time limit for exclusion due to other misconduct in relation to a Fund Manager's activities

FTN may not allow an event that occurred more than three years ago to form a basis for a decision to exclude a Fund Manager according to section 2.3.

2.4 Investigation
Before deciding to exclude a Fund Manager, FTN shall give the Fund Manager an opportunity to make a statement, within a specified time, on the circumstances which, in the opinion of FTN, constitute grounds for exclusion.

2.5 Exceptions to exclusion in certain cases
A Fund Manager who is subject to any of the grounds for exclusion set out under section 2.1 or 2.3 shall not be excluded if the Fund Manager demonstrates their reliability by showing they or the Investment Manager due to having:

1. paid or committed to pay compensation for losses caused by the criminal offence or misconduct,

2. comprehensively clarified facts and circumstances by actively cooperating with the investigating authorities, and

3. taken specific technical, organisational and personnel-related action intended to prevent criminal offences or misconduct.

The action taken by the Fund Manager or Investment Manager shall be assessed, taking into account the seriousness of the criminal offence or misconduct and the specific circumstances surrounding the incident.

The Fund Manager shall not be excluded as set out in section 2.2 if the Fund Manager or the Investment Manager has fulfilled their obligations regarding payment of taxes and social security contributions, including interest and fines, or has entered into a binding agreement concerning payment or equivalent.

2.6 Refrain from exclusion based on overriding reasons of public interest
FTN may refrain from fulfilling an obligation to exclude a Fund Manager if so justified by overriding considerations relating to the public interest.

2.7 Decisions on exclusion
If there are grounds for exclusion, FTN may exclude a Fund Manager from participating in a procurement process at any time during the procurement process.

FTN shall promptly notify the Fund Manager of the decision in writing and the reasons for it.

3. Mandatory requirements on the Fund, Fund Manager, Investment Manager etc.

3.1

3.1 Domicile, etc.
The European Commission has adopted the EU list of non-cooperative jurisdictions and the EU list of high-risk third countries (collectively “the EU

lists”). The EU lists will be amended over time. Neither the Fund Manager, any Investment Manager nor the Fund may be registered or otherwise domiciled in a jurisdiction included in either of the EU lists.

3.2 Sanctions, particularly regarding the effect of sanctions determined by the EU

The Fund Manager shall certify that no member of the board, including deputies, the Chief Executive Officer and their deputy, any other senior executive or owner of more than 1 per cent of the Fund Manager or any parent organisation (with an ownership of more than 1 per cent) is subject to sanctions (EU, UN).
The EU has imposed sanctions on Russia and Belarus in response to Russia’s aggression against Ukraine.

These sanctions include bans on:
- making payments, etc. to certain listed individuals and organisations (freezing of assets).
- importing, purchasing and transportation of certain listed goods (import ban).
- The sanctions include some limited potential for exceptions.

FTN must comply with the provisions on sanctions and may not make any payments, directly or indirectly, to operators subject to these sanctions (i.e. that are included in the lists of sanctions). FTN may not directly or indirectly import goods and services subject to the sanctions in question.

The Fund Manager shall therefore certify that neither the Fund Manager nor the envisaged contractual relationship is directly or indirectly subject to the sanctions against Russia and Belarus determined by the EU.

The certification encompasses the Fund Manager’s confirmation that they:
- are not subject to the sanctions, either directly nor indirectly.
- will not use subcontractors, etc. that are subject to the sanctions, or rely on the capacity of such operators in the procurement process.
- will not participate, within the framework of the contractual relationship, in the purchase, import or transportation of products and services subject to EU import restrictions.

The Fund Manager certifies that they will inform FTN without delay:

- if the legal status, ownership or representation of the Fund Manager, any engaged Investment Manager or the Fund is subject to the sanctions or is amended in such a manner that it becomes subject to the sanctions.
- if there is reason to suspect that the circumstances are such that a subcontractor or a company relied upon is subject to the sanctions.
- These certifications include any situation in which new sanctions are adopted by the EU that directly or indirectly affect the Fund Manager or the Contractual Relationship for the Fund.

The Fund Manager certifies that they will cooperate fully in matters relating to the enforcement of the sanctions and otherwise provide the necessary information in this regard.

3.3 Requirements for certain information

The Fund Manager certifies that all the Fund's transactions will be reported to FTN on an ongoing basis and with such frequency and delay as required by the terms of the Fund Agreement.

The Fund Manager certifies that the Fund's assets will be reported to FTN on an ongoing basis and with such frequency and delay as required by the terms of the Fund Agreement.

3.4 Validity of the tender

The Fund Manager confirms that the tender submitted is valid for the period specified in section 6.9 of the Procurement Guidelines.

3.5 Acceptance of the terms of the Fund Agreement

The Fund Manager accepts, without reservation, the terms and conditions set out in the Fund Agreement, including its annexes.