

ADVICE-10-004-01 V1-0 Scope of application of FSC Remedy Framework for outstanding magnitude or gravity of harm caused

Normative reference FSC-POL-01-004 V2-0
FSC-POL-01-004 V3-0
FSC-PRO-01-007 V1-0

Scope This advice note applies to all corporate groups that have been disassociated from FSC or that are seeking to associate with FSC after violating provisions of FSC-POL-01-004 V2-0, *Policy for the Association of Organizations with FSC*.

Approval FSC Director General, 16 February 2023

Effective date 1 July 2023

Background The FSC *Policy for the Association of Organizations with FSC* (PfA) has been in place since 2009. In August 2022, a revised version 3-0 of the PfA was approved with the effective date of 1 January 2023. One of the core revisions introduced was the change of scope of corporate responsibility for unacceptable activities. The scope of 'direct and indirect involvement' based on majority ownership structures within a corporate group as stipulated by version 2-0 was replaced with determining the scope through structures of 'control', not limited to ownership relationships only. This change was based on FSC's experience with implementing the scope of the PfA V2-0, and an evolving wider global understanding of corporate accountability and the complexity of corporate governance structures.

In December 2022, the *FSC Remedy Framework* (FSC-PRO-01-007) was approved. The framework includes a process of remedy of harm caused by unacceptable activities by organizations and their corporate groups seeking to associate with FSC. The framework applies to unacceptable activities that took place before 1 January 2023, and that therefore fall within the effective period of the PfA V2-0.

FSC considers the implementation of the improved understanding of corporate responsibility and *corporate groups** introduced in the PfA V3-0 to be essential also for remedy processes based on the PfA V2-0 for those cases that have had an exceptionally high negative impact on forests and people on-the-ground. This will help to ensure protection of FSC's reputation and stakeholder trust in enabling future eligibility for association with FSC.

With this advice note, FSC seeks to extend the scope of application of the *FSC Remedy Framework* from entities within majority ownership structures to include also entities otherwise controlled by the corporate group for these exceptional cases. The advice note defines the criteria and process to determine in which cases of involvement in unacceptable activities based on the PfA V2-0 this extended scope is necessary. This advice note does not change the scope of disassociation decisions made based on the PfA V2-0.

All cases of violations of the PfA V2-0 entail serious harm caused. For purposes of assigning extended scope for application of the *FSC Remedy Framework*, the magnitude and gravity of harm caused are assessed based on the overall violation of the PfA V2-0 by a corporate group. The focus is on the outstanding nature of the harm, rather than for example the unacceptable activities themselves or specific features of the corporate groups involved in them. The criteria in this advice note aim to define general features to identify the magnitude and gravity of harm caused as outstanding. The features are related to scale, manner of conduct, and impact, and are expressed in the defined assessment criteria.

Version history V1-0: Approved 16 February 2023

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1. Due to the magnitude or gravity of harm, FSC can stipulate the application of the *FSC Remedy Framework* for the wider *corporate group** before association or ending disassociation based on the PfA V2-0.
 2. A disassociated corporate group that was disassociated from FSC before 1 January 2023 or a corporate group that has been involved in unacceptable activities defined in the PfA V2-0 and therefore not eligible to associate with FSC and is seeking to start a remedy process in line with the *FSC Remedy Framework* (FSC-PRO-01-007) shall undergo an FSC assessment for outstanding magnitude or gravity of harm requiring an extended scope for application.
 3. The extended scope shall take the form of applying the definitions of *corporate group** and *control** as stipulated by the PfA V3-0 instead of '*direct and indirect involvement**' as defined in the PfA V2-0.

NOTE: See also Annex 1 and Annex 2 in PfA V3-0 for factors for determining the *corporate group** and their *control**.

4. The extended scope shall be used as the scope for the requirements for the *corporate group** in line with the *FSC Remedy Framework* (FSC-PRO-01-007).
5. An extended scope of application of the *FSC Remedy Framework* for a *corporate group** shall be determined when at least two of the following assessment criteria are met:
 - a) Harms have been caused by legal entities across various parts of the corporate group, whether majority owned and otherwise controlled, or by legal entities in more than one country.
 - b) Harms have been caused by more than one category of unacceptable activity and across both environmental and social aspects.
 - c) Harms caused have resulted in irreversible or mid to long-term negative effect on human lives or natural ecosystems.
 - d) Harms have been caused over an extensive period of time of over 5 years, in a form of ongoing activities, unaddressed harm or repeated episodes of activities.
 - e) Harms caused have resulted in global media attention and public condemnation.
 - f) Harms have been caused at a scale clearly outstanding at global level.

6. The assessment shall be based on an existing PfA investigation, baseline assessment or any other evidence gathered for confirmation of the violation of the PfA.
 7. The decision to apply an extended scope based on the assessment against the criteria shall be taken by the FSC International Board of Directors.
 8. Where disassociation decisions based on the PfA V2-0 are taken after the effective date of this Advice Note, the assessment and decision for an extended scope shall be carried out at the time of the disassociation decision by the FSC International Board of Directors.
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