



IBRD/IFC/MIGA/IDA Guidance

WBG Sanctioning Guidelines

Bank Access to Information Policy Designation

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Content

The purpose of this Guidance is to provide guidance to decision-makers on the considerations that the World Bank Group believes are relevant to any sanctioning decision.

Applicable to

IBRD, IFC, MIGA, IDA

Issuer

Managing Director and WBG Chief Administrative Officer,
MDCAO

Sponsor

Senior Vice President and General Counsel, LEGVP

SECTION I – PURPOSE AND APPLICATION

The purpose of this Guidance is to provide guidance to decision-makers on the considerations that the World Bank Group (“WBG”) believes are relevant to any sanctioning decision.

This Guidance applies to the WBG.

SECTION II – DEFINITIONS

Capitalized terms and acronyms in this Guidance have the meanings ascribed to them in WBG Policy: Sanctions for Fraud and Corruption and Bank Procedure: “Sanctions Proceedings and Settlements in Bank Financed Projects”.

SECTION III – SCOPE

A. Background

The WBG has been sanctioning firms and individuals who engage in Sanctionable Practices in relation to WBG operations since 1999. The purpose of the WBG’s sanctions regime is to assist the WBG in upholding its fiduciary duty under the WBG institutions’ constituent instruments to ensure that the funds entrusted to it are used for the purposes intended.

This purpose is accomplished in several ways, primarily through (i) exclusion of corrupt actors from access to WBG financing and support (*i.e.*, debarment) and (ii) deterrence. The former protects WBG financing directly, while the latter seeks to reduce fiduciary risk through disincentivizing both the Respondent (specific deterrence) and others (general deterrence) from engaging in Sanctionable Practices in the future by exacting a ‘price’ for misconduct—through debarment, the cost of meeting conditions for release or non-debarment and, exceptionally, restitution. The publicity surrounding sanctions, which are all public, enhances their deterrent effect.

Moreover, the WBG’s experience in anti-corruption and sanctioning, reflecting international consensus, has shown that rehabilitation, through the imposition of conditions designed to improve the integrity culture of sanctioned parties and reduce recidivism, is a key means to reduce integrity risks.

It is these guiding principles, along with the common standards set out in the 2012 Harmonized Multilateral Development Bank General Principles and Guidelines for Sanctions, that underlie this Guidance. This Guidance is not meant to be prescriptive in nature, but to provide guidance to decision-makers as to the considerations that the WBG believes are relevant to any sanctioning decision. The decision-makers are advised to consider the totality

B. Baseline Sanction: A baseline sanction of a 3-year debarment with conditional release is the default starting point for all forms of misconduct and is applicable to all Respondents. The decision-makers may depart from the baseline sanction where justified by the specific facts and circumstances of the case to arrive at an appropriate and proportionate sanction.

C. Range of Sanctions

1. **Debarment with Conditional Release:** The purpose of debarment with conditional release is to encourage the Respondent's rehabilitation and to mitigate further fiduciary risk to WBG operations. Accordingly, the Respondent will only be released from debarment after (i) the defined minimum debarment period lapses, *and* (ii) the Respondent has demonstrated that it has met the conditions set by the Suspension and Debarment Officer (the "SDO"), relevant Evaluation Officer¹, or Sanctions Board, and detailed by the Integrity Compliance Officer (the "ICO"). Respondents may not be released prior to the end of the defined minimum debarment period, even if they meet the release conditions prior to the period's lapse. However, if specified at the time of sanction in the relevant sanctioning decision, compliance with certain conditions may lead to a reduction in the debarment period. For example, the decision-maker may consider specifying in a sanctioning decision imposing a debarment with conditional release with a minimum debarment period of more than 10 years that the Respondent may be released from debarment after 10 years if the Respondent has: (i) applied to the ICO requesting reduction of the debarment period; and (ii) demonstrated that it has met the conditions set by the SDO, relevant Evaluation Officer, or Sanctions Board, and detailed by the ICO.

Examples of conditions for release from debarment may include, but are not limited to, the following:

- i) implementation or improvement of integrity compliance measures;
- ii) remedial or corrective measures to address the misconduct for which the Respondent was sanctioned, including disciplinary action or termination of employee(s)/officer(s) responsible for the misconduct; and/or
- iii) in the case of an individual, the participation in and completion of a specified integrity training program.

In imposing conditions for release from debarment, decision-makers should consider the overall purposes of rehabilitation and mitigation of fiduciary risk to WBG operations. Decision-makers may also consider the Respondents' capacity to comply with such conditions, or, in the case of an individual Respondent, the seniority and experience of said individual.

2. **Debarment:** This sanction may be applied where, considering the goals of specific and general deterrence, the facts and circumstances of the case indicate that the imposition of conditions for release from debarment is either unnecessary or inappropriate to further protect WBG operations from fiduciary risk. In assessing the fiduciary risk to the WBG, the decision-makers may consider indicia such as, but not limited to, the severity and pervasiveness of the misconduct for which the Respondent

¹ The WBG's first-tier sanctions officers are as follows: the SDO for Bank cases and separate Evaluation Officers ("EOs") for cases arising under financings by each of the International Finance Corporation ("IFC"), the Multilateral Investment Guarantee Agency ("MIGA"), and the Bank's guarantee and carbon finance activities.

is being sanctioned, and whether the Respondent acknowledged the wrongdoing. Respondents may only be released after the end of the defined debarment period.

Factors to be considered in determining whether debarment without conditions is an

5. **Indefinite Debarment:** Indefinite debarment is generally only appropriate in cases where the misconduct is severe and there are no reasonable grounds for concluding that the Respondent can be rehabilitated through compliance or other conditionalities. Indefinite debarment would most commonly be applied to natural persons, companies closely held by such persons, and shell companies.
6. **Restitution:** Restitution (financial or otherwise) may be used in exceptional

Decision-makers have the discretion to apply the suggested increases and decreases below or, where justified by the facts and circumstances of the case, depart from the suggested values (years or percentages) to arrive at a sanction that is proportionate.

In cases involving multiple Respondents and/or affiliates in relation to the same Sanctionable Practice, the decision-makers should consider the proportionality of the sanctions among the parties based on their respective roles and degree of culpability or responsibility in the misconduct at issue.

F. Aggravating Factors

Suggested Increase	Aggravating Factor
1- 5 Years	<p>1. <u>Severity of the Misconduct</u> – Examples of this aggravating factor include, but are not limited to:</p> <ul style="list-style-type: none"> <li data-bbox="430 779 1421 913">(i) Multiple incidents of misconduct: Where multiple incidents of misconduct are not assessed to be cumulative, for example, where the multiple incidents are sufficiently factually interrelated, they may be considered a single Sanctionable Practice subject to aggravation. <li data-bbox="430 947 1421 1115">(ii) Sophisticated means: This includes the complexity of the misconduct (e.g., degree of planning, diversity of techniques applied, level of concealment); the number and type of people or organizations involved; if the scheme was developed or lasted over a long period of time; and if more than one jurisdiction was involved. <li data-bbox="430 1148 1421 1253">(iii) Central role in misconduct: Organizer, leader, planner, prime mover, or key facilitator in a group of 2 or more in connection with a Sanctionable Practice involving multiple actors. <li data-bbox="430 1287 1421 1348">(iv) Management’s role in misconduct: If a member of an entity’s high-level personnel participated in, condoned, or was willfully ignorant of

1-5 Years	<p>2. <u>Harm Caused by the Misconduct</u> – Examples of this aggravating factor include, but are not limited to:</p> <ul style="list-style-type: none"> (i) Harm to public safety/welfare: Where public health or safety is demonstrably endangered by the misconduct. This may be particularly egregious where the misconduct involved, or resulted in, a foreseeable risk of death or bodily injury. (ii) Degree of harm to project: Where the misconduct has resulted in demonstrable harm to WBG operations. Harm may include, but is not limited to, poor contract implementation (e.g., if the quality or quantity of the good or service performed under the contract does not reflect the terms of the contract, either immediately or over time); delays in project implementation or contract performance; financial harm; and serious operational and reputational damage.
1-3 Years	<p>3. <u>Interference with Investigation</u> – Examples of this aggravating factor include, but are not limited to:</p> <ul style="list-style-type: none"> (i) Interference with investigative process: Deliberately destroying, falsifying, altering, or concealing evidence material to the investigation, or making false statements to investigators in order to materially impede a WBG investigation, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the WBG’s contractual rights of audit or access to information. <p>In differentiating between the potential application of a Respondent’s interference as an aggravating factor and the inclusion of obstructive practice as an independent Sanctionable Practice, consideration may be given to (i) the degree of interference and its demonstrable impact on the investigation, and (ii) whether the interference relates to the otherwise sanctionable misconduct at issue.</p> <ul style="list-style-type: none"> (ii) Intimidation/payment of a witness: If a Respondent caused or threatened to cause injury to a witness, his or her assets, employment, reputation, family or significant others, or if the Respondent offered the witness a payment or an advantage in exchange for non-cooperation with the WBG.
1-3 Years	<p>4. <u>Breach of Confidentiality</u> Breaching confidentiality of the sanctions proceedings, as provided for in Section III.A, sub-paragraph 11.5 of the Sanctions Procedures.</p>
1-10 Years	<p>5. <u>Past History of Adjudicated Misconduct</u> Prior history must involve misconduct other than the misconduct for which the Respondent is being sanctioned. The prior history must also have resulted in a sanction or penalty imposed by the WBG or another Multilateral Development Bank where debarment decisions may be enforced.</p>

G. Mitigating Factors

Suggested Decrease	Mitigating Factor
Up to 25%	<p>1. <u>Minor Role in Misconduct</u>: Minor, minimal, or peripheral participant in the misconduct; if no individual with decision-making authority participated in, condoned, or was willfully ignorant of the misconduct; or for individual Respondents who did not play an active role in the misconduct.</p>
Up to 25%	<p>2. <u>Undue Pressure</u>: Situations where the Respondent has been subject to threats and/or intimidation exerted by a public official, a manager in charge of an individual Respondent, or a person otherwise in a position of authority over the Respondent, aimed at inducing the misconduct for which the Respondent is being sanctioned. The fact that the misconduct is acceptable under prevailing cultural or business norms does not justify mitigation.</p>
Up to 50%	<p>3. <u>Voluntary Corrective Action Taken</u> – Examples of this mitigating factor include, but are not limited to:</p> <ul style="list-style-type: none"> <li data-bbox="431 947 1424 1220">(i) Cessation of misconduct: The cessation of misconduct is relevant if it reflects genuine remorse and intention to reform, instead of a calculated step to reduce the severity of the sanction. This factor generally applies only to misconduct that involves an ongoing scheme, rather than misconduct that constitutes an isolated incident. The timing of the action may indicate the degree to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sanction. <li data-bbox="431 1251 1424 1755">(ii) Internal action to address the misconduct: Management or company representatives voluntarily take appropriate measures to address the misconduct, including taking appropriate disciplinary and/or remedial steps with respect to the relevant employee(s), agent(s), or representative(s), and/or undertaking a voluntary comprehensive investigation into the misconduct (regardless of whether the results were disclosed to INT). The timing of the action may indicate the degree to which it reflects genuine remorse and intention to reform, or a calculated step to reduce the severity of the sanction. This factor may also apply to individual Respondents depending on, among other things, the extent to which the individual voluntarily disclosed the misconduct to management, cooperated with management, undertook individual efforts to improve personal integrity (e.g., completion of credible ethics training), and/or accepted consequences imposed by management. <li data-bbox="431 1787 1424 1871">(iii) Integrity compliance program: Establishment or improvement of a credible integrity compliance program, and/or more robust implementation of an existing credible integrity compliance program,

	<p>should be given to full and affirmative acceptances of guilt or responsibility for misconduct. Admissions should be given more weight the earlier that they are provided in an investigation or subsequent sanctions proceedings.</p> <p>(iv) Voluntary restraint: Voluntary restraint from bidding on WBG-financed tenders, or otherwise engaging in projects financed or co-financed by the WBG, may also be considered as a form of assistance and/or cooperation.</p>
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SECTION IV – OTHER PROVISIONS

N/A

SECTION V – TEMPORARY PROVISIONS

N/A

SECTION VI – EFFECTIVE DATE

This Guidance is effective as of the date on its cover page.

This Guidance was issued on January 1, 2011, and updated and revised on the Effective Date.

- (a) This Guidance shall apply to:
 - (i) all proceedings for which a Notice is issued by the SDO or EO on or after the Effective Date; and
 - (ii) any settlement in respect of which a request for a stay or a settlement agreement is submitted to the SDO or EO on or after the Effective Date.

SECTION VII – ISSUER

Managing Director and WBG Chief Administrative Officer

SECTION VIII – SPONSOR

Senior Vice President and World Bank Group General Counsel

SECTION IX – RELATED DOCUMENTS

3. Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects
4. Bank Procedure: Release from Permanent Debarment Imposed on Certain Individuals
5. IFC Sanctions Procedures
6. MIGA Sanctions Procedure
7. World Bank Private Sector Sanctions Procedure

SECTION X – REVISION HISTORY