

Procedure: Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects

Bank Access to Information Policy Designation

Public

Catalogue Number

MDCAO6.03-PROC.106

Issued

6/28/2016

Effective

1/7/2016

Last Revised On

Content

Set out the procedures to be followed in the administrative process by which the Bank determines whether or not to sanction parties alleged to have engaged in a Sanctionable Practice in connection with a Bank Financed Project.

Applicable to

IBRD;IDA

Issuer

Managing Director and Chief Administrative Officer, MDCAO

Sponsor

Senior Vice President and General Counsel, LEGVP

SECTION I - PURPOSE AND APPLICATION

1. This Procedure sets out the procedures to be followed in the administrative process by which the Bank determines, through sanctions proceedings or settlements, whether or not to sanction parties alleged to have engaged in a Sanctionable Practice in connection with a Bank Financed Project.
2. This Procedure applies to the Bank.

SECTION II - DEFINITIONS

As used in this Procedure, the following terms have the following meanings:

- a. **Affiliate:** any legal or natural person that controls, is controlled by, or is under common control with, the Respondent, as determined by the Bank.
- b. **Anti-Corruption Guidelines:** (i) the "Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants" dated as of October 15, 2006, as the same may be amended, supplemented or otherwise revised from time to time, (ii) the "Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing," dated February 1, 2012, as the same may be amended, supplemented or otherwise revised from time to time, or (iii) any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with these Procedures.
- c. **Bank Carbon Finance Project:** a project, involving the purchase by the Bank, as trustee of a carbon fund, of emission reductions under an agreement between the Bank, as trustee of a carbon fund, and a seller providing for the sale and purchase of emission reductions.
- d. **Bank Guarantee Project:** an investment project in connection with which IBRD or IDA (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has issued a guarantee.
- e. **Bank Financed Projects:** an investment project or a program for results operation, for which IBRD or IDA (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has provided financing in the form of a loan, credit or grant and governed by the Bank's Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines.
- f. **Consultant Guidelines:** (i) the January 1997, May 2002 or May 2004 edition of the document entitled "Guidelines: Selection and Employment of Consultants by World Bank Borrowers", or (ii) the document entitled "Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants dated January 2011, as the case may be, as amended, supplemented or otherwise revised from time to time, (ii) or any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with these Procedures.
- g. **Days:** calendar days, unless stated otherwise.
- h. **Evaluation Officers:** the Evaluation and Suspension Officers for cases governed by the IFC Sanctions Procedures, the MIGA Sanctions Procedures or World Bank Private Sector Sanctions Procedures, respectively.
- i. **INT:** the Integrity vice Presidency of the World Bank Group; and the Integrity Vice President: the head thereof.
- j. **IFC Sanctions Procedures:** the procedures set out in the document entitled "IFC Sanctions Procedures", as the same may be amended, supplemented or replaced from time to time.
- k. **Material Term:** as defined in the VDP Terms and Conditions.

- l. **MIGA Sanctions Procedures:** the procedures set out in the document entitled "MIGA Sanctions Procedures", as the same may be amended, supplemented or replaced from time to time.
- m. **Notice:** Notice of Sanctions Proceedings or Notice of Temporary Suspension, as the case may be.
- n. **Notice of Sanctions Proceedings:** the document containing INT's accusations of one or more Sanctionable Practices issued by the SDO to a named firm or individual together with the sanction recommended by the SDO in accordance with sub-paragraph 4.01 of Section III.A.
- o. **Notice of Temporary Suspension:** the document containing INT's accusations of one or more Sanctionable Practices issued by the SDO to a named firm or individual in accordance with sub-paragraph 2.01 of Section III.A.
- p. **Procurement Guidelines:** (i) the January 1995 or May 2004 edition of the document entitled "Guidelines: Procurement under IBRD Loans and IDA Credits", or (ii) the document entitled "Guidelines: Procurement of Goods, Works and Non-Consulting Services under IBRD Loans and IDA Credits and Grants" dated January 2011, as the case may be, as amended, supplemented or revised from time to time, or (iii) any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with this Procedure.
- q. **Respondent:** an entity or individual alleged to have engaged in a Sanctionable Practice and who has been designated as such in a Notice, or in a settlement agreement. In cases involving more than one such entity or individual, the term "Respondent" refers, individually and collectively, to all such entities and individuals.
- r. **Sanctionable Practice:** (i) with respect to any case under sub-paragraph 1.01(c)(i) of Section III.A, a corrupt, fraudulent, coercive, collusive or obstructive practice, as such terms are defined in the Anti-Corruption Guidelines, Procurement Guidelines or Consultant Guidelines, as the case may be, under which such case is being brought (see Annex A); (ii) with respect to any case under sub-paragraph 1.01(c)(ii) of Section III.A, a corrupt, fraudulent, coercive, collusive or obstructive practice, as defined in the World Bank Vendor Eligibility Policy in connection with the Bank's corporate procurement; (iii) with respect to any case under sub-paragraph 1.01(c)(iii) of Section III.A, a violation of a Material Term, as defined in the VDP Terms & Conditions; and (iv) with respect to any case under sub-paragraph 1.01(c)(iv) of Section III.A, a violation of sub-section 11.05 of Section III.A.
- s. **Sanctions Board:** the World Bank Group Sanctions Board, and **Sanctions Board Chair:** the Chair of said Board. In respect of cases where the Sanctions Board Chair has convened a panel pursuant to paragraph 7 of Section III.A of the Sanctions Board Policy, and unless the context otherwise requires, the term "Sanctions Board" means the Sanctions Board Panel so convened, and "Sanctions Board Chair" means the Chair of said Panel.
- t. **Sanctions Board Policy:** World Bank Group Policy: Sanctions Board Statute.
- u. **Sufficient evidence:** evidence sufficient to support a reasonable belief, taking into consideration all relevant factors and circumstances, that it is more likely than not that the Respondent has engaged in a Sanctionable Practice.

action or decision is to be taken by the Bank, it is understood that such action or decision shall be taken by the appropriate officer(s) of the Bank in accordance with its policies and procedures.

- y. **World Bank Group or WBG:** collectively, the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). For avoidance of doubt, the term "World Bank Group" includes Bank Guarantee Projects and Bank Carbon Finance Projects, but does not include the International Centre for the Settlement of Investment Disputes (ICSID).
- z. **World Bank Private Sector Sanctions Procedures:** the procedures set out in the document entitled "World Bank Private Sector Sanctions Procedures", dated October 8, 2013, as the same may be amended, supplemented or replaced from time to time.
- aa. **World Bank Vendor Eligibility Policy:** the policy so denominated in Annex B of the World Bank Group Corporate Procurement Policy and Procedures Manual, dated November 2012, as amended, supplemented or otherwise revised from time to time, or any similar instrument which may replace such policy, under which a case may be brought in accordance with this Procedure.

SECTION III - SCOPE

A. Proceedings

1. Introductory Provisions

1.01. Legal Basis and Purpose of these Procedures

(a) *Fiduciary Duty.* It is the duty of the World Bank, under its Articles of Agreement, to make arrangements to ensure that funds provided by the Bank are used only for their intended purposes. In furtherance of this duty, the World Bank has established a regime for the sanctioning of firms and individuals that are found to have engaged in specified forms of fraud and corruption in connection with Bank-Financed Projects (as herein defined, "Sanctionable Practices"). This regime protects Bank funds and serves as a deterrent upon those who might otherwise engage in the misuse of the proceeds of Bank financing.

(b) *Approval by Executive Directors.* The Executive Directors of the Bank approved, on July 9, 2004 and August 1, 2006, certain recommendations pertaining to the reform of the World Bank sanctions regime, including the adoption of a two-tier sanctions process conducted by an Evaluation Officer and the World Bank Group Sanctions Board.^[1] The Executive Directors of the Bank approved the mutual enforcement of debarment decisions among multilateral development banks on March 19, 2010. The Executive Directors of the Bank further approved, as of October 28, 2010, the expansion of the sanctions regime to include cases involving fraud and corruption in connection with the Bank's corporate procurement. The aforementioned reforms are embodied in these Procedures.

(c) *Cases Subject to these Procedures.* This Procedure sets out the procedures to be followed in cases involving Sanctionable Practices:

- (i). in connection with Bank-Financed Projects;
- (ii). on the basis of which the Director, General Service Department (GSD) has determined, in accordance with the World Bank Vendor Eligibility Policy, that the Respondent is non-responsible;
- (iii). arising from the violation of a Material Term of the Terms & Conditions of the Voluntary Disclosure Program (VDP); and
- (iv). arising from violations of sub-paragraph 11.05 of this Section III.A.

1.02. Interpretation

(a) *Use of Terms.* Unless the context otherwise requires, any term used in this Procedure in the singular

includes the plural, and the plural includes the singular; pronouns of a particular gender include the other gender.

(b) *References and Headings.* The headings of paragraphs and sub-paragraphs of this Procedure are for ease of reference only and do not constitute interpretations of the text hereof. Unless otherwise expressly indicated, references in this Procedure to paragraphs or sub-paragraphs refer to paragraphs or sub-paragraphs hereof.

(c) *Questions as to Proper Interpretation.* If any question arises as to the proper interpretation of any provision of this Procedure or of the Procurement, Consultant or Anti-Corruption Guidelines, the SDO or the Sanctions Board may consult with the World Bank Group General Counsel for advice.

2. Temporary Suspension Prior to Sanctions Proceedings

2.01. Issuance of a Notice of Temporary Suspension

(a) *Submission by INT.* If, before INT concludes an investigation, the Integrity Vice President believes that there is sufficient evidence to support a finding of a Sanctionable Practice against a Respondent and that it is highly likely that the investigation will be successfully concluded and a Statement of Accusations and Evidence will be presented to the SDO within a maximum period of one year, INT may present to the SDO a Request for Temporary Suspension consisting of the elements cited in sub-paragraph 3.01(b), mutatis mutandis. INT shall accompany any such Request for Temporary Suspension with a description of the current progress of the ongoing investigation, including any evidence that remains to be gathered, together with a good faith estimate of the time required to complete its investigation and present a Statement of Accusations and Evidence to the SDO in accordance with sub-paragraph 3.01, which may not exceed one year. INT shall further represent to the SDO that the investigation is being pursued with due diligence and dispatch.

(b) *Contents of a Notice of Temporary Suspension.* A Notice of Temporary Suspension shall contain the elements cited in sub-paragraph 4.01(b)(ii) through (iv).

(c) *Issuance of the Notice of Temporary Suspension.* If the SDO determines that:

- (i). there is sufficient evidence to support a finding that the Respondent has engaged in a Sanctionable Practice, and
- (ii). had the accusations been included in a Statement of Accusations and Evidence, the SDO would recommend, as an appropriate sanction for such Sanctionable Practice, debarment for a minimum period of no less than two years,

then, the SDO shall issue the Notice of Temporary Suspension to the Respondent and notify the persons specified in sub-paragraph 10.02.[\[2\]](#)

(d) *Withholding of Certain Evidence.* The SDO may, in his or her discretion and upon request by INT, withhold from the Respondent particular materials submitted in evidence upon a showing by INT that there is a reasonable basis to conclude that (i) the disclosure of such evidence would have a material adverse effect on the investigation, and (ii) the Respondent would retain the ability to mount a meaningful response to the accusations against it notwithstanding the withholding of such evidence. The SDO shall inform INT of his or her decision and allow INT an opportunity to request the withdrawal of the Request for Temporary Suspension if the SDO determines that such materials should not be withheld.

2.02. Effect of Temporary Suspension

Upon issuance of the Notice of Temporary Suspension by the SDO, the Respondent[\[3\]](#) shall be temporarily suspended from eligibility, with the same effect as if it had been debarred under sub-paragraph 9.01(c) below. Except as specified above, the provisions of sub-paragraph 4.02(d) and (e) shall apply to temporary suspensions under this paragraph 2.

2.03. Respondent's Explanation in Opposition to Temporary Suspension

Within thirty (30) days after the date of delivery of the Notice of Temporary Suspension, the Respondent

(iii). INT's summary of the facts constituting the Sanctionable Practice and the grounds for sanctioning any designated Affiliates; and

(iv). the evidence in support of its accusations, together with any exculpatory or mitigating evidence, as required by sub-paragraph 3.02.

3.02. Disclosures of Exculpatory or Mitigating Evidence

In submitting a Statement of Accusations and Evidence to the SDO, INT shall present all relevant evidence in INT's possession that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability. If any such evidence comes into INT's possession subsequently, such evidence shall be disclosed by written submission to the SDO or Sanctions Board, as the case may be.

4. Commencement of Proceedings

4.01. Issuance of Notice of Sanctions Proceedings

(a) *Issuance of Notice.* If the SDO determines that INT's accusations in the Statement of Accusations and Evidence are supported by sufficient evidence, the SDO shall issue a Notice of Sanctions Proceedings to the Respondent, with copies to the Sanctions Board Chair and the Integrity Vice President.

(b) The Notice shall:

(i). set out the sanction(s) recommended by the SDO in accordance with sub-paragraph 4.01(c);

(ii). if applicable, inform the Respondent of its temporary suspension and the manner in which it may provide an Explanation;

(iii). inform the Respondent of the manner in which it may contest the accusations and/or the recommended sanction__

(b) *Respondent's Explanation.* Within thirty (30) days after delivery of the Notice, the Respondent may provide a written explanation (the "Explanation") to the SDO as to why the Notice should be withdrawn or the recommended sanction revised by the SDO pursuant to sub-paragraph 4.03. The Explanation shall consist of a single document not exceeding twenty (20) single-sided pages, unless the SDO approves a longer submission, and shall present arguments by the Respondent and attach any credible evidence in support thereof. The provisions of sub-paragraphs 5.02 (a) and (b) and 5.03 shall apply, mutatis mutandis, to the Explanation.^[9] The SDO shall provide the Integrity Vice President and the Secretary to the Sanctions Board with a copy of any Explanations received.

(c) *Termination of Temporary Suspension.* Within thirty (30) days after receipt of the Explanation, and upon consideration of the arguments and evidence presented therein, the SDO may decide to terminate the temporary suspension. The SDO shall promptly notify the Respondent, the Chair of the Sanctions Board, and the Integrity Vice President of such termination and the reasons therefor.

(d) *Application of Temporary Suspension to World Bank Group Operations.* Temporary suspensions imposed by the SDO shall apply to the operations of IFC, MIGA, and to Bank Guarantee Projects and Bank Carbon Finance Projects. To this end, the SDO shall notify the persons specified in sub-paragraph 10.02.

(e) *Posting of Temporary Suspensions.* Temporary suspensions shall be posted on the Bank's Client Connection website.

4.03. Other Actions Subsequent to the Submission of an Explanation

(a) *Withdrawal of Notice; Revision of Recommended Sanction.* Within thirty (30) days after receipt of an Explanation, the SDO may:

- (i). withdraw the Notice upon concluding that there is manifest error or other clear basis for supporting a finding of insufficiency of evidence against the Respondent, or
- (ii). revise the recommended sanction in light of evidence or arguments as to mitigating factors presented by the Respondent.

(b) *Notice and Closure of Proceedings.* The SDO shall notify the Respondent, the Integrity Vice President and the Chair and the Secretary to the Sanctions Board of the withdrawal or revision and the reasons therefor. In the case of a withdrawal, the proceedings shall be closed.

(c) *Resubmission of Notice.* In the event a Notice is withdrawn, INT may submit a revised Statement of Accusations and Evidence on the basis of additional information not contained in the original Notice, in which case the matter shall proceed in accordance with the procedures set forth in this paragraph 4.

4.04. Sanctions in Uncontested Proceedings

If the Respondent does not contest the accusations or the sanction recommended by the SDO in the Notice within ninety (90) days after delivery of the Notice in accordance with sub-paragraph 5.01(a), the sanction(s) recommended by the SDO in the Notice shall enter immediately into force. The SDO shall promptly notify the Respondent, the Secretary to the Sanctions Board and the Integrity Vice President thereof.

5. Referrals to the Sanctions Board

5.01. Written Submissions to the Sanctions Board

(a) *Respondent's Response to Notice of Sanctions Proceedings.* Within ninety (90) days after delivery of the Notice, the Respondent may contest the case by submitting to the Sanctions Board, through the Secretary to the Sanctions Board, a written response to the accusations and/or the recommended sanction contained in the Notice (the "Response"), including written arguments and evidence. The Secretary shall notify the Sanctions Board Chair, the SDO and the Integrity Vice President of the receipt of such Response, together with a copy thereof, and the matter shall be referred to the Sanctions Board for its review and decision pursuant to the Sanctions Board Policy and this Procedure.

sole discretion, may redact particular parts or pieces of evidence presented to the Respondent or the Sanctions Board, by: (i) removing references to WBG staff; and (ii) removing references to other third parties (together with other material that would permit such third parties to be identified), in cases where the identity of such parties is either not relevant or not germane to the case. The Respondent may challenge such redaction in its Response under sub-paragraph 5.01(a), in which case the Sanctions Board shall review the unredacted version of such evidence to determine whether the redacted information is necessary to enable the Respondent to mount a meaningful response to the allegations against it. In the event that the Sanctions Board determines that the redacted information is necessary, the unredacted version of the evidence in question will be made available to the Respondent in accordance with sub-paragraph (e) below, and the Respondent shall be afforded an opportunity to comment thereon in an additional submission under sub-paragraph 5.01(c).

(e) *In Camera Review of Certain Materials.* Upon request by INT, the Sanctions Board may provide that certain pieces of evidence be made available to the Respondent solely for review at a designated Bank country office or such other place as the Sanctions Board Chair may designate for such purpose. The Respondent may request the Sanctions Board Chair, in consultation with INT, to designate another place upon a showing that review at such location would present an undue burden. Such materials shall be available for review during normal business hours, for as long as the Respondent may reasonably request, but the Respondent shall not be authorized to make copies of such materials.

6. Hearings

6.01. Applications for a Hearing

Upon request by the Respondent in its Response or by INT in its Reply, or upon decision by the Sanctions Board Chair, the Sanctions Board will hold a hearing on the accusations against the Respondent. The Secretary, after consulting with the Chair, shall provide the Respondent and the Integrity Vice President reasonable notice of the date, time and location of the hearing. If no hearing is held, the Sanctions Board shall review the case and render its decision on the basis of the existing record, in accordance with sub-paragraph 8.02(a).

6.02. Representation at Hearings

INT shall be represented in a sanctions proceeding by one or more representatives who may or may not be employees of the World Bank Group. A Respondent may be self-represented or represented by an attorney or any other individual authorized by the Respondent, at the Respondent's own expense.

6.03. Conduct of Hearings

(a) *Attendance.* The representatives of INT, the Respondent and the Respondent's representatives may be present throughout the hearing. The hearing shall remain confidential and shall not be open or available to the public. Neither the representatives of INT nor the Respondent nor the Respondent's representatives shall be present for, or participate in, the deliberations of the Sanctions Board.

(b) *Presentations by the Parties.* Presentations to the Sanctions Board shall be subject to the following rules:

- (i). *Order.* INT shall present its case first. The Respondent or Respondent's representative shall present the Respondent's case second. INT shall be permitted to reply to the Respondent's case.
- (ii). *Length.* The Sanctions Board Chair shall set a reasonable period of time for each presentation.
- (iii). *Form.* Presentations shall be informal. They shall be limited to arguments and evidence contained in the written submissions filed with the SDO and/or the Sanctions Board, and may rely upon or refute individual items of evidence.
- (iv). *Live Testimony.* No live witness testimony shall be taken, except that one or more witnesses may be called and questioned by members of the Sanctions Board only. The Respondent or its authorized representative may make a statement during the hearing. There shall be no cross-examination, although rebuttal evidence may be presented during the hearing.

(V). *Matters Relating to the Sanction*. INT and the Respondent may present evidence of mitigating or aggravating factors relating to the appropriateness of a particular sanction.[\[12\]](#)

(c) *Response to Questions*. The representative of INT and the Respondent or Respondent's representative shall be subject to questions by the members of the Sanctions Board. A party's refusal to answer, or failure to answer truthfully or credibly, may be construed against that party.

7. Evidence

7.01. Forms of Evidence

Any kind of evidence may form the basis of arguments presented in a sanctions proceeding and conclusions reached by the SDO or the Sanctions Board. The SDO and the Sanctions Board shall have discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered. Hearsay evidence or documentary evidence shall be given the weight deemed appropriate by the SDO or the Sanctions Board. Without limiting the generality of the foregoing, the SDO and the Sanctions Board shall have the discretion to infer purpose, intent and/or knowledge on the part of the Respondent, or any other party, from circumstantial evidence. Formal rules of evidence shall not apply.

7.02. Privileged Materials

Communication between an attorney, or a person acting at the direction of an attorney, and a client for the purpose of providing or receiving legal advice and writings reflecting the mental impressions, opinions, conclusions or legal theories of an attorney in connection with a legal representation shall be privileged and exempt from disclosure.

7.03. No Discovery

Except as expressly provided for in this Procedure, the Respondent shall have no right to review or obtain any information or documents in the Bank's possession.

8. Decisions by the Sanctions Board

8.01. Sanctions Board Decisions

The Sanctions Board shall determine, based on the record, whether or not it is more likely than not that the Respondent engaged in one or more Sanctionable Practices; and:

- (i). if the Sanctions Board determines that it is not more likely than not that the Respondent engaged in a Sanctionable Practice, the proceedings shall be terminated.[\[13\]](#)
- (ii). if the Sanctions Board determines that it is more likely than not that the Respondent engaged in one or more Sanctionable Practices, it shall impose an appropriate sanction or sanctions on the Respondent, which sanction(s) shall be selected from the range of possible sanctions identified in sub-paragraph 9.01. In determining the appropriate sanction(s), the Sanctions Board shall not be bound by the recommendation of the SDO.

In either case, the Sanctions Board shall issue a written decision setting forth a recitation of the relevant facts, its determination as to the culpability of the Respondent, any sanction to be imposed on the Respondent and its Affiliates and the reasons therefor.

8.02. Determinations by the Sanctions Board

(a) *Record as Sole Basis for Determinations*. The review and deliberation of the Sanctions Board shall be restricted to the record consisting of the Notice, the Explanation (if any), the Response, the Reply, all other related written submissions of arguments and evidence, and all arguments presented at any hearing before the Sanctions Board. The record shall be confidential and not be available to the public.

(b) *Standard and Burden of Proof*.

(i) *Standard of Proof.* The Sanctions Board shall determine whether the evidence presented by INT, as contested by the Respondent, supports the conclusion that it is more likely than not that the Respondent engaged in a Sanctionable Practice. "More likely than not" means that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the Respondent engaged in a Sanctionable Practice.

(ii) *Burden of Proof.* INT shall have the burden of proof to present evidence sufficient to establish that it is more likely than not that the Respondent engaged in a Sanctionable Practice. Upon such a showing by INT, the burden of proof shall shift to the Respondent to demonstrate that it is more likely than not that the Respondent's conduct did not amount to a Sanctionable Practice.

8.03. Entry into Force and Final Nature of Sanctions Board Decisions

The decision of the Sanctions Board shall be final and without appeal, and shall be binding on the parties to the proceedings. The decision shall take effect immediately, without prejudice to any action taken by any government under its applicable law.

9. Sanctions

9.01. Range of Possible Sanctions

(a) *Reprimand.* The sanctioned party is reprimanded in the form of a formal "Letter of Reprimand" of the sanctioned party's conduct.

(b) *Conditional Non-Debarment.* The sanctioned party is required to comply with certain remedial, preventative or other conditions as a condition to avoid debarment from World Bank Group projects. Conditions may include (but are not limited to) verifiable actions taken to improve business governance, including the adoption or improvement and implementation of an integrity compliance program, restitution and/or disciplinary action against or reassignment of employees.

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practicable, and thereafter promptly notify the sanctioned party of such determination and the basis therefor. In the case of a determination by the Integrity Compliance Officer of non-compliance with conditions for non-debarment, a debarment with conditional release (the conditions for release being those originally stipulated for non-debarment) would automatically become effective for a period of time established by the SDO or the Sanctions Board, as the case may be, with such debarment also resulting in debarment across the World Bank Group as outlined in sub-paragraph 9.01(c). In the case of a determination of non-compliance with conditions for release, the Integrity Compliance Officer shall specify a continuation of the period of debarment, for a period not to exceed one (1) year, after which the sanctioned party may again apply for release in accordance with sub-paragraph (c) above. A written determination of non-compliance, with reasons therefor, will be issued to the sanctioned party. In the case of a determination by the Integrity Compliance Officer that the sanctioned party has complied with all conditions for non- debarment or release, as applicable, the sanctioned party shall, from the date of such determination or such other date as the Integrity Compliance Officer may specify, be released from further obligation under the terms of the conditional non-debarment or debarment with conditional release, as the case may be.

(e) *Appeals of Compliance Determinations.* Determinations of non-compliance by the Integrity Compliance Officer may be appealed by a sanctioned party as follows:

- (i). No later than thirty (30) days after a determination of non-compliance by the Integrity Compliance Officer, the sanctioned party may request in writing that the Sanctions Board review such determination. Any such request shall set forth the reasons why the sanctioned party believes that in making his/her determination the Integrity Compliance Officer committed an abuse of discretion. The sanctioned party shall append to its request the Application and the Integrity Compliance Officer's determination of non-compliance. The sanctioned party's request for review may be accompanied by additional evidence and arguments in response to the stated grounds for the determination of non- compliance.
- (ii). Within ninety (90) days after receipt of such request, and upon consideration of the arguments and evidence presented therein, the Sanctions Board shall decide whether the Integrity Compliance Officer committed an abuse of discretion in the determination of non-compliance. The Sanctions Board may consult with the Integrity Compliance Officer in making any such decision.
- (iii). In the event that the Sanctions Board determines that the Integrity Compliance Officer committed an abuse of discretion in the determination of non-compliance, such determination shall be rescinded and the conditions for non-debarment or release, as the case may be, shall be deemed complied with by the sanctioned party. However, in the event that the Sanctions Board determines that the Integrity Compliance Officer did not commit an abuse of discretion, the determination of non-compliance shall remain in effect as provided in sub-paragraph (d) above.
- (iv). For purpose of this sub-paragraph (e), the Integrity Compliance Officer commits an 'abuse of discretion' in making a determination of non-compliance if the determination (1) lacks an observable basis or is otherwise arbitrary, (2) is based on disregard of a material fact or a material mistake of fact, or (3) was taken in material violation of the procedures set out in this sub-paragraph 9.03.

(f) *Default by the Sanctioned Party.* In the event that a sanctioned party (i) fails to timely submit an Application with respect to conditions for non-debarment or for release, or (ii) fails to fully cooperate with any verification of compliance conducted under Section 9.03(d), the sanctioned party shall be deemed not to have complied with the relevant conditions for non-debarment or for release; provided, however, that the Integrity Compliance Officer may, in his or her sole discretion, agree to accept an Application within a reasonable period after the deadline therefor upon a showing by the sanctioned party of sufficient reasons for its late submission. A determination of non-compliance by reason of default shall not be subject to review.

9.04. Scope of Sanctions

(a) *Select Sanctioning of Divisions of a sanctioned party.* When a sanction is imposed on an entity, the Sanctions Board or SDO may decide, based on arguments and evidence in the record, to limit the application of the sanction to a particular division or other business unit thereof.

(b) *Imposition of Sanctions on Affiliates.* When a sanction is imposed on a Respondent, appropriate sanctions may also be imposed on any Affiliate of the Respondent. If the SDO temporarily suspends and/or recommends the imposition of a sanction on an Affiliate of the Respondent that controls or is under common control with the Respondent, the SDO shall provide such Affiliate with a copy of the relevant Notice in accordance with the provisions of sub-paragraph 11.04. Such Affiliate(s) shall have procedural rights hereunder equivalent to those of the Respondent, except that any Preliminary Explanation, Explanation, Response or other formal submission shall be consolidated with that of the Respondent unless the SDO or the Sanctions Board, as the case may be, determines, as a matter of discretion, to permit an independent submission.

(c) *Successors and Assigns.* Any sanction imposed shall apply to the sanctioned party's successors and assigns, as determined by the Bank. Such determinations may be appealed by the party(ies) affected thereby in accordance with sub-paragraph 9.03(e), mutatis mutandis; provided, however, that no such appeal shall stay or otherwise affect determinations of eligibility taken by the Bank in accordance with its operational procurement policies prior to a decision by the Sanctions Board.

10. Disclosure

10.01. Disclosure to the Public

(a) *Disclosure of Sanctions.* Information concerning the identity of each sanctioned party and the sanctions imposed shall be publicly disclosed.

(b) *Publication of Sanctions Board Decisions and SDO Determinations.* The full text of the decisions of the Sanctions Board, as well as the determinations of the SDO in uncontested proceedings, shall be publicly disclosed.

(c) *Law Digests.* The Sanctions Board will publish and update, on a periodic basis, a digest of such aspects of its decisions that it deems illustrative of the legal principles it has applied in reaching its decisions.

10.02. Distribution of Decisions, Determinations and Settlements within the World Bank Group

The decisions of the Sanctions Board, determinations of the SDO in uncontested proceedings, and notice of the imposition of sanctions pursuant to settlement agreements shall be transmitted by the Secretary to the Sanctions Board or the SDO, as the case may be, to the Respondent, INT, the Integrity Compliance Officer, the Evaluation Officers; the Executive Directors representing the borrower concerned and the country of the Respondent; WBG Senior Management; the General Counsels of the Bank, IFC and MIGA; and the Director, GSD; the relevant Country Director(s) and Regional Vice President(s); and such other units or persons within the World Bank Group as the Sanctions Board Chair or the SDO may determine.

10.03. Sharing of Materials with Third Parties

(a) *Sharing of Materials with Other Organizations or Agencies.* The Bank may, at any time, make materials submitted by INT or the Respondent to the SDO and/or the Sanctions Board available to another multilateral development bank or other international or multinational organization, or to national development agencies or the investigative or prosecuting authorities of its member countries, if the Bank determines that doing so would be in the best interests of the Bank; provided that the recipient of such materials agrees to keep them confidential on terms and conditions acceptable to the Bank.

(b) *Sensitive Materials; Withholding of Certain Information.* In determining whether to approve the sharing of information under this paragraph 10, the Bank shall consider, among other factors, the standard for withholding sensitive materials set forth in sub-paragraph 5.04(c). The Bank shall withhold information if it determines that sharing such information would violate any undertaking by the Bank in favor of a VDP participant.

10.04. Sharing of Investigative Materials

For avoidance of doubt, nothing in this paragraph 10 shall prohibit or otherwise restrict the ability of the Bank to share information obtained by the Bank in the course of an investigation with parties identified in

period specified in the agreement, so long as the Respondent remains in compliance with such conditions. Unless the agreement otherwise expressly provides, upon expiration of the deferral period and compliance by the Respondent with all conditions specified therefore in the agreement, the case shall be closed. All statute of limitations and other time periods specified in these Procedures shall be tolled during the pendency of such deferral.

(c) Unless the settlement agreement otherwise expressly provides, compliance by the Respondents with the terms and conditions thereof shall be deemed conditions for release from debarment or conditions for non-debarment, as the case may be.

(d) If a settlement agreement is to become effective prior to the commencement of sanctions proceedings, the terms of the agreement shall have the same effect as if sanctions proceedings had been commenced and concluded with the outcome, including the imposition of such sanction(s) on the parties thereto, as may be specified in the agreement.

(e) Any other term of the settlement agreement shall be given such effect as may be specified in the agreement.

4. Compliance with Settlement Agreements

Unless the settlement agreement expressly provides otherwise, all determinations as to the compliance by the Respondent(s) with the terms and conditions of the settlement agreement, and any controversy between the parties as to the interpretation or performance thereof, shall be taken by INT, subject to a right of appeal in accordance with the provisions of sub-paragraph 9.03(e) of Part A of this Section, mutatis mutandis. In the case of settlement agreements providing for a deferral of proceedings under sub-paragraph 3 (b) of this Part B, if INT determines that any Respondent has violated the settlement agreement, the case shall be re-opened and resume at the point at which it had been deferred.

C. Rules on Delivery and Submission of Notices and Other Materials in World Bank Sanctions Proceedings

In accordance with sub-paragraph 11.04(a) of Part A of this Section,[\[17\]](#) the following rules govern the delivery of Notices and the delivery and submission of other materials in World Bank sanctions proceedings:

1. **Issuance of Notices.** Notices are deemed issued, and temporary suspensions are imposed, as of the date on which the SDO deposits the Notice with the postal or courier service.

2. **Delivery of Notices by Mail or Courier:** Notices will be delivered by certified mail or courier service to the address designated by INT 387.01 Tm /F2 10.5 Tdchic /F2 10ef1 5 387.0ollred by cerequid ma 501 Ofiemereceipt

addressed to the Respondent, will be deposited at the last known address or place of business of the Respondent informing the Respondent that the Bank has attempted to deliver a Notice and that the Notice can be obtained by contacting the SDO by mail, telephone, email or fax. The letter will indicate that a temporary suspension has been imposed on the Respondent, subject to the Respondent's right to provide an Explanation within 30 days after the letter is deposited. If the letter relates to a Notice of Sanctions Proceedings, the letter will also advise the Respondent that the Respondent will be sanctioned as recommended by the SDO if the Respondent fails to submit a Response within 90 days of deposit. The date of deposit of the letter will be verified either by the signature of the person receiving the letter at the designated address or by the written confirmation of the courier (or other person who undertakes to deposit the letter) that the letter has been deposited at the designated address (with or without signature of a recipient).

7. If the last known address of a Respondent cannot be verified as current as of no more than one year prior to the issuance of the Notice, then in addition to the deposit of the sealed letter described above, the Bank will post on its website for a period of no less than 30 calendar days a public notice that it is attempting to locate the Respondent, with delivery deemed to occur on the last day of the posting period.

8. If there is no known address for a Respondent, the Bank will post on its website for a period of no less than 30 calendar days a public notice that it is attempting to locate the Respondent, with delivery deemed to occur on the last day of the posting period.

9. Calculation of Time Periods for Respondents' Submissions. The time periods for submission of Explanations and Responses shall be calculated from the date of delivery of the Notice. Notices are deemed delivered upon completion of the steps set out above.

10. Submission of Explanations and Responses. Explanations and Responses are deemed submitted on the date received by the SDO or the Secretary of the Sanctions Board, as the case may be. Subject to a Respondent's right to request an extension under sub-paragraph 4.02(b) or sub-paragraph 5.02(b) of Part A of this Section, as applicable, documents received after midnight Washington, D.C. time on the due date will not be considered timely submitted. In the event of an Explanation or Response received after the relevant due date, a Respondent may petition the SDO or the Sanctions Board Chair for a waiver of the relevant due date if the Respondent can demonstrate to the SDO or the Chair's satisfaction that the late submission was due to force majeure such as serious illness or natural disaster, or that the document was posted in sufficient time to arrive in a timely fashion under normal circumstances. In the event of a Response received after the applicable due date, any sanction imposed by the SDO pursuant to the operation of sub-paragraph 4.04 of Part A of this Section will remain in effect during the pendency of the Respondent's waiver request.

11. In the event that the contents of an Explanation or Response do not conform to the formal requirements thereof set out in the Sanctions Procedures, the SDO or the Chair of the Sanctions Board shall decide, in his or her discretion, whether or not to accept such submission notwithstanding the non-conformity.

12. Use of Electronic Means. The SDO or the Secretary of the Sanctions Board may, in their discretion, accept submission of materials by electronic means.

13. Death or Dissolution of the Respondent. In the event that a Respondent, if a natural person, has died, or if an entity, has been dissolved, any issued Notice is deemed null and void with respect to that Respondent. INT may, however, submit a new proposed Notice against an appropriate successor or assign of a Respondent, as determined by the Bank. The death or dissolution of one Respondent will not have any effect on the case(s) against any other Respondent(s).

14. Mistaken Identity. If a Respondent can establish to the SDO's satisfaction that it is not ts. lourF2 10r0 1o62 10j /-

16. **Other Matters.** Any issue that may arise in a case concerning the delivery or submission of materials in sanctions proceedings not addressed by these rules may be decided by the SDO or the Secretary of the Sanctions Board, as the case may be, in their discretion.

[1] The Executive Directors also endorsed, on August 1, 2006, the establishment of a Voluntary Disclosure Program (VDP). For information regarding the VDP, please go to www.worldbank.org/vdp.

[2] The SDO's issuance of a Notice of Temporary Suspension shall be subject to the statute of limitations set out in Section 4.01(d), with the term "Statement of Accusations and Evidence" in said section referring to the Request for Temporary Suspension.

[3] Any Affiliate of the Respondent for which the SDO would recommend as an appropriate sanction a minimum period of debarment of no less than two years shall likewise be subject to temporary suspension.

[4] The Respondent may not contest the recommended sanction in a case involving a violation of a Material Term of the VDP Terms & Conditions.

[5] In a case involving a violation of a Material Term of the VDP Terms & Conditions, the sanction is a mandatory ten (10)-year debarment.

[6] These include cases brought under the Anti-Corruption Guidelines and cases involving accusations of obstructive practices. In such cases, the date of a Sanctionable Practice shall be deemed to be the date on which the last constituent act or element of the Sanctionable Practice occurred. For cases involving alleged violations of a Material Term of the VDP Terms & Conditions, the Suspension and Debarment Officer shall close the matter and shall notify the Integrity Vice President accordingly if the Statement of Accusations and Evidence pertains to VDP Terms & Conditions which terminated more than ten (10) years prior to the date on which the Statement of Accusations and Evidence was submitted to the SDO.

[7] Any Affiliate of the Respondent for which the SDO recommends a sanction including a minimum period of debarment exceeding six months shall likewise be subject to temporary suspension.

[8] The temporary suspension shall not apply to a case involving an alleged violation of a Material Term of

introducing a material modification to any existing contract.

[15] A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

[16] For cases involving a violation of a Material Term of the VDP Terms & Conditions, the sanctioned party shall be debarred for a period of ten (10) years.

[17] For the avoidance of doubt, in the event of conflict between the provision of Part A (Proceedings) and Part C (Rules on Delivery) of Section III of this Procedure, the provisions of Part A shall prevail.

SECTION IV - EXCEPTION

N/A

SECTION V - WAIVER

The Issuer may waive any provision of this Procedure, provided that such waiver does not affect the due process rights of the parties to the proceedings.

SECTION VI - OTHER PROVISIONS

N/A

SECTION VII - TEMPORARY PROVISIONS

N/A

SECTION VIII - EFFECTIVE DATE

Effective date for this is 1/7/2016

This Procedure (retrofitting the Sanctions Procedure) was adopted as of April 15, 2012 and is re-adopted on January 7, 2016.

(a) This Procedure shall apply to:

- (i) all proceedings for which a Notice is issued by the SDO on or after the Effective Date;
- (ii) any settlement in respect of which a request for a stay or a settlement agreement is submitted to the SDO on or after the Effective Date;
- (iii) any decision in respect of compliance by a sanctioned party with conditions for release from debarment or for non-debarment taken on or after the Effective Date; and
- (iv) any decision taken in respect of the application of sanctions to Affiliates or successors and assigns on or after the Effective Date.

decisions in respect of sanctions that were imposed prior to the Effective Date.

SECTION IX - ISSUER

Managing Director and ChiefAdministrative Officer

SECTION X - SPONSOR

Senior Vice President and World Bank Group General Counsel