

SANCTIONS PROCEDURES OF THE AFRICAN DEVELOPMENT BANK GROUP

ISSUED NOVEMBER 18, 2014

1. Background

- 1.1. The mandate of the African Development Bank Group, which comprises the African Development Bank, the African Development Fund and the Nigeria Trust Fund (collectively, 'the Bank Group') is to spur sustainable economic development and social progress in its regional member countries.¹ The Bank Group does this by mobilising and allocating resources for investment in projects and programmes in its regional member countries as well as providing policy advice and technical assistance to support development efforts.
- 1.2. Flowing from its mandate, the Bank Group has a fiduciary and legal² duty to ensure that funds are used for the purposes for which they were intended. Where firms or individuals divert these funds to other uses through fraud, corruption and associated harmful practices (defined as 'Sanctionable Practices'), the Bank Group exercises this fiduciary duty by sanctioning these entities through an administrative process.
- 1.3. On 5th July 2012, the Boards of Directors of the Bank Group adopted recommendations³ to update the Bank Group's sanctions process, and create the offices of a Sanctions Commissioner and a Sanctions Appeals Board. These offices operate as a two-tier process that will receive reports of investigations from the Integrity and Anti-Corruption Department.
- 1.4. In furtherance of the above, the Bank Group has established these Sanctions Procedures ('Procedures') to govern the process to be adopted where allegations of Sanctionable Practices have been made in relation to Bank Group-financed operations ('Projects and/or Programmes').

2. Definitions

In these Procedures, the following terms in italics shall have the meanings assigned to them:

'Affiliate' means any natural or legal person that controls, is controlled by, or is under common control with the Respondent as determined by the Bank Group. Where such affiliate is a corporate group, this definition shall incorporate the principles outlined in the MDB Harmonised Principles on Treatment of Corporate Groups adopted on 10th September 2012.

¹ Article 1 of the Agreement Establishing the African Development Bank; Article 2 of the Agreement Establishing the African Development Fund; Article 1 of the Agreement Establishing the Nigeria Trust Fund as supplemented by the Technical Cooperation Agreement between the Federal Republic of Nigeria and the African Development Bank and the African Development Fund, 2004.

² Article 17 (g) and (h) of the Agreement Establishing the African Development Bank; Article 15 (5) of the Agreement Establishing the African Development Fund.

³ The recommendations are contained in three board documents: (1) Fine-tuning of the Organisational Structure and Business Process of IACD ADB/BD/WP/2012/45/Rev.1 - ADF/BD/WP/2012/26/Rev.1, 29 May 2012; (2) Amendments to the Rules and Procedures for Procurement of Goods and Works and Rules and Procedures for the Use of Consultants ADB/BD/WP/2012/46/Rev.1 - ADF/BD/WP/2012/27/Rev.1, 29 May 2012; (3) Proposal for the Implementation of a Sanctions Process within the African Development Bank ADB/BD/WP/2012/39/Rev.2 - ADF/BD/WP/2012/22/Rev.2, 31 July 2012.

'Appeals Board' means the Sanctions Appeals Board comprising of three members and their alternates. The Appeals Board is led by a Chairperson. All appeals of Sanctions Decisions taken by the Sanctions Commissioner shall be made to the Sanctions Appeals Board.

'Appeals Secretary' means the Secretary to the Sanctions Appeals Board appointed by the Bank in accordance with the Staff Regulations and Rules.

'Bank Group' means the African Development Bank Group, comprising of the African Development Bank, the African Development Fund, and the Nigeria Trust Fund.

'De Novo' process shall mean the process to be undertaken by the Sanctions Appeals Board to review a decision of the Sanctions Commissioner. Such process shall entail the review of the submissions made by the Sanctions Commissioner as well as the reasoning behind those submissions in addition to any new evidence which may be presented.

'Financing Agreement' includes agreements pursuant to which the Bank Group undertakes to provide financing for Projects and Programmes, through loans, grants, technical assistance or other financing structure.

'General Counsel' means the General Counsel and Director of the Legal Services Department of the Bank Group.

'IACD' means the Integrity and Anti-Corruption Department of the Bank Group, which *inter alia* carries out independent investigations into allegations of Sanctionable Practices. IACD is led by a Director who acts and receives all notices on behalf of IACD.

'Notice' means the Notice of Sanctions Proceedings issued by the Sanctions Commissioner as specified in Section 5.4 of these Sanctions Procedures.

'Notice of Temporary Suspension' means the notification issued by the Sanctions Commissioner under the conditions specified in Section 6.2 of these Sanctions Procedures.

'Findings of Sanctionable Practices' means the findings presented in IACD's investigative report and includes the information specified in Sections 5.1 and 5.2 of these Sanctions Procedures.

'President' means the President of the Bank Group.

'Procedures' means these Sanctions Procedures.

'Procurement Rules' means the Bank Group's Rules and Procedures for the Procurement of Goods and Works and the Bank Group's Rules and Procedures for the Use of Consultants as revised in July 2012, and as may be amended from time to time.

'Projects' include projects, operations and internal corporate procurement financed, executed or administered by the Bank Group; funds, facilities, initiatives and any other resources managed by or entrusted to the Bank Group as well as through the Bank's procurement process as defined in its Procurement Rules.

‘Programmes’ include operations, groups of related projects and/or activities financed, executed or administered by the Bank Group. Such Programmes may be financed by funds, through facilities, initiatives and any other resources managed by or entrusted to the Bank Group as well as through the Bank’s procurement process as defined in its Procurement Rules.

‘Respondent’ means an individual, firm or other legal entity alleged to have engaged in a Sanctionable Practice and who has been designated in the Findings of Sanctionable Practices or Notice of Sanctions Proceedings.

‘Sanctionable Practice(s)’ means any corrupt practice, fraudulent practice, collusive practice, coercive practice, or obstructive practice, carried out in connection with Projects or Programmes and as defined in Section 4 of these Sanctions Procedures.

‘Sanctions Commissioner’ means the Sanctions Commissioner appointed by the Board of Directors of the Bank on the recommendation of the President.

‘Sanctions Decision’ means a final determination made by the Sanctions Commissioner.

‘Sanctions Office’ means the office of the Sanctions Commissioner and its secretariat. The Sanctions Office is headed by the Sanctions Commissioner.

‘Sanctions Secretary’ means the Secretary to the Sanctions Office.

These Procedures shall apply to the process for making Findings of Sanctionable Practice(s) alleged to have been committed in any Bank Group Financed Project(s) or Programmes, as well as to all cases in which it shall be necessary to make a determination in a case involving an allegation of Sanctionable Practices committed by any party or beneficiary in Bank Group Financed Operations and any of such party or beneficiary’s Affiliates.

3. Participants in the Sanctions Process

- 3.1.** IACD has the overriding mandate to carry out investigations into allegations of Sanctionable Practices. IACD submits the Findings of Sanctionable Practices to the Sanctions Office.
- 3.2.** The Sanctions Office is the first-tier of the sanctions procedure and it shall be headed by a Sanctions Commissioner. The Sanctions Office shall be administratively run by the Sanctions Secretary. The President shall nominate a Sanctions Commissioner and an alternate for appointment by the Board of Directors of the Bank. The Sanctions Office shall be governed by the Sanctions Office Charter.
- 3.3.** The Appeals Board receives and determines appeals against Sanctions Decisions made by the Sanctions Office. The Appeals Board shall be comprised of three members and their alternates. Of these, the President shall nominate, for appointment by the Board of Directors, two (2) external experts and two (2) alternates. The President shall further appoint one (1) internal member and one (1) alternate from among senior staff members of the Bank.

- 3.4. The Bank shall appoint a Secretary to the Appeals Board ('Appeals Secretary') from among its staff, who shall report to the Chairperson of the Sanctions Appeals Board in all matters relating to the activities of the Sanctions Appeals Board but shall report administratively to the President of the Bank. The Appeals Board shall be governed by the Statute and Code of Conduct of the Appeals Board.

4. Sanctionable Practices

- 4.1. The term "Sanctionable Practice(s)" includes a corrupt practice, fraudulent practice, collusive practice, coercive practice or obstructive practice, carried out in connection with a Bank Group-financed Project or Programme or an investigation, audit or sanctions proceeding.

- 4.2. The terms referred to in the preceding paragraph are described below.

- (a) *Corrupt practice*: The offering, giving, receiving or soliciting, directly or indirectly, of anything of value to improperly influence the actions of another party.
- (b) *Fraudulent practice*: Any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
- (c) *Collusive practice*: An arrangement between two or more parties designed to achieve an improper purpose, including to improperly influence the actions of another party.
- (d) *Coercive practice*: Impairing or harming, or threatening to directly or indirectly impair or harm any party or the property of the party, in order to improperly influence the actions of a party.
- (e) *Obstructive practice*:
 - i. Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigations or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; 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
 - ii. Acts intended to materially impede the exercise of the Bank's inspection and audit rights under the Procurement Rules or other Financing Agreement.

- 4.3. The Bank may, pursuant to its rules and policies, amend or otherwise modify the range of acts or omissions which constitute Sanctionable Practices.

5. Commencement of Sanctions Proceedings

- 5.1. ***Issuance of Findings of Sanctionable Practices.*** Following an investigation, where IACD believes that the evidence supports a finding of one or more Sanctionable Practices, IACD shall present to the Sanctions Office as soon as the investigation is completed, Findings of Sanctionable Practices.

- 5.2. Contents of Findings of Sanctionable Practices.** Findings of Sanctionable Practices shall:
- (a) identify the party, affiliate or other Bank counter-party alleged to have engaged in a Sanctionable Practice (each, a ‘Respondent’);
 - (b) state the alleged Sanctionable Practice(s);
 - (c) provide a summary of relevant facts and grounds for the allegations of Sanctionable Practice(s);
 - (d) propose a sanction for the said Sanctionable Practice;
 - (e) attach all relevant evidence in support of the allegations, together with any exculpatory or mitigating evidence in IACD’s possession; and
 - (f) include any other information that IACD deems material to the Findings of Sanctionable Practices.
- 5.3. Disclosure of Exculpatory or Mitigating Evidence.** In submitting the Findings of Sanctionable Practice(s) to the Sanctions Commissioner, IACD shall present all relevant evidence in its possession that would reasonably tend to show that the Respondent has not committed the alleged Sanctionable Practice (exculpatory evidence) or that there are circumstances that mitigate the Respondent’s culpability. If such evidence comes into the possession of IACD subsequent to the submission of the Findings of Sanctionable Practice(s), it shall be submitted in writing to the Sanctions Commissioner or the Appeals Board, as the case may be.
- 5.4. Issuance of Notice of Sanctions Proceedings.** If the Sanctions Commissioner determines that the Findings of Sanctionable Practice(s) supports a prima facie finding that the Respondent has engaged in a Sanctionable Practice, the Sanctions Commissioner shall issue a Notice of Sanctions Proceedings (‘Notice’) to the Respondent, and notify IACD, as well as the Appeals Board through the Appeals Secretary. The Sanctions Commissioner may also make an independent determination of a Sanctionable Practice based on the evidence provided by IACD which is not provided for in IACD’s Findings of Sanctionable Practice(s).
- 5.5 Contents of Notice.** The Notice shall include the information provided in the Findings of Sanctionable Practice(s) as well as:
- (a) indicate that the Respondent is requested to respond to the allegations in the Findings of Sanctionable Practice(s) within sixty (60) days of the receipt of the Notice
 - (b) indicate that if the Respondent does not respond to the Notice, the Sanctions Commissioner reserves the right to make a decision based solely on the evidence provided by IACD.
 - (c) state that the Sanctions Commissioner shall make a determination, and prescribe one or more sanctions from the list of sanctions in Section 11 (‘Prescribed Sanctions’) of these Sanctions Procedures after review of the Respondent’s response and the Findings of Sanctionable Practice(s);

- (d) indicate to the Respondent that once a Sanctions determination is made, the determination shall be final and binding unless the Respondent files an appeal against the said determination;
- (e) if applicable, inform the Respondent that a temporary suspension has been issued against the Respondent and the manner in which the Respondent may contest the temporary suspension as described in Section 6 of these Sanctions Procedures.
- (f) Append a copy of the Procedures in effect at the time of issuance of the Notice.

The Notice and all information appertaining thereto shall be transmitted by electronic means or hard copy by the Sanctions Commissioner, provided that every effort shall be made to preserve the confidentiality of the information as well as the integrity of the Sanctions process.

5.6 *Respondent's Response.* The Respondent may within sixty (60) days of receipt of the Notice, submit a Response to the Sanctions Commissioner through the Sanctions Secretary. The Response may contest the findings and/or the contents of the Notice.

5.7 *Determination by Sanctions Commissioner.* The Sanctions Commissioner shall review the Findings of Sanctionable Practice(s) as well as the Respondent's Response in order to determine whether a preponderance of the evidence supports a finding that the Respondent has engaged in a Sanctionable Practice. The Sanctions Commissioner may request for clarifications of the evidence and material submitted by IACD or the Respondent at any time before issuing a final decision ('Sanctions Decision').

The Sanctions Commissioner shall no later than thirty (30) days after receipt of the Respondent's Response, take a Sanctions Decision as to the sufficiency or otherwise of the findings or evidence in the Findings of Sanctionable Practice(s) and shall promptly inform the Respondent and IACD of the decision. Where the Sanctions Commissioner is unable to take the Sanctions Decision within the thirty (30) day period, the Sanctions Commissioner shall no later than the expiration of the thirty (30) day period, provide written notification to IACD and the Respondent of the inability to do so. The notification shall include a good faith estimate of the period for the delivery of the Sanctions Decision and shall be sent to IACD, the Respondent and a copy forwarded to the Appeals Secretary for the latter's records.

5.8 *Requests for Revision.* IACD shall submit to the Sanctions Commissioner a request for the revision of a decision taken by the Sanctions Commissioner as soon as reasonable after the discovery of new evidence that IACD could not have discovered following a diligent search prior to the determination made by the Sanctions Commissioner. Such request shall also be made by IACD where new evidence has been discovered that exculpates the Respondent or mitigates the allegations made against the Respondent as a result of IACD's investigation. In such instances, the Sanctions Commissioner shall promptly notify the Respondent of the request for revision. The Respondent may submit additional evidence in response to the new evidence provided by IACD within thirty (30) days of receipt of the request for revision.

5.9 The Sanctions Commissioner may revise the Sanctions Decision in light of the Request for Revision. Where the Sanctions Commissioner revises the

Sanctions Decision, the Sanctions Commissioner shall promptly notify the Respondent, IACD, and the Appeals Board through the Appeals Secretary.

- 5.10 *Determination of Insufficient Evidence.*** Where the Sanctions Commissioner determines that the Findings of Sanctionable Practice(s) is not supported by a preponderance of evidence, the Sanctions Commissioner shall notify IACD in writing, providing the reasoning for the determination. The Sanctions Secretary shall record this determination and provide a copy to the Appeals Secretary for the Appeals Board's records. IACD may at any time, submit a revised Findings of Sanctionable Practice(s) to the Sanctions Office.
- 5.11 *Withdrawal of Notice.*** The Sanctions Commissioner may withdraw the Notice on the grounds that there is manifest error or based on the Sanctions Commissioner's assessment that there is insufficiency of evidence against the Respondent.
- 5.12 *Submission of Revised Findings of Sanctionable Practice(s).*** Where the Sanctions Commissioner withdraws a Notice, IACD may submit a revised Findings of Sanctionable Practice(s) on the basis of additional information and/or investigations.
- 5.13 *Failure to Submit a Response.*** Where the Respondent fails to submit a Response within the deadline provided in Section 5.6 of these Sanctions Procedures, the allegations in the Notice will be deemed to be uncontested. The Sanctions Commissioner then imposes a sanction from the list of sanctions and shall promptly notify IACD and the Appeals Board through the Appeals Secretary. The Decision shall be communicated to the Respondent as provided under the Disclosure of Sanctions Guidelines developed by the Sanctions Office and shall become effective.
- 5.14 *Statute of Limitations.*** No action shall be taken for an alleged Sanctionable Practice that was committed (i) in connection with a contract that was completed more than ten (10) years before the date on which Findings of Sanctionable Practice(s) are intended to be submitted, or, (ii) more than ten (10) years after the commission of the last act or omission constituting the alleged Sanctionable Practice.

6 Temporary Suspension

- 6.1 *Request for Temporary Suspension.*** If at the time of presentation of the Findings of Sanctionable Practices or before the conclusion of an investigation, IACD believes that continuous eligibility of the subject of investigations would cause imminent financial or reputational harm to the Bank Group, IACD may present to the Sanctions Commissioner, an Application for Temporary Suspension ('Application'), requesting that a Respondent be temporarily suspended from eligibility to participate in Projects or Programmes financed by the Bank Group and to be awarded new contracts and other support from the Bank Group. The Application shall consist of the elements cited in this Section, as well as a description of the on-going investigations, outstanding evidence, basis for the application, a rationale for the urgency of the request, and a good faith estimate of the period required to conclude the investigation. Where the Application is made prior to the issue of a Findings of Sanctionable Practice(s) or Notice, IACD shall provide sufficient evidence to indicate a likelihood that the Respondent has engaged in a Sanctionable Practice. IACD shall also certify that the

temporary suspension is sought in good faith, and that the investigations are being pursued with due diligence and dispatch.

- 6.2 Issuance of Notice of Temporary Suspension.** If the Sanctions Commissioner determines that there is evidence to support the Application, and that the preponderance of the evidence supports a finding that the Respondent has engaged in Sanctionable Practice(s) for which an appropriate sanction would be no less than a one (1) year debarment, the Sanctions Commissioner shall issue a Notice of Temporary Suspension to the Respondent and simultaneously notify the Appeals Board and IACD. Unless terminated as provided in Section 6.5 of these Sanctions Procedures, the temporary suspension shall be made for a period of twelve (12) months. IACD may request a renewal of the temporary suspension no later than one (1) month before the end of the temporary suspension as provided in Section 6.7 of these Sanctions Procedures.
- 6.3 Request to Withhold Certain Evidence.** Where IACD considers that disclosure of certain evidence to the Respondent would have a material adverse effect on the investigation and that the Respondent would despite the withheld evidence, retain the ability to provide a meaningful response to the allegations in the Notice of Temporary Suspension, IACD may request that the Sanctions Commissioner withhold such evidence from the Respondent. Notwithstanding the foregoing, the evidence would be presented to the Respondent upon the issuance of a Notice. Where the Sanctions Commissioner determines that such evidence ought not to be withheld, the Sanctions Commissioner shall inform IACD and IACD may withdraw the application or Findings of Sanctionable Practices.
- 6.4 Respondent's Objection to Temporary Suspension.** Where the Notice of Temporary Suspension is issued before the Notice of Sanctions Proceedings, the Respondent may submit an Objection to the Temporary Suspension ('Objection') within forty (40) days to the Sanctions Commissioner through the Sanctions Secretary. The Objection shall include information and arguments on why the Respondent believes that despite the evidence in the Notice of Temporary Suspension, the Respondent ought to remain eligible for participation in Projects or Programmes financed by the Bank Group or to participate in new activities funded or otherwise administered by the Bank Group.
- 6.5 Upholding or Termination of Temporary Suspension.** The Sanctions Commissioner shall consider the information and arguments submitted by IACD and the Respondent and may decide to terminate or uphold the temporary suspension. The Sanctions Commissioner shall promptly notify IACD and the Respondent of the decision to terminate or uphold the temporary suspension. There is no further appeal against the Sanctions Commissioner's decision to uphold or terminate a temporary suspension.
- 6.6 Effect of Temporary Suspension.** Upon delivery of the Notice of Temporary Suspension, the Respondent shall be deemed ineligible to be awarded new contracts for Projects or Programmes financed by the Bank Group or to participate in new activities funded or otherwise administered by the Bank Group.
- 6.7 Renewal of Temporary Suspension.** Where IACD is unable to issue the Findings of Sanctionable Practice(s) within eleven (11) months of the issuance of the Notice of Temporary Suspension, IACD may further present

to the Sanctions Commissioner, an Application for Renewal of Temporary Suspension. The Sanctions Commissioner shall make a decision on the renewal of the suspension within ten (10) days of the application. The temporary suspension shall be deemed extended until the Sanctions Commissioner's decision. The Sanctions Commissioner shall promptly inform the Respondent and IACD of his/her decision.

- 6.8** ***Lapse of Notice of Temporary Suspension.*** Where IACD does not make an Application as prescribed in Section 6.7 above, the suspension shall lapse at the end of the period prescribed in the Notice of Temporary Suspension.

7 Grant of Relief and Imposition of Sanctions by the Sanctions Commissioner

Within thirty (30) days after the conclusion of the relevant process or procedure provided for under Section 5 of these Sanctions Procedures, the Sanctions Commissioner shall grant such relief or impose such Sanction(s) as are warranted by the circumstances and as provided for in Section 11 of these Sanctions Procedures.

8 Appeals

- 8.1** ***Commencement of Appeal.*** The Respondent may present an Appeal of the Sanctions Decision ('Appeal') to the Appeals Board through the Appeals Secretary within twenty-five (25) days of receipt of the Sanctions Decision. Since an Appeal to the Appeals Board is a de novo process, the Respondent shall be entitled in addition to make such new arguments and provide any new evidence not presented in the Response to the Sanctions Commissioner that the Respondent deems useful, and explain why the Respondent believes that the Sanctions Decision ought to be overruled.
- 8.2** ***Record.*** Submissions to the Appeals Board shall consist of a Record, which includes all submissions before the Sanctions Commissioner, including the Notice, Response, the Sanctions Decision and any other evidence necessary to shed light on all matters in dispute before the Appeals Board. The Appeal shall be deemed to have commenced on the date of presentation of the Record to the Appeals Board through the Appeals Secretary within the time specified in Section 8.1.
- 8.3** ***Format of Submissions.*** The Chairperson of the Appeals Board shall set reasonable limits for the format of written submissions to the Appeals Board. The Chairperson may delegate the authority to set limits to the Appeals Secretary.
- 8.4** ***IACD's Reply.*** The Appeals Secretary shall forward a copy of the Appeal to IACD no later than five (5) days after receipt or in exceptional circumstances, within such limited period as may be reasonable. IACD may submit a Reply to the Respondent's Appeal ('Reply') within thirty (30) days of receipt. The Reply shall make such new arguments and provide any new evidence not presented in the Findings of Sanctionable Practices to the Sanctions Commissioner that IACD deems useful for consideration in the Appeal.
- 8.5** ***Respondent's Rebuttal.*** The Appeals Secretary shall no later than five (5) days of receipt, or within such limited reasonable period, forward IACD's Reply to the Respondent. The Respondent may submit additional arguments ('Rebuttal') in response to the Reply within fifteen (15) days of the Reply only

in circumstances where IACD provides new evidence or arguments in its Reply. The Rebuttal shall be limited to arguments against the Reply and/or in support of the Appeal.

- 8.6 *Requests for Clarifications.*** The Appeals Board may request clarifications or further evidence from either the Respondent or IACD. Where the Appeals Board so requests, it shall allow the other party to present additional arguments and evidence in response within such time as the Appeals Board may, in its discretion, determine. The Appeals Board has the discretion to allow the submission of new evidence to it through the Appeals Secretary before the decision of the Appeals Board (“Final Decision”). Unless allowed by the Appeals Board, no further evidence may be presented after the Rebuttal.
- 8.7 *Related Proceedings.*** The Appeals Secretary shall present to the Appeals Board, a copy of the Record of any related proceedings or other case before the Appeals Board involving the same Respondent. The Appeals Secretary shall not present a Record of a prior Final Decision, made longer than five (5) years before the initiation of the on-going proceedings.
- 8.8 *Hearings.*** The Record for consideration by the Appeals Board shall consist of the Notice, Response, the Sanctions Decision, the Appeal, the Reply, the Rebuttal and any other evidence necessary to shed light on all matters in dispute before the Appeals Board. The Appeals Board shall make its Final Decision on the basis of the Record and parties have no right to an oral hearing. The Appeals Board may however, in its discretion, hold such hearing(s) as it deems appropriate upon the request of the Respondent or IACD provided that the request for a hearing is supported by whatever the Appeals Board deems reasonable cause for such hearing. The Appeals Board may also request an oral hearing(s) on its own volition. The Appeals Board shall determine the nature, length and form of all oral hearings. Except otherwise provided, parties shall bear their own costs in relation to hearings.
- 8.9 *Closed Deliberations.*** Unless otherwise provided for in these Procedures, no representative of IACD or the Respondent may be present during any part of the Appeals Board’s deliberations. Any records concerning the Appeals Board’s deliberations shall be confidential.
- 8.10 *Extensions of Time.*** IACD and the Respondent(s) have no automatic right to the extension of any deadline. Either IACD or the Respondent may request for reasonable extensions to the deadlines for the submission of clarifications. Where the Chair of the Appeals Board determines that such request shows good cause for its grant, the Chairperson may, in his/her discretion, grant reasonable extensions to the deadlines. The Chairperson may also grant extensions for submission of the Reply and Rebuttal.
- 8.11 *Admissions of Culpability.*** The Respondent may admit all or part of any allegations in the Notice without prejudice to its right to contest other allegations. The Respondent may also present evidence and arguments of mitigating circumstances, including admissions and the implementation of programmes by the Respondent to detect or prevent fraud or corruption or any agreement with the Bank Group regarding the allegations or other issues relevant to the Sanctions Proceedings. Such evidence and arguments shall be submitted with the written submissions provided for in Section 8.2 of these Sanctions Procedures and in accordance with the corresponding deadlines.

8.12 Advice to the Appeals Board. The Appeals Board shall seek such legal advice as it deems necessary from the General Counsel of the Bank to assist in its deliberations. In such cases, all communications shall be deemed to be privileged to the Appeals Board and shall be exempt from disclosure.

9 Record Keeping, Distribution, Withholding and Redaction of Materials

9.1 Keeping of Records. The Sanctions Secretary and the Appeals Secretary shall maintain all records necessary for the work of the Sanctions Office and the Appeals Board, respectively.

9.2 Distribution of Documents. The Sanctions Secretary shall be responsible for the dispatch of all documents and notices issued by the Sanctions Office and shall forward the Record as required under these Procedures. The Appeals Secretary shall be responsible for the dispatch of all documents and notices issued by the Appeals Board. The Appeals Secretary shall provide to IACD and the Respondent, in a timely manner and as required under these Procedures, copies of all written submissions and evidence, and any other materials received or issued by the Appeals Board relating to the proceedings, and not previously provided by the Sanctions Secretary. Except as otherwise provided, the Appeals Secretary shall include all relevant evidence in the Sanctions Secretary's possession that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability.

9.3 Distribution to Other Parties. The Chairperson of the Appeals Board may upon application by a relevant party or parties, approve the distribution of materials submitted to the Appeals Board to:

- (a) other Respondents in sanctions proceedings involving related accusations, facts or other matters;
- (b) other departments or offices of the Bank Group as may be necessary for the performance of their duties;
- (c) other parties as part of referrals pursuant to Section 14.2 of these Sanctions Procedures.

In exercising its discretion to approve the distribution of materials, the Chairperson of the Appeals Board shall consider, among other things, the standard for disclosing exculpatory materials, the standard for withholding sensitive materials in Section 6.3 of these Sanctions Procedures, and any other considerations as the Appeals Board may determine.

9.4 Withholding of Sensitive Materials. Notwithstanding the foregoing, the Sanctions Commissioner or the Appeals Board, as the case may be, may upon request by IACD, agree to the withholding of particular evidence submitted to the Sanctions Commissioner or the Appeals Board, upon a determination that there is a reasonable basis to conclude that revealing the particular evidence might endanger the life, health, safety, or wellbeing of a person or constitute a violation of any undertaking by the Bank Group. If the Appeals Board or the Sanctions Commissioner denies IACD's request, IACD shall have the option to withdraw such evidence from the record. In circumstances where the evidence is withdrawn, the Sanctions Commissioner shall withdraw the evidence from the Notice. Similarly, if the evidence is withdrawn during the pendency of the proceedings before the Appeals Board, the Appeals Board shall take notice of such withdrawal without more.

9.5 Redaction of Materials. IACD may, in its discretion, redact particular parts or pieces of evidence presented to the Respondent or the Appeals Board by removing references to Bank staff and other third parties (together with other material which would permit such persons to be identified), where the identity of such parties is not relevant or germane to the case or where disclosure may be deemed detrimental as defined in the Bank Group's policies. The Respondent may challenge such redaction in its Appeal. The Appeals Board shall review the version of such evidence before the redactions were made to determine whether the redacted information is necessary to enable the Respondent to mount a meaningful response to the allegations against it. If the Appeals Board determines that the redacted information is necessary, IACD will be given an opportunity to either withdraw the evidence or make it available to the Respondent, in a manner provided by the Appeals Board. The Respondent may make submissions to the evidence as a clarification as provided for in Section 8.6 of these Sanctions Procedures.

10 Determinations by the Appeals Board

10.1 Determination. The Appeals Board shall consider whether a preponderance of the evidence supports a finding that the Respondent engaged in a Sanctionable Practice.

10.2 Finding of Insufficient Evidence. If the Appeals Board finds that a preponderance of the evidence does not support a finding that the Respondent engaged in a Sanctionable Practice, the proceedings shall be closed. In such cases, the Appeals Secretary shall prepare a written document recording the Appeals Board's finding and the closure of the proceedings, and promptly deliver the document to IACD, the Sanctions Commissioner, and the Respondent.

10.3 Request to Reopen by IACD. IACD may request that a closed matter be reopened for reconsideration only on the basis of newly discovered facts, which by due diligence could not have been discovered prior to closure of the proceedings. Such request shall be submitted to the Sanctions Commissioner no later than thirty (30) days following the discovery of such new facts, and in no event may be filed later than twenty-four (24) months from the closure of the proceedings. Upon receipt of such request, the Sanctions Commissioner shall decide whether to reopen the matter for further proceedings or not bearing in mind the interests of all parties concerned.

10.4 Finding of Sufficient Evidence. If the Appeals Board finds that a preponderance of the evidence supports a finding that the Respondent engaged in a Sanctionable Practice, the Appeals Board shall prepare a Final Decision summarising the Appeals Board's findings and imposing on the Respondent, any of the sanctions referred to in Section 11 below. No appeal shall lie against the Final Decision and it shall take effect immediately, without prejudice to any action taken by any government under applicable law.

11 Sanctions

11.1 Imposition of sanctions. The Sanctions Commissioner or Appeals Board, as appropriate, may impose sanctions. More than one sanction may be imposed on a particular Respondent.

11.2 Range of Sanctions. The following sanctions may be imposed in a Sanctions Decision, or a Final Decision.

- (a) *Letter of Reprimand:* This is a formal letter of censure for the Respondent's actions and notifies the Respondent that subsequent violations may result in a higher penalty. A Reprimand is appropriate for an isolated incident of lack of oversight, or where the Respondent's role in the Sanctionable Practice is minor.
- (b) *Conditional non-debarment:* A Respondent is required to take certain remedial, preventive or other actions within a specified period to avoid debarment by the Bank. Conditions may include (but are not limited to) verifiable actions taken to improve business governance, including the introduction, improvement and/or implementation of corporate compliance or ethics programmes, integrity and/or corporate controls, correction of the harm, restitution or disciplinary action against or reassignment of employees. However, where the Respondent fails to demonstrate compliance with the conditions within the time provided, a debarment automatically becomes effective for the period provided in the decision to issue this sanction.
- (c) *Debarment:* This is an administrative decision not to do business with a party found to have engaged in Sanctionable Practices. Debarment will usually not affect existing contractual obligations. However, the Sanctions Commissioner or Appeals Board may recommend the cancellation of existing contractual obligations. Other than indefinite debarments, debarments shall provide for a minimum period, taking the merit of the case into account.
- (d) *Debarment with conditional release:* This is the baseline sanction that should be applied except where justifications exist for a greater or lesser sanction. The purpose of the conditional release is to encourage the Respondent's rehabilitation and to mitigate further risk to Projects or Programmes. The Respondent will only be released from debarment after (i) the defined debarment period lapses and (ii) the Respondent has demonstrated that it has met the conditions set by the Sanctions Office or the Appeals Board.
- (e) *Permanent Debarment:* Permanent debarment is generally only appropriate in cases where it is believed that there are no reasonable grounds for thinking that the respondent can be rehabilitated through compliance or other conditions.
- (f) *Restitution and/or Remedy:* Restitution and other financial remedies may be imposed where there is a quantifiable amount to be restored to the Bank Group, Regional Member Country or directly to the Project or Programme. This may be recommended independently or jointly with other sanctions.
- (g) *Other Sanctions:* Other sanctions may be recommended or applied as deemed appropriate, including, but not limited to, the total or partial reimbursement of the costs associated with investigations and proceedings.

11.3 *Effect of Debarment:* Ineligibility arising from debarments under these Procedures shall, unless otherwise waived by the Bank Group, extend across the operations of the Bank Group and shall also render the Respondent ineligible to be awarded contracts for Projects or Programmes financed by the Bank Group, or to receive proceeds of any Bank Group funds or to otherwise participate in the preparation or implementation of a Project or Programme financed by the Bank Group.

11.4 *Factors Affecting Choice of Sanctions.* In issuing a Sanction, the following factors may be considered:

- (a) responsibility of the Respondent;
- (b) the egregiousness and severity of the Respondent's actions;
- (c) the past conduct of the Respondent involving a Sanctionable Practice;
- (d) the magnitude of any losses caused by the Respondent;
- (e) the damage caused by the Respondent to the operations of the Bank Group, including the credibility of the procurement process;
- (f) the nature of the involvement of the Respondent in the Sanctionable Practice;
- (g) any mitigating circumstances, including the intervening implementation of programmes to prevent and detect fraud or corruption or other remedial measures by the Respondent;
- (h) the period of temporary suspension already served by the Respondent;
- (i) the savings of the Bank Group's resources, or facilitation of an investigation being conducted, occasioned by the Respondent's admission of culpability or cooperation, including any voluntary disclosure, in the investigations process;
- (j) breach of confidentiality of the sanctions proceedings;
- (k) sanctions imposed on the Respondent by other parties, including another international or multinational organisation, including another development bank; and
- (l) any other factor that the Sanctions Commissioner or Appeals Board deems relevant.

11.5 *Sanctions of Other Institutions.* The Sanctions provided for in these Procedures shall be independent of, and without prejudice to, the Bank Group's recognition of the sanctions of other institutions or the decisions of other institutions to recognise sanctions imposed by the Bank Group. Considering the specific mandate of the Bank Group, and the necessity to protect its interests, the Bank Group may, however, take any other actions, including the approval of any other policies related to procurement and the eligibility of Respondents previously sanctioned to participate in activities financed by the Bank Group.

- 11.6 Discretion for Non-Issuance of Sanctions.** Where appropriate, the Sanctions Commissioner or the Appeals Board may upon application from IACD, decide not to sanction parties who cooperate with investigations.
- 11.7 Communication of Final Decision.** The Final Decision shall be delivered to the Respondent, IACD and the President of the Bank Group. Where required, the Chairperson of the Appeals Board may request that the Final Decision be delivered to the Board of Directors of the Bank or Representative of the relevant borrowing country and the country of the Respondent. The Sanctions Decision or Final Decision, as applicable shall be published in accordance with the Bank Group's Disclosure and Access to Information Policy and any other applicable rules. In this regard, the identity of each sanctioned party and the sanctions imposed shall be publicly disclosed.
- 11.8 Requests to Reopen by Respondent.** The Respondent may request that a matter be reopened for reconsideration only on the basis of newly-discovered facts, which with the exercise of due diligence could not have been discovered prior to the issuance of the Final Decision. Such request shall be submitted to the Appeals Board no later than forty (40) days following the discovery of such new facts, and shall not in any event may be filed later than twelve (12) months from the issuance of the Final Decision. Upon receipt of such request, the Appeals Board will decide, in its discretion, whether to reopen the matter for further proceedings as it determines are appropriate. The Respondent has no automatic right to reconsideration.

12 Affiliated Parties and other Relationships

- 12.1 Affiliated Parties.** If accountability is determined, sanctions may be imposed on an associated party such as the principals of a firm, owners, directors, officers, or shareholders, and other related parties ('Associated Parties') for the commission of a Sanctionable Practice. In determining association or other relationships, consideration shall be given to the Bank Group's policies on the treatment of corporate groups or such other policy, as well as to familial relationships; the ability to directly or indirectly control or significantly influence another party; common or related ownership, management, or control, whether or not related to a specific percentage of ownership or rights; and an agreement or dependency, such as a joint venture or consortium, with another party.
- 12.2 Sanctions on Affiliated Parties.** In determining sanctions on Affiliated Parties, principals, or related parties, the Sanctions Commissioner or Appeals Board shall consider:
- (a) management and organisational structure;
 - (b) if the related party was involved in or influenced the Sanctionable Practice, or was the intended beneficiary of such acts;
 - (c) the possibility that the Respondent may circumvent a sanction through the related party, taking into account the influence the Respondent has on a related party, and vice versa; and
 - (d) whether the Respondent may obtain benefits through the related party.

Notwithstanding the foregoing, the Sanctions Commissioner and Appeals Board shall incorporate the MDB Harmonised Principles on Treatment of Corporate Groups adopted by the Bank Group on 10th September 2012 or such other policy as adopted by the Bank on the same subject matter.

- 12.3 *Rights of Affiliated Parties.*** Affiliated Parties shall have procedural rights that are equivalent to those of the Respondent as provided in these Procedures. Except where the Sanctions Commissioner or Appeals Board allows, all submissions by Affiliated Parties shall be in consolidation with those of the Respondent.
- 12.4 *Successors and Assigns.*** Any sanction imposed shall apply to the sanctioned party's successors and assigns, as determined by the Bank Group.

13 Evidence

- 13.1 *Standard of Proof.*** For purposes of these Procedures, the preponderance of the evidence is determined by whether upon consideration of relevant facts and materials before the body considering such facts and materials, that it is more likely than not that the Respondent has engaged in a Sanctionable Practice.
- 13.2 *Burden of Proof.*** IACD shall have the burden of proof to present evidence sufficient to establish that a preponderance of the evidence shows that the Respondent engaged in a Sanctionable Practice. The burden of proof shall subsequently 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.
- 13.3 *Admissibility and Weighing of Evidence.*** The arguments presented to the Sanctions Commissioner and the Appeals Board, and conclusions reached by them may be based on any kind of evidence. The Sanctions Commissioner and the Appeals Board shall have discretion to determine admissibility, relevance, materiality, weight, and sufficiency of evidence. Formal rules of evidence shall not apply.
- 13.4 *Inference of Knowledge.*** The Sanctions Commissioner and the Appeals Board 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.
- 13.5 *Privileged Materials.*** Communications between an attorney and a client for the purpose of providing or receiving legal advice and writings reflecting the mental impressions of an attorney in anticipation of legal proceedings shall be privileged and shall be exempt from disclosure.
- 13.6 *No Right to Discovery.*** Notwithstanding any other provision of these Procedures, the Respondent shall not have the right to review or obtain any other information or documents either related to or unrelated to any proceedings in which the Respondent was a party which may be in the possession of the Bank Group or its assigns. The Respondent shall not have the right to discover the identity of any individual who has provided information to the Bank Group and who has specifically requested that his or her identity be kept confidential.

14 Disclosure

- 14.1 *Disclosure of Decisions.*** After the Sanctions Decision has become final or at the conclusion of the proceedings by the Appeals Board, as the case may be, the Bank Group shall disclose, consistent with the Bank Group's Policy on Disclosure and Access to Information, the identity of sanctioned parties, the Sanctionable Practice for which the sanction was imposed, the respective sanction other than reprimands, the summary of the decisions of the Sanctions Commissioner and where applicable, the Appeals Board. The Appeals Board shall publish and periodically update a digest of decisions which it deems illustrative of the legal principles that it has applied in reaching its decisions. The Bank Group may also make disclosures to borrowers, other international and multinational organisations, governmental authorities and such other parties as deemed necessary pursuant to its policies.
- 14.2 *Referral to Other Units of the Bank.*** If the Sanctions Commissioner or Appeals Board determines that a Respondent may have committed a procedural irregularity or an act of wrongdoing other than a Sanctionable Practice in connection with Projects or Programmes, the Sanctions Commissioner or the Appeals Secretary upon the direction of the Appeals Board, may refer the matter to the appropriate department of the Bank for further possible action.
- 14.3 *Cross-debarment.*** Debarment decisions taken by Participating Institutions pursuant to the Agreement for the Mutual Enforcement of Debarment Decisions entered into between the parties on 9 April 2010 or taken in accordance with these Sanctions Procedures may be enforced by the Bank Group or any of the Participating Institutions in accordance with the said Agreement, and shall be referred to as Cross-debarments.

15 Negotiated Settlements

- 15.1 *Stay of Proceedings.*** At any time during proceedings, IACD, together with one or more Respondents may jointly request that the Sanctions Commissioner or Appeals Board, as applicable, stay the proceedings for the purpose of conducting settlement negotiations. An initial stay of proceedings may be granted for no longer than ninety (90) days, but may be renewed upon a joint request by IACD and the Respondent(s) for another sixty (60) days, together with written confirmation by both parties that they continue to be actively engaged in settlement negotiations. Requests for a stay of proceedings shall be granted as a matter of course. Time spent on the negotiation of Settlement Agreements shall suspend any proceedings and shall not count towards the computation of the time limits defined in these Procedures.
- 15.2 *Submission of Settlements.*** At any time before or after the commencement of sanctions proceedings, but prior to the issuance of a Final Decision, IACD and one or more Respondents may submit a signed copy of a Settlement Agreement to the Sanctions Commissioner for review, together with a certification by both parties that the Respondent(s) entered into the agreement freely and fully informed of its terms and without any duress. Where a stay has not been requested, the submission shall automatically stay the proceedings with respect to any case or cases specified in the Settlement Agreement.

- 15.3 *Review of Settlement Agreements by the General Counsel and Sanctions Commissioner.*** The General Counsel shall review the terms of Settlement Agreement to ensure that they do not manifestly violate these Procedures or any policy issued by the Bank Group. The Sanctions Commissioner shall review Settlement Agreements to ensure fairness, transparency and credibility. Upon the receipt of the confirmation of the General Counsel that the terms of a Settlement Agreement do not manifestly violate these Procedures or any Policy of the Bank Group, the Sanctions Commissioner shall provide clearance of the Settlement Agreement. The Sanctions Commissioner shall impose the sanction stipulated in the Agreement and promptly inform IACD and the Respondent, and the Agreement shall become immediately effective and binding on the parties or, if different, on the date specified in the Agreement. If the Sanctions Commissioner finds that the Respondent did not enter into the Settlement Agreement freely and fully informed of its terms, the Sanctions Commissioner shall promptly inform IACD and the Respondent, whereupon the Agreement shall be terminated without prejudice to either party. In either case, the Sanctions Commissioner shall notify the Appeals Board of the outcome through the Appeals Secretary.
- 15.4 *Publication of Settlement Agreements.*** A summary of any Settlement Agreement entered into by the Bank Group pursuant to the provisions of these Procedures shall be published on the Bank Group's website along with the name of the Respondent(s) concerned.
- 15.5 *Effect of Settlement Agreements***
- 15.5.1 *Definite Disposition.*** If the Settlement Agreement provides for the definitive disposition of a case or part of it, such case or part of it shall be closed on the effective date of the Settlement Agreement or, if different, the date specified in the Agreement, in accordance with the provisions stipulated in the Settlement Agreement.
- 15.5.2 *Conditional Close.*** If the Settlement Agreement provides for the deferral of proceedings for a period of time pending compliance by the Respondent with specified conditions, proceedings shall be deemed stayed for the period specified in the Agreement, so long as the Respondent remains in compliance. Unless the Agreement expressly provides otherwise, upon expiration of the deferral period and compliance by the Respondent with all conditions specified in the Agreement, the case shall be closed. Time spent on the negotiation of Settlement Agreements shall suspend any proceedings and shall not count towards the computation of the time limits defined in these Procedures.
- 15.5.3 *Duty to Comply with Terms and Conditions.*** Unless the Settlement Agreement otherwise expressly provides, compliance by the Respondent with the terms and conditions of the Agreement shall be conditions for release from debarment or conditions for non-debarment, as applicable.
- 15.5.4 *Effect.*** If a Settlement Agreement becomes effective before the commencement of proceedings, its terms shall have the same effect as if proceedings had been commenced and concluded with the outcome, including the imposition of such sanction(s) on the Respondent as may be specified in the Agreement. Any other term of the Settlement Agreement shall be given such effect as may be specified in the Agreement.

15.6 Compliance with Settlement Agreements. Unless the Settlement Agreement expressly provides otherwise, IACD shall determine all interpretations, questions or matters of controversy as to the Respondent's compliance with the terms and conditions of the Agreement. In the case of Settlement Agreements providing for a deferral of proceedings, if IACD determines that the Respondent has violated the Settlement Agreement, the case shall be reopened and resume at the point at which it had been deferred. If the Respondent believes that IACD has abused its discretion under this provision, the Respondent may file an Appeal in accordance with these Procedures.

16 Treatment of Requests for Cross-Debarments from Participating Institutions

Any requests for Cross-Debarments received by IACD pursuant to the terms of the Agreement for Mutual Enforcement of Debarment Decisions entered into by the Bank Group and other Participating Institutions dated 9 April 2010 shall, in addition be communicated to the parties in accordance with the Bank Group rules and regulations, shall be submitted to the Appeals Board for no-objection within the deadline provided for under such rules and regulations, if any.

17 General Provisions

- 17.1 Certification.** All submissions by a Respondent under these Procedures shall contain a certification that the information contained is truthful and correct to the best of the signer's knowledge, information and belief, formed after reasonable inquiry under the circumstances of its submissions. The certification shall be made by the individual Respondent or an authorised officer of a Respondent.
- 17.2 Language.** All submissions under these Procedures shall be made in writing in English and/or French. Where either party provides materials that were originally written in other languages, the original documents shall be provided along with an official translation in English or French.
- 17.3 Delivery.** All notices and submissions relating to these Procedures shall except where otherwise stated, be in writing and deemed received upon receipt. The Sanctions Secretary and Appeals Secretary shall dispatch all documents by registered mail, courier service, or such other means that will provide evidence of receipt. Documents forwarded to IACD may be forwarded to secured email addresses expressly provided for this purpose. The Sanctions Commissioner or Chair of the Appeals Board may, in their discretion, accept submission of materials by electronic means. A Notice, Notice of Temporary Suspension, Sanctions Decision, or any other document shall be deemed issued to the Respondent on the date it is deposited in the mail or with a courier service. Submissions to the Sanctions Commissioner or Appeals Board shall be deemed submitted on the date received. Where a dispute arises as to the date as of which a document should be deemed delivered or submitted, the Sanctions Commissioner or Chair of the Appeals Board, as the case may be shall decide. Their determination shall be final. The Sanctions Office or the Appeals Board, as the case may be, may issue rules regarding the delivery of Notices and other materials to the Respondent.

17.4 Interpretation

17.4.1 Use of Terms. Unless the context otherwise requires, any term used in these Procedures in the singular includes the plural, and the plural includes the singular; pronouns of a particular gender include the other gender.

17.4.2 References and Headings. The headings of articles, sections and sub-sections of these Procedures are for ease of reference only and do not constitute substantive parts of the Procedures for purposes of interpretations of the text.

17.4.3 Questions on Proper Interpretation. If any question arises as to the proper interpretation of any provision of these Procedures, the Sanctions Commissioner or the Appeals Board shall consult the Bank Group's General Counsel for advice.

17.4.4 Computation of Time. 'Days' means calendar days, including weekends and holidays. If the last day of any period of time prescribed falls on a weekend or other day on which the Bank Group's Offices are not officially open for business, the last day shall be the end of the following day on which the Bank Group's Offices are officially open for business. 'Bank Group's Offices' means the address provided for in the Notice.

17.5 Amendments or other Modifications. These Procedures are adopted to guide the exercise of discretion by the Bank Group, and do not in themselves confer any rights or privileges on any party. The Bank Group may alter, amend, supplement, or revise these Procedures, with or without notice.

17.6 Reservation of Immunities and Privileges. Nothing in these Procedures shall be considered to alter, abrogate, or waive the immunities and privileges as set forth in the Agreement Establishing the African Development Bank, the Agreement Establishing the African Development Fund, the Agreement Establishing the Nigeria Trust Fund, or applicable national or international law, regulation or other authority.

17.7 Bank's Policies of Disclosure. Notwithstanding any other provision of these Procedures to the contrary, the sharing of information shall be subject to the limitations contained in the Disclosure and Access to Information Policy adopted by the Bank Group and other policies governing the Bank Group, as amended from time to time.

17.8 Non-Application to Investigations of Government Entities and Staff. These Procedures do not apply to investigations of governmental entities, investigations concerning Bank employees and other officials whose relationships with the Bank Group are governed by Codes of Conduct of the Bank Group, or to other cases as defined under policies of the Bank Group.

18 These Sanctions Procedures shall be effective from the date hereinafter set forth. They shall be amended from time to time and each amendment shall enter into force on the date indicated in the relevant amendment. Each amendment shall apply to sanctions proceedings for which a Notice is issued after the coming into force of such amendment.