GUIDELINES FOR CONSTRUCTIVE AND SUBSTITUTED DELIVERY AND SUBMISSION OF NOTICES AND OTHER MATERIALS IN THE FIRST TIER OF THE AFRICAN DEVELOPMENT BANK SANCTIONS PROCEDURES

Pursuant to Paragraph 7.5 of the Proposal for the Implementation of a Sanctions Process within the African Development Bank (the “Bank”) approved by the Boards of Directors of the Bank Group on 5 July 2012, the following guidelines are issued by the Sanctions Commissioner of the Bank to govern the delivery of Notices of Sanctions Procedures, Notices of Temporary Suspension (collectively, “Notices”) and the delivery and submission of other materials in the Bank sanctions proceedings in cases not covered by Section 17.3 of the Sanctions Procedures of the Bank.

1. **Address for delivery of a Notice.** The Integrity and Anti-Corruption Department (IACD) will normally designate the current address or place of business of a Respondent as the address for delivery of a Notice. Delivery of a Notice may also be made to a Respondent’s legally authorized representative. IACD will make reasonable efforts to ascertain the address or place of business, email address and telephone number of each Respondent (or its legally authorized representative) in the course of its investigation. IACD should confirm that the address is current no more than 90 days prior to the submission of Findings of Sanctionable Practice to the Sanctions Commissioner.

2. If a Notice cannot be delivered to the address designated by IACD, the Sanctions Commissioner will submit a request to IACD to provide any other address that can be obtain within reasonable efforts. If a new address is obtained, delivery will be attempted to that address. If the Notice cannot be delivered at the new address provided or if IACD is unable to ascertain the current address of the Respondent after reasonable efforts, delivery may be accomplished as described in “Constructive Delivery” below.

3. In cases where IACD has confirmed the validity of a Respondent’s address but it appears that the Respondent has refused to accept delivery, the Notice may be left with any person at the designated address or with an authorized representative of the Respondent. If no such person is available to accept delivery, delivery may be accomplished as described in “Constructive Delivery” below.

4. **Constructive Delivery.** If after reasonable efforts IACD is unable to ascertain the current address of a Respondent or any legally authorized representative, a sealed letter, marked confidential and 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 attempt to deliver a Notice and that the Notice can be obtained by contacting the Sanctions Office by mail, telephone, email or fax.

If the letter relates to a Notice of Temporary Suspension, the letter will indicate that a Temporary Suspension has been imposed on the Respondent, subject to the Respondent’s right to provide an Objection to the Temporary Suspension within 40 days after the letter is deposited.

If the letter relates to a Notice of Sanctions Proceedings, the letter will advise the Respondent that if the Respondent fails to submit a Response within 60 days of deposit, the Sanctions Commissioner reserves the right to make a decision based solely on the evidence provided by IACD.

The sealed letter will further indicate that the Bank will also post on its website, for a period of no less than thirty (30) calendar days, a public notice that it is attempting to locate the Respondent to deliver a Notice in relation to an administrative sanction proceeding.

5. 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 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). In any case, the letter will be deemed deposited ten (10) calendar days after the date of shipment, if the mail or courier service cannot offer a confirmation of deposit of the letter at the specified address.

6. The public notice will be posted on the Bank’s website within five (5) working days after the sealed letter is deposited. Delivery will be deemed to have occurred on the last day of the posting period.

7. **Substituted Delivery.** If there is no known address for a Respondent, the Bank will post on its website for a period of no less than 30 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. Delivery in the manner set out in this paragraph shall constitute substituted delivery.

8. **Calculation of Time Periods for Respondent’s Submissions.** The time periods for submission of Responses shall be calculated from the date of delivery of the Notice. Notices are deemed delivered upon completion of the steps set out above.
9. **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. IACD may, however, propose the issuance of a new Notice against an appropriate successor or assign of the 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).

10. **Other Matters.** Any issue that may arise in cases concerning the delivery or submission of materials in sanctions proceedings not addressed by these rules will be determined at the discretion of the Sanctions Commissioner.

Issued on 16 April 2015

[Signature]

Akere T. MUNA
Sanctions Commissioner
African Development Bank Group