2013-2014 ANNUAL REPORT
OF THE SANCTIONS SYSTEM

SANCTIONS OFFICE
SANCTIONS APPEALS BOARD SECRETARIAT
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# ACRONYMS

<table>
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<tr>
<th>Acronym</th>
<th>Full Form</th>
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</thead>
<tbody>
<tr>
<td>AsDB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>CIMM</td>
<td>Corporate Information Management &amp; Methods Department</td>
</tr>
<tr>
<td>COPB</td>
<td>Programming and Budget Department</td>
</tr>
<tr>
<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
</tr>
<tr>
<td>FoSP</td>
<td>Findings of Sanctionable Practices</td>
</tr>
<tr>
<td>GECL</td>
<td>General Counsel and Legal Services Department</td>
</tr>
<tr>
<td>IACD</td>
<td>Integrity and Anti-corruption Department</td>
</tr>
<tr>
<td>IDB</td>
<td>Inter-American Development Bank</td>
</tr>
<tr>
<td>IFI</td>
<td>International Financial Institutions</td>
</tr>
<tr>
<td>MDB</td>
<td>Multilateral Development Banks</td>
</tr>
<tr>
<td>NSA</td>
<td>Negotiated Settlement Agreement</td>
</tr>
<tr>
<td>NSP</td>
<td>Notice of Sanctions Proceedings</td>
</tr>
<tr>
<td>ORPF</td>
<td>Procurement &amp; Fiduciary Services Department</td>
</tr>
<tr>
<td>SAB</td>
<td>Sanctions Appeals Board</td>
</tr>
<tr>
<td>SABS</td>
<td>Secretary to the Sanctions Appeals Board</td>
</tr>
<tr>
<td>SANO</td>
<td>Sanctions Office</td>
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<tr>
<td>SC</td>
<td>Sanctions Commissioner</td>
</tr>
<tr>
<td>SP</td>
<td>Sanctionable Practice</td>
</tr>
<tr>
<td>SSO</td>
<td>Secretary to the Sanctions Office</td>
</tr>
<tr>
<td>TS</td>
<td>Temporary Suspension</td>
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</table>
I. INTRODUCTION

1. By Resolution B/BD/2012/06 dated 5 July 2012, the Board of Directors of the African Development Bank (the Bank), approved the recommendations contained in the Proposal for the Implementation of a Sanctions Process within the African Development Bank Group, hereby instituting a new sanctions regime to support the Bank’s anti-corruption efforts. The institutional change led to the creation of a two-tier sanctioning process, with the establishment of a decision-making body, the Sanctions Office (“SANO”) and an appellate body, the Sanctions Appeals Board (“SAB”).

2. This reform was aimed at strengthening the integrity and anti-corruption function and sanctions process within the institution, in order to ensure that resources allocated for investment in projects and programmes in regional members countries are used for the purposes for which they were intended and not diverted to other uses through fraud, corruption or associated prohibited practices.

3. The reform was also an important step for the entering into force with respect to the Bank of the Agreement for Mutual Enforcement of Debarment Decisions, signed on 9 April 2010 by the African Development Bank, the Asian Development Bank (“AsDB”), the European Bank for Reconstruction and Development (“EBRD”), the Inter-American Development Bank (“IDB”) and the World Bank Group. These institutions recognized that a unified and coordinated approach is critical to the success of their efforts to fight corruption and to prevent corruption from undermining the effectiveness of their work. Therefore, the Agreement establishes a framework within which an entity or a person found to have engaged in wrongdoing in projects financed by an International Financial Institution (“IFI”) and debarred by such IFI, may be sanctioned for the same misconduct by the other signatories in circumstances where such entity or person is debarred for a period exceeding a year.

4. This Annual Report is prepared in accordance with Paragraph 2(h) of the Terms of Reference for the Sanctions Commissioner (“SC”) and Paragraph 2(c) of the Terms of Reference for the SAB as contained in Annex I and Annex III respectively, of the Proposal for the Implementation of a Sanctions Process within the African Development Bank Group, which requires these two bodies to “report annually to the Board of Directors on the work of” the Sanctions Office and Sanctions Appeals Board.

5. The 2013-2014 Annual Report will cover, exceptionally, the period from June 2013 to 31 December 2014. After this introduction (I), this first activity Report recapitulates basic information on the organization and functioning of the Sanctions System (II) and outlines activities performed by SANO and SAB as of December 2014 (III), before concluding by giving a preliminary perspective of the coming year (IV).
II. STRUCTURE AND FUNCTIONS OF THE SANCTIONS SYSTEM

6. The SANO serves as the first instance of adjudication phase of the Sanctions System. SANO receives, reviews and makes a determination with regard to findings of Sanctionable practices submitted by the Integrity and Anti-corruption Department (“IACD”). The SAB, in the second and final instance, receives and determines appeals submitted against sanctions decisions made by the SC.

7. In the discharge of their functions, SANO and SAB are guided primarily by the aforementioned Proposal for the Implementation of a Sanctions Process and by the Sanctions Procedures of the Bank issued on 12 August 2013 and amended on 18 November 2014. These documents govern the administrative process by which the Bank determines whether or not to sanction parties alleged to have engaged in “Sanctionable Practices”, in connection with Bank financed or administered projects or the Bank’s corporate procurement. The concept of “Sanctionable Practice(s)” refers to the following definitions, which the Bank adopted based on an harmonized approach with other IFIs.

<table>
<thead>
<tr>
<th>SANCTIONABLE PRACTICES</th>
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<tbody>
<tr>
<td><strong>Corrupt practice</strong>: The offering, giving, receiving or soliciting, directly or indirectly, of anything of value to improperly influence the actions of another party.</td>
</tr>
<tr>
<td><strong>Fraudulent practice</strong>: 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.</td>
</tr>
<tr>
<td><strong>Collusive practice</strong>: An arrangement between two or more parties designed to achieve an improper purpose, including to improperly influence the actions of another party.</td>
</tr>
<tr>
<td><strong>Coercive practice</strong>: 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.</td>
</tr>
<tr>
<td><strong>Obstructive practice</strong>: (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.</td>
</tr>
</tbody>
</table>
A. The Sanctions Office

8. SANO is an independent and autonomous entity within the Bank with its own administrative budget. SANO is headed by the SC, and in his/her absence, by the Alternate SC. The SC is assisted by the Secretary to the Sanctions Office (“SSO”).

1. The Sanctions Commissioner

9. Currently, and as a pilot phase for the initial three years (2013-2016), the SC and the Alternate SC are external experts appointed by the Board of Directors of the Bank, on the recommendation of the Bank’s President. The current incumbents were appointed by Resolution B/BD/2013/02 adopted by the Board of Directors of the Bank on 11 February 2013. They were sworn into office on May 14, 2013.

10. The SC or the Alternate SC is required to discharge his/her function independently and must respect and maintain the confidentiality of the sanctions proceedings. The SC or the Alternate SC must consider each case fairly, impartially and with due diligence and shall recuse him/herself or may be recused from any case in which he/she has an actual, potential or perceived conflict of interest.

11. The SC has three main functions: consider and make a determination with regard to Sanctions Cases, Requests for temporary Suspension, and Settlement Agreements received from IACD.

(i) Consideration of Sanctions Cases: The SC’s role with regard to Sanctions Proceedings consists in determining whether or not there is sufficient evidence to support IACD’s findings against the parties alleged to have engaged in Sanctionable Practice(s), and in such a case, impose one or more sanction(s) which will be selected from the range of sanctions identified in the Sanctions Procedures and summarized in the table below. This determination is made upon consideration of the evidence, facts and arguments presented by IACD and counter-evidence and arguments eventually presented by the party alleged to have engaged in Sanctionable Practice(s) (being referred to as the “Respondent”). The sanctions process is outlined in the flowchart attached as Annex 1.

<table>
<thead>
<tr>
<th>SANCTIONS</th>
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</thead>
<tbody>
<tr>
<td>The base sanction is a 3-year debarment period that can be increased or decreased based on the existence of mitigating or aggravating factors to be considered by the SC and the SAB. The following sanctions may be imposed:</td>
</tr>
<tr>
<td>• Letter of reprimand</td>
</tr>
<tr>
<td>• Conditional non-debarment</td>
</tr>
<tr>
<td>• Debarment with conditional release</td>
</tr>
<tr>
<td>• Debarment for a determined/fixed period</td>
</tr>
<tr>
<td>• Permanent Debarment</td>
</tr>
<tr>
<td>• Restitution of funds or other financial remedies such as imposition of fines</td>
</tr>
<tr>
<td>• Other sanctions such as total or partial reimbursement of the costs associated with investigations and proceedings.</td>
</tr>
</tbody>
</table>

1 Following the expiry of the initial three (3) year period, the President will recommend to the Board whether the Sanctions Commissioner should continue being an external expert, or whether he/she should be appointed from amongst the Bank’s staff.
(ii) Consideration of Requests for Temporary Suspension: IACD may, before concluding an ongoing investigation, request that the subject of investigations be temporarily suspended from eligibility to participate in Bank-financed Projects and to be awarded new contracts, if IACD believes that continuous eligibility would cause imminent financial or reputational harm to the Bank Group. The SC will consider the request and grant such temporary suspension if the evidence supports a finding of a Sanctionable Practice for which an appropriate sanction would be no less than a one (1) year debarment.

(iii) Consideration of Negotiated Settlement Agreements: IACD and the Respondent may enter in a Negotiated Settlement Agreement and are requested to submit a signed copy of such Agreement to the SC for review and clearance. The role of the SC in reviewing Settlement Agreements is limited to ensuring fairness, transparency and credibility of such Agreement. Specifically, the SC will verify that the Respondent entered into the agreement freely and fully informed of its terms and without any duress. The agreement cleared by the SC becomes effective and binding on the parties.

2. The Secretary to the Sanctions Office

12. The SC is assisted by a SSO, a Bank staff member appointed by the President, who is also required to exercise his/her functions independently, to respect and maintain the confidentiality of the sanctions proceedings. The SSO reports functionally to the SC and administratively to the Bank’s First Vice-President/COO and is assisted by an Administrative Assistant.

13. The SSO provides assistance and support to the SC in various ways, including in the decision making process, particularly by preparing a written brief on all aspects of a case, by drafting notifications, notices and sanctions decisions, following their determination by the SC. The SSO is responsible for the day to day management of SANO, for receiving submissions and making notifications to IACD and Respondents and for advising Respondents on procedure.

B. Structure and Functions of the Sanctions Appeals Board and Secretariat

1. The Sanctions Appeals Board

14. The SAB is mandated to consider and make final decisions on appeal cases. The SAB is made up of six (6) members appointed for a three-year term. Of these, the President of the Bank Group nominees, for appointment by the Board of Directors, four (4) external experts, two (2) substantive and two (2) alternates and appoints two (2) internal members, one substantive and one alternate from among the Bank management staff. The four external members of the SAB are personalities chosen for their expertise in the fight against fraud and corruption.

15. The SAB carries out a full "de novo" process and takes decisions on the basis of written record without a hearing and the parties have no right to a hearing. However, the SAB may, at its discretion, organize hearings as it deems necessary.
16. In examining the appeal files, the SAB:
  - Determines whether the evidence is sufficient to support the conclusion that the Respondent has engaged in Sanctionable Practices in connection with Bank Group financed operations;
  - Takes appropriate final sanction decision in case where Sanctionable Practices were carried out in connection with an operation financed by the Bank Group;
  - Submits an annual report to the Board on its activities; and
  - Sets out its own rules, procedures and code of conduct.

2. The Secretary to the Sanctions Appeals Board

17. The Secretary of the Sanctions Appeals Board (“SABS”) operates independently. He/she is appointed by the Bank President from among the staff. He/she reports administratively to the Bank President and functionally to the Chair of the SAB. The SABS assists the SAB in its functions, and:
  - Receives Notices of Sanctions Proceedings issued by the SC and addressed to the Respondent;
  - Receives and prepares appeal notices relating to decisions made by the SC;
  - Is responsible for transmitting all documents and making all notifications required in connection with an appeal;
  - Briefs the SAB members on all aspects of a case during its proceedings;
  - Schedules all meetings and hearings of the SAB;
  - Prepares for each case a dossier recording all actions taken in connection with an appeal and the dates thereof;
  - Attends hearings and meetings of the SAB, prepares and keeps minutes at the request of the Chair;
  - Respects and maintains the confidentiality of sanctions proceedings; and
  - Performs other tasks related to the management of the SAB.

III. 2013-2014 ACTIVITIES

A. Sanctions Office Activities

18. From August 2013 to December 2014, the SC carried out a total of four missions to Tunis and Abidjan to consider the cases submitted by IACD. While all Sanctions Cases were examined at the Temporary Relocation Agency or Headquarters, two Settlement Agreements were considered remotely.
1. Sanctions Cases

19. In October 2013, SANO received four Sanctions Cases which resulted in one Determination of Insufficient Evidence and two Notices of Sanctions Proceedings. Three of the Cases were carried-over into 2014. In 2014, IACD submitted cinq additional cases, in March, November and December. Four among the total of eight cases were processed by the SC, and resulted in one Notice of Sanctions Proceedings and Sanctions Decisions in one case. The other Cases were pending or under review as of 31 December 2014. Five of the Cases relate to fraudulent practices, two relate to corrupt practices and two concern fraudulent and collusive practices. An overview of the Cases submitted in 2013-2014 is provided in a table in the following page.

20. It is to be noted that the work of SANO was heavily delayed in 2014 as consideration of Sanctions Cases had to be suspended pending the clarification and revision of some key provisions of the Sanctions Procedures of 12 August 2013 and its translation into French. The revised version of the Sanctions Procedures was issued on 18 November 2014. Another cause which also delayed consideration of Sanctions Cases relates to the addresses of Respondents. Because some of the cases were old cases, investigated by IACD few years ago, some of the addresses happened not to be actual, thus, rendering notification of Notice of Sanctions Proceedings rather difficult to achieve.

2. Negotiated Settlement Agreements

21. During 2013, no Negotiated Settlement Agreement (“NSA”) was submitted for clearance by the SC. In 2014, SANO formally recorded six NSA. Clearance by SC was granted for all 6 cases. The sanctions imposed resulted in debarments ranging from one to three years with or without implementation of an Integrity and Compliance Program and financial penalties. Only in one case, a Letter of reprimand and implementation of an Integrity and Compliance Program was imposed on one Respondent.

22. Four of the NSA were concluded to sanction corrupt practices committed by four Joint venture companies which hired consultants to channel bribes to Government officials in order to secure their assistance in obtaining and retaining engineering, procurement and construction contracts to design and build a liquefied natural gas production plant and expansions. The fifth one was negotiated to sanction fraudulent practices against Respondents which failed to disclose previous relationship with the Consultant and misrepresented the amount paid to its Agent. Finally, the sixth NSA sanctioned fraudulent and collusive practices against Respondents which submitted falsified documents and assisted in the preparation of a competitor’s bid.

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2 A Notice of Sanctions Proceedings is issued when the SC finds prima facie evidence of Sanctionable Practice(s).
## Sanctions cases considered in 2013-2014

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Alleged Sanctionable Practice(s)</th>
<th>Respondents</th>
<th>SC prima facie determination</th>
<th>SC final determination/Decision</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 1/Report/1</td>
<td>Fraudulent practice - Submission of forged Bank Guarantees to influence the execution of contract</td>
<td>One firm and one individual</td>
<td>Evidence provided was not sufficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Case 2/Report/1</td>
<td>Fraudulent practice - Submission of forged diploma in order to influence the procurement process for the recruitment of consultant</td>
<td>One individual</td>
<td>Notice of Sanctions Proceedings</td>
<td></td>
<td>Delivery of Notice was suspended, pending clarification and French translation of the Sanctions Procedures.</td>
</tr>
<tr>
<td>Case 3/Report/1</td>
<td>Corrupt practice - Offering a job to a public official in order to improperly influence his actions in a procurement process</td>
<td>One firm and two individuals</td>
<td>Notice of Sanctions Proceedings</td>
<td>6 years debarment for all Respondents- With conditional release for the firm</td>
<td></td>
</tr>
<tr>
<td>Case 4/Report/1</td>
<td>Fraudulent practice – Misrepresentation of facts in order to acquire consulting services by a non-competitive process</td>
<td>One firm and one individual</td>
<td>Notice of Sanctions Proceedings</td>
<td></td>
<td>Delivery could not be effected as the Respondent firm could not be located nor it existence confirmed</td>
</tr>
<tr>
<td>Case 1/Report/2</td>
<td>Fraudulent practice – Submission of forged Bank Guarantees to influence the execution of contract</td>
<td>One firm and one individual</td>
<td>Notice of Sanctions Proceedings</td>
<td></td>
<td>This case is Case No. 1/Report/1, revised and resubmitted by IACD</td>
</tr>
<tr>
<td>Case SN/2014/01</td>
<td>Corrupt practice – Offering of gifts and other favours to Bank staff to influence their decisions on disbursement and payment</td>
<td>One firm</td>
<td>Notice of Sanctions Proceedings</td>
<td></td>
<td>The file was returned to IACD for resubmission in the language of the Respondent (French)</td>
</tr>
<tr>
<td>Case SN/2014/02</td>
<td>Fraudulent practice – Submission of incorrect information and invalid VAT Registration Certificate to influence the procurement process</td>
<td>One firm</td>
<td>Pending determination</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Case SN/2014/03</td>
<td>Fraudulent and collusive practices – Misrepresentation of capacity and qualifications to perform a contract assignment - Fraudulent alteration of contracts with assistance of a staff</td>
<td>Two firms and one individual</td>
<td>Pending determination</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Case SN/2014/04</td>
<td>Fraudulent and collusive practices – Misrepresentation of intention to assign a contract to a subcontractor which did not qualified to bid</td>
<td>Two firms</td>
<td>Pending determination</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
3. Other Activities

23. In June 2013, the SC and the Alternate SC and the then Acting SSO travelled to Washington D.C., U.S.A and Manila, Philippines, to hold meetings with the respective Officers of the sanctions offices at the World Bank, the IDB and the AsDB. The primary objective of the mission was to learn from the experiences of other Multilateral Development Banks (“MDBs”) in implementing their respective sanctions processes, to understand some of the key challenges encountered, in an attempt to pre-empt similar challenges within the sanctions process at the Bank. It is appropriate to salute the important extensive cooperation received from the Chief Suspension and Debarment Officer of the World Bank and the Case Officer of the IDB.

24. In March 2014, the SC and the newly appointed SSO participated in a mission, in Washington, D.C., USA, to attend two sets of meetings:

- the Meeting for the First Tier of the MDBs Sanctions Systems, which took place at the IDB Headquarters on 20 March 2014. This Summit was beneficial to the SC and the SSO as this was an ideal forum to exchange experiences with counterparts in other MDBs;

- the 2nd Annual Global Anti-Corruption Congress, on 21 March 2014, which was also attended by the Chief Suspension and Debarment Officer of the World Bank, Policy Advisor/Inspectorate General of the European Investment Bank, the Case Officer of the IDB. All were members of the same panel and they spoke on "An Inside Perspective on the Suspension and Debarment Process and What Companies Can Do to Minimize Exposure to Corrupt and Fraudulent Behaviour in Bank-Financed Projects ".

25. The SSO took the opportunity of this mission to spend four days in-house at offices of the Chief Suspension and Debarment Officer of the World Bank and the Case Officer of the IDB, in order to learn more from their experiences in implementing their sanctions processes and managing their respective offices.

26. The SSO also participated in the review of the Bank Sanctions Procedures with the Legal Services Department (GECL) and the SABS and performed all administrative tasks in connection with the setting up and operationalisation of the Office.

B. Sanctions Appeals Board Activities in 2014

27. Since the appointment of the Secretary in December 2013, no appeal case has been submitted. As a result, the SAB has not yet had the opportunity to meet to decide on a case.

28. However, the Secretary took advantage of this situation to perform all administrative work relating to the establishment of the Office in the internal structures of the Bank. Thus, the existence of SABS was reflected in the Bank's administrative management software such as SAP, SRAS and ATRS. The existence of SABS was also reflected in the Bank’s organization chart. In addition, the SABS has worked with the Corporate Information Management & Methods Department (CIMM) to include SABS on the Bank’s Intranet. The development of the SABS external website is in progress. Similarly, the Secretary worked with the Programming and Budget Department (COPB) to define deliverables and performance indicators to enable the allocation of budgetary resources for SABS operations. Lastly, the
SABS participated, alongside SANO and GECL in review and fine-tuning the Bank’s Sanctions Procedures.

29. In terms of human resources, an Administrative Assistant was recruited on a short-term contract basis to assist the Secretary, pending the final recruitment of an Administrative Assistant.

30. As regards the functioning of the SAB, in April 2014, the Chair undertook a mission to Tunis where he met with the Bank’s President. On this occasion, the Chair also met with the Vice-President of Finance, the Vice-President responsible for Private Sector activities, the General Counsel, the Director of the Procurement Fiduciary Services Department (ORPF) and the Director of IACD and her team. In addition, despite not having had the opportunity to process an appeal case, SAB members and the SABS regularly communicated by telephone and video conference in connection with SAB management and discussed about sessions to be organized in case an appeal is brought before the SAB. SABS was also requested to organize the annual meeting of Secretaries of Sanctions Appeals Boards of MDBs on the sidelines of the Bank’s 50th Anniversary ceremonies. Unfortunately, this event was cancelled due to the Ebola outbreak in the sub-region.

31. Lastly, as regards exchanges with sister institutions, the SABS maintains very good relations with Secretariats of the Sanctions Appeals Boards of other institutions which are signatories to the Agreement for Mutual Enforcement of Debarment Decisions of 9 April 2010 namely, the World Bank, the IDB Group, the EBRD and the AsDB. The SABS is a member of the network of Secretaries of Sanctions Appeals Boards. She takes part in the experience and information exchange chain to promote the harmonization of practices in implementing the aforementioned Agreement. In doing so, the SABS participates by teleconference in meetings between the Secretaries of participating institutions, which take place every three months, and the annual meetings of the Secretariats of Sanctions Appeals Board of MDBs.

32. Finally in December 2013, the SAB members and the newly appointed SABS participated in a mission, in Washington, D.C., USA, to attend the annual Meeting of the Sanctions Appeals Boards of the MDBs hosted by the World Bank. They also attended the same Meeting hosted by the IDB, in November 2014, in Washington, D.C., USA.
IV. CONCLUSION

33. The offices of the Bank’s Sanctions System were established in 2013 with the appointment of the SC, the Alternate SC, the SSO, the members of the SAB and the SABS. In 2014, there was a review of the Sanctions Procedures and intensive administrative activities to enable the Sanctions System to become fully operational. For SANO, these administrative activities were performed concomitantly with core activities such as consideration of sanctions cases and negotiated settlement agreements submitted by IACD, which increased the Secretariat’s workload. The Secretariat also faced few challenges related to the presentation of the cases and to the fact that some operating rules were not yet finalized. Nevertheless, SANO was able to overcome these challenges and to perform effectively.

34. More work is expected to come in respect of the finalization, in collaboration with GECL, of legal instruments that would govern the functioning of these offices, i.e. the Statutes and Code of conduct of the SAB and the Sanctions Office Charter, as well as the other operating rules and guidelines to regulate the sanctions process and proceedings. On another note, to enable a smooth running of the sanctions process, it is critical that all participants in the process, i.e. IACD, SANO and SABS adopt appropriate and coordinated working methods.

35. In the coming years, the SSO and the SABS will be involved in information events at the Headquarters and in the Field Offices in order to make the new sanctions system and process better known to Bank staff, borrowers, beneficiaries and contractors under Bank financed and administered projects and to enhance the visibility of SANO and SABS.
ANNEXES
The Integrity and Anti-Corruption Department (IACD) submits a Request for Temporary Suspension (TS) to the Sanctions Commissioner (SC).

The SC reviews the Request to determine if the requirements for TS are fulfilled and if there is sufficient evidence to support a finding of Sanctionable Practice (SP) and a debarment decision of 1 year or longer.

If the requirements are fulfilled and the evidence sufficient, the SC issues a Notice of Temporary Suspension to the Respondent for a period of 12 months.

Respondent may contest the TS by submitting an Objection to the TS within 40 days of receipt to the SC.

The SC considers the parties’ arguments and may decide to terminate or uphold the TS.

If the SC decides to uphold the TS, the Respondent cannot appeal that decision.

If the SC decides to uphold the TS, the issue is closed. IACD cannot appeal the decision.

IACD may present to the SC an Application for Renewal of TS no later than 1 month before the end of the TS. The SC considers the Application within 10 days of receipt. SC’s decision may not be appealed against.

If IACD does not submit an Application for Renewal of the TS, the suspension lapse at the end of the period prescribed in the Notice of TS.

IACD submits a Finding of Sanctionable Practices (FoSP) to the SC.

SC reviews FoSP to determine whether evidence is sufficient to support prima facie finding of SP.

If SC determines that evidence is sufficient, SC issues a Notice of Sanctions Proceedings (NSP) to the Respondent.

Respondent may contest the allegations by submitting a Response to the SC within 60 days of receipt of the FoSP.

If Respondent does not submit a Response, SC makes a determination solely on the basis of evidence provided by IACD and imposes a sanction on the Respondent.

If Respondent submits a Response, SC determines, within 30 days, on the basis of evidence and arguments presented, whether it is more likely than not that Respondent engaged in the alleged SP.
If evidence is sufficient, SC takes a Sanctions Decision and imposes one or more sanctions to Respondent.

If evidence is not sufficient, or if there is manifest error, SC withdraws the Notice. The Case is close. IACD may submit a revised FoSP.

Respondent refers the matter before the Sanctions Appeals Board (SAB) within 25 days of notification. The Sanctions Decision will not enter into force.

Respondent does not refer the matter before the Sanctions Appeals Board (SAB) within 25 days of notification. The Sanctions Decision is final and will enter into force.

The respective sanctions, the identity of the sanctioned party, the SP sanctioned and a summary of the Sanctions Decisions will be published.

The case is brought before SAB by the Appeal presented to the Secretary to the Sanctions Appeals Board (SABS).

SABS forwards the Appeal to IACD within 5 days of receipt or within reasonable time, in exceptional circumstances.

IACD may submit a Reply within 30 days of receipt of the Appeal.

Le SABS forwards IACD’s Reply to the Respondent within 5 days of receipt or within reasonable time, in exceptional circumstances

Respondent may submit a Rebuttal within 15 days of receipt of the Reply if IACD provides new evidence or arguments in the Reply.

SAB may consider the Case on the basis of the Record. Parties have no right to an oral hearing. However, SAB may decide to hold a hearing.

SAB holds closed deliberations

If evidence is sufficient to conclude that it is more likely than not that Respondent engaged in the alleged SP, SAB takes a Final Decision and imposes sanction(s) on the Respondent. The Decision is final and binding on the parties.

If the evidence is not sufficient, SABS prepares a written document recording SAB’s finding and the closure of the proceedings and delivers it to the parties

The respective sanctions, the identity of the sanctioned party, the SP sanctioned and a summary of the Sanctions Decisions will be published.
1. **General Responsibilities**

The Sanctions Commissioner (“SC”) shall be the head of the Sanctions Office (the “SANO”) and shall exercise its functions independently. As a pilot phase for the initial three (3) years, the SC and the alternate SC shall be external experts appointed by the Executive Directors of the Bank on the recommendation of the President. The SANO is a critical component in ensuring an efficient, effective and fair sanctions process. The SC has authority to issue Notices of Sanctions Proceedings to Respondents and to impose sanctions.

2. **Operational Responsibilities**

   (a) The SC shall be assisted by a Secretary to the Sanctions Office at PL4 level and an administrative assistant.

   (b) The SC reviews the evidence of a Sanctionable Practice as presented by IACD and determines, upon consideration of all the facts and arguments presented whether there is sufficient evidence to support IACD’s finding.

   (c) The SC will then notify IACD on whether or not there is sufficient evidence to support a finding that the Respondent is engaged in a Sanctionable Practice.

   (d) If the SC determines that the evidence is sufficient to support the finding of a Sanctionable Practice, then he/she shall issue a Notice of Sanctions Proceedings (the “Notice”) to the Respondent and notify the Chair of the Sanctions Appeals Board (SAB) and the Director of IACD. The Respondent may contest the allegations in a written Response. The SC will issue a Decision after consideration of the facts and arguments presented.

   (e) If the Respondent informs the SAB through the Sanctions Appeals Board Secretary (SABS) that it desires to contest the allegations and/or the sanction prescribed by the SC in the Decision, the matter will be referred to the SAB for its review and final decision.

   (f) If the Respondent does not inform the SAB that it desires to contest the allegations or the sanction decided by the SC, the SC’s Decision shall become final and the sanction will be imposed.

   (g) The SC shall respect and maintain the confidentiality of the sanctions proceedings and shall be recused in cases where the SC may have an actual or perceived conflict of interest.

   (h) The SC shall report annually to the Board of Directors on the work of the SANO.

   (i) Rules and Procedure and the Code of Conduct for the SANO shall be developed by the Bank in consultation with the SC.

   (j) The SC shall be held harmless from any losses, costs, damages or liability to which the SC may be subject as a result of claims by third parties resulting from any function exercised within the scope of the present terms of reference and his/her assignment contract, except those resulting from the gross negligence or willful misconduct by the SC.
1. General Responsibilities

The Secretary to the Sanctions Office (the “SSO”) shall exercise her/his functions independently. She/he shall be appointed by the President of the Bank and report functionally to the Sanctions Commissioner (“SC”) and administratively to the First Vice-President/COO. The SSO shall be appointed from among the staff of the Bank to assist the SC. The SC shall supervise the work of the SSO.

2. Operational Responsibilities

The SSO shall be assisted by an administrative assistant. The SSO:

(a) Will receive findings as evidence of the Sanctionable Practice from IACD.
(b) Will prepare such evidence and will brief the SC on all aspects of a case;
(c) Will be responsible for transmitting all documents and making all notifications required in connection with the case.
(d) Will make for each case a dossier which shall record all actions taken in connection with such case and the dates thereof.
(e) Shall respect and maintain the confidentiality of the sanctions proceedings.
The Sanctions Appeals Board (“SAB”) reviews and makes final decisions on appeals cases and performs other detailed functions and responsibilities as set forth in the sanctions process. The Sanctions Appeals Board is comprised of six (6) members, three (3) of which are substantive and three (3) which are alternate. Four (4) of the Sanctions Appeals Board members are external to the Bank and are chosen among leading experts in the field of Anti-corruption, and two (2) other members are chosen among senior Bank staff.

The Sanctions Appeals Board members are appointed by the Bank Board of Directors on recommendation of the President of the Bank.

The Sanctions Appeals Board will utilize a “de novo” process and generally render its decision on the basis of the written record without a hearing and the parties have no right to a hearing. However, the Sanctions Appeals Board may, in its discretion, hold such hearings as it deems necessary.

The Sanctions Appeals Board is responsible for:

(a) Determining whether the evidence is sufficient to support a finding that a Respondent has engaged in a Sanctionable Practice in connection with a Bank Group-financed operations;

(b) Making final decisions on appropriate sanctions in cases of Sanctionable Practice(s) in connection with a Bank-Group financed operations;

(c) Reporting annually to the Board on the work of the Sanctions Appeals Board; and

(d) Developing its own rules, procedures and code of conduct.
ANNEX V

TERMS OF REFERENCE FOR THE SANCTIONS APPEALS BOARD SECRETARY

The Sanctions Appeals Board Secretary (the “SABS”) exercises her/his functions independently. He/She is appointed among the Bank staff members by the President of the Bank. Administratively, the Secretary to the Sanctions Appeals Board reports to the President of the Bank and functionally to the President of the Sanctions Appeals Board (“SAB”). The Secretary to the Sanctions Appeals Board assists the Sanctions Appeals Board in its duties.

Functionally, the Secretary to the Sanctions Appeals Board:

(a) Receives Notices of Sanction Proceedings addressed to the Respondent and as issued by the Sanctions Office (SANO);

(b) Receives and prepares Notices of Appeal from decisions made by the Sanctions Commissioner (SC);

(c) Responsible for transmitting all documents and making all notifications required in connection with the appeal;

(d) Will brief the Sanctions Appeals Board members on all aspects of a case during its deliberation;

(e) Schedules all Board meetings and hearings of the Sanctions Appeals Board;

(f) Prepares a file for each case in which all actions taken in connection with an appeal and the dates thereof are recorded;

(g) Attends hearings and meetings of the Sanctions Appeals Board, prepares and keeps minutes as instructed by the Chair;

(h) Respects and maintains the confidentiality of the sanctions proceedings; and

(i) Accomplishes any miscellaneous duties and tasks in connection with the management of the Sanctions Appeals Board.
Mr. Akere Tabeng MUNA, Sanctions Commissioner

Mr. Akere MUNA is a Cameroonian national and Barrister-at-Law with 34 years of experience in the multifaceted practice of law and possesses various other skills and experiences. He is founder and former President of Transparency International (TI) Cameroon. In 2007-2008, he was a member of the independent High-Level Audit Panel of the African Union. From 2008 to 2014 he was President of the African Union’s Economic, Social and Cultural Council. He is a former President of the Pan African Lawyers Union (2005-2014) and former President of the Cameroon Bar Association. He is a former member of the International Monetary Fund Advisory Group for Sub-Saharan Africa. In January 2010, he was elected as member of the Panel of Eminent Persons, which oversees the African Peer Review process, and thereafter, he was appointed Chairperson of the Panel. He is a Member of the Governing Board of the Africa Governance Institute and a Member of the High Level Panel on Illicit Financial Flows from Africa. He was actively involved in the TI working group that helped draft the AU Convention on Preventing and Combating Corruption, and authored a guide to the Convention. He was elected Vice-Chair of TI’s Board in 2005 and again in 2008 and 2011. Since 2014, he serves as Chair of the International Anti-Corruption Conference Council.

Maître Mahmoud BOUSBIA-SALAH, Alternate Sanctions Commissioner

Maître BOUSBIA-SALAH is an Algerian national, a Lawyer, Consultant and Expert in Investment and Public Procurement Law, with over 40 years of experience; he is also a Member of Algeria’s Chamber of Commerce and Industry. He is the Managing Partner of one of Algeria’s premier law firms specialized in advising on foreign investments and market entry into Algeria and in the past he has been the Advisor to the Algerian Prime Minister charged with overseeing the drafting of legal instruments necessary for enhancing Algeria’s economic reform. Maître BOUSBIA-SALAH was also a Secretary General in the Algerian Ministry of Transport and a Director at the Algerian Presidency of the Republic.

Ms. Marie Lydie BILE-AKA, Secretary to the Sanctions Office

Marie Lydie BILE-AKA holds this position since December 2013. Prior to her appointment, she performed in various capacities in the Bank: Board Proceedings Officer in the General Secretariat (SEGL), Acting Secretary to the Staff Appeal Committee (APCU), and Legal Consultant for the Legal Services Department (GECL). Before joining the Bank, she worked with the Law Firm Adjé-Assi-Métan and as Chief of Cabinet of the Ministry of Economic Infrastructure in Abidjan. Ms. BILE-AKA holds a Maîtrise en Droit Privé from the University of Abidjan, and a Master in International and Comparative Law (LL.M.) from The George Washington University, Washington, D.C. She is an Ivorian national.
Professor Mark PIETH, External Member and Chairperson

Professor Mark PIETH is a Swiss national. He has been a Professor of Law and Criminology at the University of Basel since 1993; as well as Head of Section of the Economic and Organized Crimes Section at the Swiss Federal Office of Justice. He has also chaired the OECD Working Group on Bribery in International Business Transactions as well served on the United Nations Independent Inquiry Committee into the Iraq Oil-for Food Program and the World Bank Integrity Advisory Board.

Ms. Susan RINGLER, External Substantive Member

Ms. Susan RINGLER is an American national, whose career achievements have included serving as General Counsel for the Independent Inquiry Committee investigating the UN Oil-for-Food Program in Iraq; creating and implementing a global anti-corruption program for the ITT Corporation; Investigating fraud and corruption and developing best practices in World Bank-financed projects; Developing a criminal justice reform program on behalf of the American Bar Association in Russia; as well as serving as Federal Prosecutor for the State of Maryland in the United States.

Juge El Hadji Malick SOW, External Alternate member

Judge Malick SOW is a Senegalese national, who has served as an Appellate judge at the national level, and at the international level, notably in the UN Special Tribunal for Sierra Leone charged with judiciary investigations and adjudication of criminal cases; Mission Leader in the Senegalese Ombudsman’s Office where he settled conflicts between banks and their clients as well as coordinated the Ombudsman’s study concerning corrupt and other malpractices in banks in Senegal. He has also served as Technical Advisor in the Senegalese Ministry of Justice and as Board Member of the National Debt Recovery Authority, where he handled cases of corrupt and other malpractices in liquidated banks.

Mr. Andres RIGO, External Alternate member

Mr. Andres RIGO is Spanish national, who has been Acting Vice President and General Counsel of the World Bank Group; Deputy General Counsel for Operations at the World Bank Group; and currently serves as an external Member of the Sanctions Committee of the Inter-American Development Bank, a Judge at the Administrative Tribunal of the IMF, and a member of the ICSID Panels of Arbitrators and Conciliators as well as the WTO Panel of Experts, among other functions.
Mr. Anthony ODUKOMAIYA, Internal Substantive member

Mr. Anthony ODUKOMAIYA is currently Director of the Financial Control Department of the Bank. Prior to his appointment to his current position, he was Division Manager of the Division responsible for financial reporting within the Financial Control Department. Before joining the Bank, Mr. ODUKOMAIYA held the positions of Semi-Senior and then Senior Manager with Deloitte & Touch, Nigeria from 1981 to 1991. He is a Fellow of the Institute of Chartered Accountants of Nigeria. He is a citizen of Nigeria.

Mr. Desiré VENCATAChELLUM, Internal Alternate member

Mr. Desiré VENCATAChELLUM is currently Director of the Operational Policies Department at the Bank. He served as Director of the Development Research Department between January 2011 and February 2012. He joined the Bank as Principal Research Economist in September 2005, and was promoted to Lead Research Economist in April 2008. Prior to joining the Bank, he was Full Professor of Economics at HEC Montréal, Université de Montréal. He holds a PhD. in Economics (Queen’s University, Canada) and a Magistère Ingénieur-Économiste (Université d’Aix-Marseille II, France). Mr. VENCATAChELLUM is a citizen of Mauritius.

Ms. Mariam DIAWARA, Secretary to the Sanctions Appeals Board

Mariam DIAWARA was appointed to her current position in December 2013. Prior to her appointment she performed in the Bank’s Legal Department (GECL) in various capacities: Chief Legal Counsel, Litigation, Principal Legal Counsel and Legal Consultant. Before joining the Bank, Ms. DIAWARA served as a lawyer in several law firms in Paris (France) and ran her own private practice for seven (7) years. She has several Law Degrees: “Certificat d’aptitude à la profession d’avocat” of Paris Bar, “Diplôme de l’Institut de Droit des Affaires (IDA)” from University of Paris II (Assas), “Diplôme d’Etudes Supérieures Spécialisées (DESS) en Administration Internationale” from University of Paris II (Assas), “Mastère spécialisé en Droit des Affaires Internationales et Management” from “Ecole Supérieure des Sciences Economiques et Commerciales” (ESSEC) of Paris. Ms. DIAWARA is a licensed attorney and a member of the Bar in France (Paris) and Mali (Bamako).

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1 Ms. RINGLER was appointed for a non-renewable period of two (2) years expected to end in May 13, 2015.

2 At the time this Report was being finalized, Mr. ODUKOMAIYA had retired from the Bank, as of end September 2015.