2016 ANNUAL REPORT
OF THE SANCTIONS SYSTEM

Sanctions Office (SNSO)
Sanctions Appeals Board Secretariat (BSAB)
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>I. SANCTIONS OFFICE ACTIVITIES</td>
<td>1</td>
</tr>
<tr>
<td>A. Consideration of Sanctions Cases</td>
<td>1</td>
</tr>
<tr>
<td>B. Consideration of Negotiated Settlement Agreements</td>
<td>2</td>
</tr>
<tr>
<td>C. Other Activities of the Sanctions Office</td>
<td>3</td>
</tr>
<tr>
<td>II. SANCTIONS APPEALS BOARD AND SECRETARIAT ACTIVITIES</td>
<td>3</td>
</tr>
<tr>
<td>A. Consideration of Appeal Cases</td>
<td>3</td>
</tr>
<tr>
<td>B. Collaboration with Secretariats of other Multilateral Development Banks’ Sanctions Appeals Boards</td>
<td>5</td>
</tr>
<tr>
<td>III. JOINT ACTIVITIES OF THE SANCTIONS OFFICE AND APPEALS BOARD SECRETARIAT</td>
<td>5</td>
</tr>
<tr>
<td>A. Renewal of the mandate of Sanctions System Actors</td>
<td>5</td>
</tr>
<tr>
<td>B. Information Seminar</td>
<td>6</td>
</tr>
<tr>
<td>C. Collaboration between Stakeholders of the Sanctions System</td>
<td>6</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>6</td>
</tr>
<tr>
<td>ANNEXES</td>
<td></td>
</tr>
<tr>
<td>Annex 1: Presentation of the Sanctions System</td>
<td>i</td>
</tr>
<tr>
<td>Annex 2: Flowchart of the Sanctions System</td>
<td>iii</td>
</tr>
<tr>
<td>Annex 3: The Sanctions Office</td>
<td>v</td>
</tr>
<tr>
<td>Annex 4: The Sanctions Appeals Board and Secretariat</td>
<td>viii</td>
</tr>
</tbody>
</table>
### ACRONYMS AND ABBREVIATIONS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AsDB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>CHIS</td>
<td>Corporate Information Technology Services Department</td>
</tr>
<tr>
<td>SNPB</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>PGCL</td>
<td>Office of General Counsel and Legal Services Department</td>
</tr>
<tr>
<td>PIAC</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>SNFI</td>
<td>Fiduciary and Financial Management, Inspection and Procurement Policy Department</td>
</tr>
<tr>
<td>SAB</td>
<td>Sanctions Appeals Board</td>
</tr>
<tr>
<td>BSAB</td>
<td>Secretariat to the Sanctions Appeals Board</td>
</tr>
<tr>
<td>SNSO</td>
<td>Sanctions Office</td>
</tr>
<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>
</tr>
</tbody>
</table>
INTRODUCTION

1. The African Development Bank Group’s ("the Bank Group" or "the Bank") Sanctions System was instituted by the Board of Directors in July 2012, pursuant to the fiduciary and legal obligations of the Bank Group to ensure that the resources mobilized and allocated to finance development projects are used for the purposes for which they are intended and not diverted through corruption, fraud and other related practices.

2. The Sanctions System is governed by the document of the Board of Directors entitled "Proposal for the Implementation of a Sanctions Process within the Bank Group"\(^1\), and by the Sanctions Procedure of 18 November 2014\(^2\). The Sanctions System has authority to impose sanctions on firms and individuals who engage in corrupt, fraudulent, collusive, coercive and obstructive practices carried out in connection with Bank Group corporate procurement and Bank Group financed or administered projects.

3. The Sanctions System operates under a two-tier administrative process comprising the Sanctions Office ("SNSO"), the first tier and the Sanctions Appeals Board ("SAB"), the second and final tier. The structure, role and operating rules of the Sanctions System bodies are set out in Annex I here below.

4. This annual report has been prepared in accordance with paragraphs 2(h) and 2(c) of the Terms of Reference of the Sanctions Commissioner and the Sanctions Appeals Board, respectively, as set out in Annexes I and III of the Proposal for the Implementation of a Sanctions Process within the Bank Group. It presents the activities of the Sanctions Office and the Sanctions Appeals Board from 1 January to 31 December 2016.

I. SANCTIONS OFFICE ACTIVITIES

5. In 2016, three missions were carried out to consider cases submitted by the Integrity and Anti-Corruption Department ("PIAC"), including two missions to Abidjan undertaken by the Sanctions Commissioner and a trip to Yaoundé, the place of abode of the Sanctions Commissioner, undertaken by the Sanctions Secretary.

A. Consideration of Sanctions Cases

6. In 2016, SNSO examined five sanctions cases, two of which were carried over from the previous year. Three new cases were submitted in April and at the end of December 2016. Consideration of these cases resulted in the following actions:

- Two Notices of Sanctions Proceedings;
- A Notice of reopening of Sanctions Proceedings;
- A Request for Clarifications addressed to the Respondents;
- Sanctions Decisions in three cases.

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2 The Sanctions Procedures were issued on 12 August 2013. They were subsequently amended on 18 November 2014.
7. The new case brought at the end of December and one of those brought in April are pending. The latter is awaiting verification by PIAC of the allegation related to the Respondent's death and the dissolution of the Respondent firm.

8. Regarding the typology of the five cases handled in 2016, three cases were related to fraudulent practices, one to corrupt practices, and the last to fraudulent, corrupt and collusive practices. An overview of the cases examined is presented in the table below.

### Table of Sanctions Cases Considered in 2016

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Alleged Sanctionable Practice(s)</th>
<th>Respondents</th>
<th>Prima facie Determination</th>
<th>Final Determination</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case SN/2015/01 (Reopened for two Respondents)</td>
<td>Corrupt practices - Bribery in the form of money and a gift to the supervisor of a construction project to influence execution of the construction contract</td>
<td>A firm and an individual</td>
<td>Reopening of Sanctions Proceedings</td>
<td>2-year debarment for the Respondents and the completion of an integrity-training program for the firm's staff</td>
<td>Case closed for SNSO Appeal pending before the SAB</td>
</tr>
<tr>
<td>Case SN/2015/02</td>
<td>Fraudulent practices - Misrepresentation of references in order to qualify for a bid and be awarded a contract to supply catering equipment</td>
<td>A firm and an individual</td>
<td>Notice of Sanctions Proceedings</td>
<td>Debarment of 1 year and 6 months for the Respondents and completion of an integrity-training program for the firm</td>
<td>Case closed</td>
</tr>
<tr>
<td>Case SN/2016/01</td>
<td>Fraudulent practices - Submission of an inaccurate declaration attesting to the absence of conflict of interest to qualify for a tender to organize an Investment Forum</td>
<td>A firm and an individual</td>
<td>Notice of Sanctions Proceedings</td>
<td>3-year debarment for the Respondents and the completion of an integrity-training program for the firm's staff</td>
<td>Case closed</td>
</tr>
<tr>
<td>Case SN/2016/02</td>
<td>Fraudulent practices - Submission of forged bank guarantees</td>
<td>A firm and an individual</td>
<td>Notice of Sanctions Proceedings</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Case SN/2016/03</td>
<td>Fraudulent, corrupt and collusive practices: Inaccurate declaration of non-payment of commissions; promise to pay a sum of money to a Bank's staff in exchange for advice; collusion between bidders to increase the cost of the contract;</td>
<td>Two firms</td>
<td>-</td>
<td>-</td>
<td>Case pending</td>
</tr>
</tbody>
</table>
B. Consideration of Negotiated Settlement Agreements

9. In 2016, SNSO recorded only one negotiated settlement agreement. This agreement was presented to SNSO following a Stay of Proceeding granted to two of the Respondents in Case SN/2015/01. After reviewing the agreement, the Sanctions Commissioner submitted its observations to PIAC. However, the parties were unable to finalize the agreement. The Sanctions Commissioner therefore ordered reopening of the sanctions proceedings, which led to a Sanctions Decision.

C. Other Sanctions Office Activities

10. In addition to reviewing sanctions cases, the Sanctions Commissioner participated in the Annual Anti-Corruption Conference organized by the International Bar Association's Anti-Corruption Committee from 14 to 16 June 2016 in Paris, France. He participated, as a panelist, in the session on "The Effects of Corruption: Impacts on Business and Society".

11. Furthermore, in his capacity as the current Chairman of International Anti-Corruption Conference Council (IACC), the Sanctions Commissioner participated, together with the Alternate Sanctions Commissioner and the Sanctions Office Secretary, in the 17th IACC Conference, held in Panama City, Panama, from 1 to 4 December 2016. A workshop brought together the World Bank, Inter-American Development Bank and African Development Bank Sanctions System offices to discuss issues related to the suspension of eligibility and debarment as a tool to combat corruption in development projects. Overall, the panel concluded that debarment as a sanction is effective. However, the panel regretted the fact that sanctions were directed solely at private sector entities and agents, while individuals in public structures were unaffected. The panel requested and obtained that the Final Declaration of the Conference mention the need for governments to collaborate with international financial institutions to ensure that public officials engaging in corrupt practices would be punished.

12. Finally, in collaboration with the CHIS Department, SNSO was included in the Bank's Organizational Chart posted on the Intranet. The Sanctions System web pages on the Bank's website have also been updated.

II. SANCTIONS APPEALS BOARD AND SECRETARIAT ACTIVITIES

A. Consideration of Appeals

13. In January 2016, during its first sitting, the Sanctions Appeals Board reviewed "de novo" two cases brought before it in August 2015, following Sanctions Decisions taken by the Sanctions Commissioner against the Respondents. These are two cases of fraud in respect of which the Respondents had been sentenced to two and three years of debarment.

14. On 1 September 2016, the Sanctions Appeals Board issued its final decision no. 1 imposing a one (1) year debarment on the Respondent, with effect from the date of the decision. As for the second decision, the Sanctions Appeals Board concluded that it had no jurisdiction to hear the case as the Respondents did not file the appeal within the time limits. These parties (PIAC and Respondents) and the President of the Bank were notified of these two decisions on 27 September 2016.
15. On 26 December 2016, the Sanctions Appeals Board recorded an appeal following a Sanctions Decision taken by the Sanctions Commissioner on 3 December 2016. This is a case of corruption for which the Respondents were sentenced to two (2) years of debarment.

Table of Final Decisions

<table>
<thead>
<tr>
<th>Case No.</th>
<th>Alleged Sanctionable Practice(s)</th>
<th>Respondents</th>
<th>SC’s Final Decision</th>
<th>Date of Appeal</th>
<th>SAB Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 1/Report/2</td>
<td>Fraudulent practices - Submission of forged bank guarantees to influence the execution of a contract</td>
<td>A firm and an individual</td>
<td>Sanction: 3-year debarment for the 2 Respondents and completion of an integrity-training program for the firm</td>
<td>On 26 August 2015, the Respondents sent a letter to the BSAB requesting that the SC withdraw its decision.</td>
<td>SAB concluded that it had no jurisdiction to review the case, as the Respondent’s appeal is not admissible.</td>
</tr>
<tr>
<td>Case SN/2014/02</td>
<td>Fraudulent practices - Submission of incorrect information and an invalid VAT registration certificate in order to influence the execution process</td>
<td>A firm</td>
<td>Sanction: 2-year debarment</td>
<td>Appeal lodged with SAB on 24 August 2015</td>
<td>A reduced debarment sanction of one (1) year with effect from the date of the decision.</td>
</tr>
</tbody>
</table>

Table of Appeals Lodged

<table>
<thead>
<tr>
<th>Case No.</th>
<th>Alleged Sanctionable Practice(s)</th>
<th>Respondents</th>
<th>SC’s Final Decision</th>
<th>Date of Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case SN/2015/01</td>
<td>Corrupt practices - Bribery in the form of money and a gift to the supervisor of a construction project to influence execution of the construction contract</td>
<td>A firm and an individual</td>
<td>2-year debarment for the Respondents and the completion of an integrity-training program for the firm’s staff</td>
<td>The appeal was lodged with SAB on 26 December 2016.</td>
</tr>
</tbody>
</table>

B. Collaboration with Sanctions Appeals Board Secretariats at other Multilateral Development Banks (MDBs)

16. During the year, the Secretariat of the Sanctions Appeals Board (BSAB) maintained and expanded its cooperation with its counterparts in the four other institutions that signed the Mutual Debarment Agreement of 9 April 2010, namely the World Bank Group, the Inter-American Development Bank Group, the European Bank for Reconstruction and Development (EBRD), and the Asian Development Bank. In September 2016, BSAB’s Executive Secretary participated in the 34th Cambridge Symposium on Economic Crimes, at the invitation of the EBRD counterpart and took part in a panel discussion entitled “Case Studies of Fraud in Multilateral Development Banks”. This enabled the Executive Secretary to better inform experts in the field about the specificities of the Bank’s Sanctions System.
17. The BSAB also participated in the teleconferences held every three (3) months between the Secretaries of the signatories to the Agreement. The BSAB Executive Secretary and the SAB members participated in the annual meeting of the Sanctions Appeals Boards Secretariats of Multilateral Development Banks (MDBs) which was organized this year by the EBRD in London, in October 2016. The meeting provided an opportunity for participants to have fruitful discussions on how appeal bodies of the sanctions system within the participating institutions functioned. The meeting also enabled the participants to share their experiences through specific case studies related to MDB privileges and immunities. One such example is the case *Kevin Wallace vs. World Bank Group*, in which the World Bank and other MDBs (AsDB, EBRD, IDB) voluntarily intervened before the Supreme Court of Canada to petition the Court not to maintain a decision that failed to protect the privileges and immunities of MDBs.

### III. JOINT ACTIVITIES OF THE SANCTIONS OFFICE AND SANCTIONS APPEALS BOARD SECRETARIAT

#### A. Extension of the Term of Office of the Actors in the Sanctions System

18. By resolution ADB/B/BD/WP/2016/100 of 4 July 2016, the Board of Directors approved extension of the term of office of the current Sanctions System actors for a further three-year term, non-renewable, commencing on 14 May 2016. Thus, Messrs. Akere Tabeng MUNA and Mahmoud BOUSBIA-SALAH were re-appointed in their capacities as Sanctions Commissioner and Alternate Sanctions Commissioner, respectively.

19. As regards the Sanctions Appeals Board, it should be noted that Mr. El Hadji Malick SOW and Mr. Andrès RIGO SUREDA, previously External Alternate Members, were re-appointed as External Members, with Mr. SOW as Chairperson. Similarly, Mr. Désiré VENCATAChellum, formerly an Internal Alternate Member, has been re-appointed as Internal Substantive Member. Two External Alternate Members and one Internal Alternate Member shall be identified and recruited over the coming year.

#### B. Information Seminar

20. Jointly organized by SNSO and BSAB, an internal seminar on the Bank's Sanctions System was held on 10 November 2016 at the Bank's Headquarters in Abidjan. The aim of the seminar was to better acquaint staff members with SNSO and BSAB and to present the Sanctions System, its role, targets, Sanctionable Practices and sanctions that may be imposed. The discussions were fruitful and enabled participants to understand the importance of the sanctions regime for the Bank's operations.

#### C. Collaboration between Stakeholders in the Sanctions System

21. In January 2016, a meeting between PIAC, SNSO, the Office of the General Counsel (PGCL) and the SAB was held, at the initiative of the Sanctions Appeals Board Chairman. Discussions focused on the use of negotiated settlement agreements to address Sanctionable Practices in Bank Group-financed projects. Following the discussions, participants agreed...
on the following key points: (1) the excessive use of negotiated settlement agreements will undermine the Sanctions System, which favors sanctions proceedings; (2) negotiated settlement agreements should not be perceived as a mean of resource generation for the Bank; (3) the principles of transparency, fairness and credibility of agreements should be scrupulously upheld; and (4) the Bank should establish guidelines for the use of negotiated settlement agreements and safeguard measures to protect its reputation.

22. In addition, with a view to strengthening their collaboration and improving their working relations, PIAC, SNSO and BSAB adopted the principle of formal periodic meetings to discuss issues of common interest. Thus, a meeting was held in November 2016 to discuss (1) the consistency of sanctions decisions, (2) the usefulness of Sanctions Guidelines for the Bank, and (3) the organization of a meeting/training on the presentation of Findings of Sanctionable Practices.

IV. CONCLUSION

23. By the end of 2016, the Sanctions Office reviewed five procedural cases and its work led to three Sanctions Decisions. It also reviewed a negotiated settlement agreement. As for the Sanctions Appeals Board, it made its first two decisions. Furthermore, actions to improve collaboration between the various players in the Sanctions System (PIAC, SNSO and BSAB) have been initiated and will be further reinforced in 2017. Lastly, communication actions aimed at Headquarters staff, in particular those involved in implementing Bank-financed operations, were carried out to raise awareness of the Sanctions System and will be extended in 2017 to the Bank's Regional Offices and/or Country offices.

24. In 2017, in collaboration with PGCL, BSAB will identify and recruit two external alternate members and an internal alternate member of the Sanctions Appeals Board. In the same vein, in collaboration with PGCL, BSAB will finalize the legal instruments to govern the functioning of the Sanctions Appeals Board, the Statutes, the Code of Conduct and the Rules of Procedure. Finally, in the last quarter, BSAB plans to host the annual meeting of MDB Sanctions Appeals Board Secretariats in Abidjan.

25. Finally, it should be noted that in accordance with its 2016 work program, the Auditor General's Office of the Bank began auditing management of the investigation and sanctions process in December 2016, in order to assess the adequacy of the Bank's control mechanisms. The findings of this audit are expected in the first half of 2017 and, if necessary, will contribute to improving existing processes.
ANNEXES
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ANNEX 1

The Sanctions System is governed by the Boards’ document titled “Proposal for the Implementation of a Sanctions Process within the Bank” and by the Sanctions Procedures of 18 November 2014.

Structure of the Sanctions System

The Sanctions System is a two-tier administrative process. It is composed of the Sanctions Office (“SNSO”) at the first level, and the Sanctions Appeals Board (“SAB”) at the second and final level.

SNSO is composed of the Sanctions Commissioner (SC), the Alternate SC, and the Sanctions Secretary. The SC and the Alternate SC are external experts appointed by the Board of Directors of the Bank for three years renewable once, on recommendation of the President of the Bank Group. The SC and the Alternate SC are assisted by a Sanctions Secretary who is responsible for the day to day management of the Sanctions Office.

The SAB is made up of four external members, two substantives, two alternates, and two internal members, one substantive and one alternate, appointed for a three-year term that is renewable once. The SAB external members are appointed by the Board of Directors, on recommendation of the President of the Bank Group. The SAB internal members are appointed by the Bank’s President from among senior management. The SAB is assisted by an Executive Secretary.

All External Actors are chosen for their competence in the legal and anti-corruption fields. They are appointed by the Bank’s Board of Directors on the recommendation of the Bank’s President, for a period of three years, renewable once. They are required to discharge their functions independently and must respect and maintain the confidentiality of the sanctions proceedings. They must consider each case fairly, impartially and with due diligence and shall recuse themselves or may be recused from any case in which they have actual, potential or perceived conflict of interest.

Role of the Sanctions System

The Sanctions System has authority to impose sanctions on firms and individuals who have engaged in corrupt, fraudulent, collusive, coercive and obstructive practices carried out in connection with the Bank Group’s corporate procurement or Bank Group financed or administered projects.

Specifically, SNSO considers:
- Sanction Cases received from the Integrity and Anti-Corruption (PIAC) and counter-evidence and arguments submitted by the alleged wrongdoer in order to determine whether there is sufficient evidence to support the allegations, and if so, impose sanctions;
- Requests for temporary suspension presented by PIAC;
- Settlement Agreements presented by PIAC, to ensure fairness, transparency and credibility of such Agreements.

The SAB is mandated to consider appeals lodged against decisions made by the SC’s and make final decisions. The SAB carries out a full "de novo" review of the matter and makes decisions on the basis

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1 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 in on 14 May 2013. Their mandate was renewed in 2016 for a non-renewable three year period.
of a written record without a hearing. However, the SAB may, at its discretion, organize hearings as it deems necessary.

**Scope of the Sanctions System**

The sanctions procedure covers only the following practices, referred to collectively as “Sanctionable Practice”, carried out in connection with a Bank Group financed or administered project, Bank’s corporate procurement, or an investigation, audit or sanctions proceedings:

- Corruption;
- Fraud;
- Collusion;
- Coercion;
- Obstruction.

**Range of Sanctions**

The baseline sanction is debarment pursuant to which sanctioned entities or individuals are ineligible to participate in any Bank Group financed or administered activities. The following sanctions may be imposed:

- Letter of reprimand;
- Conditional non-debarment;
- Debarment with conditional release;
- Debarment for a fixed or indefinite period;
- Restitution and/or remedy;
- Other sanctions (such as total or partial reimbursement of investigation and litigation costs).

**Cross Debarment**

Cross Debarment is a key feature of Multilateral Development Banks (MDB)’s Sanctions Systems. From 2006, MDBs decided to adopt a unified and coordinated approach to fight against corruption. Building on this momentum, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, and the World Bank Group signed on 9 April 2010, the Agreement for Mutual Enforcement of Debarment Decisions. This Agreement establishes a framework under which each participating institution will apply debarment sanctions taken by other signatory institutions in accordance with the terms and conditions set by the Agreement.

**Key Principles of the Sanctions Procedures**

- The sanctions process and sanctions decisions are administrative in nature;
- The standard of proof: the preponderance of evidence is determined by whether “it is more likely than not” that the alleged wrongdoer engaged in a Sanctionable Practice;
- The sanctions process complies with due process requirements;
- The sanctions decisions are made by independent bodies;
- Sanctions cases are considered with impartiality and due diligence;
- The confidentiality of the sanctions proceedings is protected;
- Actors of the Sanctions System must recuse themselves or may be recused in case of actual, potential or perceived conflict of interest;
- The final sanctions decisions are publicly disclosed.
ANNEX II

**TEMPORARY SUSPENSION**
(Before investigations are concluded)

The Integrity and Anti-Corruption Department (PIAC) 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.

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

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

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

If the SC decides to uphold the TS, the issue is closed.

PIAC cannot appeal the decision.

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

If PIAC 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.

**1st Tier – SNSO SANCTIONS PROCEEDINGS**

PIAC 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 PIAC 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 SC determines that evidence is not sufficient, SC issues a Determination of Insufficient Evidence. The Case is closed. PIAC may submit a revised FoSP to the SC.
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. PIAC 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 case is brought before SAB by the Appeal presented to the Secretary to the Sanctions Appeals Board (BSAB).

BSAB forwards the Appeal to PIAC within **5 days** of receipt or within reasonable time, in exceptional circumstances.

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

BSAB forwards PIAC’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 PIAC 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.

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

If the evidence is not sufficient, BSAB 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.
ANNEX III

TERMS OF REFERENCE FOR THE SANCTIONS COMMISSIONER

1. General Responsibilities

The Sanctions Commissioner (“SC”) shall be the head of the Sanctions Office (the “SNSO”) 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 SNSO 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 PIAC and determines, upon consideration of all the facts and arguments presented whether there is sufficient evidence to support PIAC’s finding.

(c) The SC will then notify PIAC 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 PIAC. 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 (BSAB) 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 SNSO.

(i) Rules and Procedure and the Code of Conduct for the SNSO 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.
TERMS OF REFERENCE FOR THE SANCTIONS OFFICE SECRETARY

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 PIAC.

(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.
BIOGRAPHY OF THE SANCTIONS OFFICE ACTORS

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 (PGCL). 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.
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.
TERMS OF REFERENCE FOR THE SANCTIONS APPEALS BOARD SECRETARY

The Sanctions Appeals Board Secretary (the “BSAB”) exercises her/his functions independently. The BSAB 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 Sanctions Proceedings addressed to the Respondent and as issued by the Sanctions Office (SNSO);

(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.
BIOGRAPHY OF THE SANCTIONS APPEALS BOARD ACTORS

Judge El Hadji Malick SOW, External member, Chair

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 SUREDA, External member

Mr. Andres RIGO SUREDA 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. Desiré VENCATAChELLUM, Internal member

Mr. Desiré VENCATAChELLUM is currently Director of the Resource Mobilization and Partnerships Department at the Bank (FIRM). 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 Ms. DIAWARA’s appointment as Secretary to the Sanctions Board, she served in the Bank’s Legal Department (PGCL) in various capacities: Chief Legal Counsel, Litigation, Principal Legal Counsel and Legal Consultant. Before joining the Bank, Ms. DIAWARA worked as a lawyer at several law firms in Paris, France, and also managed her own Paris-based private law practice for seven (7) years. Ms. DIAWARA holds several degrees in law, including: “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).