SAB Order No. 2016-1 Summary

The present matter arose out of the alleged commission of sanctionable practices by Liberty Construction Company Limited and its Managing Director, Mr. Edmund Mabiro (collectively, “the Respondents”) in connection with an African Development Fund (ADF) financed fisheries development project in Uganda.

The Sanctions Appeals Board’s (SAB) review in this case was limited to procedural considerations, and not to issues involving the merits. The question considered by the SAB was whether or not the Respondents submitted a valid and timely appeal of Sanctions Decision No. 2, issued by the Sanctions Commissioner (SC) on July 28, 2015. The decision debarred the Respondents from AfDB financed projects or contracts for a period of three (3) years.

Section 8.1 of the Sanctions Procedures provides that a Respondent may appeal a Sanctions Decision within twenty-five (25) days of receipt of the decision.

On August 26, 2015, within the appeal period, the Respondents forwarded a letter to the Sanctions Appeals Board Secretariat (SABS) requesting that the SC “withdraw” the decision on the grounds that it was “illegal.” On September 3, 2015, the Executive Secretary (ES) to the SABS sent a letter to the Respondents seeking clarification on whether or not the letter was intended as an appeal. The ES informed the Respondents that the letter was “incomplete” as an appeal, if it was so intended, but provided a list of additional information required to cure the defects.

The Respondents were given fifteen (15) days to submit the additional information. Subsequently, the Respondents failed to submit the required documentation within the specified fifteen-day period or at any time afterwards. Following procedural considerations and deliberations, the SAB concluded that it did not have jurisdiction to review the matter, and that the Respondents did not file a valid, timely appeal. Furthermore, the SAB ordered that Sanctions Decision No. 2 was valid and in effect as of August 4, 2015.