



INVESTIGATIONS AND SANCTIONS BY MULTILATERAL DEVELOPMENT BANKS: WHAT YOU NEED TO KNOW

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Multilateral Development Bank Investigations & Sanctions: Enforcement Insights and Trends

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INTRODUCTION

In the continuing COVID-19 pandemic, many companies face new COVID-19-related compliance risks, including increased anti-corruption scrutiny of pandemic relief efforts financed by multilateral development banks (MDBs or “Banks”).

Understandably, anti-corruption enforcement by the U.S. Department of Justice for violations of the Foreign Corrupt Practices Act (FCPA) typically receives the most attention in the U.S. context. However, given the billions of dollars made available by MDBs such as the World Bank¹ and Africa Development Bank (AfDB)² for pandemic containment and recovery efforts over the last 18 months or so, private parties who receive this funding and their contractors should anticipate an upsurge in anti-corruption enforcement by MDBs and safeguard against this risk by reviewing and enhancing their compliance programs.

Private parties that participate in MDB-backed projects may be unfamiliar with MDB compliance standards and may overlook the consequences of breaching these standards, therefore exposing themselves to potentially protracted investigations and crippling sanctions such as cross-debarment.

This article provides insight into what to know about and how to mitigate risks concerning MDB compliance and sanctions.



THE SCALE OF MDB FINANCING DURING THE PANDEMIC REIGNITES CONCERNS ABOUT SANCTIONABLE PRACTICES

MDBs operate across the world in countries that face development challenges. They provide critical financial and operational assistance to governments or development projects in sectors such as infrastructure, health, transportation, and agriculture.

During the COVID-19 pandemic, concessional financing from MDBs has been a key tool in the ongoing crisis-containment phase, especially for the world’s poorest countries. MDBs also committed or disbursed significant financial resources in this period. For example, the World Bank committed to deploying up to \$160 billion globally by the end of June 2021, \$50 billion of which was designated to Africa. Regional MDBs such as the AfDB and the Asian Development Bank also contributed billions of dollars in financial support. Safeguarding these “critical development resources” from corruption and other risks is of “heightened importance” and is consistent with MDBs’ legal and fiduciary duty to ensure that funds are used for their intended purposes. It also reflects MDBs’ collective anti-corruption agenda to target and prevent “sanctionable practices” involving corruption, fraud, collusion, coercion, or obstructive practices such as deliberately concealing material evidence or impeding an MDB’s inspection or audit rights. MDBs address these practices through their respective sanctions systems.



HOW THE SANCTIONS SYSTEMS WORK: WORLD BANK AND AfDB

Each MDB has its own mechanisms for detecting and responding to misconduct, but the process typically involves a two-tiered system that separates investigating misconduct from adjudicating it.

WORLD BANK SANCTIONS SYSTEM OVERVIEW

Investigations and first tier review: Investigations, often referred to by the World Bank as audits, form the basis for sanctioning private parties.⁹ The Integrity Vice Presidency (INT) division within the World Bank receives and investigates allegations of sanctionable practices. If the INT substantiates the allegations, it will either enter into a settlement or refer the case to the Office of Suspension and Debarment (OSD) for a sanctions decision.¹⁰

The OSD functions like an administrative court.¹¹ It reviews the proposed settlement agreement (if any) for compliance with World Bank principles and guidelines, determines by a preponderance of the evidence whether there are sufficient grounds for sanctions, and issues a written decision.¹² The OSD imposes sanctions on respondents that do not contest its decision.¹³ It temporarily debars Respondents who appeal its sanctions recommendation to the second tier of review.¹⁴

Appellate or second tier review: Appeals are referred to the World Bank's Sanctions Board, which reviews all matters de novo. The Respondent, OSD, or Sanctions Board may request a full hearing, and the parties may submit new evidence and arguments. Decisions of the Sanctions Board are final.¹⁵

AfDB SANCTIONS SYSTEM OVERVIEW

The AfDB sanctions system is similar and begins with an investigation by the Integrity and Anti-Corruption Department (IACD).¹⁶ Like the World Bank's INT, IACD investigates allegations of sanctionable conduct and monitors integrity compliance but does not impose sanctions itself.¹⁷

First tier review: If IACD substantiates the allegations of sanctionable conduct by a preponderance of evidence, it submits a report to the Sanctions Commissioner triggering first tier review.¹⁸ The Sanctions Commissioner reviews the IACD report and imposes sanctions, if applicable.¹⁹

Second Tier: Respondents may appeal the Sanctions Commissioner's decision to the Sanctions Appeals Board, which also reviews the appeal de novo and makes a final, non-appealable decision.²⁰



SANCTIONS JURISDICTION

MDBs derive their sanctions and enforcement power from contract and the Banks' fiduciary duty to protect Bank financial resources. MDBs achieve this objective by incorporating their compliance and anti-corruption provisions and their procurement and consultant guidelines into financing agreements with the government borrowing from the relevant MDB. Private entities that then contract with the government to provide goods or services financed by the relevant MDB submit themselves through contractual agreement to the MDB's legal authority to investigate and sanction. However, an absence of privity of contract with the MDB may arguably give rise to a jurisdictional defense for a private party that is subjected to an investigations inquiry.

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The scope of the MDB's asserted jurisdiction can be surprisingly broad: The World Bank's procurement guidelines, for example, extend to "Borrowers (including beneficiaries of [World] Bank loans)" and "agents (whether declared or not);" bidders, subconsultants, subcontractors, and other third parties who "directly or indirectly" commit sanctionable conduct may also be held liable.²⁵ Moreover, the World Bank can exercise its remedies if it "determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan" engaged in sanctionable conduct regarding the contract in question,²⁶ and it may impose sanctions "at any time," subject to its prevailing procedures.²⁷

Likewise, the power to investigate is contractual. For example, the World Bank "require[s]" all bidding documents and World Bank-financed contracts to include an audit clause that gives it the right to audit and inspect the books and records of third parties associated with the project or financing. As a result, investigations often begin when the target ("Respondent") receives an audit letter.



CROSS-DEBARMENT AND THE WIDE RANGE OF SANCTIONS

MDBs may impose several possible sanctions, ranging from the least severe option, a letter of reprimand, to the most severe, permanent debarment. Other sanctions include conditional non-debarment, fixed-term debarment, and restitution or reimbursement, all of which may be subject to aggravating or mitigating factors such as severity of misconduct, harm caused, and history of recidivism.

The “baseline” sanction for misconduct at both the World Bank and AfDB is a three-year debarment with conditional release. This means that cross-debarment will be a default sanction for many entities because any debarment longer than one year automatically results in a cross-debarment that prohibits the Respondent from participating in any bid or project administered, financed, or supported by all other MDBs. The Respondent is frozen out of all MDB-financed activity, including government projects that use MDB funds.

MDBs maintain a record of debarred and cross-debarred entities in a publicly available online list updated daily. As of July 2021, over 1,000 firms and individuals from almost 120 countries and territories are debarred or cross-debarred. State procurement agencies and private procurement departments can—and do—use this list in their commercial due diligence processes, which may result in the listed entity being declared ineligible to participate in these procurement processes as well, or which could lead to commercial delays, other economic costs, or reputational damage. In addition, since the list is publicly available, it is accessible by national law enforcement agencies and could increase exposure to potential criminal or civil risk under anti-corruption laws like the FCPA or the U.K. Bribery Act.

EVALUATING COMPLIANCE PROGRAMS: MDB COMPLIANCE INITIATIVES MAY INCREASINGLY MIRROR U.S. DEPT. OF JUSTICE INITIATIVES

As noted, debarment with conditional release is the default sanction, and release conditions vary. Notably, in what may be a unique feature among MDBs, the AfDB may require that Respondents self-report internal investigation findings to national authorities as a condition for release.³⁴ Any private party that receives such a condition would be wise to confer with counsel before proceeding.

Most release conditions require sanctioned individuals to undergo compliance training and sanctioned entities, including those directly or indirectly controlled by the sanctioned individual, to implement or improve their integrity compliance program.³⁵

Private parties must therefore understand the framework used for evaluating those compliance programs. The World Bank and AfDB have adopted Integrity Compliance Guidelines that set out 11 overarching principles and standards for evaluating compliance programs, which include the following non-exhaustive factors:³⁶

- Clearly articulated and visible prohibition of misconduct communicated to all levels of the company and sometimes business partners;
- Tone from the top: explicit and active support from the Board and senior leadership;
- Periodic risk assessment tailored to the company's sector, location, and size. This includes training and communication tailored to the recipients' function, role, and responsibilities;
- Appropriately designed policies to prevent, detect, investigate, and remediate misconduct, including policies on vetting employees and commercial partners, gifts and hospitality, and restrictions on arrangements with *former* public officials; and
- Internal controls that comprise financial and organizational checks and balances over the company's books and records and financial practices.

Compliance personnel may recognize similarities between the principles above and those set out by the U.S. Department of Justice in its *Evaluation of Corporate Compliance Programs* ("DOJ Guidance"),³⁷ which identifies factors that federal prosecutors should consider when evaluating an entity's compliance program and determining whether to bring charges and/or award mitigation credit.

The World Bank and AfDB typically apply the Integrity Compliance Guidelines *after* imposing sanctions,³⁸ but an ongoing "major initiative" at the World Bank's INT suggests that the Bank has been enhancing its evaluation of corporate compliance programs in a way that mirrors DOJ initiatives.³⁹ Specifically, under the World Bank's Sanctioning Guidelines, Respondents could already receive significant mitigation credit (up to 50%) for voluntary corrective actions such as establishing or improving a corporate compliance program.⁴⁰ However, INT has enhanced its evaluations of compliance programs by, among other things, increasing the number of stakeholder interviews and compliance testing to better determine how a company's compliance program works *in practice and at the time of the offense*, as part of the decision to award mitigation credit and reduce the length of debarment.⁴¹

Compliance professionals familiar with the DOJ Guidance will recognize that determining whether a compliance program works in practice is one of three "fundamental questions" U.S. prosecutors evaluate.⁴² The World Bank's "major initiative" suggests that the question has taken on additional significance for the World Bank; and it may do so for regional MDBs, as well.

ENFORCEMENT TRENDS AND COMPLIANCE LESSONS

With the expected increase in enforcement actions on the horizon, the challenges confronting compliance personnel and entities who receive MDB funding are greater than ever. Although it is still too early to get a precise picture of MDB enforcement related to pandemic funds, the most recent annual reports by INT and IACD, issued in August 2020 and July 2021 respectively, provide valuable insight into sanctionable practices and offer useful compliance lessons.⁴⁸

INCREASED ENFORCEMENT ACTIVITY AND RESOURCES AT THE AfDB

- AfDB debarment increased by over 200% between 2018 and 2019, from five companies and three individuals in 2018, to 24 companies and three individuals in 2019. Only 13 companies and no individuals were debarred in 2020, but this could be a pandemic-related anomaly in the IACD's trajectory.⁴⁹
- IACD completed 122 investigations in the two-year period 2019-2020, an approximate 75% increase compared to the 70 cases from the 2017-2018 period, driven, in part because the Bank increased the number of investigators.⁵⁰
- While the total number of investigations decreased from 2019 to 2020, IACD completed more investigations in 2020 (62/123) than the prior two years: 2019 (60/150), 2018 (44/135).⁵¹

INCREASED CROSS-DEBARMENT AND STEADY ENFORCEMENT ACTIVITY BY THE WORLD BANK DESPITE COVID-19

- The World Bank continued to see generally steady enforcement in FY 2020 (July 1, 2019-June 30, 2020). INT initiated 46 new investigations; a slight dip compared with 49 in FY 2019.⁵²
- In FY 20, the World Bank sanctioned 49 firms and individuals and cross-debarred 46 of them.⁵³ It debarred 48 firms and individuals in FY 2019.⁵⁴
- The World Bank recognized 76 cross-debarments in FY 2020 compared with 33 in FY 2019, reflecting an increase in sanctions activity across regional MDBs.⁵⁵

FRAUDULENT MISREPRESENTATION IN DOCUMENTS DOMINATES SANCTIONABLE PRACTICES

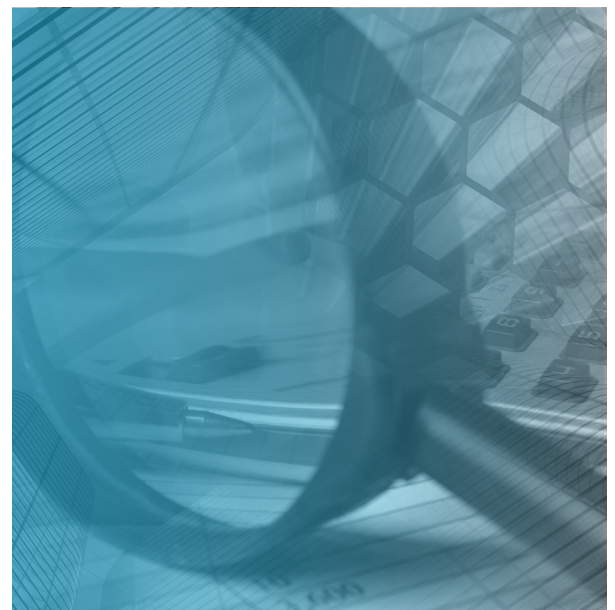
- Fraudulent misrepresentation, typically involving misrepresentation in documents, is consistently the most common sanctionable practice.
- At the World Bank, 82% (38/46) of external investigations opened in FY 2020 involved fraud, up from 71% (35/49) in FY 2019.⁵⁶
- At the AfDB, 66% of completed investigations in 2018 and 71% in 2019 involved fraud. The AfDB explains that in 2020, investigators handled more fraud cases working from home since these cases tend to be document intensive and are less reliant on-site visits or in-person interviews. However, it reports that only 35% of cases closed in 2020 included fraud. This lower-than-expected percentage may result from changes in how AfDB presented its 2020 data and the inclusion of "Others" as a new, undefined category. The same 2020 data for corruption, collusion, and coercion cases are comparable to prior years, suggesting that statistics for prior years included these "other" cases in the fraud statistics. If correct, fraud cases in 2020 account for 62% of the cases.⁵⁷
- Trends emerging from these cases tend to involve procurement fraud, including falsifying or misrepresenting experience and qualifications during the tender process, forging references in bid documents, altering financial statements, and other similar efforts to establish a fake track record and deceive evaluators into believing the firm has met the tender requirements.⁵⁸
- This emerging trend was present in World Bank cases too. For example, of the six World Bank Sanctions Board decisions arising from contested cases, five involved fraudulent misrepresentations in documents of the type discussed above.⁵⁹



INSTITUTIONAL ENHANCEMENTS, COOPERATION, AND REFERRALS TO NATIONAL AUTHORITIES

- The AfDB appears to have a somewhat unusual release from sanctions condition in that it may require Respondents to self-report findings from internal investigations to national authorities.⁶⁰
- Cross-debarment remains a significant sanction because it freezes the entity out of the global MDB finance pipeline. Referral to national authorities also remains a significant risk, although there was a notable decrease in referrals, which may be explained, in part, by the COVID-19 pandemic and the diversion of attention by those authorities to other areas. In the relevant period, referral to national authorities at the World Bank (the vast majority of which were related to fraud) decreased from 42 in 2019 to 8 in 2020.⁶¹
- The IACD did not publish data regarding its referrals to local law enforcement but continues to develop and improve those relationships. In 2019, the IACD initiated negotiations with several anti-corruption agencies in regional member countries aimed at formalizing bilateral relationships for exchanging information and referring cases with the ultimate goal of creating a continentwide information-sharing platform for anti-corruption investigations. The AfDB made progress in 2020 by signing memoranda of understanding with anti-corruption agencies in Nigeria and Kenya.⁶² The IACD expects to continue these efforts, and firms and individuals should expect to see the results of that greater cooperation.⁶³
- The IACD and the Coalition of Ethical Operations (the “Coalition”) in South Africa launched the Women in Ethics and Compliance in Africa (WECA) in 2019 as a network of compliance and ethics professionals across Africa. Among other things, WECA leverages AfDB sanctions authority and promotes business ethics and integrity by providing compliance guidance and mentoring to small enterprises debarred by the AfDB;⁶⁴ it appears that fostering business ethics and good governance, as with other things in life, takes a village.

A lack of familiarity with MDB sanctions procedures may cause firms to commit inadequate resources or attention to MDB compliance, guidelines, and sanctions procedures. Many private parties that receive a subpoena or document request from a national law enforcement agency or regulator recognize the importance of engaging counsel promptly to assist in the response. But many do not act as quickly when they receive an audit letter from an MDB. Failing to recognize the importance of engaging counsel early on once an audit is initiated can have detrimental effects, such as providing inculpatory information or inadvertently misleading information, and/or being perceived as obstructing the investigation—which, in itself, is a sanctionable practice.



Private parties can be proactive in mitigating risks and assessing MDB exposure by addressing questions such as:

- Is your state-financed project indirectly financed by an MDB? If so, is your compliance team familiar with the relevant MDB's guidelines and policies?
- Do you understand the fraud and anti-corruption provisions in bidding documents and contracts for the delivery of goods and services to which you are subject?
- Do you have an integrity compliance program, and can you demonstrate its effectiveness given industry and country-specific risks?
- Does your compliance program meet the principles of the MDB's Integrity Compliance Guidelines?
- Has your Compliance team conducted a risk assessment or due diligence on ongoing or new commercial relationships? Does your due diligence on third parties include review of the debarment list?
- Do you know how to navigate the relevant MDB's sanctions process?
- During an investigation or sanctions proceeding, are you aware of potential criminal or civil liability?

MDBs operate across a broad range of developing and middle-income countries and often in sectors that firms target for growth. MDBs are active in financing and supporting projects in these sectors and that will likely continue to increase during the COVID-19 recovery phase in order to rebuild the economies that have been affected by the pandemic. Given the ubiquity of MDB-financed operations, the scope of MDB enforcement activity and its consequences, impacted firms and individuals should take steps now to assess and mitigate their risk.

Orrick has deep experience across the investigations spectrum and can serve as a resource to clients facing scrutiny from MDBs or enforcement authorities.

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APPENDIX

- ¹ The World Bank Group (WBG) comprises five related international institutions: the International Bank for Reconstruction and Development (IBRD); the International Development Association (IDA); the International Finance Corporation (IFC); the Multilateral Investment Guarantee Agency (MIGA); and the International Centre for Settlement of Investment Disputes (ICSID). Together, IBRD and IDA are commonly referred to as the World Bank, which provides financing, policy advice, and technical assistance to governments of developing countries. IFC, MIGA, and ICSID focus on strengthening the private sector in developing countries. See *Who We Are*, World Bank, <https://www.worldbank.org/en/who-we-are>.
- ² The AfDB is one of three entities that, together with the African Development Fund (ADF) and the Nigeria Trust Fund (NTF), form the African development Bank Group. See *Frequently Asked Questions: What is the African Development Bank Group?*, African Development Bank Group, <https://www.afdb.org/en/about-us/frequently-asked-questions>.
- ³ Laryea, Thomas, et al., *COVID-19 and Debt Suspension for the World's Poorest Countries*, Orrick (May 4, 2020), <https://www.orrick.com/en/Insights/2020/05/COVID-19-and-Debt-Suspension-for-the-Worlds-Poorest-Countries>.
- ⁴ See *World Bank's Response to COVID-19 (Coronavirus) in Africa*, World Bank (Apr. 8, 2021), <https://www.worldbank.org/en/news/factsheet/2020/06/02/world-banks-response-to-covid-19-coronavirus-in-africa>.
- ⁵ Press Release, African Development Bank, African Development Bank Group Unveils \$10 Billion Response Facility to Curb COVID-19 (Apr. 8, 2020), <https://www.afdb.org/en/news-and-events/press-releases/african-development-bank-group-unveils-10-billion-response-facility-curb-covid-19-35174>; Press Release, Asian Development Bank, ADB Triples COVID-19 Response Package to \$20 Billion (Apr. 13, 2020), <https://www.adb.org/news/adb-triples-covid-19-response-package-20-billion>.
- ⁶ See *World Bank Group Sanctions System Maintains its Anticorruption Mission, Despite Unprecedented Challenges in Fiscal Year 2020*, World Bank (Oct. 9, 2020) [hereinafter *WBG Sanctions Anticorruption*], <https://www.worldbank.org/en/news/press-release/2020/10/09/world-bank-group-sanctions-system-maintains-its-anticorruption-mission-despite-unprecedented-challenges-in-fiscal-year-2020>.
- ⁷ See, e.g., IBRD Articles of Agreement, Art. III, § 5(b) (as amended effective June 27, 2012).
- ⁸ See International Financial Institutions Anti-Corruption Task Force, Uniform Framework for Preventing and Combatting Fraud and Corruption ¶ 1 (Sept. 2006) [hereinafter *Uniform Framework*], <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/30716700-EN-UNIFORM-FRAMEWORK-FOR-COMBATTING-FRAUD-V6.PDF>. The Uniform Framework is an agreement signed in February 2006 between the five MDBs and the International Monetary Fund (IMF) to establish a Joint International and Financial Institutions (IFI) Anti-Corruption Task Force to work towards a “consistent and harmonized approach to combat corruption” at their respective member institutions. *Id.* at 1. The Uniform Framework does not include “obstructive practice,” but it has since become one of the sanctionable practices. See, e.g., World Bank Group Sanctions System Annual Report FY 20, at 12 (Oct. 9, 2020), <http://documents1.worldbank.org/curated/en/861191602141633639/pdf/World-Bank-Group-Sanctions-System-Annual-Report-FY20.pdf>; see also *Sanctions*, African Development Bank Group, <https://www.afdb.org/en/about-us/organisational-structure/integrity-and-anti-corruption/sanctions>.
- ⁹ See WBG Sanctions System Annual Report FY 20 at 19. Note that the World Bank distinguishes investigation of “External firms” from corporate vendors. While the INT also investigates corporate vendors and pursues disciplinary proceedings for WBG staff, this is technically part of the WBG Internal Justice System. Nevertheless, corporate violators face similar consequences including ineligibility for future contracts and in some cases, cross-debarment. See WBG Sanctions System Annual Report FY 20, at 12 n.1, 19, 30-31. The AfDB also appears to sanction staff under a separate disciplinary framework, but it does not appear to maintain a separate system for vendors. See *Sanctions*, African Development Bank Group, *supra* note 9 (describing the separate sanctions system for violations by staff and otherwise referring solely to how the AfDB penalizes “individuals or firms for proven commission of sanctionable practices”). See also *The World Bank Group Sanctions System*, World Bank Group 4, <https://www.worldbank.org/content/dam/documents/sanctions/other-documents/sanctions-board/Two-Tier-Sanctions-brochure-Final.pdf>.
- ¹⁰ *Id.* at 3-6.
- ¹¹ *Id.* at 4.
- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ *Id.* at 3-6.
- ¹⁶ The IACD is also abbreviated as “PIAC” in some official AfDB documents, for example, its annual report. “IACD” is used on the AfDB website and throughout this article.
- ¹⁷ *Integrity and Anti-Corruption Divisions*, African Development Bank Group, <https://www.afdb.org/en/about-us/organisational-structure/integrity-and-anti-corruption/divisions>.
- ¹⁸ *Id.*

- 19 *Id.*
- 20 *Second Tier: The Secretariat of the Sanctions Appeal Board*, African Development Bank Group, <https://www.afdb.org/en/topics-and-sectors/topics/sanctions-system/second-tier-the-secretariat-of-the-sanctions-appeals-board>.
- 21 See, e.g., IBRD Articles of Agreement, Art. III, § 5(b) (as amended effective June 27, 2012); Agreement Establishing the African Development Bank, Art. 17, § 1(h) (2016 ed.), https://www.afdb.org/fileadmin/uploads/afdb/Documents/Legal-Documents/Agreement_establishing_the_African_development_bank_-_2016_edition.pdf; and Agreement Establishing the Asian Development Bank, Art. 14, ¶ xi (Dec. 1965), <https://www.adb.org/sites/default/files/institutional-document/32120/charter.pdf>.
- 22 See The World Bank Group's Sanctions Regime: Information Note, at 14, https://www.worldbank.org/content/dam/documents/sanctions/other-documents/osd/The_World_Bank_Group_Sanctions_Regime.pdf.
- 23 *Id.*
- 24 See Guidelines: Procurement of Goods, Works, and Non-Consulting Services Under IBRD Loans and IDA Credits & Grants by World Bank Borrowers ¶ 1.16 (Jan. 2011, rev. Jul. 2014) (emphasis added), <http://documents.worldbank.org/curated/en/634571468152711050/Guidelines-procurement-of-goods-works-and-non-consulting-services-under-IBRD-loans-and-IDA-credits-and-grants-by-World-Bank-borrowers>.
- 25 *Id.* ¶¶ 1.14-1.16.
- 26 *Id.* ¶ 1.16(c) (emphasis added).
- 27 *Id.* ¶ 1.16(d) n.24.
- 28 *Id.* ¶ 1.16(e) (The Bank “will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers or suppliers, to permit the Bank to inspect all accounts, records and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank[.]”).
- 29 See World Bank Group Sanctioning Guidelines ¶ II.D-E (Jan. 2011), <https://www.worldbank.org/content/dam/documents/sanctions/other-documents/osd/World%20Bank%20Group%20Sanctioning%20Guidelines%20January%202011.pdf>.
- 30 WBG Sanctions System Annual Report FY 20, at 24; Sanctions Procedures of the African Development Bank Group § 11.2 (Nov. 18, 2014).
- 31 WBG Sanctions System Annual Report FY 20, at 13; World Bank Group Sanctioning Guidelines §§ 1-2 (Jan. 2011); Sanctions Procedures of the African Development Bank Group, § 11.2(d) (Nov. 18, 2014).
- 32 Uniform Framework *supra* note 9 at 5. The Uniform Framework reflects the coordinated effort by MDBs to establish a uniform approach to anti-corruption enforcement.
- 33 See *Procurement—World Bank Listing of Ineligible Firms and Individuals*, World Bank (last updated July 19 2021), <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>.
- 34 WBG Sanctions System Annual Report FY 20, at 24; African Development Bank Group, Office of Integrity and Anti-Corruption 2018 and 2019 Reports, at 9-10 (Aug. 24, 2020) [hereinafter IACD 18-19 Annual Report], <https://www.afdb.org/en/documents-publications/annual-report>; see also African Development Bank Group, Office of Integrity and Anti-Corruption 2020 Annual Report, at 8 (Jul. 28, 2021) [hereinafter IACD 2020 Annual Report].
- 35 WBG Sanctions System Annual Report FY 20, at 13, 24; World Bank Group Sanctioning Guidelines §§ 1-2 (Jan. 2011); Sanctions Procedures of the African Development Bank Group § 11.2(d) (Nov. 18, 2014); IACD 18-19 Annual Report, at 9-10.
- 36 WBG Sanctions System Annual Report FY 20, at 24; World Bank Group Integrity Compliance Guidelines (2011), <https://pubdocs.worldbank.org/en/489491449169632718/Integrity-Compliance-Guidelines-2-1-11.pdf>; IACD 18-19 Annual Report, at 9-10; African Development Bank Group Integrity Compliance Guidelines, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/AfDB_-_Integrity_Compliance_Guidelines.pdf.
- 37 See U.S. Dept. of Justice, Evaluation of Corporate Compliance Programs (June 2020), <https://www.justice.gov/criminal-fraud/page/file/937501/download>.
- 38 The AfDB explains, for example, that the “main objective” in assessing compliance programs is to help “rehabilitate” sanctioned entities. IACD 18-19 Annual Report, at 9-10.
- 39 See comments by INT Compliance Specialist, Joseph Mauro, speaking at the Fifth International Debarment Colloquium in October 2020. *The Importance of Transparency Efforts to Enforce Debarment Decisions*, World Bank Group (Sept. 30, 2020) [hereinafter *Debarment Decisions Transparency Effort*], <https://worldbank.scene7.com/s7viewers/html5/VideoViewer.html?asset=worldbankprod/OSD%20Virtual%20Colloquium%20-%20Roundtable%202-AVS&config=worldbankprod/WBG-Standard-Player&serverUrl=https://worldbank.scene7.com/is/image/&contenturl=https://worldbank.scene7.com/is/content/&posterimage=worldbankprod/OSD%20Virtual%20Colloquium%20-%20Roundtable%202-AVS&videoserverurl=https://worldbank.scene7.com/is/content>.
- 40 See World Bank Group Sanctioning Guidelines §V.B., <https://www.worldbank.org/en/about/unit/sanctions-system#3>.

- ⁴¹ See *Debarment Decisions Transparency Effort*.
- ⁴² See U.S. Dept. of Justice, *Evaluation of Corporate Compliance Programs*, supra note 38 at 2. The other two questions ask whether the “corporation’s compliance program is well designed?” and whether it is “adequately resourced and empowered to function effectively?”
- ⁴³ See World Bank Listing of Ineligible Firms and Individuals, supra note 34 (last updated July 20, 2021). Data shows 108 firms and individuals cross-debarred with an ineligibility period between Jan. 5, 2021, and June 29, 2021. Sixty firms and individuals were debarred between January and June 2020. Fifty-two firms and individuals were debarred between January and June 2019.
- ⁴⁴ Ed Olowo-Okere, *Can Corruption Risks Be Mitigated Without Hindering Government COVID-19 Response?*, World Bank Blogs (May 12, 2020), <https://blogs.worldbank.org/voices/can-corruption-risks-be-mitigated-without-hindering-governments-covid-19-response>.
- ⁴⁵ See IACD 2020 Annual Report, at 10-11 (discussing Enhanced Investigation Process and System (EIPS Policy)).
- ⁴⁶ *Request for Expression of Interest (REI) Investigative, Forensic Audit, Due Diligence, and Digital Forensic Services*, World Bank (Nov. 10, 2020), <https://www.worldbank.org/en/about/corporate-procurement/business-opportunities/administrative-procurement/request-for-expression-of-interest-rei-investigative-forensic-audit-due-diligence-and-digital-forensics-services>.
- ⁴⁷ INT issued its Sanctions System Annual Report on October 9, 2020. It covers the fiscal year from July 1, 2019, to June 30, 2020. See WBG Sanctions System Annual Report FY 20; IACD published its annual report for fiscal years 2018 and 2019 on Aug. 24, 2020, see IACD 18-19 Annual Report, and for fiscal year 2020 on July 28, 2021. See IACD 2020 Annual Report.
- ⁴⁸ *World Bank Group Sanctions System Maintains its Anticorruption Mission, Despite Unprecedented Challenges in Fiscal Year 2020*, World Bank (Oct. 9, 2020), <https://www.worldbank.org/en/news/press-release/2020/10/09/world-bank-group-sanctions-system-maintains-its-anticorruption-mission-despite-unprecedented-challenges-in-fiscal-year-2020>.
- ⁴⁹ IACD 2020 Annual Report, at 4.
- ⁵⁰ *Id.*, at 11.
- ⁵¹ *Id.*, at 4.
- ⁵² WBG Sanctions System Annual Report FY 20, at 88-91.
- ⁵³ *Id.*; *WBG Sanctions Anticorruption*, supra note 7.
- ⁵⁴ Compare WBG Sanctions System Annual Report FY 20, at 88-92 with World Bank Group Sanctions System Annual Report FY19, at 66 (Oct. 10, 2019), <http://documents1.worldbank.org/curated/en/782941570732184391/pdf/World-Bank-Group-Sanctions-System-Annual-Report-FY19.pdf>.
- ⁵⁵ *WBG Sanctions Anticorruption*, supra note 7; compare WBG Sanctions System Annual Report FY 20 at 92-95 with WBG Sanctions System Annual Report FY 19, at 67.
- ⁵⁶ WBG Sanctions System Annual Report FY 20, at 86.
- ⁵⁷ IACD 2020 Annual Report, at 12.
- ⁵⁸ IACD 18-19 Annual Report, at 22; IACD 2020 Annual Report, at 12.
- ⁵⁹ WBG Sanctions System Annual Report FY 20, at 23-29.
- ⁶⁰ IACD 2020 Annual Report, at 7.
- ⁶¹ Compare WBG Sanctions System Annual Report FY 19, at 17, 68-69 with WBG Sanctions System Annual Report FY 20, at 96.
- ⁶² IACD 2020 Annual Report, at 18.
- ⁶³ IACD 18-19 Annual Report, at 4.
- ⁶⁴ IACD 2020 Annual Report, at 9.