



# IBRD/IDA/IFC/MIGA Policy

## WBG Policy: Statute of the Sanctions Board

### **Bank Access to Information Policy Designation**

Public

### **Catalogue Number**

EXC6.03-POL.108

### **Issued**

October 18, 2016

### **Effective**

August 5, 2016

### **Content**

Sets out the role, composition, competence and responsibilities of the Sanction Board.

### **Applicable to**

IBRD,IDA,IFC,MIGA

### **Issuer**

President, EXC; Board of MIGA, through SEC;

### **Sponsor**

Senior Vice President and General Counsel, LEGVP; Vice President and General Counsel, CSRVP; Director and General Counsel, MIGLC;

## SECTION I – PURPOSE AND APPLICATION

1. The purpose of this Policy is to set out the role, composition, competence and responsibilities, including a code of conduct, of the Sanctions Board.
2. This Policy applies to the Bank, IFC and MIGA.

## SECTION II – DEFINITIONS

As used in this Policy, the capitalized terms have the meanings set out below:

- a. **Anti-Corruption Guidelines:** (i) the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants” dated as of October 15, 2006, as the same may be amended, supplemented or otherwise revised from time to time, (ii) the “Guidelines on Preventing and Combating Fraud and Corruption in Program-for-Results Financing,” dated February 1, 2012, as the same may be amended, supplemented or otherwise revised from time to time, or (iii) any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with the WBG Sanctions Framework.
- b. **Bank:** IBRD and IDA.
- c. **Bank Carbon Finance Project:** a project, involving the purchase by the Bank, as trustee of a carbon fund, of emission reductions under an agreement between the Bank, as trustee of a carbon fund, and a seller providing for the sale and purchase of emission reductions.
- d. **Bank Guarantee Project:** an investment project for which IBRD or IDA, (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has issued a guarantee.
- e. **Bank Financed Project:** an investment project or a program for results operation, for which IBRD or IDA (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has provided financing in the form of a loan, credit or grant, and governed by the Bank’s Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines.
- f. **Code of Conduct:** the set of rules set forth in Part B of Section III to this Policy.
- g. **Consultant Guidelines:** (i) the January 1997, May 2002 or May 2004 edition of the document entitled “Guidelines: Selection and Employment of Consultants by World Bank Borrowers”, as amended, supplemented or otherwise revised from time to time; (ii) the document entitled “Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants dated January 2011, as amended, supplemented or otherwise revised from time to time; or (iii) any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with the WBG Sanctions Framework.

- h. **Executive Directors:** the Executive Directors of IBRD, IDA, IFC, or the Directors of MIGA, or all of them, as the case may be.
- i. **EO:** the Evaluation Officers of IFC or MIGA, or the Evaluation Officer for Bank Guarantee or Bank Carbon Finance Projects, as applicable.
- j. **IBRD:** International Bank for Reconstruction and Development.
- k. **IDA:** International Development Association.
- l. **IFC:** International Finance Corporation.
- m. **IFC Internal Advisor:** IFC staff member that serves as an internal advisor to the Sanctions Board.
- n. **IFC Project:** investment projects, advisory services, and other operations of IFC.
- o. **INT:** the Integrity Vice Presidency of the World Bank Group.
- p. **Management:** the President, a Managing Director, an Executive Vice President, or some or all of these persons, as applicable.
- q. **MIGA:** Multilateral Investment Guarantee Agency.
- r. **MIGA Internal Advisor:** MIGA staff member that serves as an internal advisor to the Sanctions Board.
- s. **MIGA Project:** (i) any project in respect of which MIGA has issued or proposes to issue a MIGA guarantee, (ii) technical assistance provided by MIGA, and (iii) contracts for goods or services provided to MIGA.
- t. **Panel Session:** a session held by a panel comprised of members of the Sanctions Board as set forth in paragraph 7 of Part A of Section III of this Policy.
- u. **President:** the President of the World Bank Group.
- v. **Procurement Guidelines:** (i) the January 1995 or May 2004 edition of the document entitled "Guidelines: Procurement under IBRD Loans and IDA Credits", as amended, supplemented or revised from time to time, (ii) the document entitled "Guidelines: Procurement of Goods, Works and Non-Consulting Services under IBRD Loans and IDA Credits and Grants" dated January 2011, as amended, supplemented or revised from time to time, or (iii) any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with the WBG Sanctions Framework.
- w. **SDO:** the Suspension and Debarment Officer of the Bank.
- x. **Secretary:** the Secretary to the Sanctions Board.

- y. **VDP:** the World Bank Group's Voluntary Disclosure Program endorsed by the Executive Directors on August 1, 2006, as the same may be modified from time to time, or any successor program.
- z. **World Bank Group or WBG:** IBRD, IDA, IFC and MIGA.
- aa. **WBG Sanctions Framework:** the following documents of the World Bank Group, as amended, supplemented or revised from time to time: (i) World Bank Group Policy: Sanctions for Fraud and Corruption; (ii) this Policy; (iii) Bank Directive: Sanctions for Fraud and Corruption; (iv) Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects; (v) Bank Procedure: Internal Arrangements for the Sanctions System; (vi) Bank Guidance: Sanctions for Fraud and Corruption; (vii) the World Bank Private Sector Sanctions Procedures; (viii) the IFC Sanctions Procedures, dated November 1, 2012, as amended from time to time; (ix) the MIGA Sanctions Procedures, dated June 27, 2013, as amended from time to time; (x) the terms of reference of the EOs; and (xi) the VDP Guidelines.

## SECTION III – SCOPE

### A. THE STATUTE

1. **Competence.** The Sanctions Board shall review and take decisions in sanctions cases and perform such other detailed functions and responsibilities as set forth in the WBG Sanctions Framework.
2. In the event of a dispute as to whether the Sanctions Board has competence over a particular matter, the Sanctions Board shall decide whether it has the authority to handle such matter under Part A of this Section.
3. **Composition.** The Sanctions Board shall be composed of five (5) members. In addition, two (2) alternate members shall be appointed with the purpose to substitute a member when such member is unavailable for a particular session. The members shall abide by the code of conduct set out in Part B of this Section, as may be amended from time to time.
4. **Selection of Sanctions Board Members.**
  - i. Three (3) members of the Sanctions Board shall be appointed by the Executive Directors from a list of candidates drawn up by the President after appropriate consultation. The candidates must not currently hold any appointment to the staff of the Bank, IFC or MIGA and shall be familiar with procurement matters, law, dispute resolution mechanisms, or operations of development institutions.
  - ii. One (1) member of the Sanctions Board and one (1) alternate member shall be appointed for each of IFC and MIGA by the Executive Directors from a list of candidates drawn up by the President after appropriate consultation. The candidates must not currently hold any appointment to the staff of the Bank, IFC or MIGA and shall be familiar with private sector cross-border lending and equity

investments (for IFC Projects) or non-commercial guarantee operations (for MIGA Projects).

- iii. The members and alternate members of the Sanctions Board shall be appointed for a single, non-renewable term of up to six (6) years, with (a) one of the members appointed pursuant to paragraph 4(i) above to be replaced every other year; and (b) one of the members appointed pursuant to paragraph 4(ii) above to be replaced every three (3) years.
- iv. The term of each member shall commence as stipulated in the member's letter of appointment. A member appointed to replace another whose term of office has not expired may hold office for the remainder of the predecessor's term and the new term for which such member may be appointed, as provided in paragraph 4(iii).
- v. The members of the Sanctions Board shall hold office until their replacement or earlier resignation or removal.

5. ***Internal Advisors.***

- i. For cases involving an IFC Project, the IFC Executive Vice-President shall appoint an IFC staff member to serve as an IFC Internal Advisor to the Sanctions Board.
- ii. For cases involving a MIGA Project, the MIGA Executive Vice-President and Chief Executive Officer shall appoint a MIGA staff member to serve as a MIGA Internal Advisor to the Sanctions Board.
- iii. The IFC and MIGA Internal Advisors will provide advice to the Sanctions Board in a manner that is transparent and consistent with due process and the Sanctions Board's independence.

6. ***Sanctions Board Chair.***

- i. The Sanctions Board Chair shall be selected by the Executive Directors, on recommendation by the President after appropriate consultation, from among the persons appointed as members of the Sanctions Board under paragraph 4(i) above. The person selected shall serve as Sanctions Board Chair for not more than a single three-year term.
- ii. The Sanctions Board Chair shall direct the work of the Sanctions Board, represent the Sanctions Board in all administrative matters, preside at all sessions of the Sanctions Board, and determine the chair and members of each Panel, including alternates.
- iii. If unable to act, the Sanctions Board Chair shall designate an acting Sanctions Board Chair.

7. ***Panel Sessions.***

- i. Cases shall be heard by the Sanctions Board in the form of Panels sessions, which will require the – virtual or in person – presence of three (3) members.

- ii. For each specific case, the Panel shall be composed of any three (3) members appointed pursuant to paragraphs 4(i) and 4(ii), subject to the following requirements:
  - (a) For cases arising out of a Bank Financed Project, the Panel shall include at least one (1) member appointed pursuant to paragraph 4(i).
  - (b) For cases arising out of an IFC project, a MIGA project, a Bank Guarantee Project or a Bank Carbon Finance Project, the Panel shall include one (1) member appointed pursuant to paragraph 4(ii), from the respective institution, unless such member is unavailable, in which case, another member appointed pursuant to paragraph 4(ii) may serve.
- iii. Reasonable advance notice of the convening of a Panel session shall be given by the Secretary to the Panel members.

8. ***Plenary Sessions.***

- i. For plenary sessions, the Sanctions Board will require the – virtual or in person – presence of the full five (5) member Sanctions Board.
- ii. A plenary session may be convened by the Sanctions Board Chair when, in his/her opinion:
  - (a) the complexity of a case requires such a session;
  - (b) it is necessary to address a question affecting the operation of the Sanctions Board, including the application of the Code of Conduct and the rules on confidentiality;
  - (c) it is necessary to address a question of its competence under paragraph 2 above; or,
  - (d) any other matter warranting consideration by the full Sanctions Board.
- iii. If the plenary session involves a case arising out of an IFC Project, a MIGA Project, a Bank Guarantee Project or a Bank Carbon Finance Project, the Board shall include two (2) IFC or MIGA members appointed pursuant to paragraph 4(ii), from the respective institution, unless such member is unavailable, in which case, other members appointed pursuant to paragraph 4(ii) shall be designated by the Sanctions Board Chair to serve.
- iv. Reasonable advance notice of the convening of a plenary session shall be given by the Secretary to the members.
- v. No case shall be heard by the Sanctions Board except under the chairmanship of the Sanctions Board Chair or an acting Chair.

9. ***Secretary to the Sanctions Board.*** A Secretary shall be appointed from among the staff of the Bank to assist the Sanctions Board. The Sanctions Board Chair shall supervise the

work of the Secretary to the Sanctions Board. The Secretary, if unable to act, shall be replaced by another Bank staff member.

10. **Expenses and Compensation of the Sanctions Board.** The expenses of the Sanctions Board shall be borne by the World Bank Group. Sanctions Board members shall receive such compensation as deemed appropriate by the World Bank Group.
11. **Matters not Covered.** In all matters not addressed in the WBG Sanctions Framework, the Sanctions Board shall follow the instructions of the Sanctions Board Chair for the operation of the Sanctions Board.
12. **Sessions Arrangements.**
  - i. The Sanctions Board shall hold sessions on dates to be fixed in accordance with paragraphs 7 and 8 above.
  - ii. When not meeting virtually, the Sanctions Board shall hold its sessions at the principal office of the Bank, unless it considers that the efficient conduct of the proceedings warrants holding sessions elsewhere.
  - iii. Sanctions Board hearings will be in the form of oral proceedings.
  - iv. Sanctions Board sessions, including hearings, may be held by means of telephone conference or similar communication media, provided that all persons participating in the session can hear one another. Sanctions Board proceedings, including hearings and deliberations of the Sanctions Board, shall be confidential and shall not be open to the public.
13. **Sanctions Board Decisions.**
  - i. The Sanctions Board shall take all decisions by a majority of the members hearing a case.
  - ii. Decisions shall be final and without appeal. Each decision shall include a brief statement of the reasons on which it is based.
14. **Removal of Sanctions Board Members.**
  - i. The Sanctions Board members appointed pursuant to paragraph 4 (i) or (ii) above may be removed by Executive Directors upon recommendation by the President in the event of (a) incapacity, (b) material violation of the Code of Conduct, or (c) conduct unbecoming a Sanctions Board member.
  - ii. The President, the Sanctions Board Chair, or other member of the Sanctions Board by written request to the President, shall have the right to initiate a proposal for removal.
  - iii. The concerned Sanctions Board member shall be notified of the alleged grounds for the proposed removal and be afforded a reasonable opportunity to respond to the allegation(s). If there appear to be sufficient grounds for removal, the President shall refer the matter to the Executive Directors for decision.

15. ***Transitional Arrangements.*** In order to achieve an orderly transition in the composition of the Sanctions Board and thereafter to achieve a graduated turnover in the membership, the transitional period shall allow for flexibility in appointments such that the Executive Directors, upon recommendation by the President, may decide that members appointed from outside the World Bank Group serving as of the effective date of this Policy may have their respective term extended for a period of up to three (3) years (but only if the member is available and agreeable to such an extension). The term of the members currently appointed from within the World Bank Group will be terminated upon the issuance of this Policy.

## **B. CODE OF CONDUCT FOR MEMBERS OF THE SANCTIONS BOARD**

1. ***Fairness, Independence and Impartiality.*** Each member of the Sanctions Board shall consider each case fairly, impartially and with due diligence, in accordance with the WBG Sanctions Framework.
2. In considering cases, each member of the Sanctions Board shall act independently and shall not answer to or take instructions from Management, members of the Board of Executive Directors, member governments, respondents or any other entity.
3. Each member of the Sanctions Board shall, in the discharge of his or her functions, be guided solely by the merits of the case without regard to any other considerations, including prospects for re-appointment to the Sanctions Board or employment elsewhere in the World Bank Group.
4. No member of the Sanctions Board shall seek or accept any gift or compensation of any kind for the discharge of his or her functions except as provided in his or her letter of appointment.
5. ***Diligence.*** Each member of the Sanctions Board shall act diligently and expeditiously in the performance of their duties and deliver their decisions without undue delay.
6. ***Conduct during Proceedings.*** Each member of the Sanctions Board shall maintain order, act in accordance with commonly accepted decorum, and remain patient and courteous towards all participants. They shall avoid conduct or comments which are racist, sexist or otherwise degrading. The Sanctions Board Chair shall, to the extent possible, ensure that any person participating in sanctions proceedings conducts themselves in a like manner.
7. ***Conflict of Interest.*** Prior to appointment and throughout his or her service, each member of the Sanctions Board shall have the obligation to promptly disclose to the Sanctions Board Chair and Management, any circumstance which may give rise to reasonable doubts as to his or her impartiality or independence, including (but not limited to) all past and present professional, business, personal and other relationships with, or any financial or other interest in, any of the parties to the proceedings or affiliated parties, personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding. In making such disclosure, the member should take care not to reveal facts that may prejudice the consideration of a pending case; if meaningful disclosure is not possible without revealing such facts, the Sanctions Board Chair may decide to exclude said member from the case in question.



8. Members of the Sanctions Board shall recuse themselves from any case in which they have an actual conflict of interest either by notice to the Sanctions Board Chair or at the request of the Chair prior to the commencement of proceedings or, if the conflict comes to light only during the proceedings, immediately upon it coming to light. Members shall seek written guidance from the Sanctions Board Chair for any matter in which they have an apparent or potential conflict of interest. The Sanctions Board Chair will apprise Management periodically as to the resolution of these actual, apparent and potential conflicts of interest.
9. Members of the Sanctions Board shall recuse themselves from participation in a sanctions proceeding involving a project, loan or any other transaction wherein they have, directly or significantly, participated, whether in their current position, a prior assignment or previous employment.
10. Notwithstanding the foregoing, a member may decline to disclose circumstances to the extent that such disclosure is prohibited by legally binding confidentiality restrictions, provided that they recuse themselves from any case in which they have an actual, apparent or potential conflict of interest arising from such circumstances.
11. **Post-Service Activities.** A member of the Sanctions Board shall not, for two years after the end of the member's term, accept any kind of employment, consultancy or interest in any firm that has been a respondent in a sanctions proceeding in which the member has participated.
12. For a period of two years after the expiration or termination of the term of a member of the Sanctions Board, such member shall be disqualified to appear as an attorney, agent or representative of any respondent in a sanctions proceeding before the Sanctions Board.
13. **Confidentiality.** A member shall be required to observe the confidentiality and sensitivity of information to which the member will have access as a member of the Sanctions Board, and shall not use or disclose to any third party any information obtained as a result of membership in the Sanctions Board, including through participation in a sanctions proceeding.
14. All members of the Sanctions Board shall respect and maintain the confidentiality of sanctions proceedings including any undertaking by the World Bank Group in favor of a VDP participant.
15. **Mandate of the World Bank Group.** The Sanctions Board's independence notwithstanding, a Sanctions Board member should act at all times in a manner consistent with the World Bank Group's mandate as set forth in its Articles of Agreement, or the Convention Establishing MIGA, as applicable, with particular regard to the duty of the Bank to ensure that its financing is used for purposes intended.
16. **Non-interference.** During a proceeding in which the members of the Sanctions Board sit in a Panel of less than five members, any member who is not participating in that Panel shall not interfere with or seek to influence the work or decision of the members of the Panel.

17. **Ex Parte Communications.** Members of the Sanctions Board shall not engage in ex parte communications with INT or the respondent regarding the merits of a sanctions proceeding.
18. **Conduct Unbecoming.** Members of the Sanctions Board shall conduct themselves in a manner befitting their status, whether in the course of their duties or otherwise. They will exercise their freedom of expression and association in a manner compatible with such status and does not affect or appear to affect their independence or impartiality. They shall not comment on pending cases and shall avoid expressing views which may undermine the standing or integrity of the World Bank Group, the Sanctions Board or the sanctions process.
19. Each member of the Sanctions Board shall agree to be bound by this code of conduct, as it may be amended from time to time, at the time of his or her appointment or re-appointment.
20. Any material violation of this code of conduct is grounds for removal from the Sanctions Board, as set out in paragraph 13 of Part A above. The Sanctions Board Chair shall report any violation of the Code of Conduct that comes to his or her attention to Management.

#### SECTION IV – WAIVER

Only the Board may waive a provision of this Policy.

#### SECTION V – EFFECTIVE DATE

This Policy is effective August 5, 2016.

This Policy will apply as of the issuance date to all new matters, including: (i) new appeals in which the Response is filed on or after the issuance date; and (ii) pending appeals in which the Sanctions Board has not yet commenced its review of the merits of the case.

#### SECTION VI – ISSUER

The Issuer of this Policy is the President and the Board of MIGA.

#### SECTION VII – SPONSOR

The Sponsors of this Policy are the Senior Vice President and WBG General Counsel, the Vice-President and General Counsel of IFC, and the General Counsel of MIGA.

#### SECTION VIII – RELATED DOCUMENTS

1. World Bank Group Policy: Sanctions for Fraud and Corruption
2. Bank Directive: Sanctions for Fraud and Corruption in Bank Financed Projects

3. Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects
4. Bank Procedure: Internal Arrangements for the Sanctions System
5. Bank Guidance: Sanctions for Fraud and Corruption in Bank Financed Projects
6. Senior Vice President and General Counsel, Advisory Opinion On Certain Issues Arising In Connection With Recent Sanctions Cases, No. 2010/1, November 15, 2010
7. World Bank Private Sector Sanctions Procedures
8. IFC Sanctions Procedures
9. MIGA Sanctions Procedures
10. IFC Evaluation Officer Terms of Reference
11. MIGA Evaluation Officer Terms of Reference
12. Bank Guarantee Projects Evaluation Officer Terms of Reference
13. IFC Internal Advisor Terms of Reference
14. MIGA Internal Advisor Terms of Reference
15. World Bank Group Voluntary Disclosure Program Guidelines

Questions regarding this Directive should be addressed to the Sponsor.