



## Review of the World Bank Group Sanctions System *Consultation Plan*

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The World Bank Group is undertaking a review of its Sanctions System. The World Bank Group's Sanctions System is an administrative process for sanctioning firms and individuals found to have engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with Bank-financed projects. This system provides parties alleged to have engaged in a sanctionable practice a level of due process before a decision on sanctions, if any, is imposed.

### **1. Background**

The World Bank Group has agreed with other Multilateral Development Banks (MDBs) to define applicable sanctionable practices. These practices are: corrupt practice, fraudulent practice, collusive practice and coercive practice. The World Bank Group may also sanction a firm or individual for having engaged in 'obstructive practice' in connection with an investigation of the Integrity Vice Presidency (INT) of the World Bank Group. The Bank Group maintains an administrative process for sanctioning firms and individuals found to have engaged in one or more of these sanctionable practices in connection with World Bank Group financing. This is intended to provide the accused party, designated as the 'respondent', with an appropriate level of due process before it is decided whether the Respondent will be sanctioned and, if so, which sanction is appropriate.

The sanctions system has been in place since 1997, and has been reformed in 2004, 2006, 2008 and 2009/2010. In its current two-tiered arrangement, the system has been operational since 2007. Internal evaluations have shown that after a slow first few years, the system as a whole has been heading in a positive direction since early 2010. This trend has accelerated since early 2011.

### **2. Review Process and Objectives**

The Review is being conducted in two phases: **Phase I** (July 2011 – late 2013) provides an opportunity for the World Bank Group to take stock, assess and evaluate the functionality and effectiveness of the sanctions system and its related reforms. The outcome of this stocktaking exercise may result in further review and reform. It is a stock-taking exercise meant to help the World Bank Group to evaluate the implementation of the system so far and its various reforms over the years, with a view to identifying possible entry points for making improvements. A first internal consultation phase was started in July 2011 and is ongoing. To adequately capture the relevant issues, the Legal Vice Presidency (LEG) of the World Bank Group is conducting consultations with external stakeholders to solicit feedback on the system. The external consultation starts on July 3, 2013 and is scheduled to close on October 31, 2013.

Phase I focuses on the implementation of various [sanctions](#) reforms since the newly configured sanctions process began operations in 2007, the impact of the regime on Bank operations, and the legal adequacy of the system in light of current developments in national and international law. In this connection, the World Bank Group is seeking the views of shareholders and a wide range of stakeholders to help shape the next generation of the Sanction System. The feedback received will inform a final report on Phase I of the Review, which LEG intends to present to the Bank's Audit Committee in late 2013.



A preliminary report on the initial findings emerged from internal consultations was discussed with the Audit Committee on Friday, March 22, 2013 in an executive session. While the full report is still in preliminary form, a [summary](#) is available on the sanctions review [website](#) and provides background information for consultations with external stakeholders in Phase I. The summary includes a number of observations on the functioning of the Sanctions System and introduces recommendations on how to improve the current processes. These consultations of Phase I will help inform the final report of the Review.

**Phase II** will address the larger, first-principles issues of the overall efficiency and effectiveness of the system—i.e., whether the system as a whole is meeting its objectives of excluding corrupt actors and deterring fraud and corruption in World Bank Group operations, at an appropriate cost to the World Bank Group. The timing of Phase II is yet to be determined.

### **3. Consultations of Phase I of the Review**

#### **A. Objectives**

The objective of the consultations is to receive input on what works and what does not work well from the perspective of various external stakeholders. In addition, the World Bank Group seeks recommendations on how to reform the existing processes to better serve the objectives of the system. These inputs will be taken into consideration to finalize the World Bank Group findings and recommendations for submission to the Bank's Audit Committee.

A second round of consultations is envisaged for any detailed proposals for improvements to the system that may be proposed, possibly in early 2014.

#### **B. Stakeholders**

The World Bank Group Sanctions System has various external stakeholders. The consultations will attempt reach out to each category of stakeholder, including:

- Those external parties who have engaged in the system in the past, in particular former respondents and their legal counsel.
- Private sector actors, in particular contractors and consultants who participate in Bank Group supported projects, which may engage in the system or are impacted by it.
- Country officials that have been involved in (i) the implementation of projects affected by corruption or Bank sanctions and /or (ii) anti-corruption or debarment matters.
- Other international organizations with sanctions systems, in particular other MDBs.
- Civil society organizations with a stake in the fight against corruption.
- Academics whose studies focus on governance and anti-corruption, public procurement and/or development effectiveness.



### C. Consultation Format

Consultations with external stakeholders will be based on an [Initiating Discussion Brief](#) on the preliminary findings. This brief provides an overview of the sanctions system and its past reforms, statistics on performance, preliminary findings from internal consultations and desk research and initial recommendations.

To help shape the Bank's thinking on the Sanctions System, input from a variety of stakeholders will be solicited on key topics that the Bank should consider in the course of the review. Consultations with external stakeholders will be largely held [online through a dedicated website](#) and **through a number of targeted face-to-face meetings and video conference**. External stakeholders will be asked to provide their overall views on the Sanctions System. Discussion topics include, but are not limited to, the following:

- Fairness
- Transparency and legal certainty
- Independence and credibility
- Accessibility
- Efficiency and effectiveness
- Improvements
- Settlements

The guiding questions below have been developed to frame and organize input and feedback, but also do not represent an exhaustive list of discussion topics:

1. The Sanctions System was established in 1997 and since its inception has been the subject of several rounds of reforms aimed at enhancing the fairness, credibility, efficiency and effectiveness of the system (for a detailed description of these reforms, [click here](#)). In your experience or view, are there other steps the World Bank Group should be taking to enhance the system's fairness, credibility, efficiency and/or effectiveness?
2. The [initiating discussion brief](#) outlines preliminary findings of the review, identifies issues affecting the Sanctions System and suggests some initial recommendations to address those issues. Bearing in mind that this phase of the review is a stock-taking rather than a 'first principles' review, in your view, are there any other issues that the review should address? Do you have any other reactions to the preliminary recommendations of the review?
3. The World Bank Group has taken a number of steps to enhance the transparency of the system over the years. For example, determinations of the [Suspension and Debarment Officer](#) (in uncontested cases) and of the [Sanctions Board](#) (in contested cases) are now published, along with a [Law Digest](#) of the legal holdings in sanctions cases decided by the Sanctions Board. The Bank has also made its [Sanctioning Guidelines](#) publicly available, together with an [Information Note](#) on such issues as jurisdiction, sources of law and treatment of corporate groups. The preliminary findings of the review suggest further enhancements to the system's transparency by making public more information. What is your view as to the usefulness of the information already publicly available? Are there other measures the World Bank Group could take to improve the transparency of the system?



4. The system currently provides guidance materials for actual or potential contractors of Bank-financed contracts (see previous question). In your view, what could be done to enhance the usefulness and/or effectiveness of these materials?
5. The World Bank Group has developed guidance on the [treatment of corporate groups](#), including its approach to sanctioning affiliates of respondents and so-called ‘successors and assigns’. In your view, does this guidance provide sufficient clarity and predictability? Is more information needed about the Bank’s approach to sanctioning corporate groups? If so, what aspects should the additional information cover?
6. The preliminary review report recommends various steps to make the system more accessible to all respondents, including small- and medium-sized enterprises (SMEs) and respondents without legal counsel. The recommendations include developing ‘know your rights’ literature and adoption of ‘plain English’ documentation, as well as more simplified procedures for smaller cases. What is your view of the current system’s accessibility? Are there any other steps you think should be taken to make the system more accessible to all respondents?
7. The World Bank Group has also taken a number of steps to enhance the independence and credibility of the Sanctions System. In 2006, an internal Sanctions Committee was replaced by a Sanctions Board, which is composed of a majority of external (i.e., non-Bank staff) members. In 2009, it was decided that the Chair of the Sanctions Board would be selected from among the Board’s external members. The preliminary review report recommends transitioning the Sanctions Board to an all-external membership to further enhance the system’s independence. In your view, what are the major pros and cons of transitioning the Sanctions Board to an all-external membership? Are there any other measures that the World Bank Group could take to improve the independence and credibility of the Sanctions Board?
8. When analyzing the current track record of the Sanctions System, the review team found that the overall efficiency of the system, as measured by processing times and outputs, has been steadily increasing. Nevertheless, the preliminary review report suggests certain steps to further improve the system’s efficiency, including an automated case management system, increased use of Sanctions Board panels for more ‘routine’ cases and other steps to improve workflow. Is there anything more that could be done to further improve the efficiency of the system?
9. One particularly significant efficiency measure the Bank has recently adopted is the ability to enter into ‘negotiated resolutions’ of sanctions cases (i.e., settlements) in lieu of sanctions proceedings before the Suspension and Evaluation Officer (SDO) and Sanctions Board. The review found that settlements have, indeed, proven to be an efficient means to resolve sanctions cases, but it also took note of criticisms by some that settlements are not sufficiently transparent. What, if anything, in your view, could or should be done to improve the mechanism?



10. While this phase of the review is not attempting to measure the system’s overall effectiveness—an area that will be tackled in Phase II—the Bank has taken a number of steps to improve the system’s effectiveness, including the adoption of ‘early temporary suspension’ of firms under investigation and ‘debarment with conditional release’ as the ‘baseline’ sanction. The review found that both these mechanisms, however, have suffered from flawed implementation and suggested some improvements. Do you have any other specific recommendations to enhance the system’s effectiveness at this stage?
  
11. While an administrative process, the Sanctions System intends to provide an appropriate level of ‘due process’ to persons and firms alleged to have engaged in sanctionable practices. Do you think that the current system has reached an appropriate degree of balance between due process and efficiency? If not, what, if anything, could or should be done to reach that appropriate balance? Does the current system give respondents adequate opportunity to defend themselves?
  
12. The review is suggesting consideration of a proposal to re-sequence the first phase of sanctions proceedings, so that the SDO will take decisions only after s/he hears from both INT and the respondent. The SDO would no longer review INT’s Statement of Accusations and Evidence (SAE) to ensure the sufficiency of INT’s evidence on each claim prior to the commencement of proceedings. All SDO decisions would be subject to appeal by INT, in addition to the respondent. Do you agree with these ideas? What do you see as the major pros and cons?
  
13. What should be the overall goal(s) for the Sanctions System? How should the Bank measure and define success in achieving such goal(s)?
  
14. Do you have any other comments, observations or suggestions about the World Bank Group’s Sanctions System or the review that you would like to share?

Responses to the questions above can be submitted by [email](#) or [online](#).

#### **D. Tentative Phase I Timeline**

<i>July 2011 – February 2013</i>	Desk Review, Internal Consultations
<i>March 22, 2013</i>	Preliminary Findings and Recommendations discussed with Audit Committee
<i>July 3 – October 31, 2013</i>	External Consultations, internal consultations ongoing
<i>Late 2013</i>	Final findings and recommendations submitted to Audit Committee
<i>Early 2014 (tentative)</i>	External consultations on proposed changes to system
<i>Mid to Late 2014 (tentative)</i>	Finalization, submission to Board and issuance of new procedures, etc.



## E. Transparency and Communication

A dedicated [consultation web page](#) provides a platform for stakeholders and shareholders to provide input and contribute to the stock-taking. Through this platform all interested individuals and parties can provide written comments online via a [survey form](#) or by email to [sanctionsreview@worldbank.org](mailto:sanctionsreview@worldbank.org).

The webpage includes information related to the review and timeline, consultation process, relevant background information, related resources, and other relevant information as the review and consultation process progresses.

All consultations and consultation materials are in English. In consultation meetings, the review team will use its best efforts to use the language where the meeting is held.

Participant lists and summaries of views and input (with no attribution) from **face-to-face meetings** and online questionnaires will be shared through the web page on a continuous basis throughout all phases of the consultation.

A summary of all input and feedback received during each consultation period will be prepared after each period is completed, along with a document outlining how the issues raised during the consultations were addressed in the drafting of the framework paper. This document will be presented when reporting to the Board of Executive Directors.

## 4. Contact

Questions about the review and consultation process should be directed to the Sanctions System review team at [sanctionsreview@worldbank.org](mailto:sanctionsreview@worldbank.org).

