Review of the World Bank Group Sanctions System
Online Feedback Summary

Consultation Period: July 3, 2013 – October 31, 2013

Total number of Submissions: 5

FEEDBACK FROM STAKEHOLDERS
General Comments
• The World Bank's sanctions system most closely approximates a judicial system and provides adequate opportunities for firms to be heard and defend themselves prior the conclusion of sanctions proceedings as opposed to other comparable sanctions systems. While the time it takes to reach a final decision is much longer, from the firm's perspective, the World Bank's sanctions process is much fairer • The World Bank's sanction system would benefit greatly from promoting relationships and sharing information with other governmental bodies that focus on responding to contractor misconduct or poor performance • Commend for the review team's recommendation that the Bank look to expand its 'toolkit' of approaches to deal with fraud and corruption issues in its operations beyond the sanctions proceedings, settlement or the VDP. Preventive and investigative functions as well as the sanctions proceedings should be geared to further and complement the Bank's operational function. The Bank should consider using project procurement-related spot reviews (PPRRs). Aimed at strengthening project monitoring and compliance with a focus on preventing and detecting integrity violations, these reviews help the implementing agencies and the project teams identify and develop preventive measures to mitigate fiduciary risks, improve project management, and enhance project implementation.
Due Process, Transparency, Independence
• Since the Sanctions Board normally holds its sessions at the principal office of the Bank in Washington, D.C., travel costs and other associated hurdles represent an insurmountable geographic barrier for certain types of respondents. One stakeholder suggested that the World Bank should hold sessions in the country offices in order to give equal opportunities to all respondents, including those with limited means • Call for more clarity about the practical implications of conditions for release, which should be tailored to the specific conditions of the respondent. Disproportionate and excessively onerous conditions have the effect of turning conditional debarment into indefinite debarment. The imposition of conditions, including a corporate compliance program, may pose issues of proportionality, particularly on low capacity respondents • In the interest of efficacy and simplicity, given the proposed re-sequencing of the first tier of the sanctions proceedings, it may

make sense for the Bank to eliminate the position/function of the SDO altogether. If all procedural matters such as ETS determinations and the SDO's decision are subject to appeal to the SB, the SDO's function would have limited utility. The continued costs of maintaining the SDO may not be justified as it would create extra layers of procedures which would be especially burdensome for SMEs and which may be unfairly exploited by larger firms with legal representation to delay the sanctions proceedings

- Call for more transparency as to the criteria used by INT to select cases to be investigated. Importance of differentiating between frivolous and genuine complaints. INT should seek the opinion of project/government authorities before launching an investigation

Baseline Sanction

- Call for more variations in the forms of sanctions (e.g. more use of letters of reprimand where appropriate), also by introducing a more granular 'stratification' of the debarment period (e.g. between 1 to 3 years or more) depending on the seriousness of the misconduct. Call for more transparency in the thought process that leads to the determination of a sanction

Cross-Debarment

- The Bank needs to take into account that an increasing number of national governments, entities and organizations cross-debar from its list, thus amplifying the impact of sanctions. For example, a firm that has been debarred by an international organization may not be able to bid on any government-financed projects. When this results in the firm going out of business, the rehabilitating scope of sanctions is clearly frustrated
- Call for more transparency in relation to settlements and SDO determinations, in particular with regard to the type of misconduct and facts of the case. More information-sharing would provide national debarment officials with the information they need in order to make an informed cross-debarment determination
- Need to find solutions to the inability of cofinanciers to mutually and fully recognize their respective debarment lists as a basis of ineligibility

Small and Medium-Sized Enterprises

- Moving to an all-external Sanctions Board with procedures consisting of multiple tiers resembling a quasi-judicial system may have the unintended consequence of further alienating SMEs. Therefore, priority should be given to the introduction of simplified procedures and rules for less sophisticated respondents. In addition, the publication of reasoning behind SDO determinations and the advisory opinions of the General Counsel would also likely benefit larger firms with legal representation rather than SMEs with limited resources to research and review past cases and opinions

Other Comments

- One stakeholder called for the introduction of a requirement whereby a copy of the RFP be shared with the Bank so as to prevent bidders from informally and illegally revising, improving, amending the RFP ex-post to justify their selection as winning bidders