Official Use

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IFC SANCTIONS PROCEDURES

As adopted by IFC as of November 1, 2012

ARTICLEI

INTRODUCTORY PROVISIONS

Section 1.01. Purpose of these Procedures.

These IFC Sanctions Procedures (the "Procedures") set out the procedures to be followed in cases involving Sanctionable Practices:

- (a) in connection with IFC Projects;
- (b) on the basis of which the Director, General Services Department (" *GSD*"), has determined, in accordance with the World Bank Vendor Eligibility Policy, that the Respondent is non-responsible;
- (c) arising from the violation of a Material Term of the Terms and Conditions of the Voluntary Disclosure Program¹; and
- (d) arising from a violation of Section 13.06 of these Procedures.

Section 1.02. Definitions and Interpretation.

(a) Defined Terms.

As used in these Procedures, the following terms have the following meanings:

- "Affiliate" means any legal or natural person that controls, is controlled by, or is under common control with, the Respondent, as determined by IFC.
- "Application" has the meaning given to it in Section 9.03(c).
- "Bank" means IBRD and IDA.
- "Bank Evaluation Officer" has the meaning given to it in the Bank Sanctions **Procedures.**
- "Bank-Financed Project" has the meaning given to it in the Bank Sanctions **Procedures**.

¹ For information regarding the voluntary disclosure program, please go to <u>www.worldbank.org/vdp</u>.

- "Bank Private Sector Evaluation Officer" has the meaning given to it in the Bank Private Sector Sanctions Procedures.
- "Bank Private Sector Project" has the meaning given to it in the Bank Private Sector Sanctions Procedures.
- "Bank Private Sector Sanctions Procedures" means the procedures set out in the document entitled "Bank Private Sector Sanctions Procedures" as the same may be amended, supplemented or replaced from time to time.
- "Bank Sanctions Procedures" means the procedures set out in the document entitled "World Bank Sanctions Procedures" as the same may be amended, supplemented or replaced from time to time.
- " day" means a calendar day, unless stated otherwise.
- " Effective Date" has the meaning given to it in Section 13.01(a).
- "Explanation" has the meaning given to it in Section 4.02(b).
- " GSD" has the meaning given to it in Section 1.01(b).
- "IBRD" means the International Bank for Reconstruction and Development.
- " IDA" means the Intern

involving more than one such entity or individual, the term "Respondent" as

replaced from time to time, setting out the terms and conditions of the Voluntary Disclosure Program;

"World Bank Group" or "WBG" means, collectively, IBRD, IDA, IFC and MIGA, but does not include the International Centre for the Settlement of Investment Disputes.

[&]quot;World Bank Vendor Eligibility Policy" means

(a) Submission by INT. If, before INT concludes an investigation, the Integrity Vice President believes that there is sufficient evidence to support a finding of a Sanctionable Practice against a Respondent and that it is highly likely that the investigation will be

pending the final outcome of sanctions proceedings, subject to the operation of Section 4.02.

- (c) Expiration. If a Statement of Accusations and Evidence is not submitted to the IFC Evaluation Officer prior to the end of the period of temporary suspension under this Article II, the suspension shall automatically expire.
- (d) Early Termination. The IFC Evaluation Officer may, at any time during the period of temporary suspension, terminate the temporary suspension if the IFC Evaluation Officer determines, based on information which comes to the attention of the IFC Evaluation Officer, that there was a manifest error in the Notice of Temporary Suspension or other clear basis for termination. To this end, at all times during the period tg,ter0.9 Tm[per)-4(iod)-15g

(ii) INT's designation of each Respondent alleged to have engaged in such (ii) if applicable, inform the Respondent of its temporary suspension and the manner in which it may provide an Explanation (as such term is defined in Section 4.02(b));

(iii)

eligibility to become an IFC

the Sanctions Board shall notify the Sanctions Board Chair, the IFC Evaluation Officer and the Integrity Vice President of the receipt of such Response, together with a copy thereof, and the matter shall be referred to the Sanctions Board for its review and decision pursuant to the Sanctions Board Statute and these Procedures.

(b)

circumstances¹¹ or other facts relevant to the decision of the Sanctions Board concerning an appropriate sanction. Such evidence and arguments shall be submitted in accordance with the schedule for written submissions set forth in these Procedures.

Section 5.04. Distribution of Written Materials.

- (a) Distribution of Materials to INT and the Respondent. The Secretary to the Sanctions Board shall provide to INT and the relevant Respondent, in a timely manner, copies of all written submissions and evidence, and any other materials received or issued by the Sanctions Board relating to the proceedings against said Respondent not previously provided by the IFC Evaluation Officer, except as otherwise provided in this Section 5.04.
- (b) Distribution of Materials to Other Respondents in Sanctions Proceedings. The Secretary to the Sanctions Board may, at any time and upon approval of the Sanctions Board, make materials relating to sanctions proceedings against a particular Respondent available

determine whether the redacted information is necessary to enable the Respondent to mount a meaningful response to the allegations against it. In the event that the

Any kind of evidence may form the basis of arguments presented in a sanctions proceeding and conclusions reached by the IFC Evaluation Officer or the Sanctions Board. The IFC Evaluation Officer and the Sanctions Board shall have discretion to determine the relevance, materiality, weight and sufficiency of all evidence offered. Hearsay evidence or documentary evidence shall be given the weight deemed appropriate by the IFC Evaluation Officer or the Sanctions Board. Without limiting the generality of the foregoing, the IFC Evaluation Officer and the Sanctions Board shall have the discretion to infer purpose, intent and/ or knowledge on the part of the Respondent, or any other party, from circumstantial evidence. Formal rules of evidence shall not apply.

Section 7.02. Privileged Materials.

Communications between an attorney, or a person acting at the direction of an attorney, and a client for the purpose of providing or receiving legal advice, and writings reflecting the mental impressions, opinions, conclusions or legal theories of an attorney in connection with a legal representation shall be privileged and exempt from disclosure.

Section 7.03. No Discovery.

Except as expressly provided for in these Procedures, the Respondent shall have no right to review or obtain any information or documents in the IFC's possession.

ARTICLE VIII

appropriate sanction or sanctions on the Respondent, which sanction(s) shall be selected from the range of possible sanctions identified in Section 9.01. In determining the appropriate sanction(s), the Sanctions Board shall not be bound by the recommendation of the IFC Evaluation Officer.

In either case, the Sanctions Board shall issue a written decision setting forth a recitation of the relevant facts, its determination as to the culpability of the Respondent, any sanction to be imposed on the Respondent and its Affiliates and the reasons therefor.

Section 8.02. Determinations by the Sanctions Board.

- (a) Record as Sole Basis for Determinations. The review and deliberation of the Sanctions Board shall be restricted to the record consisting of the Notice, the Explanation (if any), the Response, the Reply, all other related written submissions of arguments and evidence, and all arguments presented at any hearing before the Sanctions Board. The record shall be confidential and not be available to the public.
- **(b)** Standard and Burden of Proof.
 - (i) Standard of Proof. The Sanctions Board shall determine whether the evidence presented by INT, as contested by the Respondent, supports the conclusion that it is more likely than not that the Respondent engaged in a Sanctionable Practice. "More likely than not" means that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the Respondent engaged in a Sanctionable Practice.
 - (ii) Burden of Proof. INT shall have the burden of proof to present evidence sufficient to establish that it is more likely than not that the Respondent engaged in a Sanctionable Practice in an IFC Project. Upon such a showing by INT, the burden of proof shall shift to the Respondent to demonstrate that it is more likely than not that the Respondent's conduct did not amount to a Sanctionable Practice.

Section 8.03. Entry into Force and Final Nature of Sanctions Board Decisions.

The decision of the Sanctions Board shall be final and without appeal, and shall be binding on the parties to the proceedings. The decision shall take effect immediately.

ARTICLEIX

SANCTIONS

Section 9.01. Range of Possible Sanctions.

- (a) Reprimand. The sanctioned party is reprimanded in the form of a formal "Letter of Reprimand" of the sanctioned party's conduct.
- (b) Conditional Non-Debarment. The sanctioned party is required to comply with certain remedial, preventative or other conditions as a condition to avoid debarment from World Bank Group projects. Conditions may include (but are not limited to) verifiable actions taken to improve business governance, including the adoption or, improvement and implementation of, an integrity compliance program, restitution and/ or disciplinary action against or reassignment of employees.
- (c) Debarment. The sanctioned party is declared ineligible, either indefinitely or for a stated period of time, as the IFC Evaluation Officer or the Sanctions Board (as the case may be) deems appropriate under the circumstances, to become an IFC Counterparty in any new IFC Project. For cases involving a violation of a Material Term of the VDP Terms and Conditions, the sanctioned party shall be declared ineligible to become an IFC Counterparty for a period of ten (10) years.

Debarment imposed by the IFC Evaluation Officer or the Sanctions Board, as the case may be, shall apply to the operations of MIGA, and to Bank-Financed Projects and Bank Private Sector Projects, in each case with the same effect as a debarment as provided for under the MIGA Sanctions Procedures, the Bank Sanctions Procedures and the Bank Private Sector Sanctions Procedures, respectively. Debarment arising out of a MIGA Project, Bank-Financed Project or Bank Private Sector Project shall render the sanctioned party ineligible to become an IFC Counterparty in any new IFC Project.

- (d) Debarment with Conditional Release. The sanctioned party is subject to ineligibility as outlined in Section 9.01(c) and is released from debarment only if the sanctioned party demonstrates compliance with certain remedial, preventative or other conditions for release, after a minimum period of debarment. Conditions may include (but are not limited to) verifiable actions taken to improve business governance, including the adoption or improvement and implementation of an integrity compliance program, restitution and/ or disciplinary action against, or reassignment of, employees. Debarment with conditional release shall also result in extension across the operations of the World Bank Group as outlined in Section 9.01(c).
- (e) Restitution or Remedy. The sanctioned party is required to make restitution to a party or parties, or take actions to remedy the harm done by its misconduct.

Section 9.02 Factors Affecting the Sanction Decision.

Except for cases involving violation of a Material Term of the VDP Terms and Conditions for which there is a mandatory ten- (10) year debarment, the IFC Evaluation

Officer or the Sanctions Board, as the case may be, shall consider the following factors in determining an appropriate sanction:

- (a) the severity of the misconduct;
- (b) the magnitude of the harm caused by the misconduct;
- (c) interference by the sanctioned party in the World Bank Group's investigation;
- (d) the sanctioned party's past history of misconduct as adjudicated by the World Bank Group or by another multilateral development bank in cases governed by Article XII:
- (e) mitigating circumstances, including where the sanctioned party played a minor role in the misconduct, took voluntary corrective action or cooperated in the investigation or resolution of the case, including through settlement under Article XI;
- (f) breach of the confidentiality of the sanctions proceedings as provided for in Section 13.06;
- (g) in cases brought under Section 1.01(b) following a determination of non-responsibility, the period of ineligibility decided by the Director, GSD;
- (h) the period of temporary suspension already served by the sanctioned party; and
- (i) any other factor that the IFC Evaluation Officer, or the Sanctions Board, as the case may be, reasonably deems relevant to the sanctioned party's culpability or responsibility in relation to the Sanctionable Practice.

Section 9.03. Compliance with Conditions for Non-Debarment and Release from Debarment.

- (a) Notification of Conditions. As soon as practicable after a sanction of conditional non-debarment or debarment with conditional release is imposed by the IFC Evaluation Officer or the Sanctions Board, the WBG integrity compliance officer (the "Integrity Compliance Officer") shall contact each sanctioned party to advise them as to the requirements for meeting the conditions, including, where applicable, the adoption or improvement and implementation of an integrity compliance program acceptable to the World Bank Group.
- (b) Monitoring of Compliance. The Integrity Compliance Officer shall have the right to monitor compliance by each sanctioned party with the conditions for release or non-debarment. The Integrity Compliance Officer may impose on the sanctioned party such requirements as may be reasonably necessary, including (but not limited to) periodic

reporting by the sanctioned party, the appointment of an independent monitor, external auditing and inspection of the books and records of the sanctioned party.

- (c) Application. No earlier than one hundred and twenty (120) days prior to: (i) any deadline for compliance with conditions for non-debarment under Section 9.01(b); or (ii) the last day of the minimum period of debarment under a debarment with conditional release under Section 9.01(d), but no later than any such deadline for compliance with conditions for non-debarment under Section 9.01(b), the sanctioned party may submit to IFC an application (the "Application") setting forth arguments for, and evidence of, its compliance with the requirements set by the Integrity Compliance Officer. The Application shall include, among other things, a detailed report on the sanctioned party's adoption or improvement and implementation of any integrity compliance program agreed with the Integrity Compliance Officer, details relating to remedial actions taken in response to the misconduct for which the sanctioned party was sanctioned as well as any other misconduct detected during the period of debarment or conditional non-debarment, any debarment of the sanctioned party by another international financial institution, and any criminal, civil or regulatory conviction or decision based on conduct of the type of a Sanctionable Practice.
- (d) Decision by Integrity Compliance Officer. Within thirty (30) days after receipt of the Application, the IFC, acting through the Integrity Compliance Officer, shall begin its review thereof to determine, based on the arguments and evidence set forth in the Application and any other factors he or she may deem relevant, whether or not the sanctioned party has complied with the conditions for non-debarment or release from debarment. Before making such determination, the Integrity Compliance Officer, or an agent designated by the Integrity Compliance Officer, may verify the arguments and evidence contained in the Application. The sanctioned party shall cooperate fully with any such verification, including by permitting the Integrity Compliance Officer (or such agent) access to relevant books and records. The Integrity Compliance Officer shall condude his or her verification and make his or her determination as soon as practicable, and thereafter promptly notify the sanctioned party of such determination and the basis therefor. In the case of a determination by the Integrity Compliance Officer of non-compliance with conditions for non-debarment, a debarment with conditional release (the conditions for release being those originally stipulated for nondebarment) would automatically become effective for a period of time established by the IFC Evaluation Officer or the Sanctions Board, as the case may be, with such debarment also resulting in debarment across the World Bank Group as outlined in Section 9.01(c). In the case of a determination of non-compliance with conditions for release, the Integrity Compliance Officer shall specify a continuation of the period of debarment, for a period not to exceed one (1) year, after which the sanctioned party

may again apply for release in accordance with paragraph (c) above. A written determination of non-compliance, with reasons therefor, will be issued to the sanctioned party. In the case of a determination by the Integrity Compliance Officer that the sanctioned party has complied with all conditions for non-debarment or conditions for release from debarment, as applicable, the sanctioned party shall, from the date of such determination or such other date as the Integrity Compliance Officer may specify, be released from further obligation under the terms of the conditional non-debarment or under the terms of the debarment with conditional release, as the case may be.

- (e) Appeals of Compliance Determinations. Determinations of non-compliance by the Integrity Compliance Officer may be appealed by a sanctioned party as follows:
 - (i) No later than thirty (30) days after a determination of non-compliance by the Integrity Compliance Officer, the sanctioned party may request in writing that the Sanctions Board review such determination. Any such request shall set forth the reasons why the sanctioned party believes that in making his/ her determination the Integrity Compliance Officer committed an abuse of discretion. The sanctioned party shall append to its request the Application and the Integrity Compliance Officer's determination of non-compliance. The sanctioned party's request for review may be accompanied by additional evidence and arguments in response to the stated grounds for the determination of non-compliance.
 - (ii) Within ninety (90) days after receipt of such request, and upon consideration of the arguments and evidence presented therein, the Sanctions Board shall decide whether the Integrity Compliance Officer committed an abuse of discretion in the determination of non-compliance. The Sanctions Board may consult with the Integrity Compliance Officer in making any such decision.
 - (iii) In the event that the Sanctions Board determines that the Integrity Compliance Officer committed an abuse of discretion in the determination of non-compliance, such determination shall be rescinded and the conditions for non-debarment or the conditions for release from debarment, as the case may be, shall be deemed complied with by the sanctioned party. However, in the event that the Sanctions Board determines that the Integrity Compliance Officer did not commit an abuse of discretion, the determination of non-compliance shall remain in effect as provided in paragraph (d) above.
 - (iv) For the purpose of this paragraph (e), the Integrity Compliance Officer commits an `abuse of discretion' in making a determination of non-compliance if

the determination: (1) lacks an observable basis or is otherwise arbitrary; (2) is based on disregard of a material fact or a material mistake of fact; or (3) was taken in material violation of the procedures set out in this Section 9.03.

(f) Default by the Sanctioned Party. In the event that a sanctioned party: (i) fails to timely submit an Application with respect to conditions for non-debarment or conditions for release from debarment; or (ii) fails to fully cooperate with any verification of compliance conducted under Section 9.03(d), the sanctioned party shall be deemed not to have complied with the relevant conditions for non-debarment or for release; provided, however, that the Integrity Compliance Officer may, in his or her sole discretion, agree to accept an Application within a reasonable period after the deadline therefor upon a showing by the sanctioned party of sufficient reasons for its late submission. A determination of non-compliance by reason of default shall not be subject to review.

Section 9.04. Scope of Sanctions.

- (a) Select Sanctioning of Divisions of a Sanctioned Party. When a sanction is imposed on an entity, the Sanctions Board or IFC Evaluation Officer, as the case may be, may decide, based on arguments and evidence in the record, to limit the application of the sanction to a particular division or other business unit thereof.
- (b) Imposition of Sanctions on Affiliates. When a sanction is imposed on a Respondent, appropriate sanctions may also be imposed on any Affiliate of the Respondent. If the IFC Evaluation Officer temporarily suspends and/or recommends the imposition of a sanction on an Affiliate of the Respondent that controls or is under common control with the Respondent, the IFC Evaluation Officer shall provide such Affiliate with a copy of the relevant Notice in accordance with the provisions of Section 13.05. Such Affiliate(s) shall have procedural rights hereunder equivalent to those of the Respondent, except that any Preliminary Explanation, Explanation, Response or other formal submission shall be consETBT2c-99(If 508d()-119(w)4(it)-2(h)-179(t)-3(hat)1)4(u)nc.19(it)

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ARTICLE X

DISCLOSURE

10.01. Disclosure to the Public.

- (a) Disclosure of Sanctions. Information concerning the identity of each such sanctioned party and the sanctions imposed shall be publicly disclosed.
- (b) Publication of Sanctions Board Decisions and IFC Evaluation Officer Determinations. The full text of the decisions of the Sanctions Board, as well as the determinations of the IFC Evaluation Officer in uncontested proceedings, shall be publicly disclosed.
- (c) Law Digests. The Sanctions Board will publish and update, on a periodic basis, a digest of such aspects of its decisions that it deems illustrative of the legal principles it has applied in reaching its decisions.

Section 10.02. Sharing of Materials with Third Parties.

- (a) Sharing of Materials with Other Organizations or Agencies. IFC may, at any time, make materials submitted by INT or the Respondent to the IFC Evaluation Officer and/ or the Sanctions Board available to another multilateral development bank or other international or multinational organization, or to national development agencies or the investigative or prosecuting authorities of its member countries, if IFC determines that doing so would be in the best interests of IFC; provided the recipient of such materials agrees to keep them confidential on terms and conditions acceptable to IFC.
- (b) Sensitive Materials; Withholding of Certain Information. In determining whether to approve the sharing of information under this Article X, IFC shall consider, among other factors, the standard for withholding sensitive materials set forth in Section 5.04(c). IFC shall withhold information if it determines that sharing such information would violate any undertaking by IFC in favor of a VDP participant.
- (c) No Prejudice to Administration or Operations. Nothing in this Section 10.02 or elsewhere in these Procedures limits, prejudices or qualifies any rights or privileges IFC may have to provide information to assignees, co-investors, sponsors, transferees, counterparties or other participants in any IFC project or transaction, or in the course of dispute resolution, or otherwise in the course of administration or operation of its projects and transactions.

Section 10.03. Sharing of Investigative Materials.

For the avoidance of doubt, nothing in this Article X shall prohibit or otherwise restrict the ability of IFC to share information obtained by the World Bank Group in the course of an investigation with parties identified in Section 10.02 if such information sharing is

- (c) Upon confirmation by the IFC Evaluation Officer that the terms of the settlement agreement do not manifestly violate Sections 9.01 or 9.02 or any guidance issued by IFC in respect thereof, the IFC Evaluation Officer shall impose the sanction therein stipulated and promptly inform INT and the Respondent(s) thereof, whereupon the agreement shall become effective immediately or as of any other such date specified in said agreement.
- (d) If the IFC Evaluation Officer finds that the terms of the settlement agreement manifestly violate Sections 9.01 or 9.02 or any guidance issued by IFC in respect thereof, or that, notwithstanding the certification provided under Section 11.02(a), any Respondent did not enter into the settlement agreement freely and fully informed of its

(e) Any other term of the settlement agreement shall be given such effect as may be specified in the agreement.

Section 11.04. Compliance with Settlement Agreements.

Unless the settlement agreement expressly provides otherwise, all determinations as to the compliance by the Respondent(s) with the terms and conditions of the settlement agreement, and any controversy between the parties as to the interpretation or performance thereof, shall be taken by INT, subject to a right of appeal in accordance with the provisions of Section 9.03(e), mutatis mutandis. In the case of settlement agreements providing for a deferral of proceedings under Section 11.03(b), if INT determines that any Respondent has violated the settlement agreement, the case shall be re-opened and resume at the point at which it had been deferred.

ARTICLE XII

ENFORCEMENT OF DEBARMENT DECISIONS BY OTHER MULTILATERAL DEVELOPMENT BANKS

Section 12.01. Multilateral Development Bank Mutual Enforcement Agreement. IFC may enforce debarment decisions taken by other multilateral development banks in accordance with its applicable policies and procedures.

Section 12.02. Effect of Enforcement. Any decision by IFC to enforce the debarment decision of another multilateral development bank shall have the same effect as if the entity(ies) or individual(s) debarred by said institution had been debarred by the IFC Evaluation Officer or the Sanctions Board in the manner described in Section 9.01(c) or Section 9.01(d), as applicable.

Section 12.03. Dissemination of Enforcement Decisions. The decision to enforce debarment by another multilateral development bank shall be disseminated in the manner prescribed in Section 10.01.

ARTICLE XIII

ADDITIONAL PROVISIONS

Section 13.01. Effective Date.

(a) These Procedures are effective as of the date first-above written (the "Effective Date") and shall apply to:

(i)	all proceedings for which a Notice is issued by the IFC Evaluation Officer

Sanctions Board. IFC may issue rules regulating the delivery, including constructive delivery, of Notices, Replies and other materials to the Respondent.

- (b) Submission of Explanations and Responses. Explanations, Responses and other materials shall be deemed submitted to the IFC Evaluation Officer or Sanctions Board on the date they are actually received by the IFC Evaluation Officer or the Secretary to the Sanctions Board, as the case may be.
- (c) Means of delivery or submission. Documents may be delivered or submitted by mail or courier, or in person. The IFC Evaluation Officer or the Secretary to the Sanctions Board may, in his or her discretion, accept submission of materials by electronic means.
- (d) Determination of date of delivery or submission. If there is any doubt as to the date as of which a document should be deemed as delivered or submitted, the IFC Evaluation Officer or the Secretary to the Sanctions Board, as the case may be, shall decide. His or her determination shall be final and unappealable, and shall be binding on all parties to the proceedings.

Section 13.06. Confidentiality. Neither the Respondent (including any Affiliate thereof) nor IFC shall disclose to, or discuss with, any third party any part of the record, or information relating thereto, except as follows:

- (a) The Respondent may disclose any part of the record in its possession in accordance with these Procedures: (i) to legal counsel engaged for the purpose of representing or advising the Respondent in the proceedings to which the record relates, and discuss the case with such counsel, provided that such counsel agrees that it shall not disclose to, or discuss with, any third party any part of the record, or information relating thereto; (ii) as required by an order of any court of competent jurisdiction, including pursuant to any procedure for the discovery of documents in proceedings before such court; (iii) pursuant to any law or regulation having the force of law to which the Respondent is subject; or (iv) otherwise, only with the prior written consent of the relevant WBG entity. Except as provided in (i) and (iv) above, the Respondent shall provide INT and the IFC Evaluation Officer or the Sanctions Board, as the case may be, with reasonable prior notice of any such disclosure.
- (b) IFC may disclose materials and other information in accordance with Article X or as otherwise permitted by its policies and procedures.

A violation of this Section 13.06 (whether by a Respondent and/ or any of its Affiliates, or by legal counsel thereto) shall be: (i) an aggravating factor in determining an appropriate sanction if the violation is brought to the attention of the IFC Evaluation

Officer or the Sanctions Board during sanctions proceedings; and (ii) a separate basis for

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E. The World Bank Group¹⁵ does not condone facilitation payments. For the purposes of implementation, the interpretation of "Corrupt Practices" relating to facilitation payments will take into account relevant law and international conventions pertaining to corruption.

2. FRAUDULENT PRACTICES

A "Fraudulent Practice" is any action or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

INTERPRETATION

- A. An action, omission, or misrepresentation will be regarded as made recklessly if it is made with reckless indifference as to whether it is true or false. Mere inaccuracy in such information, committed through simple negligence, is not enough to constitute a "Fraudulent Practice" for purposes of this Agreement.
- B. Fraudulent Practices are intended to cover actions or omissions that are directed to or against a World Bank Group entity. It also covers Fraudulent Practices directed to or against a World Bank Group member country in connection with the award or implementation of a government contract or concession in a project financed by the World Bank Group. Frauds on other third parties are not condoned but are not specifically sanctioned in IFC, MIGA, or PRG operations. Similarly, other illegal behavior is not condoned, but will not be considered as a Fraudulent Practice for purposes of this Agreement.

3.

B. Coercive Practices are threatened or actual illegal actions such as personal injury or abduction, damage to property, or injury to legally recognizable interests, in order to obtain an undue advantage or to avoid an obligation. It is not intended to cover hard bargaining, the exercise of legal or contractual remedies or litigation.

4. COLLUSIVE PRACTICES

A "Collusive Practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

INTERPRETATION

Collusive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

5. OBSTRUCTIVE PRACTICES

An "Obstructive Practice" is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede a World Bank Group investigation into accusations of a corrupt, fraudulent, coercive or collusive practice, and/ or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) an act intended to materially impede the exercise of IFC's access to contractually required information in connection with a World Bank Group investigation into accusations of a corrupt, fraudulent, coercive or collusive practice.

INTERPRETATION

Any action legally or otherwise properly taken by a party to maintain or preserve its regulatory, legal or constitutional rights such as the attorney-client privilege, regardless of whether such action had the effect of impeding an investigation, does not constitute an Obstructive Practice.

GENERAL INTERPRETATION

A person should not be liable for actions taken by unrelated third parties unless the first party participated in the prohibited act in question.