

PROTOCOL FOR THE DELIVERY OF NOTICES OF ADMINISTRATIVE ACTION IN RELATION TO THE INTER-AMERICAN DEVELOPMENT BANK GROUP'S SANCTIONS PROCEEDINGS

In accordance with and to give effect to Section 3.9 of the Sanctions Procedures of the Inter-American Development Bank (the “Bank”), the Inter-American Investment Corporation (the “Corporation”), and the Multilateral Investment Fund (the “Fund”, and collectively with the Bank and the Corporation, the “Bank Group”), the Bank Group has established the following protocol governing the delivery of Notices of Administrative Action and Notices of Temporary Suspension (collectively, “Notices”) in relation to the Bank Group’s Sanctions Proceedings. Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Sanctions Procedures:

1. ***Delivery of Notices.*** The Case Officer (the “CO”) will deliver Notices to Respondents, using: (i) mail or courier services; (ii) any other means that will provide evidence of delivery and that from time to time the CO may determine to be appropriate; or (iii) if a Notice cannot be delivered using the means set forth in (i) or (ii) above, delivery may be accomplished through Constructive Notice as specified below in section 5.

2. ***Delivery of Notices by Mail or Courier Services:*** The CO will use certified mail or courier service to deliver the Notice to the address designated by OII when identifying the Respondent in Preliminary Notices of Administrative Action¹ submitted to the CO. The Notice will be deemed delivered on the date included in the evidence of delivery presented by the mail or courier service, which shall require a signature to confirm receipt. Procedural deadlines will be counted as of the date of delivery. Provided that confirmation of delivery in accordance with this section has been obtained, lack of actual receipt by a Respondent will not serve as a defense of improper or lack of notification. However, when the Respondent is an individual and the confirmation of receipt provided by the mail or courier service does not indicate that the Notice was received by the Respondent, the CO will use the information provided by OII to contact the Respondent and confirm personal receipt of the Notice. If the CO cannot communicate with the Respondent by certified mail or courier services, or establish that the Respondent has personally received the Notice, the CO will notify the Respondent through Constructive Notice as specified in section 5 below.

3. ***Contact Information for Notifications.*** In identifying the Respondent in a Preliminary Notice of Administrative Action, OII will include the latest address of the residence or place of business that it has in its possession as a result of its investigative activities. In addition, OII will provide to the CO any other known addresses for each respondent and, if possible, their phone numbers and their e-mail addresses. During the course of an investigation, OII will make reasonable efforts to ascertain the address or place of business, e-mail address and telephone number of each Respondent, if any. Furthermore, OII will seek to ensure that the information included in the Preliminary Notice of Administrative Action is current. To that effect, OII will presume that information is current if it has been collected within 180 days of the submission of a Preliminary Notice of Administrative Action.

¹ Sanctions Procedures of the Inter-American Development Bank, Section 3.3.

4. ***Additional Contact Information for Notifications.*** If the CO cannot deliver a Notice to the addresses provided by OII, the CO will submit a request to OII to provide any other address or contact information that can be obtained within reasonable efforts. If a new address is obtained, delivery of Notice will be attempted to that address, as provided above. If after reasonable efforts OII is unable to ascertain the current address of the Respondent, or the CO concludes that the Respondent is avoiding delivery of Notice, the CO will accomplish delivery of the Notice as described in “Constructive Notices” below.

5. ***Constructive Notices:*** If the CO cannot deliver a Notice as contemplated in sections 2, 3 and 4 above, and the address provided for notification exists and a letter may be deposited at that address, the CO will first issue a sealed letter, marked confidential and addressed to the Respondent, to be deposited at that address. This sealed letter will inform the Respondent that the Bank Group has attempted to deliver a Notice, and that the Respondent may obtain such Notice by contacting the CO by mail, telephone, e-mail or fax.

The sealed letter will indicate that the Bank Group will post a public notice on the Bank Group’s website, for a period of no less than 30 calendar days. The sealed letter will further include the information set forth below.

- a. If the notification is related to a *Temporary Suspension*, the sealed letter will indicate that the Respondent can, within 60 calendar days of the last day of the posting period of the public notice, provide an Opposition to the Temporary Suspension as described in section 5.3 of the Sanctions Procedures.
- b. If the notification relates to a *Notice of Administrative Action*, the sealed letter will indicate that the CO has recommended a sanction against the Respondent that will become effective, if the Respondent fails to submit a Response within 60 calendar days of the last day of the posting period of the public notice, as described in section 3.10 of the Sanction Procedures.

The date of deposit of the sealed letter will be verified either by evidence of delivery at the designated address provided by the mail or courier service or by the written confirmation of the courier (or other person who undertakes to deposit the letter) that the letter has been deposited at the designated address (with or without signature of a recipient). The letter will be deemed deposited 7 working days after the date of shipment, if the mail or courier service cannot offer a confirmation of deposit of the letter at the specified address.

The public notice will be posted on the Bank Group’s website within three business days after the sealed letter is deposited. However, if the CO has determined that the address provided for notification does not exist and a letter may not be deposited at that address, the public notice will be posted on the Bank Group’s website immediately and without following the procedure of this section 5 for the sending of a sealed letter.

6. ***Publishing of Public Notice:*** The public notice published on the Bank Group’s website will indicate that the CO is attempting to locate the Respondent in order to deliver a Notice in relation to Sanction Proceedings initiated by the Bank Group. Delivery of Notice will be deemed to have occurred on the day after the 30 calendar days posting period of the public notice ends.

7. ***Calculation of Time Periods for Respondent's Submissions.*** The time period for the submission of an Opposition to Temporary Suspension or Response, as the case may be, shall be calculated from the date of delivery of the Notice or Constructive Notice. In all the submissions, the Respondent must follow all the instructions provided in the Notice by the CO. Any subsequent Notification or communication to the Respondent will be deemed delivered at the last address made available by either OII or the respondent.

8. ***Death of the Respondent.*** In the event that a Respondent dies, any Notice issued to such Respondent will be deemed null and void with respect to such Respondent. The death of one Respondent will not have any effect on the Sanction Proceedings against other Respondent(s).

9. ***Dissolution of the Respondent.*** In the event that the Respondent is an entity that has been dissolved prior to the delivery of the Notice, any Notice issued to such Respondent will be deemed null and void with respect to such Respondent. Nevertheless, the dissolution of a Respondent will have no effect on the sanction proceedings against other Respondent(s).

10. ***Other Matters.*** In accordance with the Sanction Procedures, the CO shall use its best efforts to cause the delivery of Notices. As such, he/she shall have the authority to apply this protocol and to take such measures as he/she shall deem appropriate to address any issue related to the delivery of a Notice that is not addressed in this Protocol. The CO will inform periodically to the ACPC on the implementation of this Protocol.

11. ***Publicity.*** This Protocol will be made available to the public.