

MDB HARMONIZED PRINCIPLES ON TREATMENT OF CORPORATE GROUPS

Adopted: September 10, 2012

These general principles should be read in conjunction with the harmonized General Principles and Guidelines for Sanctions and the Uniform Framework for Investigations that have been agreed to among the Institutions and are intended as guidance to the Institutions as they develop their own applicable policies and procedures.¹

A. Who is sanctioned?

1. Sanctions will be implemented with respect to entities within corporate groups (and other forms of business organization including partnership) based on the facts of the case.
2. The sanctioned party must be a person or entity with demonstrable responsibility for the prohibited practice or controlled by a party responsible for the prohibited practice.
3. Sanctions will generally be applied to all entities controlled by the Respondent. The Institution may identify the controlled entities and/or simply state that the sanction applies to such entities. The Institution shall consider not imposing the sanction upon such entities if the Respondent demonstrates *inter alia* to the satisfaction of the Institution that such entities are free from responsibility for the prohibited practice, and application to the entities would be disproportionate, and application is not reasonably necessary to prevent evasion.
4. Sanctions will be applied to entities controlling the Respondent and to entities under common control, if the Institution demonstrates involvement in the sanctioned prohibited practice. Involvement may include willful blindness and a failure to supervise.
5. In the case of acquisitions, mergers, reorganizations or other corporate events involving the debarred entity, a rebuttable presumption will be applied that successors and assigns are subject to any sanction imposed on their predecessors. The successor or assign may rebut this presumption by demonstrating that such application would be unreasonable. However, the business operations of the originally sanctioned entity should continue to be sanctioned.

¹ These General Principles and Guidelines are intended to set out common standards for incorporation into each institution's sanctioning policies.

6. Generally, an individual that is directly involved in a prohibited practice should be named as a respondent and subject to sanctions including debarment.

B. What Sanctions are Applied?

1. The level of culpability and responsibility shall be important factors in determining the type and severity of sanction imposed on any Respondent or other entity subject to a sanction. Different sanctions may be applied to different entities within a corporate group.

C. How circumvention of sanctions may be prevented?

1. An Institution may extend a sanction to any entity that the Institution determines is necessary to prevent evasion or to any entity that seeks to evade or that has been created or acquired for the purpose of evading the sanction imposed on the Respondent.

2. Where an Institution has made a *prima facie* case that:

- a. a particular entity is a successor or assign of a sanctioned party, including through the acquisition or merger of a sanctioned entity, the Institution may apply the sanction to the successor or assign unless the successor or assign demonstrates that such application would violate these principles; or
- b. in order to evade a sanction, an individual who is subject to a sanction has been employed or engaged by an entity, then the Institution may apply the sanction to the employing or engaging entity or the Institution may require the entity not allow such individual to engage in projects financed by such Institution.

D. Who in Corporate Groups are Cross-debarred?

1. For purposes of cross-debarment, only such sanctioned entities within a corporate group that are identified by name by the sanctioning institution, are subject to cross-debarment pursuant to the Agreement for Mutual Enforcement of Debarment Decisions dated 9 April 2010.