

## MDB General Principles for Settlements

### Preamble

Recognizing that corruption undermines sustainable economic growth, on September 17, 2006, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank Group, the International Monetary Fund, the Inter-American Development Bank Group and the World Bank Group agreed upon a harmonized strategy to fight fraud and corruption, the [Uniform Framework for Preventing and Combating Fraud and Corruption \(the Framework\)](#). The Framework also introduced a set of guidelines and principles to conduct investigations.<sup>1</sup>

In furtherance to the Framework, the Multilateral Development Banks (MDBs) have adopted other agreements, principles and guidelines to harmonize basic features of their sanctions mechanisms and promote consistency. These include:

- [MDB Harmonized Principles on Treatment of Corporate Groups](#) – a set of principles setting out common standards to impose sanctions against entities within corporate groups;
- [General Principles and Guidelines for Sanctions](#) – a set of principles to ensure consistent treatment of individuals and firms in the determination of sanctions; and
- The [Agreement for Mutual Enforcement of Debarment Decisions \(the AMEDD or the Cross Debarment Agreement\)](#) of April 9, 2010, which enables participating MDBs to mutually recognize certain sanctions imposed by any of the signatory institutions against firms and individuals found to have engaged in Prohibited Practices.

All of the signatories to the Uniform Framework have sanctions mechanisms. If a Prohibited Practice is established during an investigation, the individuals and entities that are culpable or responsible for such conduct are then subject to the sanctions mechanism, through which they may be sanctioned either through a sanctions proceeding, or through a mutually agreed-upon sanction arrived at through a settlement between the parties.

These General Principles for Settlements outline the basic features considered by the respective MDBs regarding settlements of investigations of Prohibited Practices. These Principles are intended as guidance for the respective institutions and are non-binding.

### General

1. The MDBs have harmonized features of their sanctions mechanisms to promote consistency.
2. Settlements<sup>2</sup> may be agreed with subjects (individuals and/or entities) that are voluntarily willing to admit, accept, or not contest culpability/responsibility for having committed Prohibited Practices and to sign an agreement.

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<sup>1</sup> <https://www.eib.org/en/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm>

<sup>2</sup> Settlements are only applicable to the extent that the institution's policies and procedures provide for this remedial measure. While ADB does not negotiate settlements, it does adopt the majority of the principles as part of its proposed debarments.

3. Settlements can be a useful tool to uncover systemic integrity risks and promote integrity within the subject's operations, (e.g., through an integrity programme condition). They can also be an efficient way to resolve investigation findings.
4. Either a subject of an investigation, a person appointed by, and on behalf of, the subject or the MDB's Investigative Office, may initiate discussions about a settlement; subject to the particular MDB's criteria and rules, the MDB's Investigative Office will assess whether it is appropriate to pursue discussions towards reaching an agreement.
5. At any time before submission of the case to the Sanctioning Authority (and, depending on the MDB, in some cases until the sanctions decision is made), the subject(s) of an investigation and the MDB's Investigative Office may enter into settlement discussions to define the corresponding sanction and related conditions through agreement.<sup>3</sup>

### **Effect**

6. A signed settlement agreement shall have the same effect as if the sanction had been decided/imposed by the MDB's Sanctioning Authority; however, the sanction contained in the settlement agreement and the other terms and conditions (once agreed) shall not be subject to appeal.

### **Considerations**

7. The MDB's Investigative Office will consider, as appropriate, whether a particular case should be concluded with a settlement. Factors that may be taken into account in this decision may include (but are not limited to):
  - The subject has admitted (or will admit) or does not contest (or will not contest) culpability/responsibility for the Prohibited Practice(s);
  - The subject is cooperating (or has agreed to cooperate) with the MDB's Investigative Office;
  - The subject is prepared to commit to implement an integrity compliance programme to the MDB's standards within a specific time frame; and/or
  - The subject voluntarily discloses the Prohibited Practice
8. The General Principles and Guidelines for Sanctions (mentioned in the Preamble above) identify a set of principles to promote consistent treatment of individuals and firms in the determination of sanctions, including mitigating factors. Other mitigating factors to be taken into consideration when determining an appropriate sanction for settlements may include (but are not limited to):
  - The subject has taken corrective measures; and
  - The subject is conducting (or will conduct) an effective internal investigation and relevant facts/findings, documentation and records of interview supporting such findings are being (or will be) shared with the Investigative Office with no restrictions on their use.

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<sup>3</sup> See para 8 and 9 of General Principles and Guidelines for Sanctions.

9. While an admission of culpability/responsibility, cooperation with an investigation and, in some cases, satisfactory implementation of an integrity compliance programme are general conditions that should be considered to enter into a settlement, each may also be considered a factor that may reduce the severity of the sanction imposed by the settlement.

### **Terms and Conditions**

10. The settlement agreement should contain the terms and conditions as agreed between the parties. These may include (but are not limited to):
- a period of debarment or exclusion during which the subject (and other Group entities, if relevant) is/are not able to receive or otherwise participate in activities financed by the MDB;
  - a commitment to conduct an internal investigation and to hold the employee(s) responsible to account;
  - implementation of additional integrity compliance measures;
  - engagement of a third-party anti-corruption monitor or expert and/or greater scrutiny/oversight by auditors or other third parties;
  - close cooperation and assistance to the MDB going forward in efforts to investigate alleged prohibited conduct in other MDB-financed projects;
  - self-reporting of other identified issues and close cooperation with relevant national authorities and/or the Investigative Offices of other MDBs, where applicable; and
  - sharing information that can inform the MDB of integrity lessons learned to combat systemic integrity risks.
11. The settlement should confirm that the subject has read and understood the terms of the settlement and agrees/consents to them, as evidenced by signatures to the agreement.
12. The subject of an investigation should make a statement to the effect that the settlement agreement was entered into freely, fully informed of its terms and free from any form of duress.

### **Publication**

13. Once a settlement agreement is effective, the MDB may publish, in accordance with its rules and procedures, the existence of the settlement agreement and its key terms such as resulting remedial measures (e.g. debarment, debarment with conditions).

### **Cross-Debarment**

14. To the extent that the settlement agreement falls within the AMEDD, the cross recognition/enforcement of the agreed sanction by the other parties will apply. The participating MDBs will be notified of the sanction and will impose, if appropriate, cross-debarment.