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# **World Bank Anti-Corruption Enforcement: What Companies and Counsel Need to Know**

Engaging With the Bank, Providing Information, and Structuring Compliance Programs

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THURSDAY, APRIL 25, 2019

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

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Today's faculty features:

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# World Bank Anti-Corruption Enforcement: What Companies and Counsel Need to Know

Strafford Publications

April 25, 2019  
Washington, DC

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Thad McBride  
David Tiang

# Agenda

- \* Overview and Key Provisions
- \* Enforcement
- \* Compliance Recommendations
- \* Discussion / Questions



# Overview & Key Provisions



# Investigation

- \* Integrity Vice Presidency (INT)
- \* Five Sanctionable Practices
  - \* Fraud
  - \* Corruption
  - \* Collusion
  - \* Coercion
  - \* Obstruction



# Investigation Process

- \* Findings memorialized in Statement of Accusations and Evidence (SAE)
- \* “More likely than not” standard
- \* Office of Suspension & Debarment (OSD) review of findings
- \* If OSD agrees with findings, “Notice of Sanctions Proceedings” is issued to respondent

# Process (cont'd)

- \* Respondent has 30 days to respond to Notice
  - \* Notice includes recommended sanction
  - \* Respondent also receives SAE
- \* Respondent also has 90 days to appeal to Sanctions Board
  - \* Independent members
  - \* De novo review
  - \* Written submissions, hearings
  - \* No appeal of Board decisions
  - \* Sanctions Board decisions published, but with names omitted

# Imposition of Sanctions

- \* Five potential sanctions
  - \* Debarment
  - \* Debarment with conditional release
  - \* Conditional non-debarment
  - \* Public letter of reprimand
  - \* Restitution
- \* Cross-Debarment
  - \* Other IFIs will or may debar if WB debarment is more than a year

# Sanctions (cont'd)

- \* INT considers multiple factors, including:
  - \* Level of cooperation during process
  - \* Useful information respondent can provide
  - \* Integrity enhancements undertaken by respondent
  - \* Amount of time respondent already was suspended – “Early Temporary Suspension”

# Sanctions (cont'd)

- \* Sanction may include imposition of monitor and/or investigator
- \* If debarred, must apply to end debarment after meeting Bank conditions for release

# Settlements - NRAs

- \* Negotiated Resolution Agreements
  - \* Respondent typically admits liability
  - \* Recital of facts and sanction imposed
  - \* Not publicly available

# Enforcement



# Enforcement - General

- \* Heightened enforcement
  - \* 3 cases a year 20 years ago
  - \* 71 cases in 2018 alone
  - \* 78 parties debarred in 2018
  - \* 73 parties cross-debarred





# Enforcement - Industries

- \* Construction
- \* Infrastructure
- \* Services
- \* Health



# Enforcement - Example

- \* Ukraine Road & Safety Project
- \* Board decision issued in March 2019
- \* Fraudulent practice – forged vehicle registrations as part of bid
- \* No formal rules of evidence – Board determines the appropriateness of info / data



# Enforcement - Example

- \* Odebrecht (January 2019)
- \* Debarred for 3 years
- \* Fraud and collusion in Bank project in Colombia
- \* Involved payment / failure to disclose payments to agents



# Enforcement - Example

- \* Rojoke and CNE (February 2019)
- \* Nigerian waste management companies
- \* Debarred for five years for fraud
  - \* Misrepresentation in bid documents



# Enforcement - Example

- \* NEC (July 2018)
- \* Collusive practices in bid for Hanoi Urban Transport Development Project
- \* Improper influence of tendering process / package
- \* Conditional Non-Debarment for 18 months
  - \* “Exception cooperation” and voluntary remediation



# Compliance Recommendations

- \* Targeted project management tools – including for bidding
- \* Robust auditing and accounting controls
- \* Specific policy / procedures for operations **handling Bank projects**
- \* Training – including of third parties
- \* Contract provisions
- \* **Summary of World Bank Group Integrity Compliance Guidelines**

# Recommendation: Ongoing Vigilance





# Questions?





# THANK YOU!

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