

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

In accordance with and to give effect to Section 12.7 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, Determinations, Determinations of Temporary Suspension, Decisions, and any other communications,(collectively, "Notices")¹ 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 Sanctions Officer (the "SO") and the Executive Secretary ("ES"), as applicable, will deliver Notices to Respondents, using: (i) mail or courier services; (ii) any other means, including electronic communications, that will provide evidence of delivery and that from time to time the SO or ES 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 sections 6 and 7.

2. ***Delivery of Notices of Administrative Action by Mail or Courier Services.*** The SO will use certified mail or courier service to deliver the Notice of Administrative Action to the address designated by OII when identifying the Respondent in the Statement of Charges and Evidence ("Statement of Charges")² submitted to the SO. The Notice of Administrative Action 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 notice. 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 of Administrative Action was received by the Respondent, the SO, will use the information provided by OII to contact the Respondent and confirm personal receipt of the Notice. If the SO cannot communicate with the Respondent by certified mail or courier services, or establish that the Respondent has personally received the Notice, the SO will notify the Respondent through Constructive Notice as specified in sections 6 and 7 below.

3. ***Delivery of Notices by Electronic means.*** The SO or the ES, as applicable, may use electronic means to deliver Notices to the Respondent using the contact information provided by OII in the Statement of Charges, or the contact information provided by the Respondent in any

¹ This Protocol for the Delivery of Notices also applies to those determinations included in Sections 7.2 and 8.3 of the Sanctions Procedures.

² Sanctions Procedures of the Inter-American Development Bank, Sections 3.3 and 3.4.

communication. The SO or the ES, as applicable, may deliver electronic Notices from the moment in which an electronic communication regarding the Sanctions Procedures has been established with the Respondent. Notices will be deemed delivered on the date the information was sent through electronic means and a receipt relay has been provided by the system or the Respondent. 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 notice. If applicable, the Respondent may also submit materials, as indicated in the Sanctions Procedures, or communicate with the SO or the ES, through electronic means, except in case in which the SO or the ES indicate otherwise.

4. ***Contact Information for Notifications.*** In identifying the Respondent in a Statement of Charges, 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 SO 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 Statement of Charges is current. To that effect, OII will presume that information is current if it has been collected within 180 days of the submission of the Statement of Charges. In any case, it is the Respondent's obligation, upon receipt of any communication regarding the Sanctions Procedures, to inform the SO or the ES, as applicable, of any change to its contact information.
5. ***Additional Contact Information for Notifications.*** If the SO or the ES, as applicable, cannot deliver a Notice to the addresses or contact information provided by OII, the SO or the ES, as applicable, 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 or contact information is obtained, delivery of Notice will be attempted to that address or information, as provided above. If after reasonable efforts OII is unable to ascertain the current address or contact information of the Respondent, or the SO or the ES, as applicable, concludes that the Respondent is avoiding delivery of Notice, the SO or the ES, as applicable, will accomplish delivery of the Notice as described in sections 6 and 7 below.
6. ***Sealed Letter.*** If the SO cannot deliver a Notice as contemplated in sections 2, 3, 4, and 5 above, and the address provided for notification exists and a letter may be deposited at that address, the SO 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 SO 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 Notice relates to a *Notice of Administrative Action*, the sealed letter will indicate that the SO has determined that a preponderance of the evidence supports OII's findings that the Respondent engaged in a Prohibited Practice and that the Respondent has an opportunity to respond to the Notice ("Response") within 60 calendar days of the last day of the posting period of the public notice, as stipulated in Sections 4.6.4 and 4.7 of the Sanctions Procedures.
- b. If the Notice is related to a *Temporary Suspension*, the sealed letter will indicate that the Respondent can, within 20 calendar days of the last day of the posting period of the public notice, provide a request for reconsideration of the Temporary Suspension ("Request for Reconsideration") as described in section 13.5 of the Sanctions 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.

7. ***Constructive Notices:*** If the SO or the ES, as applicable, cannot deliver a Notice as contemplated in sections 2, 3, 4, and 5 above, 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 public notice will be posted on the Bank Group's website within three business days after the sealed letter is considered deposited by the SO, or within three business days after the ES's last attempt for delivering Notice according to sections 2, 3, 4, and 5 above. However, if the SO or the ES, as applicable, has determined that the address provided for notification does not exist, the public notice will be posted on the Bank Group's website immediately and, in the case of the SO, without following the procedure of section 6. The public notice published on the Bank Group's website will indicate that the SO or the ES, as applicable, is attempting to locate the Respondent in order to deliver a Notice in relation to Sanction Procedures 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.

8. ***Calculation of Time Periods for Respondent's Submissions.*** The time period for the submission of a Response, Request for Reconsideration, Appeal or other communications, 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, Determination, Determination of Temporary Suspension, Decision, or other communications by the SO or the ES, as applicable. Any subsequent Notification or communication to the Respondent will be deemed delivered at the last address or contact information made available by either OII or the Respondent.

9. ***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).
10. ***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).
11. ***Other Matters.*** In accordance with the Sanction Procedures, the SO or the ES, as applicable, shall use his/her 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 SO or the ES, as applicable, will inform periodically to the ACPC on the implementation of this Protocol.
12. ***Publicity.*** This Protocol will be made available to the public.