

**AIB Directive on  
Protection against Retaliation  
March 26, 2019**

**A. Overriding Objective**

- 1.1 This Directive establishes rules and instructions to ensure that the Bank affords Whistleblowers protection against retaliation as provided under the Bank's Policies, Directives and Administrative Guidance, including, without limitation, the Policy on Prohibited Practices, the Code of Conduct for Bank Personnel and the Staff Rules, and their related Directives and Administrative Guidance.
- 1.2 Protected Activities are critical to ensuring the Bank's Core Values by allowing the Bank to address concerns, manage risks and uphold standards of good governance.
- 1.3 Therefore, the Bank seeks to ensure that Whistleblowers are not discouraged from fully engaging in Protected Activities on account of fear of retaliation for doing so.
- 1.4 The Bank encourages making use of the Bank's conflict resolution system, reporting to the Bank any noncompliance with the Bank's Policies and Directives, cooperating with an investigation which is duly authorized by the Bank, and providing information in Protected Surveys. Bank Personnel should be aware that the Bank does not tolerate any form of retaliation against anyone for engaging in Protected Activities.
- 1.5 To these ends, the Bank shall develop and take such measures as are reasonably available and practicable to give effective protection against retaliation, in accordance with this Directive.
- 1.6 The exercise and interpretation of this Directive shall seek to give effect to this overriding objective.

**B. Definitions**

- 2.1 In this Directive, the following definitions apply:
  - (a) "Bank Personnel" means as defined in the Code.
  - (b) "CEIU" means the Complaints-resolution, Evaluation and Integrity Unit.
  - (c) "Code" means the Code of Conduct for Bank Personnel.
  - (d) "Prohibited Practice" means as defined in the Policy on Prohibited Practices.
  - (e) "Protected Surveys" means surveys, or other information-gathering exercises, as to which the Bank provides protection against retaliation.
  - (f) "Protected Activity" means:
    - (i) Making use of the Bank's conflict resolution system;
    - (ii) Reporting to the Bank, including through a supervisor or manager, any noncompliance with the Bank's Policies and Directives;
    - (iii) Cooperating with an investigation or audit which is duly authorized by the Bank, such as into:

- (A) Suspected Prohibited Practice;
  - (B) Suspected impropriety in operational procurement; or
  - (C) Alleged misconduct by Bank Personnel; or
- (iv) Providing information in Protected Surveys.

Cooperating with an investigation or audit includes, but is not limited to, providing information or evidence while participating in the inquiry; all means of cooperation in this context, including verbally, are included.

- (g) “retaliation” means any detrimental treatment, direct or indirect, which is recommended, threatened or taken against a Whistleblower, or against a person associated with them, by reason of their engaging in a Protected Activity;
- (h) “Whistleblower” means any person who:
- (i) In good faith engages in a Protected Activity, which, in the context of providing information, includes a requirement that such information is true and complete to the extent of one’s knowledge and belief, such that one does not provide information knowing it to be false, act with reckless disregard as to its truthfulness, or withhold information; or
  - (ii) Is believed, correctly or mistakenly, by a retaliator to:
    - (A) Be about to engage in a Protected Activity; or
    - (B) Have engaged in a Protected Activity.

Whistleblowers may be internal or external to the Bank and may therefore include, without limitation, Bank Personnel, the Bank’s contractors, agents or representatives, and any other persons engaged in dealings with the Bank.

**C. Prohibition on Retaliation by Bank Staff**

- 3.1 Bank Personnel shall not engage in retaliation. Retaliation by Bank Personnel may constitute misconduct in breach of paragraph 39 of the Code.

**D. Anonymity and Confidentiality**

- 4.1 Anonymity, and confidentiality of identity and information, can be important protections against retaliation, and the Bank shall make provisions for their protection. In particular, all reports of retaliation and requests for protection will be managed as strictly confidential information in accordance with the Directive on the Information Classification System and its related Administrative Guidance.
- 4.2 Information provided on an anonymous basis will be reviewed further to Section 5.4 below, but corroborating evidence must be obtained before any disciplinary action may be taken against Bank Personnel.
- 4.3 The Bank may request, where feasible, contact details of a Whistleblower who wishes to remain anonymous, for follow-up purposes. However, the provision of such contact details is not a precondition to the Bank acting on a complaint.

4.4 Whistleblowers are reminded that anonymity and confidentiality may be compromised by disclosures made by them to any persons which are otherwise than in accordance with this Directive. Consequently, the Bank may be unable to take measures which protect against retaliation facilitated by such disclosures.

**E. Reporting Retaliation; Requesting Protection**

5.1 Reports of alleged retaliation and/or requests for protection against retaliation, together with any supporting information, shall ordinarily be receivable or referred:

(a) Where the Protected Activity concerns:

(i) Alleged misconduct by Bank Personnel; or

(ii) Bank Personnel providing information in Protected Surveys,

by or to the Chief Ethics Officer pursuant to Staff Rule 7.01; or

(b) In all other cases of Protected Activity, by or to the Managing Director, CEIU.

5.2 Where a Whistleblower has grounds to believe that making reports and/or requests in accordance with Section 5.1 above would subject them to retaliation, they may instead make them to the other contact as named in Section 5.1 above, stating that they do not wish to use the ordinary reporting channel and their reasons for this, and providing any evidence underlying such reasons. Where a Whistleblower has grounds to believe that using such alternative reporting channel would subject them to retaliation, they may direct the matter to the Office of the President, stating that they do not wish to use the other reporting channels provided and their reasons for this, and providing any evidence underlying such reasons.

5.3 If reports and/or requests are made to a reporting channel that is not the ordinary reporting channel, the matter may be referred by the Bank for handling by the ordinary reporting channel in the following circumstances:

(a) The reporter has not included a statement that they do not wish to use the ordinary reporting channel and their reasons for this;

(b) If grounds for an alternative reporting channel are not available or prove false; or

(c) The reporter consents to the referral to the ordinary reporting channel.

5.4 The reporting channel that receives a report and/or request after completion of any referrals, in accordance with Sections 5.1 to 5.3 above, shall be responsible for assessment of the risk, or determination of the occurrence, of retaliation.

5.5 It is not always the case that all instances of detrimental treatment experienced by Whistleblowers who engage in Protected Activities constitute retaliation; therefore:

(a) Bank Personnel are reminded that the Bank has in place Policies, Directives and Administrative Guidance in relation to detrimental treatment that is not retaliation but which may constitute another type of misconduct or a workplace issue.

(b) Whistleblowers are encouraged to include in any reports of alleged retaliation full details on the reasons for believing any detrimental treatment to be retaliation.

5.6 The designated methods for communicating such reports and/or requests shall be publicized by the Bank on its website, which is accessible at [www.aiib.org](http://www.aiib.org).

#### **F. Protective Measures**

6.1 The Bank shall take such measures as are reasonably available and practicable to it in seeking to give effective protection against retaliation, whether on an interim or permanent basis.

6.2 Such measures may respond to a risk of retaliation, whether or not any retaliation has occurred, and/or correct the effects of retaliation.

6.3 In determining any such measures, the Bank may consult with the subject of the retaliation and seek to accommodate their reasonable requests as to the taking of measures.

6.4 A report to the Bank of retaliation against a Bank Personnel by means of an adverse administrative decision taken by other Bank Personnel may trigger an Ethics Investigation Procedure under Staff Rule 7.01, but shall not in itself constitute grounds for delaying or postponing such administrative decision.

6.5 The following are responsible for determining and implementing appropriate protective measures:

(a) Human Resources Department, in relation to measures on Staff Members; and

(b) CEIU, in relation to measures on external parties,

with due consideration for confidentiality and the efficient pursuit of any ongoing inquiry.

#### **G. Nonprotection**

7.1 Bank Personnel or external parties who make reports and are found to have not done so in good faith may be treated as having engaged in a Prohibited Practice and/or, in the case of Bank Personnel, may be treated as having breached the Code.

#### **H. Investigation Into Reported Retaliation**

8.1 Based on reported retaliation, the Bank shall undertake an investigation into the alleged retaliation as a suspected Prohibited Practice or alleged misconduct in accordance with its Policies, Directives and related Administrative Guidance on such investigations.

8.2 Whistleblowers who report retaliation shall be informed in writing, where their contact details for written communications are available to the applicable reporting channel, of the final outcome of any investigation into the alleged retaliation, where this is provided for under the applicable investigative procedure.

#### **I. Roles and Responsibilities**

9.1 The following Bank Personnel shall each be responsible for the functions specified in Sections 9.2 to 9.5 below, and shall have authority to make decisions regarding the respective aspects of this Directive, as follows:

- (a) Chief Ethics Officer, in relation to Protected Activity which concerns:
  - (i) Alleged misconduct by Bank Personnel.
  - (ii) Bank Personnel providing information in Protected Surveys.
- (b) Managing Director, CEIU, in relation to all other cases of Protected Activity.
- (c) Chief Internal Audit Officer, in relation to audits.
- (d) Procurement Advisor, in relation to suspected impropriety in operational procurement.
- (e) Director General, Human Resources Department, in relation to human resources matters.

However, they may liaise with each other to ensure efficiency and effectiveness as a whole, and may act jointly, to the extent appropriate.

9.2 **Policy Development.** This function covers all aspects of policy development in respect of this Directive, including:

- (a) Interpreting this Directive, as necessarily advised by the General Counsel or a delegate of the General Counsel.
- (b) Reporting on and evaluating the application of this Directive across the Bank's activities.
- (c) Formulating and recommending revisions to this Directive.
- (d) Preparing, issuing and revising, as needed, Administrative Guidance in order to support the efficient and proper implementation of this Directive.

9.3 **Policy Compliance.** This function includes making determinations as to compliance with this Directive.

9.4 **Advisory.** This function includes:

- (a) Giving advice on this Directive to actual or potential Whistleblowers.
- (b) Providing internal training on this Directive.
- (c) Representing the Bank, both internally and externally, on matters pertaining to the protection against retaliation.

9.5 **Resource Management.** This function includes management, allocation and supervision of resources and staff training in order to perform the functions specified in Sections 9.2 to 9.4 above.

## **J. Misconduct**

10.1 A breach by Bank Personnel of this Directive may amount to misconduct under the Code. Bank Personnel are reminded that it is their responsibility to read, understand and correctly apply this Directive and any related Administrative Guidance. The obligation of Bank Personnel to familiarize themselves with this Directive shall be taken into account for purposes of any Ethics Investigation Procedure under Staff Rule 7.01.

**K. Information Disclosure by the Bank**

- 11.1 The Policy on Public Information and its related Directive and Administrative Guidance govern the external disclosure of all information in the Bank's possession, including with respect to this Directive.

**L. Implementation**

- 12.1 This Directive shall be overseen, and its efficient and accurate implementation shall be ensured, by the Bank Personnel specified in Section 9.1 above.
- 12.2 Bank Personnel who are uncertain as to how they should handle suspected retaliation under this Directive may seek confidential guidance and advice from the Chief Ethics Officer.

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