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Continued Anti-Corruption Enforcement by Multilateral Development Banks Highlights Risks for Non-Compliant Companies

Recent debarments of contractors by the World Bank underscore the need for entities working under multilateral development bank (“MDB”) contracts to implement effective anti-corruption project finance mitigation strategies and to prepare themselves to defend against MDB audits and debarment actions. China Railway First Group Co. Ltd., PT. Suburo Jayana Indah Corp., and Aqualia Intech S.A. are among the companies MDBs have most recently debarred. Each company settled with the World Bank, agreeing to be debarred and acknowledging responsibility for the underlying sanctionable conduct, and committing to take specified compliance actions as a condition for release from debarment.

China Railway First Group Co. Ltd. (“CRFG”), a Chinese, state-owned construction company, received a two-year debarment in connection with fraudulent practices while working on a World Bank funded hydropower project in Pakistan.ⁱ CRFG admitted to engaging in multiple misrepresentations during the bidding process for the Dasu Hydropower Project, including failing to disclose subcontracted work. Because the debarment is greater than one year, CRFG will face reciprocal debarment actions by the other MDBs that have signed the Agreement for Mutual Enforcement of Debarment Decisions (“Cross Debarment”).ⁱⁱ

Indonesian company PT. Suburo Jayana Indah Corp. (“Sujainco”) also received a two-year debarment stemming from fraud and collusion in Water Resources and Irrigation Sector Management Program in Indonesia that was financed by the World Bank.ⁱⁱⁱ According to Sujainco’s settlement agreement, prior to bid submission, it colluded with a third party and other bidders to submit artificial and non-competitive bids. Sujainco also admitted to submitting false documents to collect payments during contract implementation. Sujainco’s debarment is also in excess of



one-year, meaning that Sujainco will face Cross Debarment by other MDBs.

Finally, Spanish company Aqualia Intech S.A. (“AISA”) received a one-year debarment in connection with fraudulent practices during its participation in the Rio Bogota Environmental Recuperation and Flood Control Project in Colombia that was funded by the World Bank.^{iv} AISA admitted to misrepresenting the composition and roles of a consortium of three companies it proposed to execute a World Bank contract. Notably, because the initial period of AISA’s debarment does not exceed one year, AISA will not face Cross Debarment by other MDBs.

Many MDBs, including those not signatories to the Cross-Debarment Agreement, have stepped up their focus and funding for anti-corruption investigations and sanctions enforcement. As in other contexts, companies may derive significant benefits from taking a proactive approach to compliance, including by carrying out timely and appropriate internal investigations. Identifying the nature and scale of any misconduct prior to any MDB audit provides an opportunity to remedy the situation at an early stage. Moreover, even if a problem cannot be remedied and ultimately comes to the attention of the MDB, a proactive and credible self-investigation by the company will maximize its ability to seek lenient treatment and cooperation credit from the MDB. As an example, in issuing a debarment of one year – just shy of the Cross-Debarment threshold – the World Bank noted AISA’s “extraordinary” cooperation, likely indicating that AISA received significant mitigation credit under the World Bank Group Sanctioning Guidelines.

With experienced guidance from counsel who understand the expectations of MDB anti-corruption authorities—at both the project finance bidding and sanctions defense stages—companies involved in MDB-financed projects minimize the risk of finding themselves subject to an MDB enforcement action and, perhaps, Cross Debarment and referral of the conduct to national authorities. To protect anticipated returns, we advise companies working on MDB-funded projects to seek the advice of counsel - at an early stage - to navigate the risks associated with such work. For more information on King & Spalding’s MDB Practice, please see our [Multilateral Development Bank Fact Sheet](#).

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ⁱ World Bank Group Press Release, World Bank Group Debars China Railway First Group Co. Ltd, September 18, 2019.
ⁱⁱ On April 9, 2010, the Asian Development Bank Group, African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group, and World Bank Group signed the Agreement for Mutual Enforcement of Debarment Decisions. A debarment decision is eligible for cross debarment if it is (1) for fraud, corruption, collusion or coercion (we note that while obstruction is a sanctionable practice by all signatories, it does not qualify for cross-debarment); (2) is public; (3) the debarment exceeds one year; and (4) is not based on a decision of national or other international authority.
ⁱⁱⁱ World Bank Group Press Release, World Bank Group Debars PT. Suburo Jayana Indah Corp., September 18, 2019.
^{iv} World Bank Group Press Release, World Bank Group Debars Aqualia Intech S.A., September 18, 2019.