

**DOCUMENT OF THE EUROPEAN BANK  
FOR RECONSTRUCTION AND DEVELOPMENT**

**PROJECT COMPLAINT MECHANISM:DRAFT  
RULES OF PROCEDURE 2014**

**Released for Public Comment: 20 January 2014**

## DEFINITIONS

**Authorized Representative** – The person or Organisation given authority by a Complainant to represent and act on behalf of the Complainant in relation to a Complaint to the PCM.

**Bank or “EBRD”** – The European Bank for Reconstruction and Development.

**Board** – The Board of Directors of the Bank.

**Business Days** – The days on which the Bank is open for business in London.

**Chief Compliance Officer or “CCO”** – The head of the Office of the Chief Compliance Officer.

**Client** – The entity or entities that is/are responsible, directly or indirectly, for carrying out and implementing all or part of a Project.

**Complainant** – The individual(s) or Organisation(s), as the case may be, submitting a Complaint to the PCM.

**Complaint** – The written request submitted by a Complainant to the PCM pursuant to these rules of procedures.

**Compliance Review** – The process to determine whether the Bank has complied with a Relevant EBRD Policy in respect of a Project.

**Eligibility Assessment** – The process of determining whether a registered Complaint is eligible for a Compliance Review and/or a Problem-solving Initiative, or neither.

**Eligibility Assessors** – The PCM Expert and the PCM Officer who jointly conduct the Eligibility Assessment.

**Impacted Area** – The geographical area which is, or is likely to be, affected by a Project.

**Management Action Plan** – The Bank Management Action Plan developed in response to the recommendations contained in the Compliance Review Report.

**Organisation** – Any entity, association, or group around which civil society voluntarily organises itself which represents a range of specific interests. Organisations may include community-based organisations, indigenous peoples’ organisations and non-governmental organisations.

**PCM Experts (each a PCM Expert)** – The experts on the roster of experts and, where appointed, the expert appointed on an ad hoc basis to assist or carry out an Eligibility Assessment, a Problem-solving Initiative, or a Compliance Review.

**PCM Officer** – The person responsible for the day to day administration of the PCM, including receipt of Complaints, registration, eligibility and Problem-solving functions.

**PCM Register** – The public log on the PCM Website listing all Registered Complaints and their status.

**President** – The President of the EBRD.

**Problem-solving Initiative** – The process carried out to assist in the resolution of the issues underlying an eligible Complaint, including mediation, conciliation, dialogue facilitation, or independent fact-finding.

**Project** – A Bank-financed activity for which a Project Summary Document (“PSD”) is prepared pursuant to the Bank’s Public Information Policy or a Bank activity that is subject to the application of a Relevant EBRD Policy with the exception of those activities that are expressly exempted from the application of these rules by a Board decision. previously "technical assistance activity"

**Project Complaint Mechanism or “PCM”** – The EBRD’s accountability mechanism governed by these rules of procedure.

**Registration** – The process of noting on the PCM Register that a Complaint has been received and meets the Registration criteria per paragraphs 11-13 of these rules.

**Relevant EBRD Policy** – 2014 Environmental and Social Policy and Performance Requirements, 2008 EBRD Environmental and Social Policy and Performance Requirements, previous EBRD environmental policies, 2014 Public Information Policy and previous Public Information Policies and any Policies approved in the future by the Board of Directors designated to be included in this Definition.

**Relevant Parties** – The parties with a direct interest in a Complaint, including, but not limited to, the Complainant and/or the Authorised Representative, if any, the relevant Bank department, team, or unit, the Client, and/or any other project financiers.

## **INTRODUCTION AND PURPOSE**

The Project Complaint Mechanism (“PCM”) provides an opportunity for an independent review of complaints from one or more individual(s) or Organisation(s) concerning a Project which allegedly has caused, or is likely to cause, harm. The goal is to enhance the EBRD’s accountability through the PCM’s two functions:

- the Problem-solving function, which has the objective of restoring a dialogue between the Complainant and the Client to resolve the issue(s) underlying a Complaint without attributing blame or fault; and
- the Compliance Review function, which seeks to determine whether or not the EBRD has complied with a Relevant EBRD Policy in respect of an approved Project.

These rules of procedure set out who may file a Complaint, how a Complaint may be filed with the PCM, where a Complaint is to be addressed and, if found eligible, how it will be processed by the PCM through a Compliance Review, Problem-solving Initiative, or a combination of both. They also set out the requirements relating to timelines, reports, disclosure of and access to information, training, outreach and other issues relevant to the administration of the PCM.

## **WHO MAY SUBMIT A COMPLAINT**

1. One or more individual(s) located in an Impacted Area, or who has or have an economic interest in an Impacted Area, may submit a Complaint seeking a Problem-solving Initiative.
2. One or more individual(s) or Organisation(s) may submit a Complaint seeking a Compliance Review.

## **HOW TO SUBMIT A COMPLAINT**

3. A Complaint to the PCM may be submitted in any written format. Guidance on how to write and submit a Complaint may be found in the PCM’s sample complaint form, available on the PCM Website and in hard copy in the PCM brochure which can be obtained at EBRD offices. The PCM Officer may also be contacted for guidance on how to write and submit a Complaint.
4. The Complaint must identify the individual(s) or Organisation(s) filing the Complaint (the “Complainant”). A Complainant who is not an Organisation may ask that the identity of some or all of the individuals be kept confidential. The request for confidentiality, and the reasons for the request, must be submitted with the Complaint. The request will be considered by the PCM Officer as soon as possible following receipt of the Complaint and, in any event, prior to the PCM Officer making a decision as to the Registration of the Complaint. All reasonable efforts will be made to maintain the confidentiality requested. If, however, the PCM Officer reasonably believes that maintaining confidentiality will prevent a

review of the Complaint, then the PCM Officer will immediately notify the Complainant and will either agree with the Complainant on how to proceed, or, if agreement on how to proceed is not possible, will terminate the process.

5. If the individuals filing the Complaint have used an Authorised Representative to assist them in filing the Complaint, the Authorised Representative must provide written proof (such as a signed letter by the Complainant) of the Authorised Representative's authority to represent and act on behalf of the Complainant in relation to the Complaint. The Authorised Representative will be the point of contact for all formal communications between the PCM Officer and the Complainant. The PCM Officer will communicate directly with the Complainant as necessary and appropriate, and shall keep the Authorized Representative and Complainant informed about the status of the Complaint.

### **LANGUAGE OF COMPLAINTS**

6. Complaints may be submitted in any of the working languages of the Bank, i.e. English, French, German or Russian, or in any of the official languages of the Bank's countries of operations. All of the PCM's correspondence with the Complainant or its Authorised Representative, if any, will be in both English and the language of the Complaint and, in the event of any discrepancy between the two versions, the English version will prevail. The PCM Officer will communicate with Complainants in a culturally appropriate manner.
7. Processing of Complaints not submitted in English will require additional response time due to the need for translation. The PCM Officer will notify the Complainant or its Authorised Representative, if any, in a timely manner, of any delays required for translation.

### **WHERE TO SUBMIT A COMPLAINT**

8. A Complaint may be submitted to the PCM Officer, by post, fax, electronic mail ("email") or hand delivery, at:

Project Complaint Mechanism  
Attn: PCM Officer  
European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom  
Fax: +44 20 7338 7633  
Email: [pcm@ebrd.com](mailto:pcm@ebrd.com)

9. Alternatively, a Complaint may be delivered, by post or by hand, at any one of the Bank's Resident Offices, indicating that it is for transmission to the PCM. The addresses for the Bank's Resident Offices can be found at <http://www.ebrd.com/about/contacts/local.htm>.

10. As soon as possible, but at least within five (5) Business Days, the PCM Officer will notify the Complainant of the receipt of the Complaint.

#### **REGISTRATION OF COMPLAINTS**

11. Within ten (10) Business Days following receipt of a Complaint by the PCM, the PCM Officer will make a decision regarding Registration of the Complaint. The PCM Officer will Register a Complaint, if the Complaint:
  - a. identifies the Complainant;
  - b. identifies the Authorised Representative, if any, and provides proof of the authorisation;
  - c. includes contact information for the Complainant and the Authorised Representative, if any, (including residential and/or mailing address and, to the extent possible, telephone number, email address and fax number);
  - d. includes the name or a description of the Project at issue and describes the harm, or potential harm which the Project has caused, or is likely to cause.

#### **ADDITIONAL REGISTRATION CRITERIA**

12. Where the Problem-solving function is requested, the Complaint:
  - a. must relate to a Project where the Bank has provided – and not withdrawn – a clear indication that it is interested in financing the Project (such indication would usually be provided if the Project has been approved by the body which has been delegated authority to give approval or has passed Final Review by the Bank’s Operations Committee); or
  - b. must relate to a Project where the Bank maintains a financial interest in the Project in which case, the Complaint must be filed within twelve (12) months following the last disbursement date of EBRD funds, or in the case of equity funding, where the Bank has not sold or exited from its investment.
  - c. should describe the good faith efforts the Complainant has taken to address the issues in the Complaint, including with the Bank and/or the Client, and a description of the result of those efforts, or an explanation of why such efforts were not possible.
13. Where the Compliance Review function is requested, the Complaint must relate to a Project that has either been approved for financing by the Board or by the body which has been delegated authority to give approval to the financing of such Project.
14. The PCM Officer will not register a Complaint if:
  - a. it raises allegations of fraud or relates to procurement matters (in which case the Complaint will be redirected to the appropriate office within the Bank);
  - b. it relates to Article 1 of the Agreement Establishing the Bank, the Portfolio Ratio Policy or any other specified policy as may be identified by the Board from time to time;
  - c. it relates to the adequacy or suitability of EBRD policies;
  - d. it relates to matters in regards to which a Complaint has already been processed by the PCM or its predecessor IRM, unless there is new evidence or circumstances not known at the time of the previous complaint.

## **SUSPENSION OF REGISTRATION**

15. If within ten (10) Business Days following receipt of a Complaint, the PCM Officer decides not to register a Complaint due to failure of the Complaint to meet one or more of the registration criteria of Paragraphs 11-13 and if, in the opinion of the PCM Officer, this failure can be remedied, the PCM Officer will so notify the Complainant or its Authorised Representative. The PCM Officer will then suspend the Registration decision and allow the Complainant a reasonable opportunity to correct the failure and resubmit the Complaint.
16. If the failure is not corrected, or if a failure cannot be remedied, the PCM Officer will inform the Complainant or its Authorised Representative of the decision not to register the Complaint and the reason for the decision, and will close the Complaint. The PCM Officer may, where appropriate, also inform the relevant Bank department, team or unit of the decision.
17. If the Complainant did not make good faith efforts to address the issues with the Bank and/or the Client and did not provide an explanation of why such efforts were not possible as per paragraph 12(c), the PCM Officer will, in consultation with the Complainant, forward the Complaint to the relevant department in the Bank to address the issues raised without registering the Complaint at that stage.

## **ACTIONS TAKEN FOLLOWING REGISTRATION**

18. Upon Registration, the PCM Officer will notify the Relevant Parties and may, in the course of notification, verify with the Complainant or its Authorised Representative, if any, whether the Complainant is seeking a Problem-solving Initiative, a Compliance Review, or both.
19. The Bank Management will be given twenty-one (21) Business Days from the date of Registration of the Complaint to provide its written response to the Complaint.
20. After notification of Registration to the Relevant Parties, the Complaint will be noted on the PCM Register and a copy of the Complaint will be publicly released and posted on the PCM website.
21. Information on the PCM Register for all registered Complaints will include the date the Complaint was received by the PCM, the name and location of the Project about which the Complaint was filed, and, if there is no confidentiality requirement, the identity of the Complainant.
22. Within five (5) Business Days following Registration of a Complaint, the PCM Officer will appoint a PCM Expert to work jointly with the PCM Officer to conduct an Eligibility Assessment of the Complaint.

## **COOPERATION WITH OTHER FINANCIAL INSTITUTIONS**

23. Once the PCM Officer registers a Complaint, if the Project at issue in the Complaint is subject to co-financing by other institutions, the PCM Officer may notify the accountability mechanism(s) of the co-financing institution(s) of the Registration of the Complaint and may

communicate and cooperate with the accountability mechanisms of such institution(s) so as to avoid duplication of efforts and/or disruption or disturbance to common parties. Where appropriate, the co-financing institutions will consider establishing a written cooperation agreement addressing such issues as confidentiality and sharing of information.

## **DETERMINING ELIGIBILITY OF COMPLAINTS**

24. An Eligibility Assessment is a preliminary process that must be satisfied before a Complaint is deemed eligible for further processing under the PCM. Based on an evaluation of the eligibility criteria set out below, the Eligibility Assessors determine whether the Complaint is eligible for a Problem-solving Initiative, a Compliance Review, for both, or for neither. The Eligibility Assessors do not judge the merits of the allegations in the Complaint and do not make a judgment regarding the truthfulness or correctness of the Complaint. In making their determination, the Eligibility Assessors take into account the PCM function requested by the Complainant.
- a. To be held eligible for a Problem-solving Initiative, the Complaint must:
    - i. be filed by an individual or individuals as referred to in Paragraph 1;
    - ii. raise issues covered by a Relevant EBRD Policy.
  - b. To be held eligible for a Compliance Review, the Complaint must relate to a Project that the Bank is participating in and must relate to a Relevant EBRD Policy.
25. In both cases, the Complaint should also include, if possible:
- a. an indication of which PCM function the Complainant expects the PCM to use to address the issues raised in the Complaint (in particular, whether the Complainant is seeking a Compliance Review, Problem-solving Initiative, or both);
  - b. an indication of the outcome(s) sought as a result of use of the PCM process;
  - c. copies of all correspondence, notes, or other materials related to communications with the Bank or other Relevant Parties; and
  - d. if applicable, details of the Relevant EBRD Policy at issue in the Complaint.
26. Where the Complaint raises issues appropriate for a Problem-solving Initiative, the Eligibility Assessors will also consider the following factors to determine eligibility:
- a. whether a Problem-solving Initiative may assist in resolving the dispute, or is likely to have a positive result;
  - b. whether the Problem-solving Initiative may duplicate, or interfere with, or may be impeded by, any other process brought by the same Complainant (or where the Complainant is a group of individuals, by some of the group) regarding the same Project and/or issues pending before a court, arbitration tribunal or review body (such as a parallel co-financing institution's complaint or accountability mechanism); and
  - c. whether the Complainant has raised the issues in the Complaint with the Client's dispute resolution or grievance mechanism, or with the complaint or accountability mechanism of a co-financing institution, or before a court, arbitration tribunal or other dispute resolution mechanism and, if so, the Eligibility Assessors will consider the status of those efforts.



27. Where the Complaint raises issues appropriate for a Compliance Review, the Eligibility Assessors will, in their determination of eligibility, also consider whether the Complaint relates to:
  - a. actions or inactions that are the responsibility of the Bank;
  - b. more than a minor technical violation of a Relevant EBRD Policy unless such technical violation is alleged to have caused harm; and
  - c. a failure of the Bank to monitor Client commitments pursuant to a Relevant EBRD Policy.
28. A Complaint will not be eligible for either a Problem-solving Initiative or a Compliance Review if:
  - a. it was filed fraudulently or for a frivolous or malicious purpose;
  - b. its primary purpose is to seek competitive advantage through the disclosure of information or through delaying the Project;
  - c. or, in the case of a request for a Problem-solving Initiative, the subject matter of the Complaint has been dealt with by the accountability mechanism of any co-financing institution and the PCM Officer is satisfied that the complaint was adequately considered by such accountability mechanism, unless there is new evidence or circumstances not known at the time of the previous complaint. In the event that a Complaint is seeking a Compliance Review, a review by another accountability mechanism will not disqualify the Complaint from being processed under these rules;
  - d. it relates to the obligations of a third party, such as an environmental authority and the adequacy of their implementation of national requirements, or relating to the obligations of the country under international law or treaty, rather than to issues that are under the control of the Client or the Bank.
29. In conducting the Eligibility Assessment, the Eligibility Assessors will consider the Bank Management response to the Complaint and the Client's response to the Complaint (if applicable), and will also examine key documents and consult with the Relevant Parties. The Eligibility Assessors may also carry out a site visit and employ such other methods as they may deem appropriate.
30. Once eligibility has been determined and no later than forty (40) Business Days after the submission of the Bank Management response to the Complaint, the Eligibility Assessors will issue an Eligibility Assessment Report. The Eligibility Assessment Report will attach an English only copy of the Complaint as well as the Bank Management response, Client's response (if applicable) and will also include:
  - a. a description of the steps taken in the Eligibility Assessment;
  - b. a summary of the facts and positions of the Relevant Parties; and
  - c. a determination of whether the Complaint is eligible for a Problem-solving Initiative, Compliance Review, both (with a decision regarding the order in which they should be conducted), or neither.

31. Where the Eligibility Assessors conclude that the Complaint is ineligible, the Eligibility Assessment Report will be submitted to the Board (for Projects already approved by the Board) or to the President (for Projects that do not require Board approval or which have not yet been Board approved) to approve their recommendation that the Complaint be closed. If the recommendation is approved, the PCM Officer will close the Complaint; if the recommendation is not approved, the Board or President will send the Complaint back to the Eligibility Assessors for further consideration. Once the recommendation is approved, the Eligibility Assessment Report and the decision will be sent for information to the Relevant Parties and will be publicly released and posted on the PCM website.
32. If the Eligibility Assessors find the Complaint eligible, the Eligibility Assessment Report must also include the terms of reference for either a Compliance Review, Problem-solving Initiative, or both. Where possible, the Eligibility Assessors will consult with the Relevant Parties in the drafting of the terms of reference.
  - a. The terms of reference for a Problem-solving Initiative will set out the methods to be used and the time frame for the initiative and will identify the type of expertise required;
  - b. The terms of reference for a Compliance Review will identify the type of expertise required to carry out the review, as well as the scope and time frame for the review.
33. The Eligibility Assessment Report will be sent for information to the Relevant Parties as well as to the President and the Board.
  - a. When a Complaint is determined to be eligible for a Compliance Review, the Eligibility Assessment Report will be publicly released and posted on the PCM website within five (5) Business Days of circulating the Eligibility Assessment Report to all Relevant Parties; and
  - b. When a Complaint is found eligible for a Problem-solving Initiative (with or without eligibility for a Compliance Review), the Eligibility Assessment Report will be publicly released and posted on the PCM website within five (5) Business Days of the President's decision under Paragraph 36. The sending of the Eligibility Assessment Report to the President pursuant to Paragraph 36 will also be noted on the PCM Register.
34. If the Eligibility Assessors find the Complaint ineligible because it fails to meet one or more of the eligibility criteria, and the failure may be remedied, the Eligibility Assessors may suspend issuing their Eligibility Assessment Report and afford the Complainant ten (10) Business Days to remedy the failure.

#### **EFFECT OF COMPLAINT ON BANK PROJECTS**

35. The fact that a Complaint has been registered and/or found eligible for either a Compliance Review and/or a Problem-solving Initiative will not, of itself, have the effect of suspending the Bank's interest in the Project. However, if at any time during the processing of a Complaint, the PCM Officer believes that serious, irreparable harm will be caused by the Bank's continued processing of the Project or disbursements in respect of the Project, the PCM Officer may make an interim recommendation to suspend further Bank processing of

the Project, or, if possible, disbursements in respect of the Project. The decision on the recommendation will be made by the body vested with the power to make such a decision and only if the Bank has the right to suspend or cancel its interest in the Project. The PCM Officer's recommendation and the decision thereon will be noted on the PCM Register.

#### **APPROVAL AND CONDUCT OF A PROBLEM-SOLVING INITIATIVE**

36. Where a Complaint has been held eligible for a Problem-solving Initiative, the Eligibility Assessors will submit the Eligibility Assessment Report to the President with a recommendation that the PCM undertake a Problem-solving Initiative and the reasons supporting their recommendation. The President will decide, within ten (10) Business Days of submission of the recommendation, whether or not to accept it. If the President approves the recommendation, the Problem-solving Expert will begin the Problem-solving Initiative as soon as practicable following the President's decision. The decision of the President, and the reason(s) for the decision, will be publicly released and posted on the PCM website alongside the Eligibility Assessment Report, and the PCM Officer will notify the Relevant Parties that a Problem-solving Initiative is launched.
37. The Problem-solving Initiative will be considered completed when the Relevant Parties reach an agreement or when, in the opinion of the Problem-solving Expert, no further progress towards resolution of the dispute is possible. Upon completion, the Problem-solving Expert will issue a Problem-solving Completion Report describing the issues raised in the Complaint; the methods used in the Initiative; and the results of the Initiative including any issues that remain outstanding. The Report will also identify the need for any follow-up monitoring and reporting by the PCM Officer.
38. The PCM Officer will circulate the Problem-solving Completion Report for information to all Relevant Parties, as well as to the President and the Board. Within five (5) Business Days of circulation, and if the Relevant Parties so agree, the Problem-solving Completion Report will be publicly released and posted on the PCM website. If the Relevant Parties do not agree to the release of the Report due to confidentiality concerns, a summary of the Report will be publicly released and posted on the PCM website.
39. The PCM Officer will monitor the implementation of any agreements reached during a Problem-solving Initiative. The PCM Officer will submit draft Problem-solving Initiative Monitoring Reports to the Relevant Parties who will be given reasonable opportunity to comment on such Reports. If the PCM Officer receives comments from the Relevant Parties, the PCM Officer will have five (5) Business Days from the day the last comments are received to finalise the Report and will send the final Report to the President and to the Board. Within five (5) Business Days thereafter, the Problem-solving Initiative Monitoring Report will be publicly released and posted on the PCM website. The PCM Officer will issue Problem-solving Initiative Monitoring Reports at least biannually or until the PCM Officer determines that all implementation issues are concluded.

## CONDUCT OF A COMPLIANCE REVIEW

40. Where a Complaint has been held eligible for a Compliance Review, the PCM Officer will appoint a PCM Expert, who was not the Eligibility Assessor, to act as the Compliance Review Expert and to conduct the Compliance Review.
41. The objective of the Compliance Review will be to establish if (and if so, how and why), any EBRD action, or failure to act, in respect of an approved Project has resulted in non-compliance with a Relevant EBRD Policy and, in the affirmative, to recommend remedial changes in accordance with Paragraph 44 of these rules. The Compliance Review may not recommend the award of compensation to the Complainant beyond that which may be expressly provided for in a Relevant EBRD Policy.
42. In conducting the Compliance Review, the Compliance Review Expert will examine key documents and consult with the Relevant Parties, who will have an opportunity to comment. The Compliance Review Expert may also carry out a site visit, and employ such other methods as the Expert may deem appropriate. Taking account of the comments received from the Relevant Parties, the Compliance Review Expert will prepare a Compliance Review Report.
43. If the Compliance Review Expert concludes that the Bank was in compliance with a Relevant EBRD Policy, the PCM Officer will, as soon as practicable, submit the Compliance Review Report for information to the Relevant Parties and to the President (if the Project does not require Board approval), or to the Board. As soon as possible thereafter, the PCM Officer will close the Complaint file, and the Compliance Review Report will be publicly released and posted on the PCM website.
44. If the Compliance Review Expert concludes that the Bank was not in compliance with a Relevant EBRD Policy, the Compliance Review Expert will issue a Compliance Review Report which will include recommendations to:
  - a. address the findings of non-compliance at the level of EBRD systems or procedures in relation to a Relevant EBRD Policy, to avoid a recurrence of such or similar occurrences; and/or
  - b. address the findings of non-compliance in the scope or implementation of the Project taking account of prior commitments by the Bank or the Client in relation to the Project; and
  - c. monitor and report on the implementation of any recommended changes.
45. Upon a finding of non-compliance and receipt of the Compliance Review Report:
  - a. The PCM Officer will send the Compliance Review Report to the Bank Management to allow it to prepare a Management Action Plan, which will address whether the recommendations contained in the Compliance Review Report are appropriate. The Management Action Plan should include a timetable and estimate of the human and financial resources required to implement those recommendations considered appropriate.

- b. The Bank Management may also, if it deems it appropriate, prepare a Management response to findings, which will address the findings of the Compliance Review Report.
  - c. The Management Action Plan and the Management response to findings, if any, will be submitted to the PCM Officer within thirty (30) Business Days following receipt of the Compliance Review Report; if special circumstances require more time, a request together with an explanation needs to be submitted to the PCM Officer for consideration as provided for in Paragraph 65 of these rules; and
  - d. The PCM Officer will send the Compliance Review Report to the Complainant for comments on recommendations contained therein. The Complainant will be given thirty (30) Business Days to provide their comments.
46. The PCM Officer will then:
- a. submit the Compliance Review Report, the Management Response to Findings, if any, and the Complainant's comments to the Board (if the relevant Project has been approved by the Board at the time the report is submitted), or to the President, to take note thereof;
  - b. submit the Management Action Plan to the Board of Directors or the President, as the case may be, who may decide to accept the Management Action Plan or to reject it in whole or in part. In case of rejection, in whole or in part, the Management Action Plan will be returned to Management for appropriate amendments. If the Management Action Plan has been approved by the President, it will be circulated to the Board for information.

The Compliance Review Report, the approved Management Action Plan and the Complainant's Comments will be circulated to the Relevant Parties and publicly released and posted on the PCM website.

47. The PCM Officer will monitor the implementation of the Management Action Plan subject to the timetable and estimate of human and financial resources as set therein. The PCM Officer will issue Compliance Review Monitoring Reports at least biannually or until the PCM Officer determines that the implementation issues are concluded. In the preparation of each report, the PCM Officer will consult with the Relevant Parties as appropriate. The Compliance Review Monitoring Report will be submitted to the President and to the Board for information and, within five (5) Business Days thereafter, will be publicly released and posted on the PCM website.

#### **ROLE OF THE CCO, PCM EXPERTS AND PCM OFFICER**

48. **Role of the EBRD Chief Compliance Officer (“CCO”).** In support of the PCM's objective of providing independent review of the complaints concerning Bank Projects, the role of the CCO, as the head of the Office in which the PCM is located, is limited to ensuring that the PCM Officer carries out the PCM functions and administrative responsibilities according to these rules of procedures.

49. **Role of the PCM Experts.** The PCM Experts will be responsible for serving as Eligibility Assessors, Compliance Review Experts, or Problem-solving Experts, and may be responsible, upon delegation by the PCM Officer, for any follow-up monitoring and reporting.
50. **Nomination of PCM Experts.** Up to ten (10) PCM Experts will be nominated by a committee and appointed by the Board on the recommendation of the President. The nomination committee, to be established by the President, will be comprised of five members, both internal and external to the Bank, and will solicit nominations for the position of PCM Expert through a public and transparent process per the Bank's procurement rules applicable to consultants. The nomination committee will make decisions based on a majority vote. The committee will select nominees based on the candidates' experience, particularly in economic, legal, social, environmental, and related fields; proven ability to interpret and apply rules and resolve disputes thoroughly and fairly; demonstrated integrity and independence; ability to interact effectively with Relevant Parties and civil society; and experience with operations of the Bank or similar institutions.
51. **Term of Appointment of PCM Experts.** PCM Experts will be appointed to the roster for renewable terms of three (3) years. The PCM Experts will not have worked for the Bank (either as a staff member, Bank official, Director, Alternate Director, Director's Adviser or consultant) for at least two (2) years prior to being hired as a PCM Expert. The PCM Expert, upon completion of his or her term of service, will not be entitled to work for the Bank (either as a staff member, Bank official, [Director, Alternate Director, Director's Adviser or consultant) at any point in the future. The remuneration and term of appointment of the PCM Experts will be included in the President's recommendation to the Board. PCM Experts may be removed by the Board for cause. If a PCM Expert appointed to conduct an Eligibility Assessment, Problem-solving Initiative, or a Compliance Review resigns or is unable to complete such assignment, the PCM Officer will assign the completion of the assignment to another PCM Expert. Where such assignment is not possible due to urgent timing or unavailability of PCM Experts:
- a. if such event occurs during an Eligibility Assessment, the PCM Officer will be solely responsible for the completion of such Eligibility Assessment; and
  - b. if such event occurs during a Problem-solving Initiative or a Compliance Review, the PCM Officer will decide on the course of action to be undertaken to ensure the prompt completion of the Problem-solving Initiative or the Compliance Review.
52. **Training for PCM Experts.** The PCM Experts will be required to attend training meetings organized by the PCM Officer for up to five (5) days in each calendar year to enhance their knowledge of the Bank's policies, procedures and operations and to discuss the functioning of the PCM. The PCM Officer will notify the PCM Experts of any such meetings and will set the agenda.
53. **Ad hoc Appointment of Experts.** If at any time no PCM Expert from the roster is available or has the particular specialisation required to undertake or complete an assignment, the PCM

Officer may recommend the ad hoc appointment of an expert who is not on the roster but meets the same eligibility criteria. Such experts shall be appointed, on a no-objection basis, by the Board on recommendation by the President, to undertake or complete the particular assignment. Such ad hoc appointments may be made by way of a direct selection process regardless of the expected value of the contract for the appointment.

54. **Impartiality of PCM Experts.** When performing PCM functions, PCM Experts will serve in their individual, personal capacity and will be subject to the same privileges and immunities, relevant Code of Conduct provisions, conflict of interest rules and confidentiality provisions as experts performing missions for the Bank. PCM Experts will be required to act impartially and independently and will not participate in the assessment or review of any Complaint related to any matter in which they have or have had a personal interest or significant involvement in any capacity. PCM Experts will immediately disclose to the PCM Officer:
- a. any circumstances which might affect their impartiality or independence in the discharge of their PCM functions; and
  - b. any attempt to interfere with or improperly influence their performance of PCM functions.
55. **Communication by PCM Experts.** PCM Experts will not make any statement, whether private or public, to parties other than the Complainant or its Authorised Representative, if any, the Client, or the relevant Bank department, team or unit on matters under consideration by the PCM. Nothing in this paragraph will prevent a PCM Expert from undertaking any type of public consultation that he or she considers necessary as part of an Eligibility Assessment, Problem-solving Initiative, or Compliance Review.
56. **Role of the PCM Officer.** The PCM Officer is responsible for the day-to-day administration of the PCM, including: outreach and training, maintenance of the PCM website and Register, Registration of Complaints, selection of PCM Experts to determine eligibility, conduct Compliance Reviews and/or Problem-solving Initiatives, monitoring and reporting on the implementation of follow up activities, reporting to the President and the Board on an annual basis and on such other occasions as may be necessary, and communications with the local communities, civil society organisations, and other accountability mechanisms.
57. **Appointment of the PCM Officer.** The PCM Officer will be nominated by a committee and appointed by the President. The nomination committee will comprise five members, both internal and external to the Bank, and will solicit nominations for the position of PCM Officer through a transparent process. The nomination committee will make decisions based on a majority vote. The committee will select the nominee(s) based on experience, particularly in economic, legal, social, environmental, and related fields; proven ability to resolve disputes thoroughly and fairly; demonstrated integrity and independence; ability to interact effectively with Relevant Parties and civil society; and experience with operations of the Bank or similar institutions.

58. **Term of Office.** The PCM Officer will serve as full-time employee of the Bank on a five-(5) year renewable contract. The PCM Officer will not have worked for the Bank (either as a staff member, Bank official, Director, Alternate Director, Director's Adviser or consultant) for at least two (2) years prior to being appointed as the Officer. The PCM Officer, upon completion of his or her term of service, will not be entitled to work for the Bank (either as a staff member, Bank official, Director, Alternate Director, Director's Adviser or consultant) for at least the three (3) years immediately following. The PCM Officer may be removed for cause with the approval of the President.
59. **Additional Expertise.** The PCM Officer will obtain additional expertise if necessary for the successful performance of PCM duties and responsibilities. The selection and appointment of any consultants, researchers, interpreters, translators and/or other technical experts will be made subject to the EBRD procurement rules regarding the selection and appointment of consultants, and they will act under the supervision of the PCM Officer.
60. **Outreach and Training.** The PCM Officer will conduct outreach about the PCM within the EBRD, throughout the EBRD's countries of operations, and among civil society generally. The PCM Officer will provide training to EBRD staff (including those in London and the Resident Offices) about the PCM as required. The PCM Officer will develop and implement an outreach program to effectively inform people in EBRD countries of operations, non-governmental organisations, and civil society groups about the PCM. Outreach efforts will also include cooperation with other institutions' accountability mechanisms as appropriate, presentations, and upon request, information sessions regarding how to file a Complaint to the PCM.
61. **Publication of PCM Materials.** The PCM Officer will create and distribute printed materials about the PCM. Such materials will include an information pamphlet for EBRD staff and Clients about what is required of each once a Complaint is registered, and a brochure for people in the EBRD's countries of operations with information about how to file a Complaint. The brochure and pamphlet will be made available on the PCM website, as well as in the EBRD's London and Resident Offices, in English, Russian and French and will be translated into official languages of the Countries of Operation on a progressive basis.
62. **Proceedings generally.** All PCM activities will be carried out as promptly as possible without compromising the integrity or comprehensiveness of the process. The PCM Officer will take into account the need to include the views of any Bank staff, Complainant, Client, and other interested parties who may have relevant information. The PCM Officer will use best efforts to minimise the disruption to the daily operations of all parties concerned.
63. **Access to Staff, Information, and Confidentiality.** When conducting an Eligibility Assessment, Problem-solving Initiative, or Compliance Review, the PCM Officer and/or PCM Experts will have full access to relevant Bank staff and files, including electronic files, cabinets and other storage facilities. Bank staff will be required to fully cooperate with the PCM. However, the PCM Officer's and PCM Expert's use and disclosure of information gathered during their respective activities will be subject to the Bank's Public Information



Policy and any other applicable requirements to maintain sensitive information confidential. No PCM staff member, PCM Expert, consultant, researcher, interpreter, translator and other technical expert engaged by the PCM may release a document, or information based on that document without the express written consent of the party who has provided such document and /or the Bank.

64. **Related Complaints.** Where two or more Complaints are received from the same or different Complainants in relation to the same Project, and the substance of the Complaints is reasonably related, the PCM Officer will notify the relevant Complainant(s) and may require either that the Complaints be reviewed together, or may suspend the further processing of any Complaint(s) received after the first one, pending the results of the review of the Complaint first received. The PCM Officer may adjust the time periods for responding to any Complaint in order to take into account the joint review of the Complaints or the suspension of processing the subsequent Complaints.
65. **Time Extensions.** Any time period referred to in these Rules may be extended by the PCM Officer for as long as is strictly necessary to ensure full and proper processing of Complaints. The PCM Officer will promptly notify all Relevant Parties of any extensions, and will note the extension on the PCM Register. The extensions should be time-bound, and if they need to be further renewed, all Relevant Parties should be informed. In considering whether an extension is required, the PCM Officer will take into account factors such as the location of the Project site, the need for Bank staff to participate in the process, any time-sensitive issues relating to the Project, the availability of PCM Experts and consultants, and the need for translation.
66. **Annual Report.** The PCM Officer will prepare an annual report describing the activities of the PCM during the preceding year. The Report will be submitted to the President and to the Board for information, and will be publicly released as soon as possible thereafter and posted on the PCM website.

## **GENERAL PROVISIONS**

67. **Legal matters.** The General Counsel will, upon request, provide all legal information and advice needed regarding the Bank's policies and procedures and the Bank's rights and obligations regarding the Project at issue in a Complaint.
68. **Budget.** The Bank will provide budgetary resources to the PCM sufficient to allow all of the activities permitted by these Rules to be carried out. The PCM Officer, in consultation with the CCO, will prepare the annual budget indicating the level of resources required for the forecasted activities of the PCM for the coming year and will be responsible for determining the allocation of resources.
69. **Language of Reports.** All reports to be issued by either the PCM Officer or any of the PCM Experts and posted on the PCM website will be in the English language. The reports may be translated into the language(s) of the country where the Complaint originated.

70. **Amendment and Effect of the Rules.** These rules may be amended by the Board. These rules will prevail in the event of any inconsistency between these rules and any other EBRD document and in the absence of an express provision to the contrary.
71. **Governing Language.** These rules will be translated into Russian and French. If there is any discrepancy between the English version of these rules and any other version, the English version will govern.
72. **Review of the PCM.** The PCM will be reviewed by the Board every five (5) years or as needed.
73. **Entry into Force.** These rules of procedure will enter into force 6 months after approval by the Board of Directors and shall supersede the Rules of Procedure approved in 2009. Complaints registered under the Rules of Procedure 2009 prior to the entry into force of these rules will normally be dealt with in accordance with those rules.