

# Independent Recourse Mechanism

The guide to making a complaint  
about an EBRD-financed project



**European Bank**  
for Reconstruction and Development

## About the EBRD

The European Bank for Reconstruction and Development (EBRD) was set up in 1991 to aid the transition from centrally planned to market economies from central Europe to central Asia. The Bank operates in countries committed to applying the principles of multi-party democracy, pluralism and market economics. The EBRD operates with €20 billion in capital and is owned by 62 shareholders, comprising 60 countries, the European Community and the European Investment Bank. More information about the Bank is on the EBRD web site ([www.ebrd.com](http://www.ebrd.com)).

## About this booklet

This booklet explains the Independent Recourse Mechanism (IRM), the EBRD's system for making a complaint if a Bank-financed project adversely affects you or causes you harm.

**Part 1** is a summary of how the IRM works, giving guidelines about who can make a complaint, the grounds for a complaint, how to make your complaint, and what will happen next. **Part 2** is the formal Rules of Procedure, which sets out in detail the rules, requirements and timelines about all IRM processes. More information, including IRM reports and recommendations, and the IRM public register of complaints, is on the IRM section of the Bank's web site ([www.ebrd.com/irm](http://www.ebrd.com/irm)).

## Related publications

Environmental Policy

Public Information Policy

## Questions?

If you have further questions, please e-mail [irm@ebrd.com](mailto:irm@ebrd.com). Our contact details are on page 52 of this booklet.

# Contents

|  |    |
|--|----|
| Executive summary .....  | 2  |
| Roles and responsibilities .....                                 | 3  |
| <b>Part 1: Guidelines for making a complaint</b>                 |    |
| Who can make a complaint .....                                   | 5  |
| What you can make a complaint about .....                        | 9  |
| How to make your complaint .....                                 | 13 |
| What will happen next .....                                      | 18 |
| Summary of the IRM processes .....                               | 26 |
| Sample complaint form .....                                      | 28 |
| Definitions .....  | 32 |
| <b>Part 2: Rules of Procedure</b>                                |    |
| Rules of Procedure as approved by the EBRD on 6 April 2004 ..... | 35 |
| I. Definitions .....   | 37 |
| II. Form and contents of complaints .....                        | 38 |
| III. Processing of complaints .....                              | 40 |
| IV. Eligibility of complaints .....                              | 41 |
| V. Compliance reviews .....                                      | 44 |
| VI. Problem-solving initiatives .....                            | 46 |
| VII. Administration of the IRM .....                             | 48 |
| VIII. Conduct of IRM proceedings .....                           | 50 |
| IX. General provisions .....                                     | 51 |
| How to contact us .....  | 52 |

# Executive summary

The EBRD established the Independent Recourse Mechanism (IRM) to assess and review complaints about Bank-financed projects. It gives local groups that may be directly and adversely affected by a project a means of raising complaints or grievances with the Bank, independently from banking operations.

The IRM aims to strengthen the Bank's accountability and increase the transparency of its decisions in relation to its banking operations. The IRM processes are designed to be user-friendly, efficient and timely.

The IRM has two functions:

- a **compliance review** function to assess whether banking operations comply with Bank policies, specifically its Environmental Policy and Public Information Policy, and
- a **problem-solving** function to restore dialogue between the parties where possible, to try to resolve the underlying issues giving rise to the complaint or grievance. A problem-solving initiative might include: independent fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting.

In assessing a complaint, there may be a recommendation for a compliance review or a problem-solving initiative, or both or neither.

The IRM is administered by the office of the Chief Compliance Officer (CCO) and is independent from the EBRD's banking operations. The CCO coordinates all IRM processes and, together with an independent expert, makes an initial assessment of complaints. If a compliance review is warranted, an independent expert will conduct it. If a problem-solving initiative is warranted, the CCO or an independent facilitator will facilitate the process.

# Roles and responsibilities

A number of offices and individuals are involved in how the IRM works. This is a guide to what they do.

| Role  | Responsibilities   |
|---|--|
| <p>Chief Compliance Officer (CCO)</p> <p><i>see paragraph 50 of the Rules of Procedure</i></p>                    | <ul style="list-style-type: none"> <li>■ Has overall responsibility for how the IRM operates.</li> <li>■ Registers the complaint.</li> <li>■ Selects an independent expert from the roster of experts to jointly conduct eligibility assessments.</li> <li>■ Assesses whether an eligible complaint could benefit from a problem-solving initiative.</li> <li>■ Ensures that timelines are met, or approves extensions.</li> <li>■ Provides information and responses to all relevant parties at each stage in the IRM process.</li> </ul> |
| <p>IRM experts</p>  | <ul style="list-style-type: none"> <li>■ Group of independent individuals appointed by the EBRD Board of Directors.</li> <li>■ Carry out eligibility assessments together with the CCO.</li> <li>■ Conduct compliance reviews individually.</li> <li>■ Remain independent of banking operations as these experts are competitively selected and are not employees of the Bank.</li> </ul>  |
| <p>Independent expert acting as eligibility assessor</p> <p><i>see paragraph 18 of the Rules of Procedure</i></p> | <ul style="list-style-type: none"> <li>■ Together with the CCO, assesses whether the complaint meets the criteria for ‘who can make a complaint’ and ‘what you can make a complaint about’, and whether there may be a possible violation of a specified Bank policy.</li> <li>■ Together with the CCO, prepares a report for the EBRD President/Board, recommending whether or not the complaint is eligible for compliance review.</li> </ul>  |

| Role   | Responsibilities   |
|--|--|
| Independent expert acting as compliance review expert<br><i>see paragraph 22 of the Rules of Procedure</i> | <ul style="list-style-type: none"><li>■ Conducts the compliance review.</li><li>■ Prepares a report for the EBRD President /Board on whether there has been a policy violation by the Bank, and if so, makes recommendations for any remedial steps.</li></ul>                             |
| Board of Directors of the Bank   | <ul style="list-style-type: none"><li>■ Accepts or rejects recommendations made about compliance reviews for Board-approved projects.</li></ul>  |
| President of the Bank  | <ul style="list-style-type: none"><li>■ Accepts or rejects recommendations made about compliance reviews for projects not yet approved by the EBRD Board, or technical assistance projects.</li><li>■ Accepts or rejects recommendations made about problem-solving initiatives.</li></ul> |

# Part 1

## Section 1

---

# Who can make a complaint

This section tells you who is eligible to make a complaint about an EBRD-financed project. It answers the following questions:

- who can make a complaint
- who files the complaint for the group
- who can act as an authorised representative
- when someone from outside the group's local community can act as an authorised representative
- what the group must do before making a complaint
- what the time limits are for making a complaint
- when members of the group can request confidentiality
- how else an individual can make a complaint to the Bank.

## Section summary

At least two people acting as a group with a common interest can make a complaint about a Bank-financed project. The group must live in an area that is affected by the project. An individual cannot make a complaint under the Independent Recourse Mechanism (IRM). The group must appoint one or two individuals to represent them. If there are no locally-based individuals within the group to act as the group's representative, someone from outside the local community may file the complaint on behalf of the group. The representative must be familiar with the area and fluent in the native language of the group's members.

When a complaint is received, the first consideration is whether it can be registered. The CCO will register the complaint if all necessary information has been provided and is sufficient to support a complaint. Once the complaint is registered, the next consideration is whether the group making the complaint is eligible to do so. The CCO and an independent expert jointly make this assessment.

### Key to terms used in this section

|                           |  |
|---------------------------|--|
| Affected group            | The group that claims that a Bank-financed project has harmed or is likely to harm their common interest, and that lives in an area that is affected by the project. |
| Authorised representative | One or two named individuals appointed to represent the group.   |
| CCO                       | Chief Compliance Officer.  |
| Common interest           | A concern shared by the group.   |
| Complaint                 | A written request from a group of two or more people whose common interest is, or is likely to be, adversely affected by a Bank-financed project.                    |
| Confidentiality           | Not disclosing information. For example, not releasing the identity of some or all members of the affected group, or sensitive business information.                 |
| Eligible complaint        | Meets the criteria for assessment and compliance review and/or problem-solving.  |
| Group                     | Two or more people.  |
| Locally based             | An individual based in the local community affected by the project.  |
| Project sponsor           | The company or other entity that is responsible for carrying out and implementing an EBRD-financed project.  |

## Questions and answers

### How to use this section

We have written the section below as if the group (or the authorised representative) is asking the questions and the IRM is answering.

**Q** Who can make a complaint?

**A** A group of two or more people with a common interest, which has suffered or is likely to suffer direct harm as a result of a project that the Bank is likely to finance or has financed.

---

**Q** Who files the complaint for the group?

**A** The group's authorised representative. If there are two authorised representatives, they must both sign the complaint.

---

**Q** Who can act as an authorised representative?

**A** One or two individuals of the group. Even if the group includes, or is, a community-based organisation, named individuals must be identified to represent the group. You must provide written confirmation that the group has authorised you to represent them.

---

**Q** When can someone from outside the group's local community act as an authorised representative?

**A** If you are not part of the affected group and are not locally based, you can act for the group if you provide evidence that there is no adequate or appropriate capability within the local community to file a complaint. You must be fluent in the native language of the group's members and be able to communicate effectively with the affected group.

---

**Q** What must the group do before making a complaint?

**A** You must make efforts in good faith to bring to the Bank's attention the issues underlying the problem, and work with the Bank and the project sponsor to see if these issues can be satisfactorily addressed. You will need to attach to your complaint copies of correspondence, e-mails, details of meetings, and any other communications between you and the Bank's staff and the project sponsor. You must say why you believe that there is no reasonable prospect of resolving the problem by further discussion with the Bank and other relevant parties, such as the project sponsor or government.

---

**Q** What are the time limits for making a complaint?

**A** *For a project that has already been formally approved by the Bank's Board of Directors (or by the Technical Cooperation Committee for technical assistance projects):* the Bank must have a continuing financial interest in the project, and the CCO must receive a complaint within 12 months of the physical completion of the project being financed by the Bank. If there is no physical completion, the CCO must receive a complaint within 12 months of the last disbursement of funds from the Bank.

*For a project that has not yet been approved by, or does not require the approval of, the Bank's Board of Directors and is under consideration:* the Bank must have given a firm indication that it is likely to finance the project – which will usually be once the project has passed “final review”.

As you are not likely to know what stage a project is at, you may need to contact the relevant Bank department or the CCO's office to find out whether a complaint may be filed.

---

**Q** When can members of the group request confidentiality?

*see paragraph 21 of the Rules of Procedure*

**A** We do not accept anonymous complaints. One or two named individuals must sign the written request as authorised representatives of the group. You can ask us to keep confidential the identity of the representatives, and the identity of some or all members of the group. You will need to give a brief reason for requesting confidentiality. If we believe others will discover or need to know your identity or the identity of group members in order to process the complaint, we will tell you that we may not be able to keep these identities confidential, and will discuss with you how to proceed.

---

**Q** How else can an individual make a complaint to the Bank?

**A** Individuals and groups still have the right to petition the Bank directly by writing to the Bank's President, other senior management or the Board of Directors of the Bank. Please be aware that these petitions, unless clearly intended to be ‘complaints’, will not be dealt with under the IRM procedures but will be addressed as the recipient considers appropriate.

---

## Section 2

---

# What you can make a complaint about

This section tells you what Bank-financed projects you can make a complaint about. It answers the following questions:

- what projects can be the subject of a complaint
- what aspects of a project can be the subject of a complaint
- on what grounds a complaint is not registered
- whether a complaint that has previously been assessed and rejected can be resubmitted
- the factors that the IRM considers when assessing whether a compliance review is appropriate
- what we exclude when assessing whether a compliance review is appropriate
- what we consider when assessing whether a problem-solving initiative is appropriate.

## Section summary

The function of the Independent Recourse Mechanism (IRM) is to assess and review complaints about EBRD-financed projects, to determine whether the Bank has acted properly in accordance with its policies and procedures, or to develop an effective process for resolving the problem raised in the complaint. The specific policies that are applicable to the IRM are the Bank's Environmental and Public Information policies.

A complaint can be made about any aspect of a Bank-financed project, from planning through to implementation. Once a complaint is registered, there is an assessment of whether the complaint is eligible for compliance review, or a problem-solving initiative, or both or neither.

### Key to terms used in this section

|                            |   |
|----------------------------|---|
| CCO                        | Chief Compliance Officer.   |
| Compliance review          | A process for assessing whether the Bank has complied with all relevant policies and procedures.  |
| Eligibility assessment     | A process for assessing whether a complaint is eligible for a compliance review or problem-solving initiative.  |
| Frivolous                  | Clearly not justifiable and clearly without merit. Has been filed simply to delay or embarrass.   |
| Malicious                  | Intending to cause harm to a person, or to delay or stop a project for no valid reason.   |
| Material violation         | An act, or failure to act, that does not comply in a significant way with specified Bank policies.  |
| Problem-solving initiative | A process for identifying an appropriate way to try to resolve the problems underlying the complaint. This might include: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting. |
| Project                    | A specific project or technical assistance that has been proposed or approved for financing by the Bank. Projects include all loan, equity and guarantee operations of the Bank.                                    |
| Specified Bank policies    | The Bank's Environmental Policy and/or project-specific provisions of the Public Information Policy.  |
| Third party                | An individual or group that is not part of either the affected group or the Bank, such as a government agency or project sponsor.   |
| Project sponsor            | The company or other entity that is responsible for carrying out and implementing an EBRD-financed project.   |

## Questions and answers

### How to use this section

We have written the section below as if the group (or the authorised representative) is asking the questions and the IRM is answering.

**Q** What projects can be the subject of a complaint?

**A** You can make a complaint about any of the Bank's operations including loans, equity investments, guarantees and technical assistance.

---

**Q** What aspects of a project can be the subject of a complaint?

**A** Anything to do with the planning or implementation of the project, or the impact of the project on the community.

---

**Q** On what grounds is a complaint not registered?

*see paragraphs 8 and 16 of the Rules of Procedure*

**A** If the CCO decides that the complaint is:

- not complete and does not include all required information
  - clearly frivolous or malicious
  - clearly made to gain a competitive advantage through delaying the project or the disclosure of information
  - outside the scope of the IRM. This would include complaints about procurement, an allegation of fraud or corruption, the suitability of Bank policies in general or matters that only the Board of Directors can consider. We would refer any matters outside the IRM's scope to the relevant Bank department for a response.
- 

**Q** Can a complaint that has previously been assessed and rejected be resubmitted?

**A** Only if you present new information that was not available when the previous eligibility assessment was completed.

---

**Q** What factors does the Bank consider when assessing whether a compliance review is appropriate?

*see paragraph 23 of the Rules of Procedure*

---

**A** Whether the Bank may have acted in any material way that does not comply with its Environmental Policy or project-specific provisions of the Public Information Policy.

---

**Q** What do you exclude when assessing whether a compliance review is appropriate?

**A** We do not review actions that are the responsibility of a third party, or that relate to the laws, policies and regulations of the country in which the project is located and which do not amount to possible material violations of Bank policies.

---

**Q** What do you consider when assessing whether a problem-solving initiative is appropriate?

*see paragraph 43 of the Rules of Procedure*

**A** Whether the relevant parties want to participate in a problem-solving initiative, and whether it is likely to help the parties to resolve their differences.

---

## Section 3

---

# How to make your complaint

This section tells you what to do to prepare and submit your complaint. It answers the following questions:

- how you submit a complaint
- how you deliver the complaint
- where you send the complaint
- in what format the complaint must be submitted
- what information you must include
- whether the identity of group members can be kept confidential
- in what language the complaint can be submitted
- in what language we will respond
- what you send with the complaint
- how long you have to make a complaint.

Please also refer to the sample form on pages 28–31 as a guide to preparing your complaint.

## Section summary

The complaint must be in writing but can be submitted in any format. There is a sample form on pages 28–31 that can be used as a guide to help in the preparation of the complaint.

The following must be included with the complaint:

- the name and address of each member of the affected group. (The information provided will be kept confidential if requested and approved by the CCO, but the names of all members of the group must be provided.)
- written evidence of authority to represent the affected group.
- copies of correspondence with Bank staff and other relevant parties about the problem that has given rise to the complaint, and any other supporting information.

The complaint and all supporting information must be sent to the Chief Compliance Officer at EBRD Headquarters, or to the local EBRD office which will forward it.

### **Chief Compliance Officer**

#### **European Bank for Reconstruction and Development**

One Exchange Square

London

EC2A 2JN

United Kingdom

The complaint can also be sent by fax (+44 20 7338 7633) or by e-mail to [irm@ebrd.com](mailto:irm@ebrd.com). If fax or e-mail are used, the original complaint with original signatures must be sent by post.

## Key to terms used in this section

|                            |   |
|----------------------------|---|
| Affected group             | The group that claims that a Bank-financed project has harmed or is likely to harm their common interest, and that lives in an area that is affected by the project.  |
| Authorised representative  | One or two named individuals appointed to represent the group.  |
| CCO                        | Chief Compliance Officer.   |
| Common interest            | A concern shared by the group.  |
| Complaint                  | A written request from a group whose common interest is, or is likely to be, adversely affected by a Bank-financed project.   |
| Compliance review          | A process for assessing whether the Bank has complied with all relevant policies and procedures.  |
| Confidentiality            | Not disclosing information. For example, not releasing the identity of some or all members of the affected group, or sensitive business information.  |
| Problem-solving initiative | A process for identifying an appropriate way to try to resolve the problems underlying the complaint. This might include: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting. |
| Project                    | A specific project or technical assistance operation that has been proposed or approved for financing by the Bank. Projects include all loan, equity and guarantee operations of the Bank.                          |

## Questions and answers

### How to use this section

We have written the section below as if the group (or the authorised representative) is asking the questions and the IRM is answering.

**Q** How do we submit a complaint?

**A** Your complaint must be in writing and you must send it to the Chief Compliance Officer (CCO). Details of how to contact us are on page 52 of this booklet.

---

**Q** How do we deliver the complaint?

**A** You can deliver it by hand, by post, by fax or by e-mail. If you use fax or e-mail, you must also send the original complaint with original signatures to us by post. However, the time period for assessing your complaint will not begin until the CCO receives an original copy of the complaint and supporting materials.

---

**Q** Where do we send the complaint?

**A** The complaint must reach the office of the Chief Compliance Officer at the EBRD's Headquarters in London, United Kingdom. You can send it direct or you can send it to your local EBRD office, which will forward it. Details of how to contact us are on page 52 of this booklet.

---

**Q** In what format must the complaint be submitted?

**A** There is no pre-set format. We have included a form on pages 28–31 that you can use as a guide. As long as you give all the information we ask for, you can use any format that suits you.

---

**Q** What information must we include?

*see paragraph 8 of the Rules of Procedure*

**A** Please see the sample complaint form on pages 28–31. It tells you what information you must include and also what extra information would be helpful to support your complaint.

---

**Q Can the identity of group members be kept confidential?**

**A** You can ask us to keep your identity and the identity of some or all members of the group confidential. You must give a brief reason for requesting confidentiality. If we believe others will discover or need to know your identity or the identity of group members in order to process the complaint, we will tell you that we may not be able to keep these identities confidential, and will discuss with you how to proceed.

---

**Q In what language should the complaint be?**

**A** You can submit your complaint in the native language of the group's members. Please be aware that if the CCO has to arrange for documents to be translated, this may delay our initial response to you.

---

**Q In what language will you respond?**

*see paragraph 12 of the Rules of Procedure*

**A** We will respond in English. You may also request a response in one of the Bank's other working languages (French, German or Russian), or we may be able to respond in the language of the complaint if translation is feasible. Please be aware that translating into another language may add to the time required to respond.

---

**Q What do we send with the complaint?**

- A**
- Written confirmation of your authority to represent the group.
  - Copies of correspondence with Bank staff and other relevant parties about the problem that has given rise to the complaint, and any other supporting information.
  - Name and address of each member of the affected group.
- 

**Q What is the timescale for making a complaint?**

**A** You must submit your complaint within 12 months of the physical completion of the project or last disbursement of funds from the Bank. Or if a project has not yet been approved or does not require approval by the Bank's Board of Directors, the Bank must have given a clear indication that the project is under consideration.

---

## Section 4

---

# What will happen next

This section tells you what you can expect to happen after we get your complaint, including timelines and the options for resolving a complaint. It answers the following questions:

- what happens when we get the complaint
- who assesses whether the complaint is eligible
- who the IRM experts are
- what the eligibility assessors do
- at what point the process begins
- how long the whole process takes
- what happens if the eligibility assessors consider that the complaint is not eligible for either a compliance review or a problem-solving initiative
- what happens if the eligibility assessors consider that the complaint meets the first level of eligibility
- who decides whether to conduct a compliance review
- who decides whether to conduct a problem-solving initiative
- who conducts a compliance review
- what the compliance review expert does
- who conducts a problem-solving initiative
- what happens in a problem-solving initiative
- how long a compliance review or problem-solving initiative takes
- what the final outcome of a compliance review might be
- what the final outcome of a problem-solving initiative might be
- what information is made public from the IRM proceedings.

## Section summary

Once a complaint is received, the first step is to assess whether it can be registered. The CCO will review the written request to confirm that it includes all the necessary information and will write to the relevant parties to indicate whether the complaint has been registered.

The CCO may not register a complaint that is clearly frivolous or malicious, or if an effort has not been made to resolve the problem with the relevant EBRD department. If this happens the relevant parties will be informed straight away.

If the complaint is registered, the second step is to assess whether it is eligible for compliance review and/or a problem-solving initiative. If the complaint is considered eligible, the next step will be recommendations for a compliance review, a problem-solving initiative, both, or neither. An assessment for eligibility for a compliance review or problem-solving is done at the same time.

The recommendations are submitted to the Bank's President or Board, depending on the status of the project that the complaint concerns.

Independent IRM experts conduct the eligibility assessment together with the CCO. If the recommendation for a compliance review is approved, an expert will conduct the review individually. One or more individuals may carry out a problem-solving initiative. The method they use will depend on what is considered appropriate for the complaint.

The relevant parties will be kept informed of progress throughout the process. Copies of the report and decision will be made available to the affected group and other relevant parties, subject to protecting commercially sensitive information and group members' identities if confidentiality has been requested.

Once the President/Board have reviewed the final report and decision, the report and decision will be published on the IRM section of the Bank's web site ([www.ebrd.com/irm](http://www.ebrd.com/irm)) subject to protecting commercially sensitive information and group members' identities if confidentiality has been requested. If internet access is not available, information may be requested from the CCO directly, or through a local EBRD office.

## Key to terms used in this section

For more information about the roles and responsibilities of the people and offices involved in assessing your complaint, please see page 3.

|                            |   |
|----------------------------|---|
| Affected group             | The group that claims that a Bank-financed project has harmed, or is likely to harm their common interest, and that lives in an area that is affected by the project.   |
| Business day               | A day on which the Bank is open for business in London.   |
| CCO                        | Chief Compliance Officer.   |
| Compliance                 | Whether the Bank has acted properly in accordance with specified Bank policies.   |
| Compliance review          | A process for assessing whether the Bank has complied with all relevant policies and procedures.  |
| Eligible complaint         | Meets the criteria for assessment and compliance review and/or problem-solving.   |
| Eligibility assessor       | An independent expert who carries out the initial assessment of the complaint (together with the CCO).  |
| Independent facilitator    | An individual who is skilled in managing the process of dialogue and negotiation between two or more parties involved in a dispute.   |
| IRM experts                | The group of independent individuals appointed by the Bank's Board of Directors to work with the CCO to carry out eligibility assessments and to conduct compliance reviews independently.                          |
| Material violation         | An act, or failure to act, which does not comply in a significant way with specified Bank policies.   |
| Problem-solving initiative | A process for identifying an appropriate way to try to resolve the problems underlying the complaint. This might include: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting. |
| Project sponsor            | The company or other entity that is responsible for carrying out and implementing a Bank-financed project.  |
| Specified Bank policies    | The Bank's Environmental Policy and project-specific provisions of the Public Information Policy.   |

## Questions and answers

### How to use this section

We have written the section below as if the group (or the authorised representative) is asking the questions and the IRM is answering.

**Q** What happens when you get the complaint?

**A** We review the complaint to check that you have provided all the necessary information, and that the complaint can be registered. By registering the complaint we start the process of assessing whether the complaint is eligible.

---

**Q** Who assesses whether the complaint is eligible?

*see paragraph 18 of the Rules of Procedure*

**A** The Chief Compliance Officer (CCO) and an independent IRM expert jointly conduct the eligibility assessment.

---

**Q** Who are the IRM experts?

*see paragraphs 52 to 57 of the Rules of Procedure*

**A** Three independent individuals, who are not employees of the Bank or otherwise associated with the Bank, and who have specific expertise. Each expert acts impartially and independently, and does not handle any complaint in which he or she has (or has had) any personal interest or involvement. The experts have been selected through a competitive and transparent process. To enhance their independent status and objectivity, they are not permitted to work for the Bank when their term of appointment ends but may be reappointed as an IRM expert.

---

**Q** What do the eligibility assessors do?

*see paragraph 26 of the Rules of Procedure*

**A** Review the complaint and all supporting material, then make a recommendation about what further action to take. In carrying out the assessment they might use any of the following methods:

- desk review of all paperwork
  - request for additional information in writing or face to face from the group/authorised representative/relevant party
  - site visit
  - request for additional expertise.
- 

**Q** At what point does the process begin?

*see paragraphs 14 and 16 of the Rules of Procedure*

**A** When the CCO receives the complaint at the Bank's headquarters in London, including original signatures and supporting materials. The CCO may extend any time period as necessary to ensure full and proper assessment, investigation and reporting.

---

**Q** How long does the whole process take?

**A** Within five business days, we will register the complaint (assuming that you have provided all necessary information) and appoint an independent eligibility assessor.

Within 30 business days, the eligibility assessors will assess whether your complaint is eligible, and if so, make recommendations. (Or no later than within 25 days of when the independent expert is appointed.)

If the initial recommendation is that the complaint is not eligible: the CCO will write within 15 business days to tell you and all relevant parties.

---

**Q** What happens if the eligibility assessors consider that the complaint is not eligible for either a compliance review or a problem-solving initiative?

*see paragraph 20 of the Rules of Procedure*

**A** After the first 15 days referred to above, you will have 10 business days to make comments if the eligibility assessors consider your complaint is not eligible. Your comments will be included in the eligibility assessment report. The report will be submitted within a further five business days after your comments are received.

---

**Q** What happens if the eligibility assessors consider that the complaint meets the first level of eligibility?

*see paragraphs 18 and 22 of the Rules of Procedure*

**A** After the first 15 days referred to above, the complaint is investigated further, to determine if there has been a possible policy violation by the Bank. If the eligibility assessors consider that there has not been a possible policy violation, you will have 10 business days to comment and your comments will be included in the eligibility assessment report. If the eligibility assessors consider that there may be a possible policy violation, they will recommend that a compliance review be conducted.

---

**Q** Who decides whether to conduct a compliance review?

**A** The Board or the President of the Bank (depending on whether the project has been approved yet by the Bank) will decide whether to conduct a compliance review based on the recommendations from the eligibility assessors. A compliance review will be conducted if there is a possibility that the Bank has not complied with a specified Bank policy in a significant way.

---

**Q** Who decides whether to conduct a problem-solving initiative?

*see paragraph 43 of the Rules of Procedure*

**A** If the eligibility assessors have considered the complaint eligible, the CCO will consider whether a problem-solving initiative is appropriate. The CCO will take many factors into account, including whether the parties are likely to participate in a problem-solving initiative and whether it is likely to duplicate or interfere with a compliance review or any other process underway to resolve the complaint. The President decides whether to conduct a problem-solving initiative based on the recommendations of the CCO.

---

**Q** Who conducts a compliance review?

**A** An independent IRM expert, after approval from the President/Board of the Bank.

---

**Q** What does the compliance review expert do?

*see paragraph 33 of the Rules of Procedure*

**A** The objective is to establish whether any of the Bank's actions (or failure to act) may have violated a Bank policy in a material way. In carrying out the assessment the independent expert might use any of the following methods:

- desk review of all paperwork
  - request for additional information in writing or face to face from the group/authorised representative/relevant party
  - site visit.
- 

**Q** Who conducts a problem-solving initiative?

**A** An individual appointed by the President on the recommendation of the CCO. This could be an independent facilitator, someone from within the Bank, a local community representative, or possibly the CCO.

---

**Q** What happens in a problem-solving initiative?

**A** The objective is to restore dialogue between an affected group and any relevant party to try to resolve the problems or issues underlying a complaint without attributing blame or fault to any party.

It may be undertaken instead of, or as well as, a compliance review. The type of initiative undertaken could include: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting. In carrying out the assessment the independent facilitator might use any of the following methods:

- desk review of all paperwork
  - request for additional information in writing or face to face from the group/authorised representative/relevant party
  - site visit.
-

**Q** How long does a compliance review or problem-solving initiative take?

**A** There is no pre-set time limit for either. Some projects or complaints are more complicated than others and may require site visits and other actions. The expert or facilitator will be asked to conduct the review or initiative as quickly as possible while carrying out a full investigation. The Board/President will establish a suggested timeframe when the terms of reference for the project-specific compliance review/problem-solving initiative have been approved.

---

**Q** What might be the final outcome of a compliance review?

**A** The IRM examines Bank actions to see whether there has been a violation of Bank policy. The expert may recommend that the Bank makes changes to its procedures (to prevent something similar happening in the future), or to the scope and implementation of the relevant Bank-financed project, if possible. The IRM may also monitor how any changes arising from a compliance review are implemented.

---

**Q** What might be the final outcome of a problem-solving initiative?

**A** The IRM provides an opportunity for all parties to address problems. A problem-solving initiative may result in whatever changes to the project that the relevant parties agree on. Some initiatives need the cooperation of third parties, which may include government or local authorities, the project sponsor or other investors. As the IRM cannot compel third parties to cooperate, the IRM may not be able to resolve every problem satisfactorily.

---

**Q** What information is made public from the IRM proceedings?

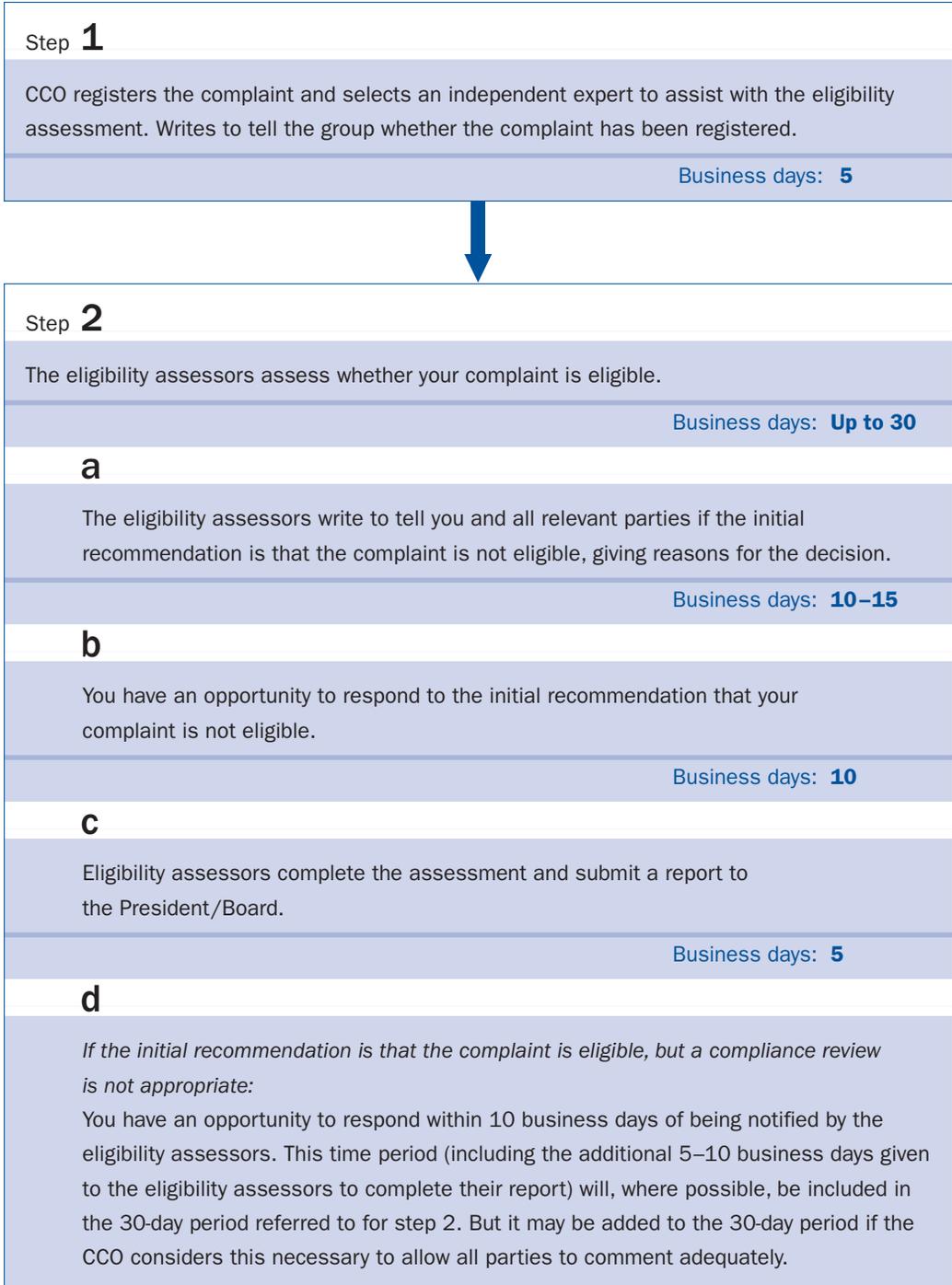
*see paragraph 32 of the Rules of Procedure*

**A** The register of all complaints received is available for viewing on the IRM section of the Bank's web site ([www.ebrd.com/irm](http://www.ebrd.com/irm)). We will also publish on the site project-specific reports and recommendations, subject to protecting commercially-sensitive information of Bank clients and project sponsors, and to providing confidentiality for group members as requested and approved by the CCO. If you do not have access to the internet, you may ask for information direct from the CCO or through a local office of the EBRD within your country. Our contact details are on page 52.

---

# Summary of the IRM processes

The time period for assessing your complaint starts when the CCO receives it.



**Step 3**

President/Board accepts or rejects the eligibility assessor's recommendation and decides the next step.

**Step 4**

*If the President/Board accepts the recommendation for compliance review:*

An independent expert conducts the compliance review. The CCO will write to tell you and all relevant parties what is being undertaken.

*If the President accepts the recommendation for a problem-solving initiative:*

The President appoints the problem-solving facilitator. The CCO will write to tell you and all relevant parties what is being undertaken.

*If the President/Board rejects the eligibility assessors' recommendation for a compliance review:*

The CCO will write to tell you and all relevant parties of the decision.

*If the President rejects the recommendation for a problem-solving initiative:*

The CCO will write to tell you and all relevant parties of the decision.

There is no pre-set time limit for a compliance review or problem-solving initiative.

The terms of reference for the review or initiative will include a suggested timeframe.

**Step 5**

President/Board accepts or rejects the expert's final compliance review report and recommendation.

**Step 6**

When the compliance review is completed and discussed by the Board, the CCO writes to tell you and all relevant parties the final recommendations arising out of the compliance review and whether these have been accepted or rejected by the President/Board.

When the problem-solving initiative is completed and considered by the President, the CCO writes to tell you and all relevant parties the final recommendations for the problem-solving initiative and whether these have been accepted or rejected by the President.

# Sample complaint form

You may use this form as a guide to help you prepare your complaint. For certain questions we have included guidance notes to indicate the type of information we expect you to provide. Your complaint must be in writing but you can submit it in any format. Please send your complaint to:

**Chief Compliance Officer**

**European Bank for Reconstruction and Development**

One Exchange Square

London EC2A 2JN

United Kingdom

Fax: +44 20 7338 7633

E-mail: irm@ebrd.com

## PART A: Information you must include in your complaint

You must provide all the information we have asked for in this section.

*See paragraph 8 of the Rules of Procedure*

Date:

### 1. About the affected group

Name of members of the affected group:

What the common interest of the group is:

Where the affected group lives (city, country):

### 2. About the authorised representatives

Name of authorised representative(s):

Your relationship to the group:

If the authorised representative is not locally based, reason you are representing the affected group:

Native language of the affected group:

Can you communicate effectively in the group's native language? Yes  No

*Please provide evidence of your fluency in the group's native language. For example, that you are a native speaker, or have studied and worked in the language.*

### 3. About the EBRD-financed project

Project name:  Country:

Project description:

Please state how the group's common interest is affected or likely to be affected, and possibly harmed by this project:

*Please give full details of the rights and interests that the project affects.*

### 4. What the affected group has done so far to resolve the problem

Before the CCO can review your complaint, you must have made efforts in good faith to resolve the problem with the relevant EBRD department and other relevant parties.

*Please detail your efforts briefly and attach all correspondence, e-mails, details of meetings and other communications you have had with the Bank about the problem. Please also explain briefly why you believe further discussions will not be fruitful. If you cannot provide this information, please give reasons.*

### 5. Facts and evidence

Please state the facts and attach any evidence to support the claim of direct adverse and material harm caused by the project.

*This might include drawings, photos, plans, letters, taped interviews, or other materials you believe relevant.*

## PART B: Other information to support your complaint

You do not have to fill in this section, but any extra information you give here could help us decide how best to handle your complaint.

See paragraph 9 of the Rules of Procedure

### 1. Why you think the Bank has not followed its Environmental Policy and/or Public Information Policy on a project

Name or description of the specific Bank operation, if known, or if different from the project name above:

Why you think the Bank has not followed its policies in the course of preparing, processing or implementing the project:

### 2. How you would like the problem to be solved

Please tell us what you would like to happen next/expect from the IRM:

- Compliance review (this means a review of the Bank's actions to see whether it has followed its Environmental Policy and/or Public Information Policy)
- Problem-solving initiative (this might include any of the following to help address the underlying problem: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting)  
*Please say what you would like to see as an outcome to the problem that has given rise to the complaint. This might relate to matters outside the Bank's control.*

### 3. Previous complaints

Have you made a previous complaint about a similar or related matter?    Yes     No

*For example, with any other person or institution, or administrative, regulatory or judicial body.*

If yes, please explain how the complaint was handled; what stage the complaint has reached; any outcomes so far.

#### 4. Preferred language for receiving communications from the IRM

Please tell us how the group would like to receive communications: English only is satisfactory

OR English, plus one of:

French  German  Russian  Other  please specify

*Communications from the IRM are in English. We may also be able to provide communications in French, German or Russian. If the CCO agrees, we may be able to provide communications in the group's native language.*

*Please be aware that if we have to arrange translation into other languages this may affect the time required to respond. We may not be able to find a satisfactory translator if the language is other than the Bank's working languages.*

#### 5. Confidentiality for group members

Reason you want to keep the identity of some or all group members confidential:

Please tick here if you want to keep the identity of all members of the group confidential

OR Please give the names of individual group members whose identity you want to keep confidential:

*The IRM will use reasonable efforts to maintain confidentiality where possible. However, if we believe others will discover or need to know your identity or the identity of group members in order to process the complaint, we will tell you that we may not be able to keep these identities confidential, and will discuss with you how to proceed.*

### Declaration and signatures

I am/we are making this complaint as the authorised representative of the affected group.

*If there are two authorised representatives:*

Please tell us how the group has authorised you to act for them:

Must act together  May act individually

##### First authorised representative

Your signature:

Your name:

Address for correspondence:

Daytime telephone number:

Fax number:

E-mail:

##### Second authorised representative

Your signature:

Your name:

Address for correspondence:

Daytime telephone number:

Fax number:

E-mail:

# Definitions

This is the full list of terms used in this booklet.

|                           |  |
|---------------------------|--|
| Affected group            | The group that claims that a Bank-financed project has harmed or is likely to harm their common interest, and that lives in an area that is affected by the project.   |
| Authorised representative | One or two named individuals appointed to represent the group.   |
| Bank or EBRD              | European Bank for Reconstruction and Development.  |
| Business day              | A day on which the Bank is open for business in London.  |
| Board                     | The Board of Directors of the Bank.  |
| CCO                       | Chief Compliance Officer.<br>The office of the Chief Compliance Officer is independent from banking operations and the Environment Department. The CCO coordinates all IRM processes and carries out an initial assessment of the complaint. |
| Common interest           | A concern shared by the group.   |
| Complaint                 | A written request from a group of two or more people whose common interest is, or is likely to be, adversely affected by a Bank-financed project.  |
| Compliance                | Whether the Bank has acted properly in accordance with specified Bank policies.  |
| Compliance review         | A process for assessing whether the Bank has complied with all relevant policies and procedures.   |
| Confidentiality           | Not disclosing information. For example, not releasing the identity of some or all members of the affected group, or sensitive business information.   |
| Eligibility assessment    | A process for assessing whether a complaint is eligible for a compliance review or problem-solving initiative.   |

|                            |  |
|----------------------------|--|
| Eligibility assessor       | An independent expert who carries out the initial assessment of the complaint (together with the CCO).   |
| Eligible complaint         | Meets the criteria for assessment and compliance review and/or problem-solving.  |
| Frivolous                  | Clearly not justifiable and clearly without merit. Has been filed simply to delay or embarrass.  |
| Group                      | Two or more people.  |
| Independent facilitator    | An individual who is skilled in managing the process of dialogue and negotiation between two or more parties involved in a dispute.  |
| IRM                        | Independent Recourse Mechanism.<br>The system to assess and review complaints about an EBRD-financed project.  |
| IRM experts                | The group of independent experts appointed by the EBRD Board of Directors to carry out eligibility assessments together with the CCO, and to conduct compliance reviews independently.                       |
| Locally based              | An individual based in the local community affected by the project.  |
| Malicious                  | Intending to cause harm to a person, or to delay or stop a project for no valid reason.  |
| Material violation         | An act, or failure to act, that does not comply in a significant way with specified Bank policies.   |
| President                  | The President of the Bank.   |
| Problem-solving initiative | A process for identifying an appropriate way to resolve the problems underlying the complaint. This might include: fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting. |
| Project                    | A specific project or technical assistance that has been proposed or approved for financing by the Bank. Projects include all loan, equity and guarantee operations of the Bank.                             |

|                         |  |
|-------------------------|--|
| Project sponsor         | The company or other entity that is responsible for carrying out and implementing a Bank-financed project.                       |
| Resident Office         | A local EBRD office in each country where the Bank operates.   |
| Rules of Procedure      | The formal rules, requirements and timelines about all IRM processes.  |
| Specified Bank policies | The Bank's Environmental Policy and/or project-specific provisions of the Public Information Policy.                             |
| Third party             | An individual or group that is not part of either the Bank or an affected group, such as a government agency or project sponsor. |

## Part 2

# Rules of Procedure

## Introduction

The Independent Recourse Mechanism (IRM) was approved by the EBRD Board of Directors on 29 April 2003. The IRM is a system of processes and procedures designed to provide a mechanism for the independent review of complaints from local groups on whose common interest a Bank-financed project has, or is likely to have, a direct adverse and material effect. The IRM is thus aimed at enhancing the Bank's accountability. The IRM has two functions: Compliance Review and Problem-solving.

- The Compliance Review function focuses on the identification and review of instances of non-compliance by the EBRD with specified EBRD policies. At the inception of the IRM, the policies that are within the scope of this function are (a) the Environmental Policy; and (b) the project-specific provisions of the Public Information Policy but not including any other policies or strategies which may be referred to therein.
- The Problem-solving function focuses on the identification and implementation of initiatives aimed at resolving the issues underlying a complaint. Those initiatives may include independent fact-finding, mediation, conciliation, dialogue facilitation, investigation and reporting.

Without compromising the integrity or comprehensiveness of IRM processes, care shall be taken to ensure that IRM investigations, assessments, reviews and initiatives are carried out as expeditiously as possible and to minimise any disruption that they may cause to the daily operations of the Bank, project sponsors and Bank clients.

These Rules of Procedure set out detailed rules governing how complaints may be filed with the IRM and how such complaints are to be assessed and, if found eligible, processed by the IRM through Compliance Reviews, Problem-solving Initiatives or a combination of both. They also set out requirements relating to timelines, reports, disclosure of and access to information, and other issues relevant to the IRM and its processes.

## I. Definitions

1. **Definitions.** When used in these Rules, the following terms shall have the following meanings:
  - a. “Affected Group” means a group of two or more individuals from an Impacted Area who have a common interest and claim that a Project has, or is likely to have, a direct adverse and material effect on their common interest.
  - b. “Authorised Representative(s)” means one or two individuals duly appointed to represent, and act on behalf of, an Affected Group in relation to a Complaint.
  - c. “Bank” or “EBRD” means the European Bank for Reconstruction and Development.
  - d. “Bank Operation” means the provision of financing by the Bank, whether such financing is funded by the Bank’s ordinary or Special Fund resources or by cooperation funds under the EBRD’s administration.
  - e. “Board” means the Board of Directors of the Bank.
  - f. “Business Day” means a day on which the Bank is open for business in London.
  - g. “Chief Compliance Officer” means the Chief Compliance Officer of the Bank, or in the absence of the Chief Compliance Officer, the Acting Chief Compliance Officer.
  - h. “Complaint” means a written request received from an Affected Group as described in section II of the Rules of Procedure.
  - i. “Compliance Review” means a review carried out in accordance with these Rules to determine whether the Bank has complied with a Relevant EBRD Policy or Policies.
  - j. “Compliance Review Expert” means an Expert designated to carry out a Compliance Review.
  - k. “Eligibility Assessment” means the process, conducted jointly by the Chief Compliance Officer and the Eligibility Assessment Expert, by which the eligibility of a Registered Complaint is considered.
  - l. “Eligibility Assessment Expert” means the Expert designated to carry out, jointly with the Chief Compliance Officer, the Eligibility Assessment.
  - m. “Eligibility Assessment Report” means a report, prepared jointly by the Eligibility Assessors, which sets out their recommendations on whether a Registered Complaint is eligible and, if eligible, what course of action should be taken.
  - n. “Eligibility Assessors” means the Chief Compliance Officer and the Eligibility Assessment Expert.
  - o. “Expert” means an individual on the Roster, and may include, if the context requires, an expert appointed on an ad hoc basis pursuant to paragraph 59.
  - p. “Impacted Area” means any geographical area which is, or is likely to be, affected by a Project.
  - q. “IRM” means the Independent Recourse Mechanism.
  - r. “IRM Officers” means, as the context may require, the Experts, when appointed to conduct an Eligibility Assessment, a Compliance Review or a Problem-solving Initiative, the Problem-solving Facilitators, and/or the Chief Compliance Officer.
  - s. “President” means the President of the Bank.
  - t. “Problem-solving Completion Report” means the report prepared by the Chief Compliance Officer and/or the Problem-solving Facilitator, upon completion of a Problem-solving Initiative as set out in paragraph 48.
  - u. “Problem-solving Facilitator” means an individual designated to carry out one or more Problem-solving Initiatives.
  - v. “Problem-solving Initiative” means a process such as mediation, conciliation, dialogue facilitation, independent investigation or fact-finding, or reporting, designed to assist in the resolution of the issues underlying an eligible Complaint, other than those issues which are subject to a Compliance Review.

- w. “Problem-solving Initiative Report” means a report prepared by the Chief Compliance Officer in respect of a Complaint which the Eligibility Assessors consider to be eligible as set out in paragraph 44
- x. “Project” means a specific project or technical assistance that is designed to fulfil the Bank’s purpose and functions, and in support of which a Bank Operation is outstanding or may reasonably be expected.
- y. “Register” means the public register to be established and maintained to track the receipt and processing of Complaints as described in sub-paragraph 50(c).
- z. “Registered Complaint” means a Complaint which the Chief Compliance Officer has registered, in accordance with paragraph 17, as being eligible for further processing.
- aa. “Relevant EBRD Policy” means all or any one of the following: the Environmental Policy, the project specific provisions of the Public Information Policy, and all or part of any Bank policy which may be hereafter adopted by the Board and specifically designated to be within the purview of the IRM compliance review function, together with any related implementing procedure.
- bb. “Relevant Parties or Party” means, in relation to any Complaint, the relevant Bank department or unit, the Project sponsor, the beneficiary of the Bank Operation and/or any entity or public authority actively involved in the specific aspects of the Project that are the subject of such Complaint.
- cc. “Roster” means the group of individual independent experts appointed by the Bank to assist in conducting Eligibility Assessments and Compliance Reviews.
- dd. “Terms of Reference” means the terms of reference for a Compliance Review or for a Problem-solving Initiative, as the case may be.

## II. Form and contents of Complaints

2. **Complainant.** A Complaint may only be filed by an Affected Group.
3. **Form of a Complaint.** A Complaint must be in the form of a written communication signed by the Authorised Representative of the Affected Group.
4. **Language of a Complaint.** Complaints may be submitted in the native language of the Affected Group or in any one of the Bank’s four working languages (English, French, German or Russian).
5. **Delivery to the EBRD principal office.** Complaints may be delivered by hand, mail, fax or e-mail to:
 

IRM c/o Chief Compliance Officer  
European Bank for Reconstruction  
and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom.

Fax: +44 (0) 20 7338 7633  
E-mail: irm@ebrd.com

Where a Complaint has been delivered by fax or e-mail, an acknowledgement signed by the Authorised Representative, together with evidence of the Authorised Representative’s power to represent and act on behalf of the Affected Group, must also be sent by mail or hand delivered to the IRM c/o Chief Compliance Officer at the Bank’s principal office or at one of the Bank’s Resident Offices. A Complaint shall be deemed received when the Chief Compliance Officer has received the signed written communication or acknowledgement, as the case may be, at the Bank’s principal office.
6. **Delivery to an EBRD Resident Office.** A Complaint may also be hand delivered to the IRM c/o Chief Compliance Officer at one of the Bank’s Resident Offices, which shall forward it to the Chief Compliance Officer at the Bank’s principal office as soon as possible, and in any event within four (4) Business Days. The Complaint shall

be deemed received once it is received by the Chief Compliance Officer at the Bank's principal office.

7. **Other communications.** Any written communication containing grievances in relation to a Bank Operation or a Project which is addressed to the President and is, on its face, manifestly a Complaint within the meaning of these Rules, shall be promptly forwarded to the Chief Compliance Officer for processing in accordance with these Rules. The Complaint shall be deemed received once it is received by the Chief Compliance Officer at the Bank's principal office. Any other communication shall not be processed as a Complaint and shall be referred to the relevant department for further processing in accordance with the Bank's procedures and practices.
8. **Mandatory contents of a Complaint.** A Complaint must contain the following information:
  - a. the date of the Complaint;
  - b. the name and contact details of each member of the Affected Group;
  - c. the name and contact details of the Authorised Representative of the Affected Group and evidence of his or her power to represent and to act on behalf of the Affected Group in relation to the Complaint;
  - d. if the Authorised Representative is not locally based, evidence that there is no adequate or appropriate representation in the local community and evidence that the Authorised Representative is fluent in the native language of the Affected Group;
  - e. if two Authorised Representatives are appointed by the Affected Group, an indication of whether each Authorised Representative is empowered to act separately or not;
  - f. the name or a summary description of the Project;
  - g. a description of why and how the Project has, or is likely to have, a direct adverse and material effect on the common interest of the Affected Group;
  - h. a description of the good faith efforts used by the Affected Group to resolve the issue with the Bank and any other Relevant Party; and an explanation of why the Affected Group believes that there is no reasonable prospect of resolving the issue through an effective dialogue with the Bank or such other Relevant Party; and
  - i. copies of all material correspondence and/or notes of meetings with the Bank and any other Relevant Party, as well as any other relevant material supporting the Complaint.
9. **Optional contents of a Complaint.** In addition, a Complaint may, and should preferably, contain the following information:
  - a. for ease of reference, an indication that the Complaint is filed in accordance with these Rules.
  - b. if applicable, an indication of whether the identity of some or all of the members of the Affected Group needs to be kept confidential, and if so, the reasons for such confidentiality;
  - c. if possible, the name or a summary description of the relevant Bank Operation;
  - d. if possible, a description of the steps the Affected Group expects to be taken by the Bank or any one or more of the other Relevant Parties in order to address the direct adverse and material effect that the Project has, or is likely to have, on the common interest of such group;
  - e. if possible, an indication of the steps the Affected Group expects to be taken by the IRM, e.g., a Compliance Review or a Problem-solving Initiative;
  - f. if possible, an indication of any Relevant EBRD Policy that may have been violated and an indication of the EBRD action, or failure to act when required, that has caused such violation;
  - g. if applicable, confirmation that the Affected Group or another group has filed (or is likely to file) the same or a similar grievance in respect of the Project with another party,

- institution or administrative body, and the details of any such filing; and
- h. if applicable, an indication of the language(s) in which the Affected Group expects to receive written communications in relation to the Complaint, subject to the provisions of paragraph 12.

### III. Processing of Complaints

#### 10. **Effect of a Complaint on a Bank Operation.**

Notwithstanding any other provision of these Rules, the filing, registration, assessment or processing of a Complaint or the carrying out of a Compliance Review or Problem-solving Initiative shall not have the effect of suspending processing of, or disbursements in respect of, the relevant Bank Operation. If at any time during the processing of a Complaint, an IRM Officer is of the opinion that serious, irreparable harm shall be caused by the continued processing of the Bank Operation or implementation of the Project, such IRM Officer may make an interim recommendation to suspend further work or disbursement. Such recommendation shall be considered in light of any contractual obligation or other relevant policies of the Bank and the decision concerning such recommendation shall be made:

- a. by the relevant Bank officer or body vested with the power to make such a decision; and
- b. only if the Bank has the right to suspend or cancel in accordance with the terms of any applicable loan and/or investment and/or other agreement.

#### 11. **Communications with Affected Groups.**

Any communication from an Affected Group to the IRM shall be deemed validly delivered if delivered by its Authorised Representative and once it is received by the Chief Compliance Officer at the Bank's principal office. Any communication from the IRM to an Affected Group shall be deemed validly delivered if delivered to its Authorised Representative. The Authorised Representative shall be required to ensure that any material communication

from the IRM is made available to all members of the Affected Group. Nothing in this paragraph shall prevent an IRM Officer from communicating with any individual of the Affected Group directly.

#### 12. **Language of written communications.**

In all cases, written communications in response to a Complaint shall be in English. If requested by the Affected Group, written communications in response to a Complaint may also be:

- a. in one of the Bank's other three working languages (French, German or Russian); or
  - b. in the language of the Complaint, if the Chief Compliance Officer determines in his or her discretion and with due regard to considerations of transparency, cost and efficiency, that such a request may be reasonably accommodated.
13. **Related Complaints.** Where two or more Complaints are received from the same or from different Affected Groups in relation to the same Project or Bank Operation and the substance of the Complaints is reasonably related, the Chief Compliance Officer may require either that the Complaints be reviewed together or that the further processing of subsequent Complaints be held in abeyance pending the results of the review of the initial Complaint. The Chief Compliance Officer may adjust the time periods for responding to any of the Complaints in order to take into account the joint review of the Complaints or the holding in abeyance of the subsequent Complaints. Where two or more Complaints from different groups are reviewed together, the Chief Compliance Officer may require that the Affected Groups nominate two Authorised Representatives to represent, and be able to act on behalf, of all Affected Groups in relation to the Complaints.
14. **Time periods.** Any time period referred to in these Rules may be extended by the Chief Compliance Officer for as long as is strictly necessary to ensure full and proper investigation, assessment, review and initiative. Any such extension shall be

promptly notified to the Affected Group and all Relevant Parties. In considering whether any extension is required, the Chief Compliance Officer shall take into account, *inter alia*, 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 Experts and the need for translation of communications.

15. **Cooperation with other IFIs and institutions.** Where a complaint, grievance or request has been filed by an Affected Group, or part thereof, with another international financial institution or entity, the Bank and IRM Officers shall work in close cooperation with such international financial institution or entity to avoid duplication of efforts in the investigation or processing of a Complaint.

#### IV. Eligibility of Complaints

16. **Manifest ineligibility.** Within five (5) Business Days of the receipt of a Complaint, the Chief Compliance Officer shall consider the Complaint in order to determine whether or not it is, on its face, manifestly ineligible. This shall be the case, in particular, where the information required under paragraph 8 is not in form and substance satisfactory or sufficient to allow processing of the Complaint.

If the Complaint is manifestly ineligible, the Chief Compliance Officer shall, within five (5) Business Days of the receipt of the Complaint, send out a written notice to the Affected Group that the Complaint may not be registered, indicating the applicable reason or reasons for non-registration.

17. **Registration of a Complaint.** If the Complaint is not manifestly ineligible, the Chief Compliance Officer shall register it in the Register and shall notify the Affected Group and any Relevant Party. Upon registration of a Complaint, the Chief Compliance Officer shall designate one of the Experts to assist in making an Eligibility Assessment of the Registered Complaint and the two of them shall work jointly as

Eligibility Assessors. Such designation shall be made as soon as possible after the Complaint has been registered.

18. **Eligibility Assessment.** The Eligibility Assessors shall make an Eligibility Assessment of the Registered Complaint within thirty (30) Business Days of the receipt of the Complaint or twenty-five (25) Business Days of the acceptance of appointment by the Eligibility Assessment Expert, whichever is longer. A Registered Complaint shall be eligible for further processing if:
- a. the Complaint relates to a Project, subject to either of the following conditions:
    - i. the Bank must have provided – and not withdrawn – a clear indication of its interest in financing the Project (such indication would usually be clearly provided if the Bank Operation has passed Approval by the Bank’s Technical Cooperation Committee or Final Review by the Bank’s Operations Committee); or
    - ii. the Bank must maintain a financial interest in the Project and the Complaint must have been filed within twelve (12) months after the date of the physical completion of the Project or, where physical completion is not an appropriate measure, within twelve (12) months after the date of the Bank Operation final disbursement or the date of cancellation of the undisbursed amount (with all such dates being determined by the Bank’s team in charge of the Bank Operation).
  - b. the Registered Complaint is from an Affected Group and there is prima facie evidence that the Project has, or is likely to have, a direct adverse and material effect on such group’s common interest;
  - c. the Affected Group has initiated good faith efforts to resolve the issue with the Bank and other Relevant Parties and there is no reasonable prospect of resolving the issue through the continuation of such efforts; and
  - d. the Complaint is not specifically prohibited under paragraph 19.

19. **Ineligible Complaints.** Notwithstanding paragraph 18, a Complaint shall not be eligible for IRM processing to the extent that:
- a. it is frivolous or malicious;
  - b. its primary purpose is to seek competitive advantage through the disclosure of information or through impeding or delaying the Project or the Bank Operation;
  - c. it relates to procurement matters (in which case the Chief Compliance Officer shall redirect the Complaint to the proper office in the Bank);
  - d. it relates to an allegation of fraud or corruption (in which case the Chief Compliance Officer shall redirect the Complaint to the proper office in the Bank);
  - e. 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;
  - f. it relates to the adequacy or suitability of EBRD policies; or
  - g. it relates to matters upon which an Eligibility Assessment Report has already been approved by the Board or the President, as the case may be, unless there is new evidence or new circumstances not known at the time of the previous review.
20. **Notice of potential ineligibility.** If the Eligibility Assessors are minded to recommend that the Complaint be declared ineligible, notice thereof shall be given to the Affected Group, which shall include a summary of the reasons for making such a recommendation. Such notice shall be given within fifteen (15) Business Days of the receipt of the Complaint or ten (10) Business Days of the acceptance of appointment by the Eligibility Expert, whichever is longer. A copy of such notice shall be provided to any Relevant Party. The Affected Group shall have ten (10) Business Days, if it wishes to respond and comment on the recommendation.
21. **Confidentiality.** If the Complaint contains a request under sub-paragraph 9(b), the Eligibility Assessors shall determine whether such confidentiality is warranted. All reasonable efforts shall be used to maintain the identities of members of the Affected Group confidential when requested. If in the reasonable opinion of the Eligibility Assessors, the review process cannot proceed with the requested confidentiality being maintained, the Affected Group shall be notified accordingly. The Eligibility Assessors shall then either agree the terms of proceeding with the Affected Group or terminate the process if it is not possible to agree upon such terms.
22. **Whether a Compliance Review is warranted.** If the Eligibility Assessors are minded to recommend that the Complaint be declared eligible, they shall continue to review the Complaint for up to thirty (30) Business Days of the receipt of the Complaint or twenty-five (25) Business Days of the acceptance of appointment by the Eligibility Assessment Expert, whichever is longer to determine whether the Complaint is eligible for a Compliance Review. The objective of a Compliance Review shall be to establish if, and to understand why, any EBRD action, or failure to act, in respect of a Bank Operation has involved one or more material violations of policies in accordance with paragraphs 23 and 24, and, if such is the case, to recommend remedial changes in accordance with paragraph 34. If the Eligibility Assessors are minded to recommend that a Compliance Review is not warranted, as part of their assessment, the Eligibility Assessors shall give the Affected Group an opportunity of not less than ten (10) Business Days to comment upon the finding that a Compliance Review is not warranted and include such comments in the Eligibility Assessment Report. The period of ten (10) Business Days, where possible, shall be included in the thirty (30) or twenty-five (25) Business Day period referred to above. However, where the Eligibility Assessors require the full thirty (30) or twenty-five (25) Business

Days, as the case may be, to conclude their assessment, the ten (10) Business Day period shall follow once the Eligibility Assessors have arrived at their conclusions.

**23. Material violation of a Relevant EBRD Policy.**

The Eligibility Assessors shall consider whether any EBRD actions, or failure to act, in respect of the Bank Operation may have involved a material violation of a Relevant EBRD Policy and, in such a case, shall conclude that a Compliance Review is warranted. In considering whether there may have been such a violation, the Eligibility Assessors shall examine:

- a. the Environmental Policy that was in effect on the date the Bank Operation was submitted to Concept Review; and
- b. in respect of any other Relevant EBRD Policy, the Policy that was in effect on the date on which the relevant act was taken, or if an act was required to be taken and was omitted, the date on which such act should have been taken.

**24. Material violation of other EBRD policies.**

If the Eligibility Assessors conclude that a Compliance Review is warranted in accordance with paragraph 23, they shall also examine whether any EBRD action, or failure to act, in respect of the Bank Operation may have involved a material violation of any other EBRD policy (except those referred to in sub-paragraph 19(e)), and any related implementing procedures. If so, the Eligibility Assessors may recommend the inclusion of any such possible violation within the scope of the Compliance Review.

**25. No Compliance Review.** Notwithstanding any other provision of these Rules, the Eligibility Assessors shall not conclude that a Compliance Review is warranted if the Complaint:

- a. relates to the actions that are the responsibility of parties other than the Bank, and do not otherwise involve a Bank action under, or the Bank's failure to take

action that is required by, a Relevant EBRD Policy; or

- b. relates to the laws, policies and regulations of the relevant country of operations, and does not otherwise involve a material violation of a Relevant EBRD Policy.

**26. Conduct of an Eligibility Assessment.**

Where possible, an Eligibility Assessment shall be conducted through a desk review. However, the Eligibility Assessors may also:

- a. solicit additional oral or written information from, or hold meetings with, the Affected Group and any Relevant Party;
- b. undertake Project site visits;
- c. retain additional expertise in accordance with paragraph 64; and
- d. take any other action as may be required to complete the Eligibility Assessment within the required time frame.

**27. Eligibility Assessment Report.** Within thirty (30) Business Days of the receipt of a Complaint or twenty-five (25) Business Days of the acceptance of appointment of the Eligibility Assessment Expert, whichever is longer, the Eligibility Assessors shall set out their findings and recommendations in an Eligibility Assessment Report. The Eligibility Assessment Report shall:

- a. include a summary discussion of the relevant facts, the respective positions of any Relevant Party in relation to the subject matter of the Complaint and the steps taken to conduct the Eligibility Assessment, and attach a copy of the original Complaint; and
- b. recommend to declare the Complaint:
  - i. ineligible and therefore, dismiss the Complaint. In such case, the Eligibility Assessment Report shall include any comments received from the Affected Group or any Relevant Party in accordance with paragraph 20; or
  - ii. eligible, but not warranting a Compliance Review, without prejudice to the ability of the Chief Compliance Officer to recommend a Problem-solving Initiative in accordance

- with paragraph 44. In such case, the Eligibility Assessment Report shall include any comments received from the Affected Group or any Relevant Party in accordance with paragraph 22; or
- iii. eligible and warranting a Compliance Review. In such case, the recommendation shall include Terms of Reference (which shall set out the scope and time frame of the Compliance Review and shall provide an estimate of the budget and a description of additional resources required to complete the review) and shall identify an Expert to conduct the Compliance Review. Such a recommendation shall be without prejudice to the ability of the Chief Compliance Officer to recommend a Problem-solving Initiative in accordance with paragraph 44.
28. **No consensus between Eligibility Assessors.** If the Eligibility Assessors do not reach consensus on the contents of the Eligibility Assessment Report, each Eligibility Assessor shall record his or her views on the points of divergence.
29. **Impartiality of an Eligibility Assessment Report.** Recommendations and findings of an Eligibility Assessment Report shall be based only on the facts relevant to the Complaint under consideration and shall be strictly impartial.
30. **Submission of the Eligibility Assessment Report.** The Eligibility Assessment Report shall be submitted by the Eligibility Assessors for consideration and decision:
- a. to the President, with a copy to the Board for information, if the relevant Bank Operation does not require Board approval or has not been approved by the Board at the time the Eligibility Assessment Report is ready for submission, or
  - b. to the President for transmittal to the Board, if the relevant Bank Operation has been approved by the Board at the time the Eligibility Assessment Report is ready for submission.
31. **Contents of an eligibility decision.** In considering the Eligibility Assessment Report, the Board or the President, as the case may be, may:
- a. approve the recommendation(s); or
  - b. reject the recommendation(s); or
  - c. remit the Complaint back to the Eligibility Assessors (or to a different Expert) to reassess the recommendation regarding the eligibility of the Complaint, the need for a Compliance Review, the designation of the Expert and/or the Terms of Reference for the Compliance Review, with a new recommendation, if any, being submitted to the Board or the President, as the case may be.
32. **Publicity of an eligibility decision.** Any decision made by the President pursuant to sub-paragraph 30(a) shall be immediately copied to the Board. Subject to the provisions of the Public Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Eligibility Assessment Report and the decision made by the Board or the President, as the case may be, pursuant to paragraph 31, shall be promptly communicated to the Affected Group and any Relevant Party, and a summary of the decision and the Eligibility Assessment Report shall be published on the IRM web site.
- ## V. Compliance Reviews
33. **Conduct of a Compliance Review.** The Compliance Review Expert shall conduct the Compliance Review in accordance with the relevant Terms of Reference and within the required time frame. The Compliance Review Expert shall take any appropriate steps required to conduct the Compliance Review, and in particular may:
- a. solicit additional oral or written information from, or hold meetings with, the Affected Group and any Relevant Party;
  - b. undertake Project site visits;

- c. retain additional expertise in accordance with paragraph 64; and
- d. take any other action as may be required to complete the Compliance Review within the required time frame.

Prior to taking such steps, the Compliance Review Expert shall discuss the budget implications and administrative requirements of such steps with the Chief Compliance Officer.

**34. Contents of the Compliance Review Report.**

Upon completion of his or her investigations, the Compliance Review Expert shall report his or her findings and recommendations in a Compliance Review Report, which shall:

- a. include a summary discussion of the relevant facts, the respective positions of any Relevant Party in relation to the subject matter of the Complaint and the steps taken to conduct the Compliance Review;
- b. set out the findings of the Compliance Review Expert which, unless otherwise provided in the Terms of Reference, shall be limited to determining whether or not any EBRD action, or failure to act, in respect of a Bank Operation have involved one or more material violations of policies in accordance with paragraphs 23 and 24;
- c. if the Compliance Review Report concludes that any EBRD action, or failure to act, in respect of a Bank Operation has involved one or more material violations of policies in accordance with paragraphs 23 and 24, recommend:
  - i. any remedial changes to systems or procedures within the EBRD to avoid a recurrence of such or similar violations;
  - ii. any remedial changes in the scope or implementation of the Bank Operation, subject to consideration of any restrictions or arrangements already committed to by the Bank or any other Relevant Party in existing Project-related agreements; and/or
  - iii. any steps to be taken to monitor the implementation of the changes referred to in (i) and (ii) above, and the person in

charge of such monitoring (who shall be the Chief Compliance Officer unless the Board or the President, as the case may be, decides otherwise); and

- d. attach a copy of the original Complaint, the response of the relevant Bank department(s) and a list of supporting documents relied upon in the investigation.

If recommendations set out in subparagraph 34(c) are included in the Compliance Review Report, the Compliance Review Report shall include an assessment from the relevant Bank department setting out whether such recommendations are appropriate and if so, a timetable and an estimate of the human and financial resources required to implement such recommendations, if approved by the Board or the President, as the case may be.

**35. No award of compensation.**

The Compliance Review Report may not recommend the award of compensation or any other benefits to Affected Groups beyond that which may be expressly contemplated in a Relevant Bank Policy.

**36. Impartiality of the Compliance Review Report.**

Prior to submitting the Compliance Review Report to the Chief Compliance Officer for transmittal, the Compliance Review Expert shall ensure that all factual information relating to the Affected Group or any Relevant Party is verified with such party. Recommendations and findings of a Compliance Review Report shall be based only on the facts relevant to the Complaint under consideration and shall be strictly impartial.

**37. Submission of the Compliance Review Report.**

The Compliance Review Report shall be submitted by the Compliance Review Expert for consideration and decision:

- a. to the President, with a copy to the Board for information, if the relevant Bank Operation does not require Board approval or has not been approved by the Board at the time the Compliance Review Report is ready for submission, or

- b. to the President for transmittal to the Board, if the relevant Bank Operation has been approved by the Board at the time the Compliance Review Report is ready for submission.

**38. Communication of the Compliance Review Report.** Subject to the provisions of the Public Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Compliance Review Report shall be made available to the Affected Group and any Relevant Party at the same time as it is submitted for consideration and decision in accordance with paragraph 37.

**39. Contents of a Compliance Review decision.** The Board or the President, as the case may be, shall decide whether or not to accept the findings and recommendations in the Compliance Review Report. Any decision made by the President shall be immediately copied to the Board.

**40. Publicity of a Compliance Review decision.** Subject to the provisions of the Public Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the decision made by the Board or the President, as the case may be, pursuant to paragraph 39 shall be promptly communicated to the Affected Group and any Relevant Party. Subject to the same provisions, such decision and the Compliance Review Report shall be published on the IRM web site.

**41. Monitoring of changes.** The person in charge of monitoring the implementation of the changes referred to in sub-paragraph 34(c), shall report on such implementation to the President or the Board, as the case may be, as often as required and in any event not less than once a year. Any report to the President shall be immediately copied to the Board.

## VI. Problem-solving Initiatives

**42. Whether a Problem-solving Initiative is warranted.** If the Eligibility Assessors are minded to recommend that a Complaint be declared eligible, the Chief Compliance Officer shall consider whether a Problem-solving Initiative should be recommended. The objective of a Problem-solving Initiative is to restore an effective dialogue between the Affected Group and any Relevant Party with a view to resolving the issue or issues underlying a Complaint, without seeking to attribute blame or fault to any such party. A Problem-solving Initiative may be conducted only if the Complaint has been declared eligible in accordance with paragraph 31, but irrespective of whether a Compliance Review is conducted.

**43. When a Problem-solving Initiative is warranted.** In considering whether a Problem-solving Initiative should be recommended, the Chief Compliance Officer shall use the same investigative methods as provided in paragraph 33 and shall take into consideration:

- a. whether the Problem-solving Initiative may assist in addressing undue, incidental effects resulting from Project conditionalities agreed in the context of the Bank Operation;
- b. whether the Problem-solving Initiative is likely to have a positive result;
- c. whether one or more specific Problem-solving Initiatives (e.g., independent fact-finding, mediation, conciliation, dialogue facilitation, investigation and reporting) are more appropriate for the issue to be resolved and whether the Affected Group and the Relevant Parties are amenable to such Problem-solving Initiatives;
- d. whether the Bank has or continues to have sufficient leverage to influence change (e.g., as an equity investor, the Bank may only be able to influence change as any other minority shareholder);
- e. whether the conduct of a Problem-solving Initiative may interfere with the conduct of a Compliance Review, if any;

- f. whether the Problem-solving Initiative may duplicate, or interfere with, or may be impeded by, any other process pending before a court, arbitration tribunal or review body (such as an equivalent mechanism at another co-financier) in respect of the same matter or a matter closely related to the Complaint; and
- g. any other relevant matters.

**44. Contents of a Problem-solving Initiative Report.** The Chief Compliance Officer shall prepare a separate Problem-solving Initiative Report within forty-five (45) Business Days of the receipt of the Complaint and shall:

- a. include the considerations on which the recommendations are based;
- b. include any relevant comments from the Affected Group and any Relevant Party;
- c. recommend whether a Problem-solving Initiative should be initiated, and
- d. if the recommendation is to proceed with a Problem-solving Initiative, include Terms of Reference (which shall set out the scope and time frame of such Problem-solving Initiative and shall provide an estimate of the budget and a description of additional resources required to complete the initiative) and identify the person or group who could act as Problem-solving Facilitator; such Terms of Reference shall be prepared with due regard to the Terms of Reference for any concomitant Compliance Review in respect of the same Project.

**45. Decision to initiate a Problem-solving Initiative.** All Problem-solving Initiative Reports shall be submitted for the President's consideration and decision. Subject to the provisions of the Public Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Problem-solving Initiative Report and the President's decision shall be made promptly available to the Affected Group and any Relevant Party. A summary of the decision

and the Problem-solving Initiative Report shall be published on the IRM web site.

**46. Board information about a decision to initiate a Problem-solving Initiative.** If the Bank Operation is subject to Board approval but has not been approved by the Board at the time of the President's decision, such decision, together with the Problem-solving Initiative Report, shall be attached to the relevant Board Operation Report when distributed. If the Bank Operation does not require Board Approval or has been approved by the Board at the time of the President's decision, such decision, together with the Problem-solving Initiative Report, shall be distributed to the Board for information.

**47. Conduct of a Problem-solving Initiative.** A Problem-solving Initiative shall be conducted in accordance with the relevant Terms of Reference. Persons to be selected to conduct a Problem-solving Initiative may be an Expert or such other person as the Chief Compliance Officer considers appropriate. The Chief Compliance Officer himself or herself may conduct a Problem-solving Initiative. The appointment of the Problem-solving Facilitator shall be approved by the President upon the recommendation of the Chief Compliance Officer.

**48. Problem-solving Completion Report.** Once the Problem-solving Initiative is completed, its findings and/or results shall be set out in a Problem-solving Completion Report, which shall be prepared by the Chief Compliance Officer and/or the Problem-solving Facilitator (as provided in the relevant Terms of Reference), and shall be submitted to the President. The Problem-solving Completion Report shall also be made available to the Board and to the public as follows:

- a. If the Bank Operation is subject to Board approval but has not been approved by the Board at the time of submission, the Problem-solving Completion Report shall be attached to the relevant Board Operation

Report when submitted. If the Bank Operation does not require Board Approval or has been approved by the Board at the time of the President's decision, the Problem-solving Completion Report shall be distributed separately to the Board for information; and

- b. Subject to receiving the prior approval of the parties to a Problem-solving Initiative and the provisions of the Public Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Problem-solving Completion Report shall be published on the IRM web site. If the parties to the Problem-solving Initiative do not agree to make the report public, the Chief Compliance Officer shall include a summary of the processes followed during and the general outcome of the Problem-solving Initiative in the Register.

49. **Monitoring of ongoing activities.** Where a Problem-solving Initiative involves monitoring of ongoing activities, the Chief Compliance Officer may delegate such monitoring, the responsibility for which shall remain with the Chief Compliance Officer, to such other person or persons as the Chief Compliance Officer considers appropriate, such as an Expert, a consultant, a local governmental or non-governmental organisation, civil society group, industry body or other international financial institution.

## VII. Administration of the IRM

50. **Responsibilities of the Chief Compliance Officer.** The Chief Compliance Officer shall have overall responsibility for the day-to-day operations and external relations of the IRM, which shall include, but not be limited to:

- a. arranging for the selection of Experts as required upon resignation or expiration of an Expert's term of appointment in accordance with the Bank's procurement rules applicable to the selection of consultants and preparing the President's

Recommendation and reports to the Board concerning the appointment and removal of Experts;

- b. establishing such administrative procedures and guidelines necessary for the proper functioning of the IRM and the Roster;
- c. overseeing the establishment and maintenance of a Register open to the public on the IRM web site, which shall contain significant data concerning the delivery and registration of Complaints, as well as the conduct and outcome of Compliance Reviews and Problem-solving Initiatives;
- d. maintaining a documentary record for each Complaint, as well as a library of all materials relevant to the functioning of the IRM;
- e. sending out notices of Registered Complaints to all Relevant Parties; noting the progress of each Complaint on the public Register and, if required by the circumstances, providing additional updates on such progress to the Affected Group and Relevant Parties; responding to requests for information from Affected Groups in respect of a particular Complaint;
- f. dealing with any requests for information about the IRM; publicising and being the spokesperson of the IRM; establishing and maintaining an IRM web site;
- g. ensuring that all timeframes are met and approving any extensions in accordance with paragraph 14; liaising with other IRM Officers, and ensuring that such IRM Officers fulfil their responsibilities generally and in accordance with any applicable Terms of Reference;
- h. without prejudice to the powers of the Board and the President under these Rules, taking any steps required to ensure the integrity of IRM processes, including the replacement of any Expert whose impartiality or independence in any Eligibility Assessment or in any Compliance Review is in doubt with another Expert;

- i. arranging for any translations of Complaints, reports or other documents that may be required;
  - j. providing administrative and logistical support to other IRM Officers, including without limitation, making and supervising arrangements for meetings, site visits and IRM proceedings in London or elsewhere;
  - k. administering the budgetary allocations for the IRM;
  - l. overseeing the establishment and maintenance of one or more databases of consultants, researchers, technical experts, mediators, conciliators, facilitators, translators, interpreters, etc., whose services may be called upon in connection with Eligibility Assessments, Compliance Reviews and Problem-solving Initiatives; and
  - m. undertaking any other tasks that may be necessary or incidental to the administration of the IRM and/or the Roster.
51. **Delegation by the Chief Compliance Officer.** In his or her absence, the Chief Compliance Officer may delegate his or her authority to members of staff in his or her office.
52. **Appointment of Experts to the Roster.** The Roster shall comprise up to ten (10) individuals selected in accordance with the Bank's procurement rules applicable to the selection of consultants and appointed by the Board on the recommendation of the President. The remuneration and other terms of appointment of Experts shall be determined by the President, such terms to include the right of the Board to remove an Expert without cost or liability to the Bank.
53. **Term of Experts.** Except for the first Experts, who shall be appointed for terms of three (3), four (4) and five (5) years, Experts shall be appointed to the Roster for a term of three (3) years. The term of any Expert may be renewed for one or more successive periods of three (3) years, subject to the Expert agreeing to the continuation of the appointment. If an Expert is engaged in a Compliance Review at the time the Expert's term expires, the term shall be extended for such period as may be necessary to complete the Compliance Review, unless the Board removes the Expert in accordance with paragraph 61.
54. **Restriction on Bank employment.** An Expert shall 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 to the Roster, and, if called upon to work for the IRM during his or her term, shall 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.
55. **Capacity of Experts.** When performing IRM functions, Experts shall serve in their individual, personal capacity and shall 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. Experts shall be required to act impartially and independently and shall not participate in the Eligibility Assessment or Compliance Review of any Complaint related to a matter in which they have or had a personal interest or significant involvement in any capacity. Experts shall immediately disclose to the Chief Compliance Officer:
- a. any circumstances which might be deemed to affect their impartiality or independence in the discharge of their IRM functions; and
  - b. any attempt to interfere with or improperly influence the discharge of their IRM functions.
56. **No communications by Experts.** Except as authorised by the Board or the President, as the case may be, Experts shall refrain from making any statement, whether private or public, to parties other than the Affected Group and any Relevant Party on matters under consideration by the IRM. Nothing in this paragraph shall prevent an Expert from

undertaking any type of public consultation that he or she considers necessary as part of a Compliance Review or Problem-solving Initiative, as the case may be.

**57. Training of Experts in EBRD matters.**

Experts shall be required to attend meetings organised by the Chief Compliance Officer for at least 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 IRM. The Chief Compliance Officer shall notify the Experts of any such meetings and shall set the agenda.

**58. Access to documentary records.** The

Experts shall have full access to such documentary records maintained pursuant to sub-paragraph 50(d). Whenever an Expert obtains additional materials in the course of an Eligibility Assessment or Compliance Review, the Expert shall immediately provide a copy of such material for safekeeping in the documentary record.

**59. Ad hoc Experts.** If at any time no Expert from the Roster is available either to undertake or to complete an assignment, the Chief Compliance Officer may recommend the ad hoc designation of an expert who is not on the Roster but meets the same eligibility criteria. Such expert shall be appointed, on a no-objection basis, by the Board upon the recommendation of the President, to undertake or complete the specific assignment. Such ad hoc designations may be made on a direct selection basis, regardless of the expected value of the contract of appointment.

**60. Replacement of Experts.** If an Expert appointed to conduct an Eligibility Assessment or a Compliance Review resigns or is unable to complete such assignment, the Chief Compliance Officer shall:

- a. if such event occurs during an Eligibility Assessment, be solely responsible for the completion of such Eligibility Assessment; and
- b. if such event occurs during a Compliance Review, make a recommendation to the

Board or the President, as the case may be, on a proposed course of action to ensure the prompt completion of the Compliance Review.

**61. Removal of Experts.** Experts serve at the pleasure of the Board and may be removed from the Roster by the Board at any time, with or without cause.

**62. Terms of appointment of Problem-solving Facilitators.**

When performing IRM functions, Problem-solving Facilitators appointed from outside the Bank shall serve in their individual, personal capacity and shall 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. Problem-solving Facilitators shall be required to act impartially and independently and shall not participate in a Problem-solving Initiative in which they have or had a personal interest or significant involvement in any capacity, unless specifically authorised by the President. Problem-solving Facilitators shall immediately disclose to the Chief Compliance Officer:

- a. any circumstances which might be deemed to affect their impartiality or independence in the discharge of their IRM functions; and
- b. any attempt to interfere with or improperly influence the discharge of their IRM functions.

## VIII. Conduct of IRM Proceedings

**63. Proceedings generally.** All IRM investigations, assessments, reviews and initiatives shall be carried out as expeditiously as possible without compromising the integrity or comprehensiveness of such process. The IRM Officers shall take due account of the need to include any Bank staff, persons from the Affected Group, any Relevant Party and other interested parties who may have relevant information. The IRM Officers shall take care to minimise the disruption to the daily operations of all involved parties.

64. **Additional expertise.** The IRM Officers shall be entitled to seek additional expertise to assist with an IRM investigation, assessment, review or initiative, if this is necessary for the successful performance of their duties and responsibilities. The IRM Officers shall first determine whether the relevant expertise is available from within the Bank without compromising the independence of the process. If such expertise cannot be made available due to a conflict of interest, or an appearance of a conflict of interest, the expertise may be sought externally, provided that the selection and appointment of any consultants, researchers, interpreters, translators and/or other technical experts shall:
- a. be made, to the extent possible, with due regard to the EBRD procurement rules regarding the selection and appointment of consultants and in consideration of the short time periods within which tasks requiring external expertise are to be completed;
  - b. be made under the supervision of the Chief Compliance Officer; and
  - c. be subject to the availability of the necessary budgetary resources.
65. **Access to staff and information, and confidentiality.** When conducting any investigation, assessment or review for an Eligibility Assessment or a Compliance Review, the IRM Officers shall have full access to relevant Bank staff and files, including electronic files, cabinets and other storage facilities and Bank staff shall be required to cooperate fully with them. However, the access to, and use and disclosure of, any information gathered by the IRM Officers during any such process shall be subject to the Bank's Public Information Policy and any other applicable requirements to maintain sensitive commercial information confidential (such as a confidentiality agreement). No IRM Officer or no staff member, consultant, researcher, interpreter, translator and other technical expert employed by the IRM may release a document, or information based thereon, which has been provided on a confidential basis without the express written consent of the party who has provided such document.
66. **Legal matters.** The General Counsel shall, upon request, provide all legal information and advice needed in respect of the Bank's policies and procedures and the Bank's rights and obligations in respect of the Bank Operation to which a Complaint relates.

## IX. General Provisions

67. **Annual report.** The Chief Compliance Officer shall prepare an annual report describing the activities of the IRM during the preceding year. The Report shall be submitted to the President, for transmittal to the Board for information, and shall be thereafter published on the IRM web site.
68. **Budget.** The Bank shall provide such budgetary resources as shall be sufficient to allow all of the activities permitted by these Rules to be carried out. The Chief Compliance Officer shall prepare an annual budget indicating the level of resources required to carry out its mandate.
69. **Amendment and effect of the Rules.** These Rules may be amended by the Board. These Rules shall 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.
70. **Governing language.** It is intended that these Rules be translated into the national language of the Bank's countries of operations. If there is any discrepancy between the English version of these Rules and any other version, the English version shall govern.

# How to contact us

## Where to send your complaint

You can send your complaint to your local EBRD office which will forward it, or you can send it direct to the Chief Compliance Officer (CCO). Please note that the period for assessing your complaint will start from when the CCO receives it at Headquarters.

## EBRD Headquarters

For all enquiries about the Independent Recourse Mechanism (IRM), please contact:

**Chief Compliance Officer  
European Bank for Reconstruction  
and Development**

One Exchange Square  
London  
EC2A 2JN  
United Kingdom  
Tel: +44 20 7338 6000  
Fax: +44 20 7338 7633  
E-mail: [irm@ebrd.com](mailto:irm@ebrd.com)  
[www.ebrd.com/irm](http://www.ebrd.com/irm)

## Resident Offices

We have a local office in every country where the Bank operates. You can contact EBRD Headquarters to get the address of your local office. Or you can get this information from our web site at [www.ebrd.com](http://www.ebrd.com).

© European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom



Printed in England by Stabur Graphics Limited, using environmental waste and paper recycling programmes to meet and, where appropriate, exceed all relevant UK, European and international legislative and regulatory requirements and agreements.

Printed on Hello Matt, Totally Chlorine Free (TCF) giving zero Absorbable Organo Halogens (AOX), manufactured with pulp from sustainable forests.

6080 Independent Recourse Mechanism (E) – July 2004

