

GUIDANCE

Guidance on Case Handling under the EBRD Project Accountability Policy

21 January 2019

(draft for public consultation)

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The draft Guidance on Case Handling under the EBRD Project Accountability Policy is open for public consultation until 6 March 2019. During the consultation, PCM will be seeking the views of PCM complainants, civil society, EBRD shareholders, donors, clients, industry and business organisations, trade unions, other Multilateral Development Banks and International Financial Institutions, academia, other EBRD stakeholders, and the public in general on the draft Guidance. Public comments will be responded to, and summarised in the “Report on the Invitation to the Public to Comment” that will be presented to the EBRD Board of Directors together with the final draft of the Guidance in Q2 of 2019.

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Section I: Purpose

The purpose of this document is to provide guidance on the Project Accountability Policy (the Policy), offering additional information on the manner in which IPAM will screen Requests and handle Cases.

IPAM is committed to helping stakeholders navigating the steps of the case handling process.

Section II: Definitions

Terms used in this Guidance have the same meaning given to them in the Policy.

In particular:

- a) the definition of “Project,” includes references to the “**approval**” of a Project. The body in charge of approving proposed investments by the Bank is the Board. However, the Board may delegate this authority to a committee within the Bank, subject to certain conditions being met. A reference to an “approval” of a Project in the Policy is to be intended as the final decision made by the competent EBRD body on a proposed investment, being the Board or, as the case may be, a different body or committee to which the Board has delegated the authority in respect of a Project.
- b) the definition of “Access to Information Policy” shall be read to include any related Directive, i.e. any directive relating to disclosure of Bank information issued by the President of the Bank in accordance with the Access to Information Policy, as amended from time to time. Under Paragraph 2.21(b) of the Policy, a Compliance Assessment may assess if the Bank may not have complied with a project-specific provision of the Policy or of any related Directive; and under Paragraph 2.27 of the Policy, IPAM may determine whether the Bank has failed to comply with any project-specific provision of the Policy, or of any related Directive.

Section III: Scope

PROCESS FOR HANDLING CASES

1. Submission of a Request

1.1 Submission of a Request. Requests can be submitted to IPAM in any written format, in English or in the local language of the Requester. While not mandatory, Requestors can choose to fill in IPAM’s sample Request Form to complete their Request, found in Annex A of this Guidance and on the IPAM website [\[URL\]](#). The Request needs to include the information identified in Paragraph 2.3 of the Policy. In addition, while not required, Requests may provide the following information if desired:

- a) a clear statement of the results that the Requester is looking to achieve through the use of an IPAM process;
- b) whether the Requestors seek to pursue Problem Solving, Compliance, or both functions to address the issues raised in the Request;

- c) the specific provisions of the Environmental and Social Policy or the Access to Information Policy that the Requester believes have not been complied with by the Bank;
- d) any other relevant information, communications with the EBRD or the Client, supporting documents or other relevant materials, if available, can be included or attached to the Request, such as written and oral statements, photographs, images, videos, recordings, media reports or mapping, if any, which may assist or facilitate the examination of the Request; and/or
- e) the Requesters' and/or their Representative's **preferred** method of communication with IPAM (e.g., email, telephone, fax, posted mail, communication applications such as WhatsApp, etc.).

1.2 Protecting Requesters' Identities. Where confidentiality has been expressly requested under Paragraph 2.3(a)(i) of the Policy, IPAM will a) not disclose the Requesters' identity to any party, verbally or otherwise, and b) redact relevant information from the Request and IPAM reports as the key methods through which to protect a Requester's identity. Other methods of protecting Requesters' identities such as the use secure email, telephone and videoconferencing tools, coordination with Requesters regarding site visit approaches, or other methods deemed appropriate by the IPAM Head and the Requesters may also be implemented.

1.3 Submitting a Request to IPAM.

IPAM Requests may be submitted through:

- a) Online Form Submissions: IPAM's online Request Form may be submitted directly through the PCM website at **https: [URL]**.
- b) Email Submissions: Requests may be submitted via email, to ipam@ebrd.com.
- c) Fax Submissions: Requests may be submitted by fax, to **+44 20 7338 7633**.
- d) Hard Copy Submissions: Hard copy Requests may be addressed to IPAM and may be sent or delivered to the IPAM office by mail, courier or in -person, at:

**Independent Project Accountability Mechanism
Attn: IPAM Head
European Bank for Reconstruction and Development
One Exchange Square
London
United Kingdom
EC2A 2JN**

- e) Requests may also be sent or delivered to any of the EBRD's Resident Offices (addressed to the attention of IPAM, at which point they will be forwarded directly to IPAM without Resident Office review. The addresses for the Bank's Resident Offices can be found at: www.ebrd.com/about/contacts/local.htm.

1.4 Clarifications on the IPAM Process. Any person or organization may contact IPAM before developing or submitting a Request to seek clarification on the IPAM process. Upon request, IPAM will provide information on the IPAM process and

explain the provisions of the IPAM Policy and Guidance, without providing advice on the substantive aspects of a Request. IPAM may provide such information on a confidential basis, if desired by the interested party. IPAM can be contacted through the mailing address, fax number or email address provided in Paragraph 1.3 above, or by telephone at +44 755 785 6455. If international calls cannot be made, IPAM can also telephone interested individuals or organisations, upon request.

The IPAM Policy, Guidance and other engagement materials detailing the IPAM process are also available at [\[URL\]](#).

2 Registration

2.1 Suspension of a Request. The fact that a Request is suspended and subsequently closed due to incompleteness under Paragraphs 2.6 and 2.7 of the Policy (including as a result of a failure to correct a Request within the timeline set out in Paragraph 3.10 of the Policy) does not prevent Requesters from submitting a new Request in future with the additional information required by the Policy to render a Request complete.

2.2 Outcomes. IPAM's screening of a Request for Registration represents an administrative step seeking to determine compliance with the Registration criteria set out in Paragraphs 2.2 and following of the Policy; it should be clarified that it does not judge the merits, truthfulness or correctness of the content of the Request.

3 Assessment

3.1 Outcomes. IPAM's Assessment of a Request represents an administrative step, seeking to assess the Parties' willingness to engage in each function and determining the pursuit of any such function. It should be clarified that the Assessment stage does not involve a judgement on the merits, truthfulness or correctness of the content of the Request.

4 Problem Solving

4.1 Approach. A number of different approaches can be used to seek the resolution of issues between parties through Problem Solving. IPAM will select approaches in consultation with the parties, which may include:

- a) ***Facilitation and Information Sharing:*** In many cases, the Request will raise questions of facts regarding current or anticipated impacts of a Project. Facilitated information sharing will seek to help Requesters obtain information or clarification of the results in the resolution of issues.
- b) ***Mediation or Conciliation:*** Mediation involves the intervention by a neutral third party in a dispute with the purpose of assisting the parties in voluntarily reaching their own mutually satisfying agreement. Alternatively, in Conciliation processes, the neutral third-party may also make recommendations to the participants as part of the process as well.

- c) **Joint fact-finding:** Where there is uncertainty around the facts of a Project, the Parties may decide that joint fact-finding is an approach suitable for them to jointly agree on the issues to be examined; the methods, resources, and people that will be used to conduct an examination; and the way that information generated from the process will be used by the parties.
- d) **Dialogue and supported negotiation:** Where communication among Parties has been limited or disrupted, IPAM may encourage the parties to engage directly in dialogue and negotiation to address and resolve the issues raised in the Request. IPAM may offer capacity building and/or expertise to assist the Parties in this process.

Problem Solving activities may be led by the IPAM directly, or with the support of consultants (e.g., locally or regionally-based mediators, facilitators and interpreters).

5 Compliance Assessment

- 5.1 Consideration of Direct and Material Harm.** Under Paragraph 2.21 a) of the Policy, the assessment as to whether it appears that the Project may have caused or may be likely to cause direct and material harm may involve (but is not limited to) an evaluation of the direction, magnitude, geographic extent, duration, reversibility, frequency and probability of the effect(s) or potential effect(s) of the Project as raised in the Request.

OTHER PROVISIONS

6. General Provisions for Case Handling

- 6.1 Requestor Representation.** A Representative may support a Requester throughout the entire Case handling process. However, for the avoidance of doubt, Requesters have the right to make changes to their authorization for representation at any time (i.e., and may proceed with a Request or a Case without Representation if desired).
- 6.2 Training.** IPAM welcomes feedback from individuals, organisations, Bank management and Clients on their training and capacity building needs.
- 6.3 Data Submissions:** Parties may submit information to IPAM as part of a Request or case proceedings in a variety of forms, including (but not limited to) written and oral statements, direct observations, photographs, images, videos, recordings, media reports, mapping, technical documentation and formal project documentation.

Annexes

The contents of Annex A are part of this Section III – Scope.

- IPAM Case Handling Process
- Request Letter Template for Requestors

Section IV: Disclosure

This Guidance will be publically disclosed on IPAM's website.

Section V: Effective Date

This Guidance is effective on the date on which the Policy becomes effective.

Section VI: Decision Making Framework

The IPAM Head is accountable for this Guidance.

The IPAM Head is responsible for this Guidance.

Section VII: Related Documents

1. Independent Project Accountability Mechanism Policy (2019)
2. Environmental and Social Policy (2019)
3. Access to Information Policy (2019)

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