



Independent
Project
Accountability
Mechanism

COMPLAINT: Southeast Europe Equity Fund II (34894)

REQUEST NUMBER: 2017/05

Compliance Review Monitoring Report II

Monitoring Report Period: August 2019 - July 2020

21 August 2020

Note: This case was received under the Project Complaint Mechanism (PCM) - the former accountability mechanism of the EBRD - in accordance with the [2014 PCM Rules of Procedure](#) and the Monitoring stage was initially conducted under PCM Rules and Procedures.

Effective 1 July 2020, the Project Complaint Mechanism was replaced with the [Independent Project Accountability Mechanism](#), brought into effect through the [2019 Project Accountability Policy](#). Under the Policy's provisions for case transition, monitoring of the Southeast Europe Equity Fund Management Action Plan from the date above will be undertaken in alignment with the requirements of the [2019 Project Accountability Policy](#).

IPAM is the new independent accountability mechanism of the EBRD. It reviews environmental, social, and Project disclosure-related concerns raised by Project-affected people and civil society organisations. IPAM can address concerns through two avenues: i) Problem-solving, which supports dialogue between Complainants and Clients to resolve environmental, social and public disclosure concerns without attributing blame or fault; or ii) Compliance Reviews, which determine whether the EBRD has complied with its Environmental and Social Policy and Access to Information Policy in relation to the Project.

For more information about IPAM, please contact us at ipam@ebrd.com or visit the [IPAM webpage](#).

<p>Contact information</p> <p>Questions can be addressed to:</p> <p>The Independent Project Accountability Mechanism (IPAM) European Bank for Reconstruction and Development One Exchange Square London EC2A 2JN Telephone: +44 (0)20 7338 6000 Fax: +44 (0)20 7338 7633 Email: ipam@ebrd.com</p>	<p>How to submit a complaint to the IPAM</p> <p>Concerns about the environmental and social performance of an EBRD Project can be submitted by email, telephone or in writing, or via the online form at:</p> <p>https://www.ebrd.com/project-finance/ipam.html</p>
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EXECUTIVE SUMMARY

The EBRD [Project Complaint Mechanism](#) (PCM) completed a [Compliance Review](#) (CR) of the [Southeast Europe Equity Fund \(34894\)](#) Project in October 2018, identifying one instance of non-compliance with the EBRD's Environmental Policy (EP) 2003¹. The Compliance Review determined that Bank Management did not meet its obligations to provide ongoing Project monitoring under EBRD's Environmental Procedures for Private Equity Funds.

The independent PCM Expert responsible for the Compliance Review made one recommendation to Bank Management:

Recommendation 1: Address the inconsistency in the Bank's application of Procedures and Performance Requirements (PRs) across Bank Projects, to ensure that all Private Equity Fund Projects are brought under a common framework of compliance.

The PCM Expert noted that the implementation of this recommendation would require that Client investment agreements contain provisions requiring that compliance requirements evolve in line with ESP policy and procedural changes introduced by the Bank (e.g., in subsequent iterations of these documents), in the pursuit of continuous improvement and Project performance.

Management Action Plan

In response to the finding of non-compliance, the Bank developed a [Management Action Plan \(MAP\)](#) to address the Expert's recommendation, approved by the EBRD Board of Directors on 29 October 2018. Bank Management committed to undertake two actions:

1. **Management Action 1:** Renew the Bank's FI monitoring strategy to take a more active approach to funds (as per the requirements under the Environmental Procedures for Active Funds, which replaced the previous Procedures under which the Project operated).
2. **Management Action 2:** Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a 'dynamic' approach to environmental risk management. These requirements are to be featured in:
 - i) the 2019 ESP and
 - ii) the 2019 ESP PR9 Guidance.

Management Action Plan Monitoring

This is the second Monitoring Report in relation to the Southeast Europe Equity Fund Project ("the Project"), and covers the period August 2019 to July 2020 as no monitoring report was issued in January 2020 by PCM.

¹ <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

The purpose of this Monitoring Report is to update the EBRD Board of Directors, Relevant Parties and the public on the Bank's implementation of the Board-approved MAP, in accordance with Paragraph 47 of the PCM Rules of Procedure (RPs).

It presents:

- a) the background and context associated with this PCM case;
- b) the monitoring activities undertaken by PCM during the August 2019 to July 2020 reporting period; and
- c) the findings and conclusions resulting from Mechanism monitoring.

The Mechanism has a mandate to monitor the implementation of the Board-approved MAP. This Monitoring Report reflects the status of MAP implementation to date. Following a review of the update received from Bank Management regarding these Actions, and efforts to verify this information with the Complainants, IPAM has determined that:

- Management Action 1 of the MAP is complete; and
- Management Action 2.ii of the MAP remains outstanding.

IPAM will continue to monitor the implementation of Action 2.ii, until their completion, which according to the original MAP timeline was June 2020.

SUMMARY OF ACTIONS

S.No.	ACTIVITY	TIMELINE
1.	Compliance Review completion	15 October 2018
2.	Management Action Plan approval	29 October 2018
3.	1st monitoring report covering period November 2018 – July 2019	30 July 2019
4.	2 nd monitoring report covering period August 2019 – July 2020	21 August 2020

The Mechanism shall continue monitoring the implementation of Action 2.ii and will provide an update in the third monitoring report covering the period August 2020 to December 2020.

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Acronyms List

BCM	Bedminster Capital Management, G.P., LLC (the initial Fund Manager)
EP	Environmental Policy
ESP	Environmental and Social policy
FI	Financial intermediaries
IPAM	Independent Project Accountability Mechanism
MAP	Management Action Plan
PCM	Project Complaint Mechanism
PR	Performance Requirement
SEEF (the "Fund")	Southeast Europe Equity Fund (the Project)

1 Introduction

This is the second Monitoring Report for the Southeast Europe Equity Fund II Project (34894), (“the Project”), providing an update on implementation of the Board-approved Management Action Plan (MAP), established to address PCM findings of Project non-compliance with the Environmental Policy (EP) 2003 covering the period August 2019 – July 2020. Its purpose is to inform Parties to the Compliance Review, the EBRD Board of Directors, and the public on Bank Management’s implementation update of the MAP.

This Monitoring Report provides an overview of:

- the background and context of the PCM case;
- the monitoring activities undertaken by PCM to date; and
- the monitoring findings and conclusions.

2 Background and Context

2.1 Complaint Submission and Eligibility Assessment

In August 2017, PCM received a [Complaint](#) from a Project-affected person, alleging unfair treatment and discrimination by the American Hospital in Kosovo, a subsidiary of the American Hospital in Albania (i.e., a sub-project under the [Southeast Europe Equity Fund II](#)). At that time, Bedminster Capital Management (BCM) LLC managed the Project. The Complainant alleged inadequate warning / consultation regarding termination of their employment contract. It identified similar unfair treatment among other employees of Kosovar backgrounds, who identified as being subject to systemic discrimination or termination of their employment based on their nationality.

Mr. Victor Thorpe was appointed to undertake a Compliance Review as an external PCM Expert.

2.2 Compliance Review Finding

In the review of Bank compliance with the EP 2003, the PCM Expert found the Bank to be non-compliant in one instance, as the EBRD failed to monitor the effectiveness of the Client’s environmental performance, required by the EBRD Policies and Environmental Procedures for Private Equity Funds, Annex 8, and Annual Environmental Report.

The PCM Expert also noted that the practical application of the 2003 Environmental Procedures for Private Equity Funds lacked the proactive promotion of environmentally and socially sustainable development foreseen in the Agreement Establishing the Bank.

2.3 Compliance Review Recommendations

In response to the finding of non-compliance, the PCM Expert made one recommendation to the Bank of a systemic / procedural nature, as outlined in the Expert’s [Compliance Review Report](#).

Recommendation: Address the inconsistency in the Bank’s application of Procedures and Performance Requirements (PRs) across Bank Projects, to ensure that all Private Equity Fund Projects are brought under a common framework of compliance.

The PCM Expert noted that the implementation of this recommendation would require that Client investment agreements contain provisions requiring that compliance requirements evolve in line with Environmental and Social Policy (ESP) and procedural changes introduced by the Bank (e.g., in subsequent iterations of these documents), in the pursuit of continuous improvement and Project performance.

2.4 EBRD Management Action Plan

In response to the PCM Expert's finding and recommendation, the Bank prepared a [Management Action Plan](#) (MAP) outlining its proposed measures to respond to the finding of non-compliance.

Management noted that since the time of the Project signing, the Bank's Procedures and Policies had been updated on a number of occasions through the formal 2008 and 2014 reviews and additionally, that the EBRD had since established the Bank's [FI Responsible Investment Index](#).

Bank Management committed to undertake two actions:

1. **Management Action 1:** Renew the Bank's FI monitoring strategy to take a more active approach to funds (as per the requirements under the Environmental Procedures for Active Funds, which replaced the previous Procedures under which the Project operated).
2. **Management Action 2:** Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a 'dynamic' approach to environmental risk management. These requirements are to be featured in the (i) 2019 ESP and (ii) 2019 ESP PR9 Guidance.

In response to the PCM' finding, that the EBRD should require Clients to adhere to the Bank's updated ESP requirements as they evolve over time. Management identified that "whilst the Report's recommendation to implement changes to the terms and conditions of funding arrangements to allow for a 'dynamic' approach to monitoring recognises the issue of evolving compliance standards, it is not a practical or commercial option."

3 Monitoring Update

3.1 Monitoring Activities during the period August 2019- July 2020

The Mechanism tracks progress on MAP implementation until it is determined that all Actions have been completed and monitoring is no longer needed, in accordance with the 2014 PCM Rules of Procedure.

In the preparation of this Monitoring Report, PCM requested written confirmation (and associated documentation) from Bank Management on its MAP progress. The Mechanism carefully reviewed Management's submissions and associated documentation.

3.2 Monitoring Findings

Bank Management's progress on the MAP implementation, accompanied by IPAM's comments, are presented in **Table 1** below. For purposes of this report, the impact of COVID-19 on MAP implementation may be considered relevant from March 2020 onwards only.

Table 1: MAP Implementation Progress

Management Action Plan Commitment Approved by the EBRD Board of Directors	EBRD Management Action Plan Commitment	EBRD Management Implementation Update	Status of Management Action Plan Commitment	IPAM Feedback
Procedural / Systemic Recommendations and Management Actions				
<p>Action 1: Renew the Bank's FI monitoring strategy to take a more active approach to funds (as per the requirements under the Environmental Procedures for Active Funds, which replaced the previous Procedures under which the Project operated).</p>	<p>Bank Management will update the annual FI Project reporting templates described in the EBRD Responsible Investment Index as necessary, in line with the new 2019 ESP.</p>	<p>The reporting templates have been updated during H1 2020. The application and implementation of the updated system will be ongoing.</p>	<p>Completed</p>	<p>IPAM notes that the reporting templates are updated in line with ESP.</p>
<p>Action 2: Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a 'dynamic' approach to environmental risk management. These requirements are to be featured in:</p> <ul style="list-style-type: none"> i. the 2019 ESP; and ii. the 2019 ESP PR9 Guidance. 	<p>2019 PR9 Guidance: A Guidance Note will be finalised by June 2020 for the implementation of ESP PR9, applicable to all new FIs Projects approved after January 2020 including funds, where the principle of Continuous Risk Improvement will be a mandatory element of any Environmental and Social Management System established for a Bank Project.</p>	<p>The action was commenced but the completion deadline has been pushed back to Q4 2020 as ESD had to shift (human and monetary) resources around due to the impacts of remote working and the generation of a significant volume of new and fast-turnaround FI projects under the Resilience Framework in Q2.</p>	<p>Action 2.i – Complete</p> <p>Action 2.ii – In progress: continued monitoring required.</p>	<p>IPAM notes that ESP PR9 guidance notes are under preparation and management commits to a updated completion deadline by Q4 2020. IPAM will continue to monitor and will update the progress of action 2(ii) in the next monitoring report covering August 2020 to Dec 2020.</p>

3.3 Monitoring Conclusions

As of August 2020, Management Actions 1 and 2.i have been complete, with Action 2.ii in progress. IPAM notes Bank Management's efforts to date on MAP implementation, and understands that the current COVID-19 situation may have shifted priorities as of March 2020. However, it emphasises the need to finalise Action 2.ii within the updated completion deadline Q4 2020. It also will request that Management set a hard deadline on their completion so that recommendations emanating from this compliance review process remain relevant and are implemented in a timely fashion.

The Mechanism shall continue to monitor the implementation of Action 2.ii and provide an update on progress in the third monitoring report covering the period August 2020 to December 2020.