

RULES OF PROCEDURE OF THE INSTITUTE OF BUSINESS OMBUDSMAN

The Rules of Procedure (hereinafter – the “**Rules**”) are adopted pursuant to the Regulation On the authorized person to protect the rights, freedoms and legitimate interests of business entities, approved by the Resolution of the Government of the Kyrgyz Republic dated 31 December 2018 No. 647 (hereinafter – the “**Regulation**”).

Unless otherwise defined herein, capitalized terms used in this document shall have the same meaning as those in the Regulation.

The Rules are made in English and Russian languages, both having equal legal force.

The Rules shall be published on the official website of the Institute of Business Ombudsman.

CHAPTER 1. STRUCTURE, GOVERNANCE AND FUNCTIONS OF THE INSTITUTE OF BUSINESS OMBUDSMAN (THE “INSTITUTE”)

1. AIM, LEGAL STATUS AND STRUCTURE OF THE INSTITUTE

1.1. Status and objectives of the Institute

1.1.1. The Institute is a non-governmental and non-commercial organization, incorporated and existing under the laws of the Kyrgyz Republic. The Institute is established for the purpose of contributing to the transparency of the activities of state and municipal authorities, local self-government authorities, state-owned enterprises, preventing corruption and/or other violations of the legitimate interests of businesses, assisting business entities with protection of their rights, freedoms and/or legitimate interests.

1.1.2. The Institute is an independent organization and any interference with its activities as well as affecting its activities or any obstruction in any form by state authorities, local self-government authorities, state-owned enterprises and their authorized officials is prohibited.

1.1.3. The Business Ombudsman and the Secretariat’s employees are not state or municipal officials and shall carry out their activities independently from state authorities. Local self-government authorities, state-owned enterprises and their authorized officials, shall not be subordinated and be accountable to them.

1.2. Principles of activities of the Institute:

- (i) Rule of law;
- (ii) Respect of rights and freedoms of people and citizens;
- (iii) Legitimacy;
- (iv) Impartiality;
- (v) Independence;
- (vi) Political neutrality;

- (vii) Openness and transparency;
- (viii) Investigation of complaints on free-of-charge basis.

1.3. Structure of the Institute

1.3.1. The Institute consists of:

- (i) the Business Ombudsman;
- (ii) the Supervisory Board; and
- (iii) the Secretariat, which shall consist as follows:
 - two Deputy Business Ombudsman;
 - specialists which can be hired by the Business Ombudsman in accordance with the Rules;
 - administrative and technical staff which shall support the activity of the Business Ombudsman, Deputy Business Ombudsmen and the Secretariat's specialists.

2. SUPERVISORY BOARD

2.1. Objectives of the Supervisory Board

2.1.1. The Institute shall operate under the general management of the Supervisory Board.

2.1.2. The Supervisory Board is the management body of the Institute, organized for the purpose of control of activities of the Institute and compliance thereof with Regulation, the Charter and regulatory legal acts of the Kyrgyz Republic.

2.2. Formation of the Supervisory Board

2.2.1. The Supervisory Board shall consist of the authorized representatives of parties and shall act in accordance with the Regulation, the Charter, regulatory legal acts of the Kyrgyz Republic and these Rules.

2.2.2. The Supervisory Board shall consist of the following parties:

- Party 1 – Government of the Kyrgyz Republic,
- Party 2 – international development partners,
- Party 3 – independent business-associations.

Each party shall act via its duly authorized person.

2.2.3. Composition of the Party 1 shall be determined by the Government of the Kyrgyz Republic. Appointment and removal of the representative of the Government of the Kyrgyz Republic to and from the Supervisory Board is carried out by the resolution of the Government of the Kyrgyz Republic. The representative of the Government of the Kyrgyz Republic shall be head of the authorized state body of the Kyrgyz Republic in the area of economics or its deputy.

2.2.4. Composition of the Party 2 shall be determined based on the results of consultations between the European Bank of Reconstruction and Development and international development partners.

- 2.2.5. The Party 3 consists of 5 business-associations on the permanent basis, which fully comply with the requirements set out in the Regulation.
- 2.2.6. The Party 3 may include 2 business-associations on the annual rotation basis, which do not comply with the requirements set out for business-associations in the Regulation, from the number of business-associations willing to be included in the composition of the Party 3.
- 2.2.7. Decision on appointment and removal of a person representing certain party on the Supervisory Board shall be made in accordance with the agreed procedures of the respective party.
- 2.2.8. Parties 2 and 3 (except for business-associations included in the Party 3 on the rotation basis) may include new members, provided that all parties give their consent on inclusion thereof in accordance with the Regulation.
- 2.2.9. Each party shall promptly notify the other parties on appointment or removal of its representative on the Supervisory Board. Such notification shall be made in writing and send to the official e-mail address which the relevant party indicates for the purpose of formal correspondence on the matters of the Institute's activities.
- 2.2.10. Each party shall identify an e-mail address for formal correspondence on all matters related to the Institute and shall notify the other parties and the Business Ombudsman accordingly. Should the e-mail address change, the relevant party shall promptly notify the other parties and the Business Ombudsman.
- 2.2.11. Decisions of the Supervisory Board shall be made by voting of the parties. Each Party on the Supervisory Board shall have one vote.

2.3. The Supervisory Board is entitled:

- 2.3.1. To send to the Government of the Kyrgyz Republic proposals regarding appointment and removal of the Business Ombudsman and its deputies;
- 2.3.2. To approve the Rules, the Charter and other internal acts of the Institute as well as to introduce amendments thereto;
- 2.3.3. To oversee the activity of the Institute;
- 2.3.4. To determine planning and strategy of the Institute's activity;
- 2.3.5. To consider other matters related to the Institute's activity.

2.4. Powers of the Supervisory Board

- 2.4.1. The powers of the Supervisory Board are defined in the Regulation, the Charter and these Rules.
- 2.4.2. The powers of the Supervisory Board include the following:
- (i) appointment and removal of the Business Ombudsman and its deputies;
 - (ii) approval of the Charter, the Rules, introducing amendments and supplements thereto;

- (iii) approval of the budget and reports on implementation thereof;
- (iv) approval of the overall strategy and priorities of the Institute's activities on annual basis or as necessary, in accordance with the decision of the Supervisory Board;
- (v) deciding on the termination of the Institute's activities;
- (vi) supervising the Institute's activities;
- (vii) examining the quarterly and annual reports of the Institute;
- (viii) approval of the annual budget and detailed report of the Business Ombudsman on the use of previously approved budget during the previous financial; year; and
- (ix) deciding on any other matters pertaining to the Institute's activities in accordance with the Charter, the Regulation and these Rules.

2.5. Requirements for representatives of the parties on the Supervisory Board

2.5.1. Each party at its own discretion appoints and recalls its representative on the Supervisory Board and determines qualification requirements for such representative.

2.5.2. Notwithstanding the above, (i) no representative of any party shall have a conflict of interest in performing functions of a representative on the Supervisory Board; and (ii) each representative on the Supervisory Board shall be a person with the highest degree of personal and professional integrity and shall have adequate qualifications for performing functions of a representative on the Supervisory Board.

2.5.3. The following requirements shall be met in order to prevent a conflict of interest:

- (i) a representative of a party on the Supervisory Board shall not hold any position or office, or perform any activities which are or may be perceived to be in conflict with the performance of functions of a representative of such party on the Supervisory Board; and
- (ii) each representative of a party shall promptly notify the Supervisory Board and the relevant party on any conflict of interest or potential conflict of interest which he / she may have either in connection with (1) being a representative of a party on the Supervisory Board, or (2) any matter that is being discussed or otherwise considered by the Supervisory Board.

2.5.4. In case of a conflict of interest pursuant to clause 2.5.3 (i) (1) above, a representative of a party on the Supervisory Board shall immediately resign and in case of situation described in the clause 2.5.3 (i) (2) above, a representative of the relevant party on the Supervisory Board shall withdraw from participating in consideration of the relevant matter by the Supervisory Board, and if necessary shall authorize another person for participation in the consideration of such matter.

2.6. Meetings of the Supervisory Board

2.6.1. The Supervisory Board may hold the following types of meetings:

- (i) regular meetings, which are convened on a quarterly basis and held, unless otherwise agreed by all parties on the Supervisory Board, from the first to the tenth day of the first month of each calendar quarter; and
- (ii) extraordinary meeting, which may be convened at any time if so requested by one of the parties on the Supervisory Board of the Business Ombudsman, but only if, in their opinion, the issue in question needs to be considered prior to the date of the next regular meeting of the Supervisory Board.

2.6.2. As a general rule, meetings of the Supervisory Board shall be held in person. If a representative of any party cannot participate in the meeting of the Supervisory Board in person, such representative may, upon notifying the Secretary of the Supervisory Board, join the meeting via telephone or video conference.

2.6.3. Any party may invite representatives of the state authorities (for the Party 1), international development partners (for the Party 2) and business-associations (for the Party 3), which are not members of the Supervisory Board, to participate in a meeting of the Supervisory Board as observers.

2.6.4. The agenda of the Supervisory Board meeting is formed in the following manner:

- (i) the items of the agenda are set out in the notice of convening the meeting;
- (ii) representative of each party on the Supervisory Board has a rights to propose new items to be included in the agenda;
- (iii) the Secretary of the Supervisory Board collects and consolidates all proposals to the agenda and sends out the final agenda to the representatives of all parties on the Supervisory Board;
- (iv) the final agenda shall be sent to the representatives of all parties on the Supervisory Board at least one week prior to the convening of the relevant meeting; and
- (v) the agenda may be changed and new items may be added during the meeting upon agreement of the representatives of all parties on the Supervisory Board.

2.6.5. The quorum of the Supervisory Board meeting shall be 3 representatives (1 representative from each party).

2.6.6. Except for cases when the Supervisory Board requests the Business Ombudsman or any of Deputy Business Ombudsmen not to be present at a particular meeting or not attend a discussion of a specific item of the agenda, the Business Ombudsman and the Deputy Business Ombudsmen shall be entitled to be present at the Supervisory Board meetings.

2.6.7. The following requirements shall apply to the notice of convening a meeting of the Supervisory Board:

- (i) a regular meeting shall be convened after preliminary notice of each party on the Supervisory Board at least ten days prior to the meeting;
- (ii) extraordinary meeting shall be convened after preliminary notice of each party on the Supervisory Board at least five days prior to the meeting. In urgent cases, the notice period can be reasonably shortened by the Chairman of the Supervisory Board;
- (iii) a notice on convening of a regular meeting of the Supervisory Board shall be sent by the Secretary of the Supervisory Board;
- (iv) any party acting through its representative on the Supervisory Board can convene an extraordinary meeting of the Supervisory Board by sending a notice to the representatives of other parties on the Supervisory Board through the Secretary of the Supervisory Board; and
- (v) a notice shall include information on the date, place and agenda of the meeting, and shall be sent by the Secretary of the Supervisory Board to e-mail addresses provided by the relevant party for the purposes of receiving notices.

2.7. Chairman of the Supervisory Board

2.7.1. The Chairman of the Supervisory Board coordinates the work of the Supervisory Board and chairs at the meetings of the Supervisory Board. The Chairman is selected from the group of parties. The party selected to perform the Chairman's functions performs them personally. If the party selected to perform the Chairman's functions is not present at the meeting of the Supervisory Board, the Chairman's duties are performed by another party, subject to approval of this decision by other present members of the Supervisory Board.

2.7.2. The Chairman is selected by the representatives of the three parties on the Supervisory Board, with each party having the chairmanship for one year.

2.8. Secretary of the Supervisory Board

2.8.1. The Secretary of the Supervisory Board is appointed by the Supervisory Board. The Secretary may be a member of the Secretariat of the Institute.

2.8.2. The Secretary assists with the organization of the Supervisory Board affairs and is the contact person for the representatives of the parties on the Supervisory Board and any other parties willing to provide information to the Supervisory Board.

2.9. Decisions of the Supervisory Board

2.9.1. Decision of the Supervisory Board shall be taken at its meeting. Decisions shall be recorded in writing with the minutes being signed by the representative of each party which participated in the relevant meeting.

- 2.9.2. Decisions with respect to appointment and removal of the Business Ombudsman and each deputy thereof shall be unanimously made by all three parties on the Supervisory Board. All other decisions of the Supervisory Board shall be taken by a simple majority. Notwithstanding the relevant right of the Supervisory Board, none of the parties on the Supervisory Board can be required to provide any financing to the Institute without its prior consent.
- 2.9.3. The voting process is open and shall be conducted by show of hands. Voting by secret ballot is not allowed.
- 2.9.4. A decision becomes effective from the day of signing of the minutes of the meeting by the representatives of the parties, which were present at the relevant meeting of the Supervisory Board. Signing of the minutes by a representative does not imply his / her consent with the decision(s) indicated in the relevant minutes. Notwithstanding the above, if a representative of a party refuses to sign the minutes of the Supervisory Board meeting in which he / she participated, such refusal shall be notified to the representatives of other parties, which were present at the relevant meeting of the Supervisory Board, the Secretary of the Supervisory Board, and decision(s) taken by the Supervisory Board at the relevant meeting shall become effective after signing of the minutes of such meeting by the representatives of other parties.
- 2.9.5. All decision and minutes of the Supervisory Board meetings shall be retained by the Institute. A copy of any decision and / or minutes shall be issued to each party on the Supervisory Board upon its written request.

3. BUSINESS OMBUDSMAN AND DEPUTY BUSINESS OMBUDSMEN

3.1. The procedure for appointment of the Business Ombudsman

- 3.1.1. The Business Ombudsman shall be appointed according to the following procedure:
- (i) the Regulation and the Rules establish the eligibility criteria for the candidates for the position of the Business Ombudsman and his / her deputies;
 - (ii) selection process is conducted based on the results of an international tender, possibly with the involvement of an international recruiting company;
 - (iii) a selection committee may be formed by the Supervisory Board for selection process. Each party appoints one member of the selection committee;
 - (iv) Deputy Business Ombudsmen, except for initially elected Deputy Business Ombudsmen, are selected through a competitive selection process. The initial review of applications is conducted by the Business Ombudsman. The Business Ombudsman then presents a proposed list of candidates to the Supervisory Board or, if a selection

committee is formed for the selection of the Deputy Business Ombudsmen, to the selection committee. Once the list of candidates is approved by the Supervisory Board or accordingly the selection committee, the Business Ombudsman will interview the respective candidates. After the interview, the Business Ombudsman shall submit the final list of candidates to the Supervisory Board / selection committee. The Supervisory Board / selection committee then interviews the shortlisted candidates and, taking into account the recommendations of the Business Ombudsman, decides on the preferred candidate for each position of the Deputy Business Ombudsmen. In the event that any Deputy Business Ombudsman is selected while there is no Business Ombudsman, the above tasks to be performed by the Business Ombudsman in connection with the selection process shall be performed directly by the Supervisory Board / selection committee;

- (v) Unanimous approval of the representatives of all three parties on the Supervisory Board is required for the approval by the Supervisory Board of the Business Ombudsman and each Deputy Business Ombudsmen;
- (vi) Following the approval by the Supervisory Board, the Supervisory Board shall appoint the selected candidates for position of the Business Ombudsman and his / her deputies.

3.2. Requirements to candidates for position of the Business Ombudsman and Deputies

- 3.2.1. The Business Ombudsman and Deputy Business Ombudsmen may be an individual who is a citizen of the Kyrgyz Republic or foreign citizen, who has an impeccable business reputation, high moral standards, higher education and in-depth knowledge of economic, social, state governance and other issues related to entrepreneurship and business activities in the Kyrgyz Republic, in accordance with the criteria established by the Supervisory Board.
- 3.2.2. The following individuals cannot be elected as the Business Ombudsman and Deputies:
 - (i) individuals, declared incapable or limited in legal capacity by a court decision;
 - (ii) individuals with an unexpunged or current criminal record for offences committed in or outside the Kyrgyz Republic.
- 3.2.3. The Business Ombudsman and Deputy Business Ombudsmen have not right to:
 - (i) hold any elected or other position in the state / public institutions;
 - (ii) perform any paid or unpaid work in state institutions, business entities, enterprises, institutions and organizations;

- (iii) be a founder and participate financially or otherwise in the activities of business entities, enterprises, institutions, organizations and other legal entities, regardless of their ownership form;
- (iv) be a member or otherwise participate in the activities of any political party in the Kyrgyz Republic;
- (v) to engage in business or other activities contrary to the principle of impartial performance of the duties of the Business Ombudsman.

Limitations and prohibitions set out in the paragraph above do not apply to free teaching and research activities.

3.3. Rights of the Business Ombudsman

The Business Ombudsman has a right to:

- 3.3.1. File a request and receive in a timely manner (i.e. within 15 working days) and, if instructed to do so by the Business Ombudsman in urgent manner (within 5 working days) from state authorities, local self-government bodies, state-owned enterprises and business entities, including by means of personal interviews (verbal explanations) with relevant officials, information, documents and other materials and information required or useful for investigation of complaints and resolution of issues related to cases handled by the Business Ombudsman;
- 3.3.2. Send to state authorities, local self-government bodies, state-owned enterprises and their officials, information on cases and possible legal consequences in case of violation of rights, freedoms and / or legitimate interests of business entities. If the Business Ombudsman has reasons to believe that such violations have occurred, the Business Ombudsman has a right to make recommendations and proposals to state authorities, local self-government bodies, state-owned enterprises, their officials;
- 3.3.3. Receive in timely manner (i.e. within 15 working days) and, if instructed to do so by the Business Ombudsman in urgent manner (within 5 working days) from state authorities, local self-government bodies, state-owned enterprises, responses (in written form) with detailed explanation on the progress of investigation and measures taken to address the issues reflected in the recommendations and proposals of the Business Ombudsman;
- 3.3.4. Involve officials of state authorities, local self-government bodies, state-owned enterprises, associations of citizens, enterprises, institutions and organizations, regardless of the ownership form (with their consent), in the consideration of issues related to the powers of the Business Ombudsman;
- 3.3.5. Send to the Government of the Kyrgyz Republic, the Jogorku Kenesh of the Kyrgyz Republic, the President of the Kyrgyz Republic, proposals regarding candidatures of experts for the formation of working groups for the purpose of preparation of draft regulatory legal acts on improvement of the business environment and fight against corruption;
- 3.3.6. Send to the Government of the Kyrgyz Republic, the Jogorku Kenesh of the Kyrgyz Republic, the President of the Kyrgyz Republic, including within the

framework of personal meetings, proposals and recommendations on ways to eliminate systematic causes of violation of rights, freedoms and legitimate interests of business entities;

- 3.3.7. Participate in the meetings of the Government of the Kyrgyz Republic, the Business Development and Investments Council under the Government of the Kyrgyz Republic and make proposals thereto in accordance with the procedure established by the legislation of the Kyrgyz Republic;
- 3.3.8. Disclose information on cases of corruption and / or other violations from state authorities, local self-government bodies, state-owned enterprises, identified in the course of the Business Ombudsman's activities, among other things in the form of annual reports, including information on complaints that have been dealt with by the Business Ombudsman, the Business Ombudsman's findings on complaints, and, where necessary, information on response of the relevant state and municipal authorities on the matters related to investigation of complaints, as well as information on implementation of submitted recommendations and proposals;
- 3.3.9. Disclose information on cooperation with the Government of the Kyrgyz Republic, other state authorities, local self-government bodies, state-owned enterprises, as well as information on participation of the Business Ombudsman in preparation of draft regulatory legal acts and other initiatives aimed at improvement of the business environment and / or fight against corruption;
- 3.3.10. Recruit experts, scientists, specialists, companies, including foreign ones, on a contractual basis to perform the tasks assigned to the Business Ombudsman, in particular to conduct researches;
- 3.3.11. Participate in court proceedings on matters related to complaints considered by the Business Ombudsman;
- 3.3.12. Have access to the buildings of state authorities, local self-government bodies, state-owned enterprises in order to perform the tasks and implement powers assigned by the Regulation, upon presentation of an official ID card (passport, identity paper);
- 3.3.13. Have other rights provided by the Charter, the Regulation and the Rules.

3.4. Powers of the Business Ombudsman

3.4.1. The Business Ombudsman shall have powers, provided to him / her in accordance with the Charter, the Regulation and these Rules.

3.4.2. The Business Ombudsman:

- (i) is in charge of the Institute and determines implementation of strategy of its activities in accordance with the regulatory legal acts of the Kyrgyz Republic and the Regulation;
- (ii) decides whether to accept submitted complaints for investigation in accordance with the Rules;

- (iii) interacts with the Supervisory Board and represents the Institute upon interaction with third parties;
- (iv) reports to the Supervisory Board on the work that has been completed;
- (v) decides on recruiting experts, scientists, specialists, companies, including foreign ones, on the contractual basis to perform tasks assigned to the Business Ombudsman, including conducting researches;
- (vi) supervises the work of the Deputies and the Secretariat;
- (vii) delegates its powers to the Deputy(-ies) and specialists of the Secretariat according to the Rules;
- (viii) exercises other powers provided for in the Rules or granted by decisions of the Supervisory Board.

3.5. Grounds for termination of the powers of the Business Ombudsman and Deputy Business Ombudsmen

3.5.1. Grounds for termination of the powers of the Business Ombudsman and his / her Deputy Business Ombudsmen:

- (i) resignation at will;
- (ii) a relevant decision adopted by the Supervisory Board;
- (iii) death of an individual holding the position of the Business Ombudsman and Deputy Business Ombudsmen.

4. SECRETARIAT

4.1. Structure of the Secretariat and staff

4.1.1. The Secretariat consists of specialists and administrative and technical staff.

4.1.2. Specialists are employees of the Secretariat directly involved in the investigation of complaints of business entities filed to the Institute.

4.1.3. Specialists and other employees of the Secretariat are appointed and dismissed by the Business Ombudsman.

4.1.4. The Business Ombudsman shall be liable for the work of the Secretariat before the Supervisory Board.

4.1.5. The scope of responsibilities of specialists and other employees of the Secretariat is determined by the Business Ombudsman.

4.1.6. Unless otherwise determined by the Business Ombudsman, specialists and other employees of the Secretariat report directly to the Business Ombudsman.

4.2. Powers of the Secretariat

4.2.1. The Deputy Business Ombudsmen and specialists of the Secretariat have powers, rights and tasks, and carry out their activities in accordance with the Regulation,

these Rules and other documents approved by the Business Ombudsman and the Supervisory Board.

5. REPORTS OF THE INSTITUTE

5.1. Types of reports

5.1.1. The Institute produces annual and quarterly reports.

5.2. Submission and publication of reports

5.2.1. The annual report of the Institute's activities for the relevant calendar year shall be submitted to the Supervisory Board not later than three months after the end of such calendar year.

5.2.2. The quarterly report of the Institute's activities in the relevant calendar quarter shall be submitted to the Supervisory Board not later than one month after the end of such calendar quarter.

5.2.3. Annual and quarterly reports are submitted for approval to the Supervisory Board. The Business Ombudsman shall submit each written report at least 10 (ten) working days prior to the relevant Supervisory Board meeting. Should the Supervisory Board so decide, the report submitted to it may be rejected and returned to the Institute for further amendments. In such case, the Business Ombudsman shall ensure that an amended version is submitted to the Supervisory Board not later than 10 (ten) working days from the day on which the original report was rejected by the Supervisory Board.

5.2.4. Reports shall be published on the official website of the Institute after their approval by the Supervisory Board.

5.3. Content of reports

5.3.1. Annual reports shall include the following information:

- (i) volume and nature of the complaints received;
- (ii) information on timeliness of investigation of complaints;
- (iii) number of complaints considered and, for complaints left by the Business Ombudsman without further investigation, statistical information on the grounds for dismissal of such complaints shall be provided;
- (iv) information on timeliness in investigation of complaints and if necessary, reasons behind any significant delays or extensions of time for investigation of complaints;
- (v) information on overall feedback from complainants (regarding timeliness and the manner in which complaints have been handled by the Institute);
- (vi) summary of key matters being the subject of complaints during the reporting period;

- (vii) summary of the most important complaints considered and their results, including acts of response, provided by the Business Ombudsman and measures (including timeliness of their implementation) taken by state authorities, local self-government bodies and state-owned enterprises;
- (viii) systemic issues identified during the reporting period;
- (ix) recommendations made to the relevant authorities to address such systemic issues and relevant authorities' approach to the recommendations made; and
- (x) summary on implementation of measures, including on the quality of measures taken, indicated in the previous reports, including if necessary, the ratio of issued acts of response – to – actions taken (and the quality of actions taken) by the relevant authorities.

5.3.2. Quarterly reports shall include information specified in subparagraphs (i), (ii), (iii), (iv), (vii), (viii) and (ix) of paragraph 5.3.1 hereunder.

CHAPTER 2. SUBMISSIONS OF COMPLAINTS AND PROCEDURE FOR INVESTIGATION OF COMPLAINTS

6. ELIGIBILITY OF COMPLAINTS

6.1. Types of complaints and their eligibility for investigation

6.1.1. The Business Ombudsman considers complaints regarding alleged corrupt practices and / or other violations of rights, freedoms and legitimate interests of business entities as a result of actions or failure to act (including decision, acts and other documents) by state authorities and local self-government bodies, as well as state-owned enterprises and their officials (hereinafter – the “**Violations of rights of business entities**”).

6.1.2. The Business Ombudsman may initiate a case on his / her own volition, if he / she discovers an alleged Violation of the rights of business entities from any source, including mass media.

6.1.3. The Business Ombudsman shall not investigate complaints:

- i) arising in the context of private-to-private business relations;
- ii) subject to any court or arbitral proceedings, or in respect of which a court decision, arbitral award or similar type of decision was made;
- iii) in connection with legality and / or validity of any court decisions, judgements and rulings; and
- iv) where, to the extent relevant, the party affected by the alleged Violation of rights of business entities has not exhausted at least one instance of administrative appeal process available for such

party under the applicable legislation and internal rules of the party against which the complaint was submitted.

6.1.4. Any complaints regarding the matters described in the clause 6.1.3. shall be automatically left without investigation by the Business Ombudsman.

6.2. Statute of limitation

6.2.1. Complaints regarding administrative act, other document, action or failure to act of state authorities, local self-government bodies and state-owned enterprises, violating the rights of business entities shall be filed not later than 3 months from the day of entry into force of the appealed document, performance of such action or failure to act.

6.2.2. Complaints filed after the expiry of such limitation period shall not be investigated unless the Business Ombudsman at his sole and absolute discretion has decided to consider such matter notwithstanding such expiry.

7. COMPLAINANTS

7.1. Capacity to submit a complaint

7.1.1. Any individual or legal entity engaged in business activities in the Kyrgyz Republic may submit a complaint to the Business Ombudsman related to alleged Violation of rights of business entities (hereinafter – the “**Complainant**”).

7.1.2. Complainants shall submit their complaints either personally or through an authorized representative.

7.1.3. A power of attorney and copy of the representative’s identity paper shall be attached to a complaint filed through an authorized representative.

7.2. Anonymous complaint

7.2.1. Anonymous complaints shall not be considered unless the Business Ombudsman decides otherwise.

7.2.2. Complainants who do not wish their identity to be disclosed to state authorities, local self-government bodies, as well as state-owned enterprises, against which the complaint is filed shall indicate so in their complaint and shall provide reasons as to why such individual should remain anonymous.

7.2.3. If an anonymous complaint is accepted for investigation by the Business Ombudsman and further investigation may not be possible without disclosure of complainant’s identity, such complainants shall be informed and accept that the Institute may at any point decide to discontinue investigation of complaints.

8. SUBMISSION OF A COMPLAINT AND FORMAL REQUIREMENTS

8.1. Submission of a complaint

8.1.1. As a general rule, complaints shall be submitted via the electronic filing system available on the official website of the Institute. Alternatively, complaints can be submitted via e-mail or portal addresses of the Institute, indicated on the website

of the Institute. If a complaint is received verbally or by telephone, the Business Ombudsman may commence consideration in accordance with the clause 6.1.2.

8.1.2. A complaint may also be submitted in writing and delivered in person directly to the office of the Institute. Complaints submitted in writing must be signed by a complainant or an authorized representative, if a complaint is submitted via such authorized representative.

8.1.3. Complaints may be submitted in any of the following languages: Kyrgyz, Russian or English. Complaints shall be registered, numbered and, for those received electronically or in person – acknowledged upon receipt.

8.2. Template of a complaint

8.2.1. Complaints shall follow the template that is available on the website of the Institute. Complaint shall contain all of the information requested in the template form which, among other information, includes:

- (i) full name of an individual or full name of a legal entity, as well as official registration number (if any) of a complainant;
- (ii) postal address, telephone / fax numbers and, where available, e-mail address of a complainant;
- (iii) a state authority, local self-government body or state-owned enterprise which is the subject of a complaint;
- (iv) a concise and legible statement regarding the nature of alleged Violation of rights of business entities, including, where relevant, the description of any rights, freedoms and / or interests of a complainant which have been violated; and
- (v) facts and items of evidence upon which a complaint is based.

8.2.2. The complainant may support the complaint with any documents it considers appropriate.

8.2.3. The complainant shall keep the Institute informed of any change of address and of all circumstances relevant to the complaint.

8.3. Consequences of failure to comply with the requirements to the template form

8.3.1. Failure to comply with requirements set out in the clause 8.2. hereunder will result in the complaint being left without investigation by the Business Ombudsman, unless the Business Ombudsman in his /her sole and absolute discretion. Decides otherwise.

8.3.2. Any submissions that do not contain complaints regarding Violation of rights of business entities, but involve requests for explanations, other information, or requested documents, etc., shall not be treated as complaints and shall not be considered by the Business Ombudsman.

8.4. Fee for submitting a complaint

8.4.1.No fee is payable for submission, review and, where relevant, investigation of the complaints by the Institute.

9. PRELIMINARY ASSESSMENT OF THE COMPLAINT

9.1. Preliminary review

9.1.1.The Business Ombudsman takes a decision as to whether to start an investigation or whether to reject a complaint within 10 (ten) working days from the day of its receipt. The ten-day review period commences on the next working day following the day on which the complaint was received (hereinafter – the “**Commencement date**”) and ends at the close of business on the tenth working day from the Commencement date.

9.1.2.Should the complaint be incomplete or incomprehensible, the Business Ombudsman at his / her own discretion may reject the complaint or provide the complainant with reasonable additional time to complete or correct the complaint in question. This additional period shall not normally exceed 10 (ten) working days and the preliminary review will thereafter be conducted pursuant to the clause 9.1.1. above.

9.1.3.During the preliminary review, the Business Ombudsman may request a complainant to provide additional information or documents which in the opinion of the Business Ombudsman are necessary to assess the eligibility of the complaint.

9.2. Results of the preliminary review

9.2.1.Following the preliminary review, the Business Ombudsman decides whether to start an investigation or whether to leave the complaint without any further investigation.

9.2.2.The Business Ombudsman may leave the complaint without further investigation in the following cases:

- (i) where, in the opinion of the Business Ombudsman, the complaint does not comply with the eligibility criteria set out in the clause 6.1.1. of the Rules or the subject matter of the complaint falls under the clause 6.1.3;
- (ii) where, in the opinion of the Business Ombudsman, the complaint has no substance, or other state authorities or local self-government bodies are already in the process of investigation of such matter, or are better positioned to address the complaint in question;
- (iii) where, in the opinion of the Business Ombudsman, the complainant does not provide sufficient cooperation that is necessary for the Business Ombudsman to properly assess the complaint in question;
- (iv) a complaint is filed after the expiry of the limitation period described in the clause 6.2., unless the Business Ombudsman

decides to proceed notwithstanding the expiry of the limitation period;

- (v) a complaint is related to the matter that has already been addressed by the Business Ombudsman in his / her previous acts of response;
- (vi) an investigation by the Business Ombudsman in a similar case is pending or otherwise ongoing; and
- (vii) other circumstances where the Business Ombudsman in his sole and absolute discretion determines that an investigation of the complaint is not necessary.

9.3. Communication and information exchange during the preliminary review

9.3.1. The decision of the Business Ombudsman whether to accept or reject the complaint shall be notified to the complainant in writing. Notification on such decision is sent by an e-mail to the e-mail address indicated by the complainant in the complaint, or where no e-mail is available, by post, to the address indicated by the complainant in the complaint.

9.3.2. Upon taking the decision to start investigation of the complaint, where appropriate, the Business Ombudsman may request from state authorities, local self-government bodies or state-owned enterprises additional information or documents, necessary or useful for investigation of the complaint. By submitting a complaint to the Business Ombudsman, a complainant consents on his / her identity being disclosed by the Business Ombudsman to the parties against which the complaint is submitted except cases where an anonymous complaint is submitted pursuant to the clause 7.2. of the Rules.

9.3.3. In cases where the Business Ombudsman decides not to consider the complaint further, the Business Ombudsman may refer the complainant to other authorities or institutions to which such matter in the opinion of the Business Ombudsman could be submitted.

9.3.4. A decision to not consider a complaint shall contain the grounds for such decision according to these Rules.

9.4. Repeated complaints

9.4.1. A complaint is filed repeatedly after being decided by the Business Ombudsman to be left without investigation shall not be considered, except for cases, where substantively new circumstances are indicated, or where new relevant facts or material evidence confirming violation of rights, freedoms and / or legitimate interests of the complainant are presented.

9.4.2. If the complainant requests to withdraw the complaint, the Business Ombudsman shall cease investigation process unless he / she decides to pursue the matter in accordance with the clause 6.1.2. of these Rules.

9.5. Consolidation of several complaints into one

9.5.1. Where there are several complaints with similar subject matter or otherwise related to each other, the Business Ombudsman may either at the request of the complainants or of his / her own discretion consolidate such complaints.

10. INVESTIGATION OF COMPLAINTS РАССМОТРЕНИЕ ЖАЛОБ

10.1. Time limits for investigation

10.1.1. A complaint on administrative act, other document, action or failure to act of state authorities, local self-government bodies and state-owned enterprises, violating rights of business entities, shall be considered and the response to the complainant shall be sent not later than 3 months from the day of entry into force of such document or from the day of occurrence of such action or failure to act.

10.1.2. In cases where the complexity of the matter in question or amount of information submitted requires more time for an investigation to be completed, the Business Ombudsman may in his / her discretion acting reasonably, extend the time period for investigation.

10.1.3. The complainant shall be notified of any extension and the reasons for such extension.

10.2. Appointment of specialists and delegation of powers to them by the Business Ombudsman

10.2.1. The Business Ombudsman may take a decision to investigate a complaint himself / herself or appoint one or several specialists of the Secretariat.

10.2.2. Specialists shall have powers delegated to them by the Business Ombudsman.

10.2.3. For the purposes of this clause, the term “specialist” shall mean specialists of the Secretariat or deputies of the Business Ombudsman.

10.3. Collection of evidence

10.3.1. The Business Ombudsman may accept any evidence he / she deems reasonable or appropriate.

10.3.2. The Business Ombudsman has a right to request immediate provision of information, materials and documents, he / she deems necessary to decide on the complaint, to be granted access to documents (including those of confidential nature), as well as documents which contain personal data protected by the law. The Business Ombudsman acting reasonably may provide such information or documents requests more than once depending on the needs and necessity for investigation of complaints.

10.3.3. The Business Ombudsman may invite witnesses for interview in connection with complaints. A witness shall be invited by a written letter or by e-mail in which time and the venue of the interview shall be specified.

10.3.4. The Business Ombudsman shall investigate circumstances specified in complaints in such manner as the Business Ombudsman deems appropriate.

10.4. Experts

10.4.1. Should expert reviews and / or opinions be required to establish or clarify certain facts relevant to investigation, an expert or any other specialist may be engaged upon the decision of the Business Ombudsman.

10.4.2. The Business Ombudsman may commission such studies or expert reports as he / she deems necessary for the comprehensive and successful consideration of complaint.

10.5. Amicable settlement

10.5.1. Where appropriate and possible, and subject to cooperation of the relevant parties, the Business Ombudsman shall make an effort in reaching an amicable settlement in respect of the subject matter of the complaint.

10.5.2. When an amicable settlement is reached, the investigation may be terminated by the Business Ombudsman.

10.5.3. The reaching of a specific amicable settlement shall not prevent the Business Ombudsman from making his / her separate acts of response.

10.6. Acts of response of the Business Ombudsman

10.6.1. Upon investigation of complaints, the Business Ombudsman issues an act of response. Acts of response produced by the Business Ombudsman are recommendations and proposals.

10.6.2. **Recommendation** – is an act of response of the Business Ombudsman sent to state authorities, local self-government bodies, state-owned enterprises, their officials, containing suggestions on elimination of violations of rights and legitimate interests of business entities identified in the process of the Business Ombudsman's activity.

10.6.3. The template form of recommendation shall be drafted and approved by the Business Ombudsman.

10.6.4. **Proposal** – is an act of response of the Business Ombudsman sent to state authorities and local self-government bodies, state-owned enterprises, their officials on further and additional investigation of the case and identification of steps aimed at elimination of identified violations and prevention thereof in future, including options for initiating disciplinary or administrative proceedings against relevant officials and public employees.

10.6.5. The template form of proposal shall be drafted and approved by the Business Ombudsman.

10.6.6. Aside from recommendations and proposals, the Business Ombudsman is not entitled to issue other acts of response.

10.7. Discontinuation of investigation

10.7.1. In his / her own discretion, the Business Ombudsman may decide to discontinue investigation if he / she establishes that:

- (i) the circumstances which were relevant to the complaint do not exist anymore or are no longer relevant;
- (ii) the issue that constitutes the subject matter of the complaint has been resolved in another manner; and
- (iii) the complainant does not provide sufficient cooperation to the Business Ombudsman or specialists during investigation of the complaint.

10.7.2. The Business Ombudsman shall promptly inform the complainant and, where relevant, state authority, local self-government body or state-owned enterprises against which the complaint is filed, on decision to discontinue investigation of the complaint and the reasons that led to such decision.

11. DECISION

11.1. Contents of decision

11.1.1. Upon completion of investigation the Business Ombudsman shall take one of the following decisions:

- (i) recognize the complaint as substantiated and issue a relevant act of response;
- (ii) dismiss the complaint as unsubstantiated and terminate investigation of the complaint.

11.1.2. A decision shall contain the following information:

- (i) date of the decision;
- (ii) information on the complainant and state authority, local self-government body or state-owned enterprise against which the complaint is filed;
- (iii) summary of the complaint;
- (iv) reasons and facts upon which the decision is based;
- (v) in respect of a decision under the clause 11.1.1. (i):
 - (i) type of issued act of response;
 - (ii) time period during which the act of response shall be considered by state authority, local self-government body or state-owned enterprise against which the complaint is filed and, where necessary, implemented and reported back to the Business Ombudsman.

11.2. Language of the decision

11.2.1. All decision of the Business Ombudsman shall be made in official or state languages of the Kyrgyz Republic. The Business Ombudsman may decide to translate the decision to other languages. Complaints may also be accepted in foreign languages.

11.3. Publication of decision and other documents

- 11.3.1. Unless otherwise is stipulated by these Rules, decisions shall be signed by the Business Ombudsman.
- 11.3.2. Decisions and any materials related to completed investigations, which the Business Ombudsman deems appropriate, may be published on the official site of the Business Ombudsman. Decision and other materials may be published by the Business Ombudsman only after all confidential information and personal data have been removed therefrom.
- 11.3.3. The original and duly signed copy of the decision shall be placed to the Institute's archive.

11.4. Request for interpretation of a decision

- 11.4.1. A complainant, state authority, local self-government body or state-owned enterprise against which the complaint is filed, may ask the Business Ombudsman for explanation and interpretation of the decision. A request for interpretation may be made within 6 (six) months from the date of the decision.

12. CONFIDENTIALITY

- 12.1. The Business Ombudsman, the Deputy Business Ombudsmen, specialists and other employees of the Secretariat shall not disclose or publicize in other way confidential information which came to their attention in the course of investigation of the complaint or otherwise in connection with their activities related to the Institute.
- 12.2. For the purposes defined in the clause 12.1 hereunder, the Business Ombudsman, the Deputy Business Ombudsmen, specialists and other employees of the Secretariat shall enter into a non-disclosure agreement with the Institute pursuant to the requirements under the legislation of the Kyrgyz Republic.
- 12.3. If investigation of the case requires review of confidential information (tax, customs or other) which is under the jurisdiction of state authority, local self-government body and state-owned enterprise, such information may be provided to the Business Ombudsman only upon written consent of the complainant in accordance with requirements under the legislation of the Kyrgyz Republic.