

DIRECTIVE**Conduct and Disciplinary Rules and Procedures**

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DIRECTIVE

CONDUCT AND DISCIPLINARY RULES AND PROCEDURES

Section I: Purpose

This Directive consists of the conduct and disciplinary rules and procedures that shall be followed with respect to investigating alleged Misconduct and, if the Misconduct is established, imposing disciplinary measures.

Section II: Definitions and General Provisions

The capitalised terms used in this Directive have the meaning given to them in Articles 1.03 and 1.04 of Section IV (Scope) of this Directive.

Section III: Legal Basis

The Staff Regulations, Section 9.

Section IV: Scope

PART I – GENERAL

ARTICLE 1 PURPOSE, APPLICATION, DEFINITIONS

1.01 Purpose

Pursuant to Section 9 of the Staff Regulations, these Conduct and Disciplinary Rules and Procedures ("the Rules") set out the definition of Misconduct, as well as the principles to be observed and steps to be taken with respect to the investigative, disciplinary and decision-making processes arising from allegations of Misconduct. The aim is to ensure that (i) allegations of Misconduct by staff members are dealt with at all stages of the Investigative Process and Disciplinary Process in a fair, impartial, thorough and timely manner, and (ii) the rights of all parties are appropriately protected.

1.02 Application

These Rules apply to all staff members. They apply to the Chief Evaluator, the Chief Accountability Officer, the Chief Internal Auditor and the CCO only to the extent provided for under the Code of Conduct.¹

¹ Any allegation of Misconduct committed by the President or any of the Vice Presidents is dealt with under, and in accordance with, the Code of Conduct for EBRD Personnel. Any allegation of Misconduct committed by a Board Official is dealt with under, and in accordance with, the Code of Conduct for Officials of the Board of Directors of the EBRD.

1.03 Definition of Misconduct

Misconduct is a failure by a staff member to observe the Code of Conduct, staff regulations and rules or any other obligations on staff members adopted by the Board of Governors, the Board of Directors, the President, or under their respective delegated authority.

It is not possible to provide an exhaustive list of all the behaviours that constitute Misconduct because whether an action is Misconduct depends on the circumstances and the degree of the behaviour. However, the following is a non-exhaustive illustrative list of examples of behaviours that the Bank considers as Misconduct:

- (i) failure to disclose information, or give truthful answers to questions, material to decisions concerning the appointment or continued employment of a staff member (including full and frank completion of a compliance statement or financial interest disclosure form (as applicable) as required under the Code of Conduct), or misrepresentation of facts relevant to such questions;
- (ii) failure to disclose in a timely fashion information material to the determination of eligibility for, or the amount of, allowances, benefits or other payments, or misrepresentation of facts relevant to such determination; failure to disclose, or refusal to reimburse the Bank for, amounts wrongly received from the Bank;
- (iii) neglect of, or failure to perform, the duties of employment, including, without limitation, failure to disclose material information of a business or legal nature to managers (including failure to assist the Internal Audit Department as it may request in the performance of its duties); falsification of records; falsification of, or failure to disclose, information for the purposes of claiming expenses; unauthorised access to, distribution or use of confidential information; and/or improper use of one's Bank position in dealing with third parties;
- (iv) improper use or misappropriation of or deliberate or reckless damage to Bank property or assets (including Information Assets);
- (v) failure to observe the Bank's policies, directives or procedures in relation to the use of Bank IT Facilities and Information Assets as applicable from time to time;
- (vi) gross insubordination or repeated failure to follow reasonable instructions;
- (vii) knowingly making malicious and/or unsubstantiated reports of alleged Misconduct or knowingly providing false or misleading information in an Investigative Process or Disciplinary Process; interference or non-cooperation with an Investigative Process or Disciplinary Process;
- (viii) Retaliation;
- (ix) Fraud, theft, dishonesty or obtaining or attempting to obtain an advantage at the expense of the Bank or any person, firm or organisation that is, or may be, a client, consultant, contractor, expert or supplier of the Bank;

- (x) failure to comply with the conflict of interest obligations under the Staff Regulations and/or the Code of Conduct;
- (xi) physical assault of another staff member or any third party;
- (xii) harassment, sexual harassment, bullying, abuse of authority or threats to other staff members or third parties;
- (xiii) serious incapability through alcohol or being under the influence of illegal drugs while at work (including attending any work-related event on Bank premises or elsewhere); or
- (xiv) actions outside the workplace that are of legitimate concern to the Bank, to the extent that such actions could reflect adversely on the Bank or be perceived as an abuse of the privileges and immunities accorded to the Bank or to Bank Personnel.

1.04 Other Definitions

As used herein:

- (i) "Administrative Decision" has the meaning given to it in the Dispute Resolution Procedures.
- (ii) "Bank IT Facilities" has the meaning given to it in the Information Security Policy.
- (iii) "Bank Personnel" has the meaning given to it in the Code of Conduct for EBRD Personnel.
- (iv) "Board Official" has the meaning given to it in the Code of Conduct for Officials of the Board of Directors of the EBRD.
- (v) "CCO" means the Chief Compliance Officer or, (where the Chief Compliance Officer is absent), the Director, Investigations.
- (vi) "Code of Conduct" means the Code of Conduct for EBRD Personnel as amended from time to time.
- (vii) "Disciplinary Process" refers to any disciplinary process undertaken pursuant to Articles 7 and 8 in a given matter.
- (viii) "Dispute Resolution Procedures" refers to the Directive on the Administrative Review Process and/or the Directive on the Appeals Process and/or the Tribunal Appeals Procedures each as applicable and as amended from time to time.
- (ix) "Ethics Committee" has the meaning given to it in the Code of Conduct for Officials of the Board of Directors of the EBRD, as amended from time to time.

- (x) “Fraud” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
- (xi) “Informal Dispute Resolution Process” means any confidential process through which a staff member seeks advice on, or attempts to settle or resolve, a dispute, including without prejudice settlement discussions, mediation, discussions with the EBRD Ombudsman or discussions with the EBRD Staff Legal Adviser but excluding any other proceedings under the Dispute Resolution Procedures.
- (xii) “Information Assets” has the meaning given to it in the Information Security Policy.
- (xiii) “Inquiry Officer” refers to a person or persons appointed in accordance with Article 2.02 of these Rules.
- (xiv) "Investigative Process" refers, as applicable, to an initial inquiry (either under Article 4 of these Rules or Rule 15 of the Code of Conduct), a formal investigation (either under Articles 5 and 6 of these Rules or Rule 16 of the Code of Conduct) and, where undertaken, a further inquiry (under Article 7.01 of these Rules) or further investigation (Rule 16(h)(ii)(B) of the Code of Conduct) in a given matter.
- (xv) “MDHR” means the Managing Director, Human Resources and Organisational Development.
- (xvi) “OCCO” means the Office of the Chief Compliance Officer.
- (xvii) "Person External to the Bank" refers to a person other than Bank Personnel or Board Officials.
- (xviii) “Protected Activity” has the meaning given to it in the Whistleblowing Policy, as amended from time to time.
- (xix) “Retaliation” has the meaning given to it in the Whistleblowing Policy, as amended from time to time.
- (xx) “Rules of Procedure for the Ethics Committee” has the meaning given to it in the Code of Conduct for Officials of the Board of Directors of the EBRD, as amended from time to time.
- (xxi) “RWPs” means the Directive on Respectful Workplace Processes, as amended from time to time.
- (xxii) "Subject" means a staff member who is the subject of an Investigative Process and (if applicable) a Disciplinary Process.
- (xxiii) "Whistleblowing Policy" means the Whistleblowing Policy, as amended from time to time.

1.05 Calculation of time limits

Unless stated otherwise, references to days in these Rules are to working days at the Bank's headquarters.

ARTICLE 2 OPENING OF A CONFIDENTIAL FILE, INQUIRY OFFICER

2.01 Confidential File

- (a) Upon receipt of a report of an instance of alleged Misconduct, the CCO shall make a determination as to whether the matter falls within the ambit of these Rules, i.e., whether, if the facts alleged were proven, Misconduct may have occurred. If so, the CCO shall open a confidential file (the "Confidential File") for each instance of alleged Misconduct reported, in which they shall record the information received, the name of the suspected staff member and, if known, the name of the person reporting the alleged Misconduct. All evidence collected during the course of any Investigative Process pursuant to these Rules shall be placed in the Confidential File. If a report does not fall within the ambit of these Rules in accordance with the provisions of this paragraph, the CCO may refer the matter elsewhere in accordance with Article 3(b) of the Whistleblowing Policy.
- (b) The Confidential File shall be available for inspection on a need to know basis only by:
 - (i) the CCO and staff of the OCCO;
 - (ii) any Inquiry Officer appointed who is not an OCCO staff member (only when considered by the CCO to be relevant to the Inquiry Officer's investigation);
 - (iii) the MDHR;
 - (iv) the President;
 - (v) the Chief Internal Auditor; and
 - (vi) any other person authorised by the President.
- (c) In the event that the CCO is compelled to disclose the Confidential File pursuant to the Dispute Resolution Procedures, the CCO may withhold or redact any information that, in the opinion of the CCO, is confidential, or where the production of such material would prejudice the operations of the Bank or its relations with a member country, or would infringe on the right of privacy or reputation of other staff members of the Bank.

2.02 Appointment of Inquiry Officer

- (a) Upon the opening of a Confidential File, and for the purpose of conducting an initial inquiry under Article 4, a formal investigation under Articles 5 and 6 or a further inquiry under Article 7.01, the CCO may appoint an Inquiry Officer. The CCO may also carry

out any such inquiry or investigation personally in which event references in these Rules to an “Inquiry Officer” shall be read as references to the CCO.

- (b) The Inquiry Officer appointed by the CCO may be a person or a team of persons from the OCCO or a person, team of persons or entity from outside the Bank.

2.03 Responsibility of the CCO

Notwithstanding the appointment of an Inquiry Officer, the CCO shall retain overall responsibility for the care and control of the Investigative Process.

PART II – THE INVESTIGATIVE PROCESS

ARTICLE 3 RIGHTS AND OBLIGATIONS

3.01 Rights and Obligations of the Bank Regarding the Investigative Process and Disciplinary Process

- (a) The Inquiry Officer shall have the right during the Investigative Process (and any subsequent Disciplinary Process) to call upon staff members for the production of materials believed to have probative value, to interview any staff member who is believed to have knowledge of the events in question, and to consult persons believed to have, or materials believed to contain, information of probative value to the investigation.
- (b) At any time during the Investigative Process (and any subsequent Disciplinary Process), the Inquiry Officer may enter all parts of the Bank premises and examine, copy, and remove all or any portion of the contents of files (including electronic records), desks, cabinets, and other storage facilities on Bank premises or under the control of the Bank, require the return of any Bank-owned electronic or telephonic equipment and/or request the sharing of potentially relevant evidence contained on personal devices used for work purposes.
- (c) At any time during the Investigative Process (and any subsequent Disciplinary Process), in order to safeguard evidence, to ensure a proper investigation, to protect the interests of the Bank or to protect persons involved in the investigation, the CCO may recommend to the MDHR that a staff member be:
 - (i) prevented from having access to Bank IT Facilities and/or Information Assets or having such access limited;
 - (ii) relieved of specific duties;
 - (iii) suspended from duty with pay; and/or
 - (iv) prohibited from entering all or any portion of Bank premises.
- (d) The staff member shall be notified in writing by the MDHR of any precautionary measures implemented pursuant to this Article, the reason for their implementation and their duration. Such precautionary measures are not disciplinary measures. They shall be

reviewed by the MDHR from time to time upon the recommendation of the Inquiry Officer in the event that there is a material change to the circumstances referred to at Article 3.01(c).

- (e) If, as a precautionary measure, a staff member is suspended from duty with pay, such payment shall be conditional on the disciplinary process concluding that there is no basis for termination of the staff member. If the condition is not met, any pay earned during such suspension shall be recoverable by the Bank and shall accordingly be treated as amounts owed to the Bank.
- (f) Where a decision relating to a precautionary measure involves the Chief Evaluator, the Chief Accountability Officer, the CCO or the Chief Internal Auditor, the process specified in Rule 20 of the Code of Conduct shall apply.
- (g) All phases of the Investigative Process shall be conducted discreetly, with due regard for avoiding unreasonable intrusions into the personal privacy of staff members, including both the person who reported the alleged Misconduct and the subject of that reporting, and for protecting the reputations of the parties involved.
- (h) Due care shall be taken to protect the identity of confidential sources. Notwithstanding the foregoing, the identity of a staff member who has reported alleged Misconduct may be disclosed where the alleged Misconduct cannot be investigated without disclosing such identity (e.g., where no third party has witnessed the alleged incident) or if they are themselves alleged to have engaged in Misconduct by knowingly making malicious and/or unsubstantiated allegations of Misconduct on the part of another staff member.

3.02 Rights and Obligations of Staff Members Regarding the Investigative Process and any subsequent Disciplinary Process

- (a) All staff members of the Bank, including the Subject, who are approached by an Inquiry Officer for interview or are otherwise called upon to assist in an Investigative Process (and any subsequent Disciplinary Process) shall:
 - (i) cooperate in such process and shall not make their cooperation subject to the condition that their identity shall not be disclosed or their oral or written statements shall remain confidential;
 - (ii) in a timely and truthful manner, answer all pertinent and reasonable questions and provide information requested by the Inquiry Officer that is reasonably connected to the matter under investigation, other than information acquired solely in the course of an Informal Dispute Resolution Process and on the condition of confidentiality. With respect to any documentary information to be provided, the Inquiry Officer shall provide a reasonable amount of time within which the information is to be provided;
 - (iii) not disclose, discuss or communicate the fact of the investigation (including the name of the Subject and/or any individual who has raised a concern in relation to the Subject), the fact of their participation in the investigation, details of the alleged Misconduct, contents of their interviews, or the nature of their participation and/or assistance to or with other persons, unless authorised to do so by

the Inquiry Officer. Such authorisation is not required where the Subject wishes to seek advice from the Staff Legal Adviser, the Ombudsperson and/or an external legal adviser.

- (b) Staff members, including the Subject, shall not interfere with an Investigative Process (or any subsequent Disciplinary Process). Such prohibited interference includes, without limitation, the following:
- (i) refusing to cooperate with the Inquiry Officer or making their cooperation conditional as referred to at Article 3.02(a)(i) above;
 - (ii) knowingly making false or misleading statements or representations to the Inquiry Officer or to the MDHR;
 - (iii) destroying or tampering with information and/or evidence;
 - (iv) interfering with, or engaging in Retaliation against, someone who has provided or is expected to provide information, or threatening to interfere or engage in Retaliation, either during or after an Investigative Process (and/or any subsequent Disciplinary Process);
 - (v) violating the confidentiality of the Investigative Process (and/or any subsequent Disciplinary Process) as provided for in Article 3.02(a)(iii); and
 - (vi) any other conduct that materially interferes with the ability of the Inquiry Officer to conduct an investigation or of the MDHR to make a disciplinary decision.
- (c) Staff members may, with prior written notice to the OCCO, be accompanied in interviews carried out in the Investigative Process and any subsequent Disciplinary Process by another staff member, including a Staff Council representative (other than by members of the OCCO, the Office of the General Counsel and the Human Resources Department) or (at the discretion of the Inquiry Officer, acting reasonably) by a Person External to the Bank, provided that such person:
- (i) is not acting in the capacity of a legal representative;
 - (ii) has not been interviewed or, in the reasonable opinion of the Inquiry Officer, is not expected to be interviewed as part of the Investigative Process; and
 - (iii) where required by the Inquiry Officer, signs a confidentiality agreement (in respect of Persons External to the Bank only).
- (d) A staff member shall not be the subject of another Investigative Process concerning the same instance of alleged Misconduct unless new evidence comes to the attention of the Bank.

- (e) The following shall apply to any interview of or request to the Subject by the Inquiry Officer during the initial inquiry and/or formal investigation:
- (i) The timing of any interview or notification to the Subject pursuant to Article 3.02(e)(iii) below shall be determined by the Inquiry Officer, taking into account the circumstances of the individual case, including the risk of destruction of or tampering with information and/or evidence, intimidation of witnesses or other actions that may compromise the investigation.
 - (ii) If the Subject refuses to cooperate with an investigation, the Inquiry Officer, shall be entitled to draw an adverse inference regarding such refusal, including in cases that have been disclosed to law enforcement authorities as provided under Article 14.
 - (iii) Before any interview of the Subject takes place, the Inquiry Officer shall notify the Subject of: (A) the nature of the alleged Misconduct; and (B) their right to be accompanied pursuant to the provisions of Article 3.02(c).
 - (iv) Interviews of the Subject shall be recorded on a recording device.
 - (v) A copy of the recording and, if transcribed, a copy of the transcript of the interview, will be made available to the Subject, in each case no later than at the end of the formal investigation.
 - (vi) The Inquiry Officer may request the Subject to review the transcript against the recording, advise of any changes required to the transcript to make it accurate and agree to the accuracy of the reviewed transcript.

ARTICLE 4 INITIAL INQUIRY

- 4.01** After opening the Confidential File, the Inquiry Officer shall determine whether a formal investigation is warranted, including taking into account:
- (a) credibility, i.e., that the allegation(s) received, when considered together with any other information obtained during the Initial Inquiry, is sufficiently plausible;
 - (b) verifiability, i.e., that there is likely availability of relevant evidence if a formal investigation were to be undertaken;
 - (c) gravity of the alleged misconduct.
- 4.02** In making this determination, the Inquiry Officer may at their discretion, but is not obligated to, carry out any of the actions referred to at Articles 3.01(a) and 3.01(b) above.
- 4.03** Upon completion of the initial inquiry, the CCO shall make a determination that:
- (a) no further action need be taken on the matter, in which case they shall record their decision in the Confidential File and may, if appropriate, share information in respect of the determination and the rationale for it with the MDHR; or

- (b) the matter should proceed to a formal investigation as provided for in Article 5.

4.04 The CCO may also decide to refer the matter to law enforcement authorities in accordance with Article 14.

ARTICLE 5 CONDUCT OF A FORMAL INVESTIGATION

5.01 Notification and Subject interview

- (a) The decision to conduct a formal investigation is not a disciplinary measure and its outcome may or may not support a recommendation that the Subject's conduct constitutes Misconduct.
- (b) As soon as possible after a formal investigation is initiated, the Inquiry Officer shall notify the Subject of the formal investigation, including (regardless of whether or not the Subject has been interviewed during the initial inquiry) the basis for the investigation and the conduct under investigation.
- (c) As part of any formal investigation, the Inquiry Officer shall, wherever reasonably possible, interview the Subject in accordance with the requirements under Article 3.02(e).
- (d) If a formal investigation is commenced against the Secretary General under Article 5 of these Rules, then the process specified in paragraphs 42 and 43 (if applicable) of the Rules of Procedure for the Ethics Committee shall be followed by the CCO in addition to what is provided for under Article 5 of these Rules.

5.02 Response

In the course of a formal investigation, the Subject shall be given reasonable opportunity to explain or justify their position with respect to the alleged Misconduct and to present their own evidence, including the names of witnesses who might corroborate their statements.

5.03 Other interviews

The Inquiry Officer shall have the discretion to decide who should be interviewed, based on the specific circumstances of the case, including the timing and sequence of such interviews provided that, subject to the exigencies of the matter, the Inquiry Officer shall provide reasonable advance notice of any interview to the intended interviewee.

5.04 No further action

At any time during the formal investigation or upon its completion, the CCO may conclude that no further action be taken on the matter, in which case they shall record their decision in the Confidential File and the Subject shall be promptly informed of such conclusion.

ARTICLE 6 COMPLETION OF THE FORMAL INVESTIGATION

6.01 Preparation of Investigative Report

- (a) Upon completion of a formal investigation other than in the circumstances contemplated in Article 5.04, the Inquiry Officer shall prepare a written investigative report (the “Investigative Report”), which shall contain the following:
 - (i) a summary of the alleged Misconduct;
 - (ii) the applicable rules or standards of conduct;
 - (iii) a description of the available evidence with respect to the alleged Misconduct, including, if applicable, any documentary and/or witness evidence pertaining to the relevant issues;
 - (iv) recommendations about whether there is sufficient evidence to substantiate the allegations against the Subject, i.e., whether it is more likely than not that the conduct did occur as alleged, or whether the evidence either exonerates the Subject or is insufficient to make a finding;
 - (v) where it is recommended that there is sufficient evidence to substantiate some or all of the allegations against the Subject, a recommendation as to whether the Subject’s conduct constitutes Misconduct.
- (b) The Investigative Report shall be balanced and fairly reflect the information gathered. Previous instances of alleged Misconduct by the Subject, whether substantiated or not, shall be included or mentioned in the Investigative Report if, in the judgment of the Inquiry Officer, such evidence is relevant in relation to the alleged Misconduct that is the subject of the current investigation.
- (c) The Investigative Report shall not contain any recommendations regarding the imposition of any disciplinary measures.

6.02 Transmittal of Investigative Report

- (a) If, based on the Investigative Report, the CCO is of the view, based on the recommendation of the Inquiry Officer, that there is sufficient evidence to substantiate the allegations against the Subject, and unless there are good reasons not to do so, the CCO shall give the Subject five days to review and comment on the factual correctness of the Investigative Report, without its conclusions or recommendations. Requests for corrections by the Subject shall be carefully considered and reflected, as necessary and in the Inquiry Officer’s discretion, in the Investigative Report, with a full copy of the Subject’s comments being included as an appendix.
- (b) Following receipt of the Subject’s comments on the factual correctness of the Investigative Report and finalisation of the Investigative Report, the CCO shall transmit the Investigative Report, including any documentary evidence, whether inculpatory or exculpatory, on which the conclusions and recommendations are based:
 - (i) to the MDHR; or

- (ii) to the President if the Subject reports directly to the MDHR. The President shall decide to whom such report shall be further transmitted, and such person shall exercise the functions otherwise exercisable by the MDHR.
- (c) Where the CCO remains of the view, following the Subject's factual input, that a formal allegation of Misconduct against the Subject is warranted, the Investigative Report shall include a recommendation by the CCO to that effect.
- (d) In accordance with Rule 19 of the Code of Conduct, in the case of misconduct allegations against the Chief Evaluator, the Chief Accountability Officer, the CCO or the Chief Internal Auditor, where the Rule 16 Documents (as such term is defined in the Code of Conduct) are received by the MDHR, such Rule 16 Documents shall be treated by the MDHR as an Investigative Report of the CCO, except that no further inquiry may be requested by the MDHR under Part III of these Rules.
- (e) Where the Subject is the Secretary General, if the CCO determines that a formal accusation of misconduct against the Secretary General, concerning the Secretary General's role vis-a-vis the Board of Directors or Board of Governors or otherwise involving potentially serious misconduct, is warranted, the CCO will provide the Ethics Committee with a copy of the Investigative Report envisaged under Article 6.02(b) of these Rules, including any documentary evidence, whether inculpatory or exculpatory, on which the conclusions of such Investigative Report are based.

PART III – THE DISCIPLINARY PROCESS

ARTICLE 7 COMMENCEMENT OF THE DISCIPLINARY PROCESS

7.01 Further Inquiry

- (a) At any time prior to any decision on disciplinary measures, the MDHR may request the CCO to undertake a further inquiry so that the MDHR may reach a view as to whether or not the staff member has committed Misconduct.
- (b) Such further inquiry shall normally be undertaken by the Inquiry Officer who carried out the formal investigation.
- (c) The Inquiry Officer shall record the conclusions of the further inquiry in an amended version of the Investigative Report (the "Amended Investigative Report") which shall include any documentary evidence, whether inculpatory or exculpatory, upon which its conclusions are based.
- (d) In circumstances where the further inquiry relates to the facts contained in the Investigative Report, the CCO shall give the Subject five days to review and comment on the factual correctness of the Amended Investigative Report without its conclusions or recommendations. Requests for corrections by the Subject shall be carefully considered and reflected, as necessary, in the Amended Investigative Report, with a full copy of the Subject's comments being included as an appendix.
- (e) Following receipt of the Subject's comments, if any, the CCO shall transmit the Amended Investigative Report in accordance with Article 6.02(b).

7.02 Formal Allegation

- (a) If the MDHR concludes, on the basis of the Investigative Report or, an Amended Investigative Report (including any accompanying documentary evidence), that a formal allegation of Misconduct is warranted, they shall inform the Subject in writing of the substance of the formal allegation and the underlying reasons.
- (b) The Subject shall also be provided with a copy of the Investigative Report or, where applicable, the Amended Investigative Report (including accompanying documentary evidence, redacted as appropriate).
- (c) The Subject shall be deemed to have been provided with the requisite information if it is sent to the last home address provided by the Subject to the Bank.

7.03 Response of the Subject

- (a) Before any decision is taken by the MDHR regarding the imposition of disciplinary measures, the Subject shall be given the opportunity to respond to the formal allegation of Misconduct and the full Investigative Report (or Amended Investigative Report, if applicable). The time period for such response, whether oral or in writing, shall be at the discretion of the MDHR, but subject to a maximum of 15 days from the date the Subject receives the written formal allegation or the Amended Investigative Report.
- (b) The response of the Subject may include:
 - (i) information within the Subject's knowledge that they consider helpful to rebut the formal allegation;
 - (ii) any documentary evidence that supports the position of the Subject concerning the alleged Misconduct or is relevant to the factors that are to be considered in assessing the severity of the disciplinary measure(s) to be imposed; and
 - (iii) the names of other persons who may be in a position to provide testimony or evidence in support of the Subject's position.

ARTICLE 8 DECISION ON DISCIPLINARY MEASURES

8.01 Decision to be taken by the MDHR

- (a) Following the completion of the process set out at Article 7, the MDHR shall consider the Investigative Report, the Amended Investigative Report (if applicable) and any response received from the Subject pursuant to Article 7.03 and make a decision as to whether Misconduct has occurred and if so, shall decide upon the disciplinary measure appropriate in accordance with the provisions of this Article 8.
- (b) The MDHR shall notify the CCO of the nature of any disciplinary measure(s) imposed and shall provide the CCO with any relevant supporting documentation relating to the measure(s) (such notification and documentation to be added to the Confidential File).

- (c) In the case of a disciplinary process involving the Chief Evaluator, the Chief Accountability Officer, the CCO or the Chief Internal Auditor, the MDHR shall consult with the Ethics Committee prior to taking any action that is different from a recommendation made by the CCO or the Ethics Committee (as applicable) pursuant to these Rules or the Code of Conduct (as applicable).

8.02 Proportionality of Disciplinary Measures

- (a) The severity of the disciplinary measure(s) to be imposed shall be reasonably proportionate to the nature and seriousness of the Misconduct. In determining the seriousness of the Misconduct and in deciding upon the disciplinary measure(s) to be imposed, the MDHR shall take into account the nature of the Misconduct and the circumstances in which it occurred. In particular, account shall be taken of:
- (i) the extent to which the Misconduct adversely affects the interests, integrity or reputation of the Bank;
 - (ii) the extent to which the Misconduct involves intentional, reckless or negligent actions;
 - (iii) the motives for the Subject's Misconduct;
 - (iv) the degree of the Subject's personal responsibility in the commission of the Misconduct;
 - (v) the level of the Subject's duties and responsibilities;
 - (vi) whether the Misconduct involves repeated action or behaviour (including but not limited to action or behaviour that has been the subject of any previous findings under these Rules);
 - (vii) the conduct of the Subject throughout the course of their career; and
 - (viii) the conduct of the Subject throughout the course of the Investigative Process and the subsequent Disciplinary Process.
- (b) Where the Subject is the Secretary General, and where the MDHR receives notification from the Ethics Committee under Paragraph 45 of the Rules of Procedure for the Ethics Committee, the MDHR shall take into account the notification from the Ethics Committee when deciding upon disciplinary measures.

8.03 Disciplinary Measures

- (a) As expeditiously as possible after completion of the process in Article 7, the MDHR may decide to impose one or more of the following disciplinary measures, including when the Subject admits to the Misconduct:
- (i) written censure;

- (ii) reduction and / or forfeiture, whether permanently or for a specific period of time, of amounts payable in respect of salary, benefits (other than retirement plan benefits) and / or allowances payable after the date of notification of the measure;
 - (iii) forfeiture or reduction of the performance based compensation award, including in respect of the performance based compensation award whose payment was deferred in accordance with Section IV, paragraph 2.2(e) of the Directive on General Compensation;
 - (iv) ineligibility for or deferral of a salary adjustment, including in respect of the salary adjustment whose payment was deferred in accordance with Section IV, paragraph 1.5(b) of the Directive on General Compensation;
 - (v) ineligibility for promotion;
 - (vi) temporary suspension from duty with pay, reduced pay or without pay; and/or
 - (vii) termination of employment, with or without notice and/or with or without any benefits or payments due upon ending employment (other than retirement plans benefits), which shall also result in the loss of future contractual opportunities with the Bank, in any capacity.
- (b) Where the disciplinary measure relates to the Chief Evaluator or the Chief Accountability Officer, the imposition of and any appeal against a disciplinary measure which results in the removal from their role will be subject to the requirements of Rule 19(a)(ii) of the Code of Conduct.

8.04 Managerial action

- (a) The MDHR may deem it appropriate to require that managerial action is taken in relation to a Subject in any circumstances where allegations of misconduct have been made (regardless of whether or not such allegations have been upheld) and where relevant information about a Subject's conduct has been shared with the MDHR by the CCO.
- (b) Managerial action is not a disciplinary action or sanction and may include mandatory or suggested training, coaching, discussions in the context of the performance appraisal process, or any other measures the MDHR may deem appropriate.

8.05 Notification

- (a) The Subject shall be notified in writing of the MDHR's decisions as to:
 - (i) whether or not the Subject's conduct constitutes Misconduct;
 - (ii) any imposition of disciplinary measure(s) and the reasons for their imposition;
 - (iii) any requirement for managerial action to be taken and the reason for such requirement; and
 - (iv) the means of redress (if applicable) available under the Dispute Resolution Procedures, if applicable.

- (b) Unless otherwise stated, the decision to impose disciplinary measures shall have immediate effect.

ARTICLE 9 ENDING OF EMPLOYMENT

- 9.01** The termination of the Subject's or Subject's employment prior to the conclusion of the applicable Investigative Process and/or Disciplinary Process shall not affect the Bank's right to complete such process(es) and/or to take part in external processes as a result of a disclosure to law enforcement authorities.
- 9.02** If a staff member who is subject to an Investigative Process and/or a Disciplinary Process resigns, the resignation may be on such conditions as the MDHR may determine.

ARTICLE 10 DISCONTINUANCE OF THE DISCIPLINARY PROCESS AND/OR CONSULTATION WITH THE ETHICS COMMITTEE

- 10.01** The MDHR may, on a discretionary basis, decide in consultation with the CCO (or, in the case of a disciplinary process involving the Chief Evaluator, the Chief Accountability Officer, the CCO or the Chief Internal Auditor, may decide in consultation with the Ethics Committee), at any time during the Disciplinary Process to discontinue the process and close the matter. The Subject shall be promptly informed of such decision.
- 10.02** In the case of a disciplinary process involving the Chief Evaluator, the Chief Accountability Officer, the CCO or the Chief Internal Auditor, the MDHR shall consult with the Ethics Committee prior to taking any action that is different from a recommendation made by the Ethics Committee pursuant to the Rules of Procedure for the Ethics Committee.

PART IV – OTHER PROVISIONS

ARTICLE 11 SUSPENSION OF PAYMENTS DUE UPON ENDING OF EMPLOYMENT

- 11.01** If the employment of a staff member who is subject to an Investigative Process and/or a Disciplinary Process ends before the applicable processes have been concluded, the MDHR may suspend payment of monies otherwise due to the staff member on termination of their employment until a decision on the alleged Misconduct is made, provided that:
- (a) there is a reasonable basis to believe that, as a result of the staff member's Misconduct, they may be required to repay or otherwise compensate the Bank or third party service provider (including medical insurance, accident insurance or corporate credit card provider); and
- (b) the staff member is notified of the decision to suspend such payment and the reasons for the suspension.

- 11.02** Payments shall not be suspended for longer than one year, except where the MDHR determines that additional time is needed to make a determination whether monies are in fact owed to the Bank and/or to a third party service provider to the Bank.
- 11.03** If it is determined that the staff member owes monies to the Bank or to a third party service provider to the Bank, those monies may be deducted in full from any payments suspended under this Article. If the staff member is found not to owe monies to the Bank, the suspended payments shall be made to the staff member in full within 30 days from the date of the determination.

ARTICLE 12 PAYMENT OR REIMBURSEMENT OF AMOUNTS OWED TO BANK

12.01 The MDHR may require a staff member who:

- (a) has misappropriated Bank funds;
- (b) has deliberately or recklessly damaged or destroyed Bank property and/or assets (including Information Assets);
- (c) has wrongly received payments from the Bank, including, without limitation, under the retirement plans and/or benefit and/or allowance payments in respect of the staff member's spouse/domestic partner or dependents; or
- (d) has wrongly received payments in respect of a benefit plan maintained on behalf of the Bank;

to repay the relevant amount(s) or make good the loss or damage, as applicable.

12.02 Any amount owing to the Bank under this Article that has not been repaid within a reasonable time following the conclusion of disciplinary proceedings and any appeal thereof through the Dispute Resolution Procedures may be deducted from monies due from the Bank to the staff member.

ARTICLE 13 TREATMENT OF INFORMATION

13.01 General

- (a) All material or information obtained in relation to or during the course of the Investigative Process and/or the Disciplinary Process or produced as a result of the following of these Rules will be treated as strictly confidential and there is no right of access to it for any participants in the Investigative Process and/or the Disciplinary Process outside of the OCCO and Human Resources, save as expressly set out in these Rules. This provision does not restrict the Subject or a RWP Complainant (as defined in Article 13.04 below) from sharing material or information they receive in accordance with this Directive for the purpose of: (i) seeking legal advice; or (ii) pursuing a related complaint under the Bank's internal dispute resolution processes.
- (b) Any documentary evidence accompanying an Investigative Report or any Amended Investigative Report (if applicable) may be redacted at the discretion of the Inquiry Officer,

as appropriate, save in respect of any evidence directly relied upon to form the recommendations and conclusions contained therein.

13.02 Investigative Process

- (a) The CCO may inform a person who initially reported the alleged Misconduct and any witnesses interviewed in the Investigative Process, in general terms, that the Investigative Process has concluded and, if applicable, that the matter has been referred to the MDHR for further consideration.
- (b) Subject to Article 14 below, the CCO has discretion to decide, based on their assessment of operational and procedural requirements, what and how much information should be given to Bank Personnel outside of the OCCO, in relation to an Investigative Process. Any Bank Personnel provided with information under this Article must treat such information in a strictly confidential manner.

13.03 Disciplinary Process

- (a) Subject to Article 13.03(b) and Article 14 below, the MDHR has discretion to decide, based on their assessment of operational and procedural requirements, what and how much information should be given to Bank Personnel outside of the MDHR's team members directly assisting them, in relation to any Disciplinary Process. Any Bank Personnel provided with information under this Article must treat such information in a strictly confidential manner.
- (b) In accordance with Rule 19(b) of the Code of Conduct, the MDHR shall inform the Ethics Committee and the President of the outcome of any misconduct proceedings regarding any of the Chief Evaluator, the Chief Accountability Officer, the CCO, or the Chief Internal Auditor. Where relevant in the context of the disciplinary process involving the Secretary General, the requirements of Paragraphs 46 - 49 of the Rules of Procedure for the Ethics Committee shall be applicable.

13.04 Reports of alleged Misconduct under the RWPs

A person who initially reported the alleged Misconduct pursuant to the RWPs ("RWP Complainant") shall be entitled to receive a response from the MDHR to the allegations they reported ("RWP Response") pursuant to Section IV, paragraph 7 of the RWPs.

ARTICLE 14 DISCLOSURE OF INVESTIGATIVE AND DISCIPLINARY PROCESSES

14.01 Disclosure to Law Enforcement Authorities

- (a) If, at any time during the Investigative Process or the Disciplinary Process the CCO or MDHR has reason to believe that the laws of a member country may have been violated by a staff member, they may recommend to the President that information concerning the suspected violation be disclosed to local, national or supranational authorities for law enforcement purposes. The recommendation shall identify the information that may be disclosed to such authorities, including, without limitation, the Investigative Reports, op-

erational documents, and other investigative materials and information in the Bank's possession, and shall include the opinion of the General Counsel regarding the legal aspects of the recommended disclosure and, in particular, its potential ramifications for the Bank's status, privileges and immunities. Subject to obtaining the necessary waiver of applicable immunities, if any, the President may authorize such disclosure, if and to the extent they conclude that such disclosure would be in the interests of the Bank.

- (b) It shall be at the discretion of the Bank whether to notify the staff member of the information that has been disclosed to the law enforcement authorities or the fact of any disclosure. In the event that notification is given to the staff member, the Bank shall be under no obligation to provide the staff member with any document that has been disclosed to law enforcement authorities where it contains information that is confidential, or where its production would prejudice the operations of the Bank or its relations with a member country, or would infringe on the right of privacy or reputation of other staff members of the Bank.
- (c) The obligation of a staff member to cooperate in an Investigative Process or a Disciplinary Process shall continue notwithstanding disclosure under this Article. In making disclosure to a local national or supranational enforcement authority, the Bank shall not disclose evidence obtained from such staff member in the course of the Investigative Process or in the response of such staff member received under the Disciplinary Process unless, in the case of evidence, the Bank was already in possession of that evidence before receipt of same from the staff member concerned.
- (d) Disclosure under this Article shall not normally suspend the Investigative Process or Disciplinary Process, unless the President concludes that the suspension of either of these processes in whole or in part would be in the interest of the Bank.

14.02 Other Disclosure

The MDHR, the CCO and/or the General Counsel may, after consultation between or among them inform the external auditors and/or the insurers of the Bank of the existence and nature of any Investigative Process and/or Disciplinary Process if such disclosure is necessary in the normal course of an audit review or in connection with a matter pertaining to insurance coverage.

14.03 Records Retention and Access

- (a) The Investigative Report transmitted by the CCO to the MDHR, including any accompanying documentary evidence, the formal accusation of Misconduct, the Subject's response, the Amended Investigative Report any further response thereto by the Subject, and the decision of the MDHR on the matter, shall be held by the Bank, and access thereto shall be strictly limited on a need-to-know basis.
- (b) The MDHR or the CCO may, after consultation with the General Counsel, provide the external auditors with a copy of any Investigative Report or Amended Investigative Report.

ARTICLE 15 TRANSITIONAL PROVISIONS

- 15.01** These Rules enter into force on 14 October 2024. They supersede the previous version of the CDRPs most recently revised in October 2021 (the “2021 CDRPs”).
- 15.02** These Rules shall apply to all reports of alleged Misconduct received on or after the date of their entry into force, regardless of when the alleged Misconduct is alleged to have occurred.
- 15.03** These Rules shall also apply to reports of alleged Misconduct received prior to the date of their entry into force if, as at that date, the report has not gone beyond the stage of the opening of a Confidential File under the 2021 CDRPs.

Section V: Waivers, Exceptions and Disclosure

Waivers

The President may grant a deviation from a requirement of this Directive.

Exceptions

Not applicable.

Disclosure

This Directive will be disclosed on the Bank’s website.

Section VI: Transitional Provisions

The transitional provisions shall be as set out in Article 15 of Section IV of this Directive.

Section VII: Effective Date

The effective date shall be as set out in Article 15.01 of Section IV of this Directive.

Section VIII: Decision Making Framework

Accountable

The President is accountable for this Directive.

Responsible

The Managing Director, Chief Compliance Officer is responsible for the implementation of this Directive.

Section IX: Review and Reporting**Review**

Not applicable.

Reporting

At the end of each calendar quarter, or as often as the Managing Director, Chief Compliance Officer thinks necessary to the President as part of their report outlining their activities under the Code of Conduct as per Rule 22(d) of the Code of Conduct.

Section X: Related Documents

1. Staff Regulations POL/2019/2
2. Code of Conduct for EBRD Personnel DEC/2018/2
3. Guidance Note for Bank Personnel Rule 2
4. Directive on Guidance Note for Bank Personnel Rule 4 DIR/2019/17
5. Directive on Guidance Note for Bank Personnel Rule 5 DIR/2019/18
6. Directive on Guidance Note for Bank Personnel Rule 7 DIR/2019/19
7. Directive on Guidance Note for Bank Personnel Rule 8 DIR/2019/20
8. Whistleblowing Policy
9. Directive on Respectful Workplace Processes