

APPROVED
by the Order of the Investment Promotion Agency
under the Ministry of Economy of the Kyrgyz Republic
dated September 29, 2016, No.69

REGULATION
ON OUT-OF-COURT SETTLEMENT OF COMPLAINTS (DISAGREEMENTS) RELATED TO
INVESTMENTS

I. General Provisions

1. This Regulation is developed in accordance with the Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic” and Regulation of the Investment Promotion Agency under the Ministry of Economy approved by the Resolution of the Government of the Kyrgyz Republic dated March 18, 2016, No. 158.
2. The Investment Promotion Agency under the Ministry of Economy of the Kyrgyz Republic (the “Agency”) shall perform the functions of out-of-court settlement of complaints (disagreements) related to investments.
3. The procedure for out-of-court settlement of complaints (disagreements) is aimed at:
 - assisting the parties in legal assessment and resolution of complaints (disagreements);
 - ensuring a possibility to settle the complaints (disagreements) in an amicable manner and avoid escalation of the complaint (disagreement) into an investment dispute;
 - development of partnership and preservation of business cooperation relations.
4. This Regulation shall not extend to applications (referrals) subject to consideration pursuant to constitutional, criminal, civil and administrative proceedings, as well as applications with respect to which the legislative acts of the Kyrgyz Republic establish another procedure for consideration.
5. This Regulation determines the procedure for interaction of state bodies and other state organizations reporting to the Government of the Kyrgyz Republic (the “authorized state bodies”) on the issues of out-of-court settlement of complaints (disagreements) arising between the investors and the Kyrgyz Republic and related to investments.
6. This Regulation is a legal basis for coordination of interaction and information exchange between the Agency and the authorized state bodies.

II. Requirements to the Procedure for Filing and Review of Complaints (Disagreements)

7. Out-of-court settlement of complaints (disagreements) is voluntary and invoked upon written application of an investor or its authorized or legitimate representative for out-of-court settlement of complaints (disagreements) (the “written application”) filed with the Agency.
8. The written application can be filed in a paper format and/or in electronic format through feedback mechanism posted on the official web-site of the Agency and can be accepted personally from the applicant.
9. The application shall specify the nature and content of legal relations of the parties regarding which the complaint (disagreement) has arisen, circumstances of the dispute, list of documents

attached and other evidence, details of the power of attorney of a signatory of the application (if the document is signed based on the power of attorney), arguments based on which the investor disagrees with the decision of the state body, other data required for settlement of the complaint (disagreement).

III. Processing of Complaints (Disagreements)

10. The Agency during 14 calendar days reviews the filed written application against the criteria specified in point 4 of this Regulation.

IV. Review of Complaints (Disagreements)

11. The Agency during 60 calendar days reviews the filed written application, including:

- analyzes the facts provided in the written application and/or problems that arose during the investment activities;
- receives pursuant to the established procedure the information from the authorized state bodies regarding the issues specified in the written application;
- undertakes measures on settlement of the complaint (disagreements).

12. If the complaint (disagreements) is not settled by the Agency within the limits of competence thereof, the Agency shall have the right to attract the authorized state bodies that approved the draft agreement (contract) and/or actions and/or inactions of the officials of which have entailed complaints (disagreements) and/or the competence of which includes making (preparing) a decision on settlement of complaints (disagreements).

13. The Agency shall assist by holding specific confidential meetings with each of the parties, transfer of documents, demands, terms and conditions, issues and information between the parties, reconciliation negotiations, as well as undertake other actions for the purpose of signing of an agreement on out-of-court settlement of complaints (disagreements) by the parties.

14. For the purpose of reconciliation negotiations the Agency shall invite the investor or the authorized or legitimate representatives of the investor upon the investor's consent and the representatives of the authorized state bodies. The reconciliation negotiations shall take place in the form of free discussion of circumstances of the dispute with the participation of the parties to the dispute.

15. During the negotiations of the parties regarding the arising dispute the Agency shall:

- organize the work on out-of-court settlement of a specific complaint (disagreements) based on the application filed by the investor;
- attract persons, whose rights and interests may be affected by the dispute (disagreements) of the parties, persons having the information of importance for settlement of the dispute, experts and specialists;
- suggest option of out-of-court settlement of dispute;
- ensure confidentiality during the work with the information.

V. Decision Making Process

16. Based on the results of the complaint (disagreements) review the Agency shall make one of the following decisions:

- (1) satisfy the claim (disagreements) and contribute to adoption of a decision that is acceptable for the investor;
- (2) refuse in satisfying the claims (disagreements).

17. A dispute settlement agreement shall be executed in writing and signed by the parties.
18. The Agency may suggest options to the parties for the purpose of out-of-court dispute settlement and inform the parties about a possibility of filing the dispute for consideration by an arbitration court or general jurisdiction court.
19. The agreement shall be performed on a voluntary basis in the manner and within the terms specified therein.
20. If a dispute (disagreements) cannot be settled in the suitable manner, the Agency shall prepare a justified response on review of the written application, which shall include, inter alia:
 - (a) content of the written application;
 - (b) indication of the authorized state bodies that took part in review of the application;
 - (c) results of the analysis of facts and/or problems arising during the investment activities as specified in the application;
 - (d) information received from the authorized state bodies;
 - (e) dispute (disagreements) settlement measures that have been proposed and
 - (f) indication of reasons making it impossible to undertake the proposed measures.
21. The justified response shall be sent to the investor in writing or at the discretion of the investor in electronic format not later than 3 working days following the date of decision specified in point 16 of this Regulation.