

## Procedure for Investors Grievances Redress and Follow-Up

### Chapter 1. General Provisions

1. This Procedure for Investors Grievances Redress and Follow-Up (hereinafter, “the Procedure”) is developed to enforce the Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic”; it is also designed to protect investors in the Kyrgyz Republic.
2. The objectives of this Procedure include:
  - 1) Compiling Investors Grievance Register;
  - 2) Support for investors with consideration of investors’ concerns if they emerge in relationships with the government agencies, local self-government bodies, and business partnerships and companies with state share, as well as the state and municipal entities;
  - 3) Mitigation of the economic and legal implications of the substantiated Investors Grievances for the Kyrgyz Republic;
  - 4) Minimizing the risks of litigations and arbitration proceedings with investors;
  - 5) Assistance for investors with retention and increasing investments in the Kyrgyz Republic;
  - 6) Ensuring better investment appeal of the Kyrgyz Republic.
3. Basic terms used for this Procedure:
  - 1) **Grievance Subjects** means government agencies, local self-government bodies, and business partnerships and companies with state share, as well as state and municipal entities;
  - 2) **Investment Promotion Authority** means the Investments Promotion and Development Agency of the Kyrgyz Republic;
  - 3) **Competent authority for formulation of the national investment policy** means the Ministry of Economy and Commerce of the Kyrgyz Republic.
4. The process of consideration of investors grievances and their follow-up shall rest upon the following principles:
  - 1) Objectivity;
  - 2) Impartiality;
  - 3) Comprehensiveness;
  - 4) Meeting of the best interests of investors;
  - 5) Independence.

5. The Investors Grievances shall be handled by the Investment Promotion Authority in close cooperation with government agencies, local self-government bodies, business partnerships and companies with state share, state and municipal entities and independent institutions for protection of investors rights.
6. The Investment Promotion Authority shall perform the following functions as part of the Investors Grievances Redress mechanism and their follow-up:
  - 1) Maintain the Investor Grievances Register (hereinafter, “the Register”);
  - 2) Undertake economic and legal review of the data contained in Grievances;
  - 3) Interact with the Grievance Subjects to resolve it;
  - 4) Conduct meetings with investors, who filed a complaint to follow it up;
  - 5) Send notices to the Cabinet of Ministers of the Kyrgyz Republic, Competent authority for formulation of the national investment policy and competent legal representation authority of the Cabinet of Minister of the Kyrgyz Republic about existing risks of arbitration proceedings of Investor grievances;
  - 6) Interact with the prosecution offices in respect of the identified positions during the legal review;
  - 7) Perform follow-up of investors enlisted in the Register;
7. The Grievance Subjects involved shall assist the Investment Promotion Authority in the resolution of the grievances.

## **Chapter 2. Procedure for Grievance Registration and Follow-Up**

8. An Investor’s grievance for the arisen disagreements with the Grievance Subjects may be sent to the Investment Promotion Authority by the Investor or other institutions whose activities are related to the matters of investments.

The Investors Grievances may also be identified by the Investment Promotion Authority independently, within the framework of the investor protection and aftercare activities.

9. The Investor Grievances may be submitted to the Investment Promotion Authority at any stage prior to submission of such Grievances to judicial bodies or settlement of the dispute by arbitration.

10. Investors Grievances may be submitted by e-mail or in writing. An investor in his/her complaint shall specify the name of the government agency, which is a recipient of the Grievance, as well as his/her family name, first name, middle name (the latter, if any), name of a legal entity (if the Grievance is submitted on behalf of a legal entity), postal address to which the response should be sent; it shall also describe the subject matter of the Grievance, and put his/her personal signature and date, if the Grievance is submitted in writing.

The grievance may also be stated by an Investor at a personal meeting with representatives of the Investment Promotion Authority, and reflected in the minutes.

11. The Investor Grievance upon receipt by the Investment Promotion Authority shall be registered in the Register, including the date of filing and assignment of a registration number.

12. To review the Grievance and further follow-up of the Investor, the Investment Promotion Authority designates a responsible specialist to each Grievance received; the relevant data is also recorded in the Register.

13. An Investor Grievance shall be considered within fourteen (14) business days. If the

Grievance Subject is a local self-government body, the term of Grievance review may be extended, but not more than for thirty (30) calendar days.

14. From the moment the Grievance is registered in the Register, a responsible specialist shall contact an Investor who filed the Grievance to get more details of the information contained in the Grievance and enter such information into the Register.

15. Collection of information from the Investor who filed the Grievance and completion of the Register is done orally, based on a list of questions as determined by the Investment Promotion Authority. Maintenance of the Register shall comply with the legislation of the Kyrgyz Republic in the area of personal data protection.

The Investment Promotion Authority and the Competent authority for formulation of the national investment policy shall have access to the Registry data.

The disclosure of the Registry data is allowed only upon the written consent of the Investor.

16. After collecting information and entering it into the Register, the Investment Promotion Authority initiates an economic analysis describing the possible economic risks for the Kyrgyz Republic in connection with the failure to resolve the complaint received, according to the form attached in Appendix 1 to this Procedure.

17. Along with the economic analysis, the Investment Promotion Authority shall also undertake a legal review to assess possible violations of international or national legislation, committed by the Grievance Subject. The legal review shall be conducted in accordance with the form attached in Appendix 2 to this Procedure.

18. If the findings of the economic and/or legal review confirm the relevancy of information contained in the Investor's complaint, to resolve the situation the Investment Promotion Authority sends to the Grievance Subject a respective letter describing the information on the Grievance and containing the findings of economic and legal findings, as well as recommendations for resolving such situation, followed by the notification of the investor.

19. The Grievance Subject shall submit its position on the Grievance to the Investment Promotion Authority within seven (7) business days from the date of receipt of the Investment Promotion Authority letter.

20. Upon receipt of the position of the Grievance Subject, the Investment Promotion Authority shall organize a meeting with the investor and the Grievance Subject involved to find a solution.

21. If due to the efforts to consider the Grievance the investor and the Grievance Subject reach agreement, the Investment Promotion Authority fills out an agreement on Grievance Redress, which is signed by both parties to the Grievance, as per Annex 3 to this Procedure.

22. If the measures taken by the Investment Promotion Authority have not resulted in the resolution of the Grievance, it shall send the relevant report on the Grievance in the form in Annex 4 to this Procedure to the Cabinet of Ministers, the Competent authority for formulation of the national investment policy and the competent legal representation authority of the Cabinet of Ministers to describe the possible risks arising from the complaint under consideration. The Investment Promotion Authority shall also send the findings of the legal review to the supervisory bodies for further action.

23. From the moment of taking any action to resolve the situation described in the Grievance, the responsible specialist shall reflect such information in the Registry in the form determined by the Investment Promotion Authority.

### **Chapter 3. Follow-up of Investors who filed Grievance**

24. Regardless of the outcome of the Grievance redress, the Investment Promotion Authority follows-up Investors registered in the Register on a permanent basis.
25. Investor follow-up is carried out in order to:
  - 1) identify potential or already arisen new disagreements of investors with the Grievance Subjects to assist in the resolution of such situations;
  - 2) Provide guidance and other assistance to investors regarding their activities;
  - 3) Update the information about existing investors in the Republic;
  - 4) Conduct joint activities aimed at improving the investment climate in the Kyrgyz Republic
  - 5) Involve investors in working groups to improve the legislation of the Kyrgyz Republic.
26. Support for investors is carried out in the following forms:
  - 1) Sending monthly inquiries to investors through e-mail or by phone regarding possible problems in the ongoing investment activities;
  - 2) Quarterly round tables, working meetings or extended conferences;
  - 3) If necessary, holding bilateral and multilateral meetings, involvement in working groups of Competent authority on formulation of investment policy to improve the laws.
27. In order to minimize the emergence of disagreements between investors and potential Grievance Subjects, the authorized body for the development of a unified state investment policy together with the Investment Promotion Authority shall:
  - 1) carry out joint activities with representatives of government agencies and local self-government bodies on:
    - interaction with investors;
    - risks of disagreements with investors and their consequences;
    - Compliance and explanation of the provisions of international investment agreements, as well as the legislation of the Kyrgyz Republic;
    - planned changes in the legislation of the Kyrgyz Republic in the promotion and protection of investor rights and their impact;
  - 2) Annually publish on its official website summary information about grievances received, the results of their support and the most common subject matter of such grievances, without disclosure of personal and confidential information;
  - 3) organize training and other events for investors to inform them about the mechanisms of protection of their rights and legitimate interests.

### **Chapter 4. Specifics of Interaction with Local Self-Government Bodies**

28. If the Investment Promotion Authority cannot independently organize work with local self-government bodies involved in the Grievance due to their remoteness and inaccessibility, it applies for assistance to special representatives of the President of the Kyrgyz Republic in the regions and local state administrations.
29. Exchange of information between the Investment Promotion Authority, special representatives of the President of the Kyrgyz Republic in regions and local state administrations is carried out on the basis of inquiry.

30. The request shall be executed in writing and shall contain specific objectives. The request shall indicate a brief information about the received complaint, its possible economic and legal effect.

31. Special representatives of the President of the Kyrgyz Republic in regions, local state administrations shall ensure confidentiality, safety and protection of information received from the Investment Promotion Authority.

32. Upon consideration of the request, the special representatives of the President of the Kyrgyz Republic in the regions and local state administrations shall

- 1) contact the local self-government body involved and provide all available information to resolve the complaint;
- 2) if possible, to organize, under their chairmanship, a personal meeting with a representative of the relevant local self-government body and the investor
- 3) inform the Investment Promotion Authority about the results of the conducted work for further decision making.

Annex 1  
to Procedure for Investors Grievance Redress and Follow-Up

Form

Date

**ECONOMIC REVIEW**  
**of Investor's GRIEVANCE # \_\_\_\_\_**

**1. General Information About Investment Project**

Project Name: \_\_\_\_\_

Company's Name: \_\_\_\_\_

Statement of Grievance:  
\_\_\_\_\_

**2. Analysis of Economic Impact on Investment Activities**

1) What is the value of Investment Project affected by the Grievance (in US dollars) -

**(A):** \_\_\_\_\_

2) Number of jobs in this Investment Project:  
\_\_\_\_\_

3) Total number of jobs affected by the Grievance:  
\_\_\_\_\_

**3. Analysis of Economic Impact if Investor's Grievance is Escalated into Litigation:**

1) Actual costs of Investment Project: \_\_\_\_\_ **(3a)**

- invested amount:  
\_\_\_\_\_

- What are approximate losses of Investor due to this Grievance? (losses in terms of time costs of personnel / intermediaries, other administrative fees, lost profit):  
\_\_\_\_\_

2) Costs of settlement of investment dispute through legal proceeding:  
\_\_\_\_\_

- legal services fees (actual costs for each case given the qualifications of a legal representative, complexity of a dispute, cost, etc.):  
on average \_\_\_\_\_ US dollars

- arbitration fees (including for administrative services and arbitrator's remuneration, etc.):  
on average \_\_\_\_\_ US dollars

- expenses for experts, witnesses:  
on average \_\_\_\_\_ US dollars

- costs of dispute examination, travel expenses, translation costs, etc.:  
on average \_\_\_\_\_ US dollars

Total: \_\_\_\_\_ US dollars **(3b)**

3) Total estimated costs, if the Grievance is escalated to into litigation:

\_\_\_\_\_ **(3a + 3b) = (B)**

**Total estimated costs, as calculated for the economic impact assessment:**

\_\_\_\_\_ **(A + B)**

**Full Name of Designated  
Manager**

**(signature)**

Form

Date

**LEGAL REVIEW**  
of Investor's Grievance # \_\_\_\_\_

**1. General Information About Investment Project**

Project Name:

\_\_\_\_\_

Project Name:

\_\_\_\_\_

Foreign or Domestic Investor:

\_\_\_\_\_

Statement of Grievance:

\_\_\_\_\_

\_\_\_\_\_

**2. Legal review of Grievance Impact on Investment Activities**

1) Based on the obligations assumed by the Kyrgyz Republic under international investment agreements, after the facts have been reviewed, is the Investor's Grievance considered unfounded?

Yes

No

2) If the Grievance is considered substantiated, what provisions of the Kyrgyz laws may be affected by the Grievance?

\_\_\_\_\_

3) If the Grievance is considered substantiated, what obligations of the Kyrgyz Republic may be affected by the Grievance?

National Treatment (NT)/ Most-favored-Nation treatment (MFN)

Fair and Equitable Treatment (FET)/Full Protection and Security (FPS)

Protection against illegal expropriation

The right to transfer funds and assets

"Umbrella" provision (1)

4) Recommendation:

Send a Grievance to a higher authority

Settle a Grievance as soon as possible



Note. This legal review is indicative, and NOTHING in this analysis shall be construed as undertaking by the Kyrgyz Republic of ANY actual liability under international investment agreements.

**Full Name of Designated  
Manager**

**(signature)**

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(1) A provision obliging a host state to comply with specific obligations to its foreign investors.

Form

**AGREEMENT ON  
Resolution of the Investor's Grievance # \_\_\_\_\_**

By the letter with incoming reference number \_\_\_\_\_ (or by email) to the Investment Promotion Authority from \_\_\_\_\_, the Investor's Grievance has been received, related to

\_\_\_\_\_

**1. General Information about Investor's Grievance**

1) General information about Investor:

Investor's Name

\_\_\_\_\_

Address:

\_\_\_\_\_

Date of establishment in the Kyrgyz Republic:

\_\_\_\_\_

Location of the Investment Project associated with the Grievance filed:

\_\_\_\_\_

2) Statement of Investor's Grievance

Date of Grievance initiation:

\_\_\_\_\_

Grievance Details:

\_\_\_\_\_

\_\_\_\_\_

**2. Grievance Processing and Follow-Up**

After receiving the Investor's Grievance, the Investment Promotion Authority has conducted an examination of the submitted information, a preliminary economic and legal review and, at the same time, has contacted the Investor to clarify the Investor's position regarding the Grievance. After the work performed, the following was determined:

**Investor's position regarding the Grievance:**

Position 1:

\_\_\_\_\_

Position 2:

\_\_\_\_\_

Position 3:

\_\_\_\_\_

**Position of the Involved Grievance Subjects:**

Position 1:

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Position 2:

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Position 3:

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**Position of the Investment Promotion Authority:**

**Economic impact**

Impact on current Investor's operations:

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Impact on the Investor's future investment expansion plans in the Kyrgyz Republic:

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Impact on jobs in the current investment project:

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Impact on jobs under the investor's investment expansion plan in the Kyrgyz Republic in the future:

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Impact on investment environment image in the Kyrgyz Republic for investors, including foreign investors and local investors:

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Estimated costs if the Grievance remains unresolved:

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**Legal Implications**

The relevant international investment agreement (including bilateral investment agreements, if any):

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Relevant legal provisions of the Kyrgyz Republic:

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Possible legal implications due to the Grievance:

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Risk of litigation against the Kyrgyz Republic (if any):

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As a result of the follow-up work related to the Grievance, the Investor and the Grievance Subject have reached the following decision:

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**Full Name of Designated  
Manager**

**(signature)**

**Full Name of the Authorized Investor's Representative \_\_\_\_\_  
(signature)**

**Full Name of the Authorized Grievance Subject Representative  
\_\_\_\_\_ (signature)**

Form

**REPORT**  
**on Investor's Grievance Follow-Up # \_\_\_\_\_**

By letter with incoming reference number \_\_\_\_\_ (or by email) to the Investment Promotion Authority from \_\_\_\_\_, an Investor's Grievance has been received, related to

\_\_\_\_\_

To review this Grievance, the Investment Promotion Authority presents the following information regarding the Grievance received.

**1. General Information about Investor's Grievance**

1) General information about Investor:

Investor's Name: \_\_\_\_\_

Foreign or Domestic Investor: \_\_\_\_\_

Address: \_\_\_\_\_

Date of establishment in the Kyrgyz Republic: \_\_\_\_\_

Investment Area: \_\_\_\_\_

Location of the Investment Project associated with the Grievance filed:

\_\_\_\_\_

Total capital of the Investment Project associated with the Grievance filed:

\_\_\_\_\_

Number of jobs in this Investment Project associated with the Grievance filed:

\_\_\_\_\_

2) Investor's Grievance details:

Date of Grievance initiation:

\_\_\_\_\_

Other government agencies involved into the situation related to the Grievance:

\_\_\_\_\_

Other parties involved to the situation related to the Grievance:

\_\_\_\_\_

Grievance details:

\_\_\_\_\_

\_\_\_\_\_

**2. Grievance Processing and Follow-Up**

After receiving the Investor's Grievance, the Investment Promotion Authority has conducted an examination of the submitted information, a preliminary economic and legal review and, at the same time, has contacted the Investor to clarify the Investor's position regarding the Grievance. After the work performed, the following has been determined:

**Investor's position regarding the Grievance:**

Position 1: \_\_\_\_\_

Position 2: \_\_\_\_\_

Position 3: \_\_\_\_\_

**Position of the Involved Grievance Subjects:**

Position 1: \_\_\_\_\_

Position 2: \_\_\_\_\_

Position 3: \_\_\_\_\_

**Position of the Investment Promotion Authority:**

**Economic impact**

Impact on Current Investor's Operation:

\_\_\_\_\_  
\_\_\_\_\_

Impact on the investor's future investment expansion plans in the Kyrgyz Republic:

\_\_\_\_\_  
\_\_\_\_\_

Impact on jobs in the current investment project:

\_\_\_\_\_

Impact on jobs under the investor's investment expansion plan in the Kyrgyz Republic in the future:

\_\_\_\_\_

Impact on the investment environment image in the Kyrgyz Republic for investors, including foreign investors and local investors:

\_\_\_\_\_

Estimated costs, if the Grievance remains unresolved:

\_\_\_\_\_

**Legal Implications**

The relevant international investment agreement (including bilateral investment agreements, if any):

\_\_\_\_\_  
\_\_\_\_\_

Relevant legal provisions of the Kyrgyz Republic:

\_\_\_\_\_

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Legal implications possibly arising due to the Grievance

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Risk of litigation against the Kyrgyz Republic (if any):

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**Proposal of Investment Promotion Authority to redress the Grievance:**

Proposal 1: \_\_\_\_\_

Proposal 2: \_\_\_\_\_

**Full Name of Designated  
Manager**

**(signature)**