

RULES OF PROCEDURE
OF THE BUSINESS OMBUDSMAN COUNCIL

These Rules of Procedure (the “**Rules**”) are adopted pursuant to the Resolution of the Cabinet of Ministers of Ukraine On Establishment of the Business Ombudsman Council No. 691 dated 26 November 2014 (the “**Resolution**”¹) and the Memorandum of Understanding for the Ukrainian Anti-Corruption Initiative dated 12 May 2014 (the “**MoU**”).

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

CHAPTER I. STRUCTURE, GOVERNANCE AND FUNCTIONS OF THE BUSINESS OMBUDSMAN COUNCIL (THE “BOC”)

1. AIM, LEGAL STATUS AND STRUCTURE OF THE BOC

1.1 Status and role of the BOC

1.1.1 The Business Ombudsman Council is a standing consulting and advisory body of the Cabinet of Ministers of Ukraine (the “**CMU**”) established for the purpose of contributing to the transparency of the activities of state and municipal (local self-government) authorities, businesses within the scope of their administration, preventing corruption and/or other violations of the legitimate interests of businesses.

1.2 Structure of the BOC

1.2.1 The BOC shall consist of:

- (a) the Business Ombudsman;
- (b) two Deputy Business Ombudsmen; and
- (c) the Secretariat.

2. SUPERVISORY BOARD

2.1 Role of the Supervisory Board

2.1.1 The BOC operates under the supervision of the Supervisory Board.

2.1.2 The Supervisory Board is the governing body of the BOC established for the purpose of overseeing the activities of the BOC and its compliance with the Resolution, the MoU and applicable legislative acts of Ukraine.

2.2 Formation of the Supervisory Board

2.2.1 The Supervisory Board is comprised of representatives of the Group of Parties who are signatories to the MoU, and operates consistent with the provisions set out in the Resolution, the MoU, applicable legislative acts of Ukraine and these Rules.

2.2.2 The Supervisory Board shall consist of three blocks being (1) the CMU, (2) international financial institutions, and (3) independent business associations, each acting through a person who represents the relevant block on the Supervisory Board.

¹ Which term shall include the Regulation on the Business Ombudsman Council dated as of the date of the Resolution endorsed by the Resolution.

- 2.2.3 Each block, except for the CMU, may be joined by new parties, subject to an amendment to the MoU, which requires execution by all existing parties to the MoU.
- 2.2.4 Except as specified in Clause 2.2.5 below, a decision regarding the appointment and removal of a person who represents the relevant block on the Supervisory Board is made according to the agreed procedures of the relevant block.
- 2.2.5 Appointment and removal of the person who represents the CMU on the Supervisory Board is made by a decision or regulation of the CMU.
- 2.2.6 Each block must promptly notify the other blocks when it decides to appoint or remove its representative on the Supervisory Board. Such notification shall be made in writing, to an e-mail address that the relevant block uses as its formal address for correspondence on all BOC-related matters.
- 2.2.7 Each block shall identify an e-mail address for formal correspondence regarding all BOC-related matters and notify the other blocks and the Business Ombudsman accordingly. In case of any change to such e-mail address, the relevant block shall similarly promptly notify the other blocks and the Business Ombudsman.

2.3 Powers of the Supervisory Board

- 2.3.1 Powers of the Supervisory Board are defined in the Resolution and these Rules.
- 2.3.2 Powers of the Supervisory Board include the following:
 - (a) approval of candidates for and submissions to the CMU for the purposes of appointing and dismissing the Business Ombudsman and the Deputy Business Ombudsmen;
 - (b) adopting the Rules and making amendments thereto;
 - (c) supervising the activities of the BOC;
 - (d) deciding the strategic directions and priority activities of the BOC on an annual basis or as otherwise required, as may be decided by the Supervisory Board;
 - (e) receiving and reviewing the quarterly and annual reports of the BOC;
 - (f) approval of the annual budget and a detailed summary of the Business Ombudsman on the use of the approved budget during the immediately preceding financial year; and
 - (g) deciding any other matters relating to BOC's activities consistent with the Resolution and these Rules.

2.4 Requirements for the representatives of the blocks on the Supervisory Board

- 2.4.1 Each of the blocks, at its own discretion, appoints and recalls its representative on the Supervisory Board and defines the eligibility requirements for such representative. Notwithstanding the immediately preceding sentence, (a) no representative of a block shall have a conflict of interest in performing the functions of a representative of the block on the Supervisory Board, and (b) each representative of a block on the Supervisory Board shall be a person with the highest degree of personal and professional integrity and possess adequate qualifications to perform the functions of a representative of a block on the Supervisory Board.

- 2.4.2 The following requirements must be met in order to prevent a conflict of interest:
- (a) A representative of a block on the Supervisory Board shall not hold any position or office, or perform any activities that are, or may be perceived to be, in conflict with the performance of the functions of a representative of such block on the Supervisory Board; and
 - (b) Each representative of a block on the Supervisory Board shall promptly disclose to the Supervisory Board and the relevant block any conflict of interest or potential conflict of interest he/she may have, either in connection with (i) being a representative of the block on the Supervisory Board, or (ii) any matter that is being discussed or otherwise considered by the Supervisory Board.
- 2.4.3 In case of a conflict of interest pursuant to 2.4.2(b)(i) above, the representative of a block on the Supervisory Board shall promptly resign from his/her position as representative of the relevant block on the Supervisory Board, and, in case of a situation described in paragraph 2.4.2(b)(ii) above, the representative of the relevant block on the Supervisory Board shall recuse himself/herself from participating in the consideration of the relevant matter by the Supervisory Board and, where necessary, arrange for his/her alternate authorized by the relevant block to participate on behalf of such block in considering such matter before the Supervisory Board.
- 2.4.4 The term “highest degree of personal and professional integrity” set out in paragraph 2.4.1, means that each representative of a block on the Supervisory Board and the party he/she represents shall be a person of the highest personal and professional integrity and is regarded as such within the Ukrainian business community.
- 2.4.5 The term “adequate qualification” set out in paragraph 2.4.1, means that the representative of the relevant block on the Supervisory Board possesses the knowledge, ability and experience required to properly perform his/her duties as representative of such block on the Supervisory Board.

2.5 Meetings of the Supervisory Board

- 2.5.1 The Supervisory Board may hold the following types of the meetings:
- (a) regular meetings, which are convened on a quarterly basis and held, unless otherwise agreed by the representatives of all blocks on the Supervisory Board, between the first and tenth day in the first month of each calendar quarter; and
 - (b) extraordinary meetings, which may be convened at any time if so requested by a representative of any block on the Supervisory Board, or by the Business Ombudsman, but only if, in their opinion, an urgent issue needs to be considered prior to the date of the next regular meeting of the Supervisory Board.
- 2.5.2 Generally, meetings of the Supervisory Board are held in person. Where a representative of any block cannot participate in the meeting of the Supervisory Board in person, upon notifying other blocks, such a representative may join the meeting by telephone or video conference.
- 2.5.3 The agenda of the Supervisory Board meeting is formed in the following manner:

- (a) the items of the agenda are set out in the notice of convening the meeting;
 - (b) representative of each block on the Supervisory Board has a right to propose new items to be included in the agenda;
 - (c) 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 blocks on the Supervisory Board;
 - (d) the final agenda must be sent to the representatives of all blocks on the Supervisory Board at least one week before the relevant meeting is scheduled to be convened; and
 - (e) the agenda may be changed and new items added during the meeting upon agreement of the representatives of all blocks on the Supervisory Board.
- 2.5.4 The quorum of the Supervisory Board meeting shall be 2 (two) of 3 (three) blocks, except in respect of the meetings regarding the appointment of the Business Ombudsman or his/her Deputies, which require all three blocks to be present.
- 2.5.5 Except for the cases when the Supervisory Board requests the Business Ombudsman or any Deputy Business Ombudsman not to be present at a particular meeting or not to attend a specific item on the agenda, the Business Ombudsman and the Deputy Business Ombudsmen shall be entitled to be present in the Supervisory Board meetings. Without limiting the requirements of paragraph 2.2.2, which requires each block to act at Supervisory Board meetings through the person who represents the relevant block on the Supervisory Board, any party to the MoU shall be entitled to send its representative to be present at a Supervisory Board meeting.
- 2.5.6 The following terms apply to the notice to hold a meeting of the Supervisory Board:
- (a) a regular meeting shall be called upon a 30-day prior notice to each block ;
 - (b) an extraordinary meeting shall be called upon a 10-day prior notice to each block . In urgent cases, the notice period can be reasonably shortened by the Chairman of the Supervisory Board;
 - (c) the notice calling for a regular meeting of the Supervisory Board shall be sent by the Secretary of the Supervisory Board;
 - (d) any block, acting through its representative on the Supervisory Board, may call an extraordinary meeting of the Supervisory Board by sending a notice to representatives of the other blocks on the Supervisory Board directly or through the Secretary; and
 - (e) the notice must include information regarding the date, venue and agenda of the meeting and may be sent either by post/courier or by e-mail, to the post or e-mail addresses provided by the relevant block for the purposes of receiving notices.

2.6 Chairman of the Supervisory Board

- 2.6.1 The Chairman of the Supervisory Board coordinates the work of the Supervisory Board and chairs its meetings. The Chairman is selected amongst the three blocks comprising the Supervisory Board according to the principle described in paragraph 2.6.2. The block selected to perform the Chairman's functions performs these through a person

authorised by the relevant block to represent such block on the Supervisory Board. If the block that has been selected to perform the functions of the Chairman is not represented at the meeting of the Supervisory Board, the Chairman's duties are performed by another block through its representative on the Supervisory Board subject to the approval by those Supervisory Board members who participate at such a meeting.

- 2.6.2 The Chairman is selected by the representatives of the three blocks on the Supervisory Board from among three blocks so that the Chairmanship rotates among the blocks, with each block having the Chairmanship for one year.

2.7 Secretary of the Supervisory Board

- 2.7.1 The Secretary of the Supervisory Board is appointed by the Supervisory Board. He/she may be a member of the Secretariat of the BOC.
- 2.7.2 The Secretary assists with the organization of affairs of the Supervisory Board and is the contact person for the representatives of the blocks on the Supervisory Board and parties to the MoU and any other parties who wish to provide information to the Supervisory Board.

2.8 Decisions of the Supervisory Board

- 2.8.1 Decisions of the Supervisory Board shall be taken at its meetings. Decisions shall be recorded in writing, with the minutes being signed by the representative of each block who participated in the relevant meeting.
- 2.8.2 Decisions with respect to the appointment of the Business Ombudsman and his/her Deputies must be unanimous. All other decisions of the Supervisory Board shall be taken on the basis of a two-thirds majority vote. Notwithstanding the right of the Supervisory Board under paragraph 2.3.2(f) to approve the annual budget, none of the parties to the MoU can be required to provide any financing to the BOC without its prior consent.
- 2.8.3 The voting process is open and shall be conducted by show of hands. Voting by secret ballot is not allowed.
- 2.8.4 A decision becomes effective on the day when the minutes relevant to such decision have been signed by the representatives of those blocks who were present at the relevant Supervisory Board meeting. Signing of the minutes by a representative of a block does not imply his/her consent with the decision(s) that are being recorded in the relevant minutes. Notwithstanding the foregoing, if a representative of a block refuses to sign the minutes of a Supervisory Board meeting in which he/she participated, such refusal shall be notified to the representatives of the other blocks who were present at the relevant meeting of the Supervisory Board by the Secretary of the Supervisory Board and the decisions that were adopted by the Supervisory Board at the relevant meeting shall enter into force when the minutes of such meeting have been signed by the representatives of such other blocks.
- 2.8.5 All decisions and minutes of the Supervisory Board meetings shall be retained for safekeeping by the BOC. A copy of any decision and/or minutes is issued to each representative of a block on the Supervisory Board or a block upon 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:
- (a) the MoU and the Resolution establish the eligibility criteria for the candidates for the position of the Business Ombudsman and his/her Deputies;
 - (b) the initial selection process is conducted through a selection committee appointed by the Supervisory Board. Each block appoints one member of the selection committee;
 - (c) candidates for the Business Ombudsman position are identified by the selection committee. The selection committee conducts interviews with one or more shortlisted candidates and recommends the preferred candidate for the Business Ombudsman position to the Supervisory Board;
 - (d) Deputy Business Ombudsmen are selected through a competitive selection process. The initial review of applications is performed by the Business Ombudsman. The Business Ombudsman then presents a proposed long-shortlist of candidates to the selection committee. Once the long-shortlist is approved by the selection committee, the Business Ombudsman conducts interviews with the relevant candidates. Following the interview process, the Business Ombudsman presents the final shortlist of candidates to the selection committee. The selection committee then interviews the shortlisted candidates and, taking into account recommendations from the Business Ombudsman, it decides on the preferred candidate for each Deputy Business Ombudsman position. In the event that selection of any Deputy Business Ombudsman is conducted at a time when there is no Business Ombudsman, the above-described tasks to be performed by the Business Ombudsman in connection with the selection process are performed directly by the selection committee;
 - (e) the selection committee proposes the preferred candidate for each Deputy Business Ombudsman position to the Supervisory Board for approval;
 - (f) unanimous approval of the representatives of all three blocks on the Supervisory Board is required for the approval by the Supervisory Board of the Business Ombudsman and each Deputy Business Ombudsman;
 - (g) following the approval by the Supervisory Board, the Supervisory Board submits the selected candidates to the CMU for approval and appointment; and
 - (h) the CMU appoints the Business Ombudsman and his/her Deputies from among the candidates submitted by the Supervisory Board.

3.2 Authority of the Business Ombudsman

3.2.1 The Business Ombudsman shall have the authority provided to him/her under the Resolution and these Rules.

3.2.2 Business Ombudsman can delegate any of his/her authority to his/her Deputies.

3.3 Grounds for termination of the Business Ombudsman and Deputies

3.3.1 Grounds for termination of the authority of the Business Ombudsman and his/her Deputies are set out in the Resolution.

4. SECRETARIAT

4.1 Structure of the Secretariat and manning

- 4.1.1 The Secretariat consists of investigators and other staff that provides administrative and technical support to the BOC.
- 4.1.2 Investigators are members of the Secretariat who are directly engaged in the review of the complaints of businesses submitted to the BOC.
- 4.1.3 Investigators and other members of the Secretariat are appointed and dismissed by the Business Ombudsman.
- 4.1.4 The scope of responsibilities of the investigators and other members of the Secretariat is determined by the Business Ombudsman.
- 4.1.5 Unless otherwise determined by the Business Ombudsman, within the scope of his / her authority, investigators and other members of the Secretariat report directly to the Business Ombudsman.

5. REPORTS OF THE BOC

5.1 Types of reports

- 5.1.1 The BOC produces annual and quarterly reports.

5.2 Submission and publication of reports

- 5.2.1 The annual report of the BOC activities for the relevant calendar year shall be submitted to the Supervisory Board no later than three months after the end of such calendar year.
- 5.2.2 The quarterly report regarding the BOC activities in the relevant calendar quarter shall be submitted to the Supervisory Board no later than six weeks after the end of such calendar quarter.
- 5.2.3 Annual and quarterly reports are submitted to the Supervisory Board for approval. The Business Ombudsman shall submit each written report at least 10 (ten) business 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 BOC for further amendments. In such a case, the Business Ombudsman shall ensure that an amended version is submitted to the Supervisory Board no later than 10 (ten) business days from the day on which the original report was rejected by the Supervisory Board.
- 5.2.4 The reports shall be published on the BOC website after their approval by the Supervisory Board.

5.3 Content of reports

- 5.3.1 Annual reports shall include the following information:
 - (a) volume and nature of the complaints received;
 - (b) information on timeliness of the preliminary review of complaints;
 - (c) number of investigations conducted and, for claims left by the Business Ombudsman without further consideration as per paragraph 9.2.2. below, statistical information on the grounds for dismissal of such claims;

- (d) information on timeliness in conducting investigations and, if relevant, reasons behind any significant delays or extensions of time for complaints that were investigated during the reporting period;
- (e) information on overall feedback from claimants (regarding timeliness and the manner in which complaints were handled by the BOC):
- (f) summary of key matters that were the subject of the complaints or investigations during the reporting period;
- (g) summary of the most important investigations and their results, including recommendations provided by the BOC and measures (including the timeliness of their implementation) taken by the state and municipal authorities to address them;
- (h) systemic issues identified during the reporting period;
- (i) recommendations made to the relevant authorities to address such systemic issues and relevant authorities' approach to the recommendations made; and
- (j) summary regarding the implementation, including on the quality of follow-up, by the relevant authorities of any systemic recommendations made to such authorities and reported by the BOC in the previous reports, including, where relevant, the ratio of recommendations made – to - action taken (and the quality of action taken) by the relevant authorities within six months of receipt of such recommendations.

5.3.2 Quarterly reports shall include information specified in subparagraphs (a), (b), (c), (d), (g), (h) and (i) of paragraph 5.3.1.

CHAPTER 2. SUBMISSION OF THE COMPLAINTS AND INVESTIGATION PROCEDURE

6. ELIGIBILITY OF COMPLAINTS

6.1 Types of complaints and their eligibility for investigation

- 6.1.1 The Business Ombudsman investigates complaints concerning alleged acts of corruption and/or other violations of legitimate interests of businesses by actions or omissions (including decisions) on the part of state and municipal authorities, businesses within the scope of their administration, and their officials (“**Business Malpractice**”).
- 6.1.2 The Business Ombudsman may initiate an investigation on his/her own initiative if he/she discovers the alleged Business Malpractice from any source, including, without limitation, the media.
- 6.1.3 The Business Ombudsman shall not investigate or review 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, arbitral or similar type of decision was made;
 - iii) in connection with the legality and/or validity of any court decisions, judgments and rulings; and
 - iv) where, to the extent relevant, the party affected by the alleged Business Malpractice has not exhausted at least one instance of an administrative appeal process available to such party under applicable legislation and internal rules of the party against whom the complaint is launched.
- 6.1.4 Any complaints concerning the matters described in clause 6.1.3 shall be automatically left without consideration by the Business Ombudsman.

6.2 Statute of Limitation

- 6.2.1 In order for a complaint to be eligible for consideration by the BOC, it must be submitted to the BOC no later than on the first anniversary of any act of the alleged Business Malpractice taking place, or, in the case where the same alleged Business Malpractice has been repeated, from the last occurrence of such Business Malpractice. Complaints filed after the expiry of such limitation period shall not be investigated unless the Business Ombudsman, in his sole and absolute discretion, has decided to investigate such matter notwithstanding such expiry.

7. COMPLAINANTS

7.1 Capacity to submit a Complaint

- 7.1.1 Any natural person or any legal entity engaged in business activities in Ukraine (the businesses) may submit a complaint to the Business Ombudsman in relation to an alleged Business Malpractice (the “**complainant**”).
- 7.1.2 Complainants shall submit their complaints either personally or through an authorised representative.

7.2 Anonymous Complaint

- 7.2.1 Anonymous complaints shall not be investigated unless the Business Ombudsman decides otherwise.
- 7.2.2 Complainants who do not wish their identity to be disclosed to state authorities, municipal authorities, or businesses within the scope of their administration against whom the complaint is filed shall so indicate in their complaint and shall provide reasons as to why such person should remain anonymous. Complainants who wish to remain anonymous notwithstanding that the complaint submitted by them to the BOC may not be properly investigated or concluded without their identity being disclosed must accept that the BOC may, at any point, decide to terminate its investigation or not submit the matter for further investigation to the relevant authorities.

8. SUBMISSION OF A COMPLAINT AND FORMAL REQUIREMENTS

8.1 Submission of a Complaint

- 8.1.1 Generally, complaints shall be submitted via the electronic filing system available on the official website of the BOC (www.boi.org.ua). Alternatively, complaints may be submitted to the electronic or postal addresses of the BOC indicated at the BOC website. If a complaint is received verbally or by telephone, the Business Ombudsman may commence investigation in accordance with 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 Business Ombudsman. Complaints submitted in writing must be signed by the complainant or, where relevant, by an authorized representative.
- 8.1.3 Complaints may be submitted in any of the following languages: Ukrainian, English, or Russian. Complaints will be registered, numbered and, for those received electronically or in person, acknowledged upon receipt.

8.2 Form of the complaint

- 8.2.1 Complaints shall follow the template that is available on the website of the BOC. The complaint shall contain all of the information requested in the template form which, among other information, includes:
- (a) the full name and, for legal entities, also the official registration number (if any) of the complainant;
 - (b) the postal address, telephone/fax numbers and, where available, e-mail address of the complainant;
 - (c) a state or municipal authority or business within the scope of their administration which is the subject of the complaint;
 - (d) a concise and legible statement regarding the nature of the alleged Business Malpractice including, where relevant, the description of any rights and/or interests of the claimant that have been violated; and
 - (e) the facts and items of evidence upon which the 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 BOC 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 form

- 8.3.1 Failure to comply with the requirements set out in clause 8.2 hereof will result in the complaint being left without consideration 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 Business Malpractice, 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 BOC.

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 business day following the day on which the complaint was received (the “**commencement date**”) and ends at the close of business on the tenth business 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. This additional period shall not normally exceed 10 (ten) working days and the preliminary review will thereafter be conducted pursuant to 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 that in the opinion of the Business Ombudsman are necessary or useful to assess the admissibility 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 consideration.
- 9.2.2 The Business Ombudsman may leave the complaint without further consideration in the following cases:
- (a) where, in the opinion of the Business Ombudsman, the complaint does not comply with the eligibility criteria set out in clause 6.1.1 of the Rules or the subject matter of the complaint is otherwise outside the Business Ombudsman’s investigative remit as per clause 6.1.3;
 - (b) where, in the opinion of the Business Ombudsman, the complaint has no substance, or other agencies or institutions are already investigating such matter, or are better positioned to address the complaint in question;
 - (c) 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;

- (d) a complaint is filed after the expiry of the limitation period described in clause 6.2 (unless the Business Ombudsman decides to proceed notwithstanding the expiry of the limitation period);
- (e) a complaint relates to an issue that has already been addressed by the Business Ombudsman in his/her previous decisions;
- (f) an investigation by the Business Ombudsman in a similar case is pending or otherwise on-going; and
- (g) 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 during the preliminary review

- 9.3.1 The decision of the Business Ombudsman whether to investigate or not to pursue the matter further shall be notified to the complainant in writing. This is done, where available, by an e-mail, to the e-mail address notified 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 an investigation, where appropriate, the Business Ombudsman shall, notify the state or municipal authority or the business within the scope of their administration against whom the complaint is filed and, if necessary or useful, request from such entities additional documents and information necessary or helpful to carry out such investigation. 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 whom the claim is submitted unless the claimant submits a request for non-disclosure of his/her identity in accordance with Clause 7.2.2.
- 9.3.3 In cases where the Business Ombudsman decides not to investigate the complaint further, in his/her rejection letter, the Business Ombudsman may refer the complainant to other authorities or institutions to whom such matter, in the opinion of the Business Ombudsman, could be submitted.
- 9.3.4 Where a decision is taken not to investigate a complaint, the grounds for such decision must be explained to the claimant in the rejection letter.

9.4 Repeated complaints

- 9.4.1 A complaint filed repeatedly after being decided by the Business Ombudsman to be left without consideration, shall not be investigated except in cases where substantively new circumstances are indicated, or where new relevant facts or material evidence are presented.
- 9.4.2 If the complainant requests to withdraw the complaint, the Business Ombudsman shall cease pursuing the investigation unless he/she decides to pursue the matter in accordance with clause 6.1.2 of these Rules.

9.5 Consolidation of several complaints into one action

- 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, order to consolidate two or more complaints in one action.

10. INVESTIGATION OF COMPLAINTS

10.1 Time limits for investigation

- 10.1.1 A complaint shall be investigated and the complainant shall be provided with a response within three (3) months from the date on which the Business Ombudsman initiated the investigation.
- 10.1.2 In cases where the complexity of the matter in question or amount of information submitted require more time for an investigation to be completed, the Business Ombudsman, in his discretion acting reasonably, may extend the time-period of investigation.
- 10.1.3 The complainant shall be notified of any extension and the reasons for such extension.

10.2 Appointment of investigators and delegation of authority 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 investigators.
- 10.2.2 The investigators shall have the authority delegated to them by the Business Ombudsman.
- 10.2.3 For the purposes of this clause, the term “investigator” includes the investigators of the BOC and the Deputy Business Ombudsman.

10.3 Collection of evidence

- 10.3.1 The Business Ombudsman may take evidence in any manner that he/she deems appropriate.
- 10.3.2 The Business Ombudsman has the right to request immediate provision of information, materials and documents he/she needs to decide on the complaint, to be granted access to documents (including those of a confidential nature, as well as documents that contain information regarding personal data protected by law). The Business Ombudsman, acting reasonably, may provide such information or document requests more than once depending on the needs and developments of the investigation in question.
- 10.3.3 The Business Ombudsman may take evidence by hearing a witness. The witness shall be invited for a formal interview by a written letter or by e-mail in which the time and venue of the interview shall be specified.
- 10.3.4 The Business Ombudsman shall investigate the circumstances specified in a complaint in such manner as the Business Ombudsman deems fit.

10.4 Experts

- 10.4.1 Should expert reviews and/or opinions be required in order to establish or clarify certain facts relevant to an 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 considers necessary for the success of an investigation.

10.5 Mediation and amicable settlement

- 10.5.1 Where appropriate and relevant, and subject to the cooperation of the relevant parties, the Business Ombudsman shall make an effort to assist such parties in reaching an amicable settlement regarding the subject matter of their dispute.
- 10.5.2 When an amicable solution 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 own separate proposals and recommendations.

10.6 Discontinuation of an investigation

- 10.6.1 In his/her own discretion, the Business Ombudsman may decide to discontinue the investigation if he/she establishes that:
 - (a) the circumstances that were relevant to the complaint do not exist anymore or are no longer relevant;
 - (b) the issue that constitutes the subject matter of the complaint has been resolved in another manner; and
 - (c) the complainant does not provide sufficient cooperation to the Business Ombudsman or the investigators in conducting the investigation.
- 10.6.2 The Business Ombudsman shall promptly inform the claimant and, where relevant, the state or municipal authority or business within the scope of their administration against whom the complaint is filed in writing upon taking a decision to discontinue an investigation and specify the reasons that resulted in such a decision.

11. DECISION

11.1 Contents of the decision

- 11.1.1 Upon completion of the investigation, the Business Ombudsman shall take one of the following decisions:
 - (a) recognise the complaint as substantiated or materially substantiated and provide recommendations to the relevant state or municipal authorities or business within the scope of their administration as to how to address the Business Malpractice in question; or
 - (b) submit the complaint to an appropriate state or municipal authority with a request to investigate the matter further; or
 - (c) dismiss the complaint as unsubstantiated or materially unsubstantiated.
- 11.1.2 A decision shall contain:
 - (a) the date of the decision;
 - (b) the name of the claimant and the state or municipal authority or business within the scope of their administration against whom the complaint is filed;
 - (c) a summary of the complaint;
 - (d) reasons and facts upon which the decision is based;
 - (e) in respect of a decision under clause 11.1.1(a):

(i) recommendation(s) to the state or municipal authority or business within the scope of their administration against whom the complaint was filed regarding the steps to be taken to eliminate or minimise the negative circumstances that were the subject matter of the complaint; and

(ii) the time period during which the recommendations shall be considered, implemented and reported back to the Business Ombudsman.

11.2 Language of the decision

11.2.1 All decisions of the Business Ombudsman shall be in Ukrainian. The Business Ombudsman may decide to translate his/her decisions into another language.

11.3 Publication of decision and other documents

11.3.1 Unless further delegated consistent with these Rules, decisions shall be signed by the Business Ombudsman.

11.3.2 Decisions and any materials relating to the completed investigations that the Business Ombudsman considers appropriate may be published on the Business Ombudsman's official website. Decisions and other materials may be published by the Business Ombudsman only after all confidential information and personal data have been removed.

11.3.3 The original copy of the decision, duly signed, shall be placed in the archives of the BOC.

11.4 Request for interpretation of a decision

11.4.1 A claimant or the state or municipal authority or business within the scope of their administration against whom the complaint is filed may ask the Business Ombudsman for clarification of the entire decision or some of its aspects. Such request may be submitted within 1 (one) year from the date of the decision.

12. CONFIDENTIALITY

12.1 The Business Ombudsman, the Deputy Business Ombudsmen, the investigators and other members of the Secretariat must not disclose or otherwise illegally make public confidential information which came to their knowledge under investigations conducted or otherwise in connection with their BOC-related activities.