Content

Title：	Guidelines for Establishment by the Ministry of Finance of the Complaint Review Board for Cases Concerning Promotion of Private Participation in Infrastructure Projects Ch
Date：	2019.01.15
Legislative：	1. Promulgated by the Ministry of Finance Tai Cai Gui No. 10114917070 on December 22, 2012. 2. Article 4 amended and promulgated by the Ministry of Finance Tai Cai Fa No. 10813901260 on January 15, 2019.
Content：	1.These Guidelines are set up by the Ministry of Finance (hereinafter referred to as the "Ministry") to handle disputes between applicants and the authority in charge over the application and review procedures for private participation in infrastructure projects under Article 47 of the Act for Promotion of Private Participation in Infrastructure Projects. 2.The Ministry shall establish a complaint review board (hereinafter referred to as the "Complaint Review Board") to handle disputes between applicants participating in infrastructure projects and the authority in charge over the application and review procedures for private participation in the projects. 3.The Complaint Review Board shall have a chairperson to manage all the affairs of the board who shall be appointed by the Minister of Finance from the Deputy Ministers of Finance, and may have a deputy chairperson to assist the chairperson to handle the board affairs. The deputy chairperson under the preceding paragraph shall be appointed from high-ranking officers of the Ministry or be an impartial person having expertise in promotion of private participation in infrastructure projects. 4.The Complaint Review Board shall have seven to fifteen members, and the chairperson and the deputy chairperson shall be ex officio members of the board. The board members

shall be appointed by the Ministry from high-ranking officers of the Ministry or impartial persons having expertise in law or promotion of private participation in infrastructure projects. At least one-third of the members shall consist of either sex.

Of the board members, three at the most may be appointed from high-ranking officers of the Ministry in accordance with the preceding paragraph, and such members shall not exceed one-fifth of the total members.

The term of office of the board members appointed in accordance with Paragraph 1 shall be two years. Upon the expiration of the term, the members may be reappointed.

5.The impartial persons under Paragraph 1 of the preceding article shall meet one of the following requirements:

(1) Having served as tenured judges or prosecutors.

(2) Having actually practiced as attorneys, accountants, architects, technicians or other professionals in connection with the Act for over five years.

(3) Having taught law courses or courses related to promotion of private participation in infrastructure projects for over three years at domestic or foreign universities or colleges recognized by the Ministry of Education.

(4) Having expertise or techniques related to promotion of private participation in infrastructure projects and having served at the related fields for over five years.

6.Meetings of the Complaint Review Board shall be called by the chairperson who shall serve as the convener. If the chairperson is unable to attend a board meeting, the deputy chairperson shall act in his/her stead.
If there is no deputy chairperson, or the deputy chairperson is unable to attend, the meeting shall be chaired by a board member designated by chairperson.

A resolution by the board shall be adopted by the vote of a majority of the board members at a meeting attended by a majority of the total board members. Where affirmative votes and negative votes are equal, the decision shall be made by the convener.

If any board members have different opinions on the decision of a board meeting, they may request that their opinions be attached to the minutes for filing.

7.The board members shall justly and unbiasedly exercise their powers and attend the board meeting in person.

8.To review a complaint about a dispute over private participation in infrastructure projects, the chairperson may designate three board members to preliminarily examine the complaint.

9.Any official documents from the Complaint Review Board to external entities shall be sent in the name of the Ministry.

10.The Complaint Review Board shall have one executive secretary who shall be appointed from high-ranking officers of the Ministry having legal expertise. The executive secretary shall handle staffing affairs as ordered by the chairperson. Staff members needed to handle those affairs shall be appointed from the employees of the Ministry.

11.The Complaint Review Board may invite experts or scholars to observe a board meeting and provide advice, if the board considers their observation necessary for review of a complaint.

12.The members of the Complaint Review Board shall receive no pay for their services but may be paid attendance fees

and reviewers' remuneration in accordance with the relevant provisions.

13.A board member shall recuse himself/herself from handling a complaint in any of the following circumstances:

(1) The member is one of the parties, or the spouse or a relative by blood or marriage of either party within the third degree of kinship, or a relative living together with and sharing the property of that party.

(2) The member has processed or supervised the processing of the case concerning private participation in the disputed infrastructure project.

(3) The member has participated in handling protests in connection with the same case.

(4) There is an employment relationship, mandate or agency relationship between a board member or his/her spouse and the applicant, the responsible person of the applicant, or the authority in charge, or such relationship existed in the last three years.

(5) There is solid evidence to prove that the member is likely to fail to justly perform duties.

If a member in any of the above circumstances fails to recuse himself/herself from handling a complaint, a party to the complaint may petition for disqualification of the member or the chairperson may disqualify the member from handling the complaint.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System