

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART III**

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to [council@isa.org.jm](mailto:council@isa.org.jm).*

**1. Name of Working Group:**

Inspection, Compliance and Enforcement

**2. Name(s) of Delegation(s) making the proposal:**

The Pew Charitable Trusts

**3. Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 101

**4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.**

The facilitators’ proposed amendments are reflected in **red**.

Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Where we propose deletions of the facilitator’s text this is shown **in strikethrough and bold**.

**Regulation 101**

**~~[Review of the Inspector’s decision]~~ [Complaints relating to Inspections]**

1. A Contractor who considers that an Inspector has acted unreasonably or outside of the scope of their powers under this Part may complain in writing to the ~~[Secretary-General]~~ ~~[Council]~~ ~~[Inspectorate]~~ [Compliance Committee], who shall consider the complaint as soon as practicable.

[1 **Alt** A person aggrieved by an action of an Inspector under this Part may complain in writing to the ~~[Inspectorate]~~ [Compliance Committee], who shall consider the complaint as soon as practicable.]

2. The ~~[Secretary-General]~~ ~~[Inspectorate]~~ Compliance Committee may take ~~may~~ such reasonable action as is necessary in response to the complaint in accordance with the applicable Standard.

[3. The ~~[Inspectorate]~~ Compliance Committee shall issue a report to the ~~Authority~~ Council describing the complaint and the action taken in response to such a complaint.]

## **5. Please indicate the rationale for the proposal. [150-word limit]**

Regarding paragraph 1, we agree with other delegates' previous suggestions that to ensure an independent response to such a complaint, this function could be performed by the Compliance Committee. An ISA Ombudsperson would be another option.

Regarding paragraph 2, we recall some delegations previously requested more detail as to the meaning of 'reasonable action' in paragraph (2). We agree that more detail is required. For a complaints procedure to be effective and fair, it needs to be underpinned by a well-defined policy, follow a standardized process with clear roles and responsibilities assigned, have data and complainant confidentiality protections in place, and identify available pathways to remedy and recompense. A Standard may be an appropriate location for such detail. We would also recommend insertion of a new DR101 bis. to establish more broadly the opportunity for third parties to provide information and complaints to the ISA. These can be useful intelligence upon which to target investigative actions, and can be useful in identifying non-compliance at an early stage. Administration of these mechanisms should be independent from the ISA's general operations, so having them report into a Compliance Committee would seem sensible.

The proposed addition in paragraph (3) is important to ensure the Council is informed of Inspector complaints. Again, the drafting here can be amended to specify the organ of the ISA to which the report is made, once the necessary policy decisions about responsible organs have been taken on this, by Council. We suggest that the Compliance Committee will be the entity issuing the report, and the Council would be the organ receiving the report.