



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 7, 2022

MEMORANDUM FOR **ALEXIA LATORTUE**
ASSISTANT SECRETARY, INTERNATIONAL TRADE AND
DEVELOPMENT

FROM: Brian Sonfield, Assistant General Counsel,
General Law, Ethics & Regulation and
Designated Agency Ethics Official

SUBJECT: Participation in Matters Regarding the European Bank for
Reconstruction and Development per 5 C.F.R. § 2635.502

This memorandum authorizes you to participate in certain matters that involve the European Bank for Reconstruction and Development (EBRD).

BACKGROUND

You were sworn in as Assistant Secretary, International Trade and Development on January 10, 2022. Prior to joining Treasury, you served as a Managing Director, Corporate Strategy at the European Bank for Reconstruction and Development (EBRD) from March 2017 until February 2021¹, where you were a member of the Executive Committee and drove and oversaw the work on the future of the EBRD to deliver value to shareholders and countries of operations, and to secure the Bank's long-term strategic positioning.

As Assistant Secretary, you will oversee and make decisions with respect to Treasury's portfolio on trade and investment policy; infrastructure and energy; technical assistance; and international development policy, including U.S. relations with multilateral development banks (MDBs). These duties include providing the Secretary information needed to make policy decisions on this range of international issues. In your Assistant Secretary role, you will oversee the MDBs, including the EBRD, to help promote economic growth and poverty reduction in developing countries, negotiate US funding commitment to the institutions and advance US priorities with respect to climate change, energy transition, infrastructure development among others.

Subpart E of the Standards of Conduct regulations contains provisions intended to ensure that an employee takes appropriate steps to avoid an appearance of absence of impartiality in the performance of her official duties. Due to your former role with EBRD within the past year, you have a "covered relationship" with EBRD. 5 C.F.R. § 2635.502(b)(1)(iv). As such, you are prohibited from participating in a "particular matter involving specific parties"² when "a person"³

¹ From March 2021 until January 2022, you were the Deputy CEO of the Millennium Challenge Corporation.

² A particular matter involving specific parties "typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties." 5 C.F.R. § 2640.102(1). Examples of particular matters involving specific parties include such matters as contracts, grants, licenses, product approval applications, litigation, and investigations.

³ Person means an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society,

with whom you have a covered relationship is or represents a party” to the matter, and the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter. 5 C.F.R. § 2635.502(a)(1).

ANALYSIS

Under section 2635.502(d), even when an employee’s participation in a particular matter involving specific parties likely would create an appearance of partiality, “the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the Government’s programs and operations.” The authorization provision lays out factors that may be taken into consideration in deciding whether an authorization is appropriate:

- 1) The nature of the relationship involved;
- 2) The effect that resolution of the matter would have on the financial interests of the person involved in the relationship;
- 3) The nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- 4) The sensitivity of the matter;
- 5) The difficulty of reassigning the matter to another employee; and
- 6) Adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

Id. at § 2635.502(d).

After weighing these factors, we authorize your participation in matters involving the EBRD as part of your responsibilities in overseeing the MDBs, subject to the limitation mentioned below, for the following reasons:

- The EBRD is an international organization that was created in April 1991 to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative. The EBRD has invested over €160 billion in more than 6,000 projects across three continents. The United States is a member country of the EBRD, contributing financially to its mission. As such, there is little likelihood that a government employee could take action to favor the commercial interest of EBRD at the expense of the United States.
- You left the EBRD on February 28, 2021. Your covered relationship with the EBRD expires in 24 days. The limited remaining time of your covered relationship further mitigates access and impartiality concerns.
- Your Treasury duties require you to oversee the Office of Multilateral Development Banks. You are uniquely well qualified to perform this work given your prior experience at the Millennium Challenge Corporation, EBRD and the World Bank. You bring a distinctive skill set to Treasury, and reassignment of this MDB-related work to another employee would be inefficient and deprive the Department of your expertise in these matters.

joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this part, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The term is all-inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity. 5 CFR § 2635.102

In conclusion, after careful consideration of the provisions in 5 C.F.R. § 2635.502(d), we authorize you to participate in matters with respect to your oversight of the MDBs, including the EBRD. Given the factors discussed above, we conclude that the interest of the Government in your participation outweighs concern that a reasonable person might question your impartiality in the administration of these matters.⁴

Because you continue to participate in the EBRD Final Salary Plan, you may not participate in matters that could directly and predictably affect EBRD's ability or willingness to make the payment under 18 U.S.C. § 208. Participation in these matters is not (and may not be) authorized.

⁴ Paragraph 2 of President Biden's Ethics Pledge, Executive Order 13989, prohibits political appointees from participating personally and substantially, during the first two years after entering federal service, in any particular matter involving former employers or clients the employees served in the two years prior to entering federal service. However, Paragraph 2 of the Ethics Pledge is not implicated here, because "former employer" under the Pledge does not include any international organization in which the United States is a member state. Section 2(k), EO 13989.